



AGENDA

SPECIAL CITY COUNCIL MEETING
Tuesday, May 15, 2018 – 6:30 p.m.
Hillside Conference Room

REGULAR CITY COUNCIL MEETING
Tuesday, May 15, 2018 – 7:00 p.m.
City Council Chambers

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

Gabriel Quinto – Mayor

Mayor Pro Tem Rochelle Pardue-Okimoto
Councilmember Paul Fadelli

Councilmember Janet Abelson
Councilmember Greg Lyman

- 6:30 p.m. ROLL CALL**
- CONVENE SPECIAL CITY COUNCIL MEETING**
- ORAL COMMUNICATIONS FROM THE PUBLIC**
All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person and to items on the special meeting agenda only.
- COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS**
Conduct interviews of candidates for the City Boards and Commissions. Interviews may result in an announcement of appointment at the meeting.
- ADJOURN SPECIAL CITY COUNCIL MEETING**
- 7:00 p.m. ROLL CALL**
- CONVENE REGULAR CITY COUNCIL MEETING**
- 1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE** – *Mayor Gabriel 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 & City 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 – Item Nos. 4(A) through 4(H)

A. Minutes for Approval

Approve the April 17, 2018 and May 1, 2018 City Council Special and Regular meeting minutes.

B. Inclusionary Zoning Requirements for New Residential Development Projects, Including Fees In-Lieu of On-Site Affordable Units

Adopt Ordinance No. 2018–02 by title, an ordinance amending Title 19 of the El Cerrito Municipal Code to add Chapter 19.30, “Inclusionary Zoning” related to the inclusion of affordable housing units in some new residential development projects.

C. Consolidation of the November 6, 2018 General Municipal Election

Adopt a resolution: 1) Ordering and calling for a general municipal election to be held in the City of El Cerrito on Tuesday, November 6, 2018, for the purpose of electing two members of the City Council for full terms of four years each; 2) Requesting and consenting to consolidation of the municipal election with the general election to be held on November 6, 2018; 3) Requesting the services of the Contra Costa County Registrar of Voters; 4) Providing for notice of the election; and 5) Setting specifications of the Election Order to include limiting candidate statements to 250 words, requiring candidates to pay for the costs of their statement, establishing the estimated costs of each candidate statement to be \$365.00 payable at the time of filing; and determining that, in the event of a tie vote, the winner shall be determined by lot at a time and place designated by the City Council.

D. National Public Works Month Proclamation

Approve a proclamation declaring May 20 through May 26, 2018 as “National Public Works Week” in the City of El Cerrito and encouraging all residents and civic organizations to acquaint themselves with the issues involved in providing public works infrastructure, facilities, programs and services in El Cerrito and recognizing the contributions that public works personnel make every day to our health, safety, comfort and quality of life.

E. On-Call Engineering and Project Management Services

Adopt a resolution authorizing the City Manager to execute on-call professional services agreements with four consultant firms, Parisi Design Group, BKF Engineers, Avila Project Management, and Coastland Engineering to provide on-call engineering and project management services for three years with options to extend for an additional two years in an amount not to exceed \$200,000 per fiscal year for each agreement. *Exempt from CEQA.*

F. Cash and Investments Report for Quarter Ending March 31, 2018

Receive and file the City's Quarterly Investment Report for the quarter ending March 31, 2018.

G. Support for Assembly Bill 1793 Cannabis Convictions: Resentencing

At the request of Mayor Pro Tem Pardue-Okimoto, adopt a resolution supporting Assembly Bill 1793 which would require the State Department of Justice to review its database and notify the courts of all cases that are eligible for reduced sentencing or expungement unless the person does not meet the eligibility criteria or presents an unreasonable risk to public safety. The resolution also requests that the District Attorney of Contra Costa County join the District Attorneys of Alameda, San Diego, San Francisco, Sonoma and Yolo Counties in supporting these efforts. *Continued from the May 1, 2018 City Council meeting.*

H. Support for the 2018 Veterans and Affordable Housing Bond Act

At the request of Mayor Quinto, adopt a resolution supporting the Veterans and Affordable Housing Bond Act on the November 6, 2018 ballot to infuse much needed funding to support important affordable housing projects, spur housing construction statewide and to approve listing the City of El Cerrito as a member of the Affordable Housing Now coalition.

5. PRESENTATIONS

A. Proclamation Recognizing LGBT Month in the City of El Cerrito

Approve a proclamation declaring the month of June as Lesbian, Gay, Bi-Sexual, Transgender Pride month in the City of El Cerrito, and inviting everyone to reflect on ways we all can live and work together with a commitment to mutual respect and understanding, and further, recognizing Pride Month by flying the rainbow flag at City Hall during the month of June.

B. Age Friendly Community Presentation – Presentation by Debbie Toth, President and CEO of Choice in Aging.

Receive a presentation regarding the Contra Costa County Senior Aging Policy platform and upcoming Learning Lab goals. *Choice in Aging would like up to two Councilmembers to participate in the Learning Lab for Policy Makers on May 30, 2018 in Walnut Creek.*

C. Annual Crime Report – Presentation by Paul Keith, Police Chief.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS – None

8. CITY COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENTS

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

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next City Council meeting is Monday, June 11, 2018 at 7:00 p.m. in the City Council Chambers, 10890 San Pablo Avenue, El Cerrito.

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

- 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

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 cmorse@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.



Date: May 15, 2018
To: Honorable Mayor and Members of the City Council
From: Cheryl Morse, City Clerk
Subject: Commission Interviews

MAY 15 INTERVIEW SCHEDULE

6:30 p.m. Vanessa Hill [Streets Oversight Committee]
6:45 p.m. Council Deliberation

Vanessa Hill is confirmed for an interview this evening. She is the only recent applicant for this position. There are currently three vacancies on the Committee.

BACKGROUND

Staff began publicizing vacancies on all the Boards, Commissions and Committees in September 2017. Vacancies were published on the City's website and in the West County Times, posted at City Hall, the Community Center and Library. The City Council conducted numerous interviews over the past four months and has appointed 14 individuals to fill existing vacancies.

VACANCIES

Existing vacancies on each board, commission and committee in which members are directly appointed by the City Council are listed on the attached matrix and are also listed below for ease of reference. Staff has been informed that two additional vacancies on the Arts and Culture Commission are likely to occur within the next three to six months. One of these unexpected vacancies will occur on July 24, 2018.

EL CERRITO BOARDS AND COMMISSIONS

Arts and Culture Commission	2 Upcoming Vacancies
Citizens Street Oversight Committee	3 Vacancies
Design Review Board (<i>new</i>)	1 Vacancy

Attachments:

1. Applicant Matrix
2. Candidate Application
3. Interview questions for consideration

2018 Board and Commission Applicant Matrix (Updated: 5/9/2018)

Attachment 1

	<i>Arts & Culture (2 Upcoming)</i>	<i>Citizens Street Oversight (3)</i>	<i>Civil Service Commission (0)</i>	<i>Committee on Aging (2)</i>	<i>Crime Prevention (8)</i>	<i>Design Review Board (1)</i>	<i>Economic Devt. Cmte (7)</i>	<i>Environmental Quality (4)</i>	<i>Financial Advisory Board (0)</i>	<i>Human Relations (0)</i>	<i>Park and Recreation (0)</i>	<i>Planning Commission (0)</i>	<i>Urban Forest Committee (9)</i>	<i>CC Library Alternate (0)</i>	<i>CCTA Citizens Advisory (0)</i>	<i>Interview Date</i>	<i>Appointed?</i>
Keith Alexander¹							1					2					
Paul Allen		1				3					2					2/20	STREET
Ben Chuaqui						1					1	2				2/6	DRB
Allison Cooper	1															5/1	ARTS
Greg Crump												1				2/6	PLN
Richard Fernandez	1															4/17	
Vanessa Hill		1														5/15	
Derik Hilliard							1			2						2/20	
Douglas Hund						2						1				2/20	
John “Barry” Koops														1		2/20	LIB-Alt
Jessica Laird										1						2/20	HRC
Art Machado											1					2/20	PARKS
Eva Jo Meyers	1															4/17	
Alison H. Moreno²								1			2						
Joy Navarrete						2						1				2/6	PLN
Margo Parisi										1						2/20	HRC
Tenzin Rangdol							3		2	1						2/20	FAB
Christopher Sterba	1																ARTS
Jun Sunseri											1					2/6	PRKS
John Thompson						1										1/16	DRB

¹ Will pursue appointment to EDC first.

² Will pursue appointment to EQC first.

2018 Board and Commission Applicant Matrix (Updated: 5/9/2018)**Attachment 1**

Bruce L. Yow			1							2				3	1/16	CSC, CCTA
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**May 15, 2018
Special City Council Meeting**

Commission Interviews

Attachment 2 Application

is available for review in hardcopy format at the following
locations:

Office of the City Clerk
10940 San Pablo Avenue
El Cerrito
(510) 215-4305

and

The El Cerrito Library
El Cerrito
6510 Stockton Avenue

City of El Cerrito
BOARD/COMMISSION INTERVIEW QUESTIONS

1. Will you give us a quick summary of why you chose to apply or how you selected the _____ commission/board?
2. Briefly outline what in your professional background, work experience, education, or volunteer work would be relevant to the commission/board and highlight any special or unique qualifications or qualities you feel would contribute to the commission?
3. Are you aware of any issues that this commission addressed recently? Have you attended any commission or council meetings?
4. Do you have any thoughts or ideas on how this commission might contribute to the quality of life in El Cerrito?
5. In the few minutes remaining do you have any questions for us?

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING
Tuesday, April 17, 2018 – 6:15 p.m.
Hillside Conference Room

REGULAR CITY COUNCIL MEETING
Tuesday, April 17, 2018 – 7:00 p.m.
City Council Chambers

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

Gabriel Quinto – Mayor

Mayor Pro Tem Rochelle Pardue-Okimoto
Councilmember Paul Fadelli

Councilmember Janet Abelson
Councilmember Greg Lyman

ROLL CALL

Councilmembers Abelson, Fadelli, Lyman, Pardue-Okimoto, and Mayor Quinto all present.

6:15 p.m.

CONVENE SPECIAL CITY COUNCIL MEETING

Mayor Quinto convened the special City Council meeting at 6:15 p.m.

ORAL COMMUNICATIONS FROM THE PUBLIC – *No speakers.*

COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Conduct interviews of candidates for the City Boards and Commissions. Interviews may result in an announcement of appointment at the meeting.

Action: Two interviews completed. Art Machado is appointed to the Parks and Recreation Commission for a term concluding on March 1, 2022. Tenzin Rangdol is appointed to the Financial Advisory Board for a term concluding on March 1, 2022.

ADJOURNED SPECIAL CITY COUNCIL MEETING at 6:55 p.m.

ROLL CALL

Councilmembers Fadelli, Lyman, Pardue-Okimoto, Abelson and Mayor Quinto all present.

7:00 p.m. CONVENE REGULAR CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE was led by Councilmember Greg Lyman.

2. COUNCIL / STAFF COMMUNICATIONS**COUNCIL COMMUNICATIONS**

Councilmember Abelson attended the “Greening the Golden State” Conference in Sacramento. Presentations included information regarding innovative building temperature controls and also environmental impacts resulting from discarded cigarette butts. Councilmember Abelson encouraged everyone to participate in the upcoming Earth Day Celebration and noted that every year residents work together to remove cigarette butts from the gutters along San Pablo Avenue. She also attended League of California Cities Policy Committee meetings in Pomona. Committee members made recommendations on pending legislation. The Community Services Committee looked at the issues of sexual harassment, increased incidents of crime throughout the state and homelessness.

Councilmember Fadelli stated that he is looking forward to the City’s Earth Day celebration and noted that he collected over 1800 cigarette butts at a prior Earth Day event. He also reported that he attended a League Transportation Policy Committee meeting in Pomona this month.

Councilmember Lyman announced that the annual Hillside Festival is May 4-6. Copies of the festival program are available in the lobby.

Mayor Pro Tem Pardue-Okimoto noted the success of the Library’s First Wednesday Celebration on April 4 and invited all to visit the library to enjoy the Library’s extended hours of operation.

Mayor Quinto agreed that the First Wednesday Library Celebration was a great event. The City hosted the Contra Costa Mayors Conference on April 5. Ali Saidi, Contra Costa Deputy Public Defender, presented the new “Stand Together Contra Costa” program that provides rapid response and immigration legal services in Contra Costa County. On April 7, Mayor Quinto attended a ceremony at the Presidio in San Francisco honoring Filipino World War II veterans. He received a gold medal in memory of his late father’s service. His father participated in the war of New Guinea. Mayor Quinto stated that it was great to see the seniors present getting the recognition they each deserve. Later that evening he attended the Rosie the Riveter Annual Benefit Dinner with Councilmember Fadelli. He also attended the League of California Cities Environmental Policy Committee in Pomona last week. The Committee is working on alternative methods for recycling plastic materials and hopes to see “Cap and Trade” program funds used for this. Earlier today he attended a Chamber of Commerce luncheon and presentation on alarm systems with Councilmember Abelson.

Councilmember Lyman announced the appointment of Tenzin Rangdol to the Financial Advisory Board and Art Machado to the Park and Recreation Commission.

STAFF COMMUNICATIONS

Karen Pinkos, Assistant City Manager, introduced Maya Williams, Assistant to the City Manager.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler, Richmond, stated that he has seen the El Cerrito Police Department coming into his neighborhood and other parts of Richmond. He announced the new play at Contra Costa Civic Center and welcomed Maya Williams.

Barry Koops, El Cerrito, Contra Costa Library Commission Alternate, spoke in support of the First Wednesday Extended Library Hours celebration and thanked the City Council and staff for their efforts. Mr. Koops stated that patronage for the first week increased considerably over the last fiscal year.

Michael Fischer, El Cerrito, Contra Costa Library Commissioner, thanked everyone for their support of the Library's First Wednesday Celebration. Mr. Fischer reminded all that the library is outdated and in need of an upgrade and expansion to better serve the community.

Al Miller, El Cerrito, also spoke in support of extended hours at the library and asked that funding continue for expanded hours. Mr. Miller also expressed support for Consent Calendar No 4(G).

Robin Mitchell, El Cerrito, spoke in support of affordable housing.

Howdy Goudey, expressed his appreciation for the Council's investment in extended library hours and announced that the Environmental Quality Committee will host a Fix It Clinic at the library on June 9. The event promotes the culture of reuse and repair instead of throwing things away.

4. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 4(A) through 4(G)

Moved, seconded (Pardue-Okimoto/Lyman) and carried unanimously to approve Consent Calendar Item Nos. 4(A) through 4(F) in one motion as indicated below. Item No. 4(G) was removed from the Consent Calendar at the request of Councilmember Lyman and voted on separately as indicated below.

A. Approval of Minutes

Approve the April 3, 2018 Regular City Council meeting minutes.

Action: Approved minutes.

B. Construction Contract Award for Centennial Park Phase I Improvements

Adopt a resolution taking the following actions: 1) Approving plans for the Centennial Park – Phase 1 Improvements, City Project No. C5037; 2) Accepting the five submitted bids for the Project; and 3) Authorizing the City Manager to execute a contract in the amount of \$337,310 with Green Valley Group, Inc. and to approve change orders in an amount not to exceed \$32,000 for the construction of the Project.

Action: Adopted Resolution No. 2018-22.

C. Senate Bill 1 – The Road Repair and Accountability Act, List of Projects for Fiscal Year 2018-19

Adopt a resolution adopting a list of projects to receive funding from Senate Bill 1 – The Road Repair and Accountability Act, Road Maintenance and Rehabilitation Account revenues in Fiscal Year 2018-19.

Action: Adopted Resolution No. 2018-23.

D. Opposition to Tax Fairness, Transparency and Accountability Act of 2018

Adopt a resolution opposing the Tax Fairness, Transparency and Accountability Act of 2018 sponsored by the California Business Roundtable on the grounds that the measure would harm the ability of local communities to adequately fund services, and

directing the City Clerk to email a copy of the resolution to the League of California Cities.

Action: Adopted Resolution No. 2018-24.

E. OpenGov, Inc. Professional Services Agreement Amendment

Adopt a resolution authorizing the City Manager to amend the Professional Services Agreement between the City of El Cerrito and OpenGov, Inc. in an amount not to exceed \$50,000 annually bringing the total contract amount not to exceed \$236,000 of the term of the agreement through October 22, 2022.

Action: Adopted Resolution No. 2018-25.

F. Summer 2018 City Council Meeting Schedule

Approve a reduced City Council meeting schedule consisting of the third Tuesday in July and August, and third Monday in September 2018. City Council meeting dates in July, August and September 2018 would be held on Tuesday, July 17 and August 21 and Monday, September 17, 2018 (Yom Kippur begins on September 18) with an additional request to keep the first Tuesday in August and September reserved for additional meetings as needed.

Action: Approved reduced summer meeting schedule.

G. Support for the Reinstatement of the Freedom for Immigrants Advocates Program

At the request of Councilmembers Fadelli and Mayor Pro Tem Pardue-Okimoto, adopt a resolution requesting the reinstatement of the Freedom for Immigrants Advocates Program at the West Contra Costa County Detention Facility and Jail to provide access to the community visitation program for detained undocumented immigrants and the program Hotline so long as program participants follow facility policies like other agencies.

Speakers: Sherry Drobner, El Cerrito, expressed support for Councilmember Lyman's alternative resolution and expressed concerns for practices that are occurring at the County jail.

Judith Tannenbaum, El Cerrito, expressed support for Councilmember Lyman's alternative resolution and expressed concerns about practices that are occurring at the County jail.

Ronnie Polonsky, El Cerrito, expressed support for Councilmember Lyman's alternative resolution and the return of CIVIC volunteers to the West County Detention Center to help detainees. Ms. Polonsky also expressed concerns about Sheriff Livingston.

Nicholas Galloro, El Cerrito, stated that he laud's the Council effort to defend the Freedom for Immigrants program. Mr. Galloro stated that he felt the Sheriff's action of denying the volunteers from entering the jail was unethical.

Janet Newman, Albany, CIVIC Volunteer, stated that she supports a more clear resolution and emphasized the urgency of the issue as many of the detainees are isolated and have language barriers.

Richard Bell, El Cerrito, said he supports the resolution being more concise and urged mailing the resolution to the Sherriff.

Helen Dickey, El Cerrito, expressed her appreciation for what the Council has done on this matter.

Suzanne Stoddard, El Cerrito, expressed appreciation for the CIVIC/Freedom for Immigrants program and urged the Council to support reinstatement of the program.

Michael Fischer, El Cerrito, stated that he strongly supports the resolution and said the Sheriff is a bully. Mr. Fischer offered suggestions for amending the resolution.

Howdy Goudey, El Cerrito, expressed appreciation for the Council's consideration of the resolution and pulling the item for discussion.

Action: Removed from the Consent Calendar at the request of Councilmember Lyman. Moved, seconded (Lyman/Fadelli) and carried unanimously to adopt Resolution No. 2018-26 as amended by Councilmember Lyman to reorder certain recitals, delete several recitals, and amend the enacting portion of the resolution.

5. PRESENTATIONS – None

6. PUBLIC HEARINGS

A. Purchase and Sale Agreement with Mradula and Kanti Patel for 1718 Eastshore Boulevard

Conduct a public hearing and upon conclusion adopt a resolution authorizing execution of a purchase and sale agreement with Kanti Patel and Mradula Patel for the disposition of 1718 Eastshore Boulevard for the purpose of hotel development. *The approval of entitlements for the proposed development will require environmental analysis under the California Environmental Quality Act (CEQA). The Purchase and Sale Agreement preserves the City's discretionary rights to condition any entitlement approvals on the completion of the appropriate CEQA analysis and the implementation of any required mitigation measures or alternatives necessary to address environmental impacts identified in the CEQA analysis.*

Presenter: Melanie Mintz, Director of Community Development.

Mayor Quinto opened the public hearing.

Speakers: James Ivy, Albany, stated that he recently purchased property located at 11453 San Pablo Avenue. His property currently has two single family structures on it and Mr. Ivy plans to tear them down and build a higher density structure which will ideally mix commercial and residential use on the property. Mr. Ivy said he is concerned about the site having adequate traffic flow and asked that the City Council delay the sale or find a way that the three parties can come up with a traffic management solution.

Moved, seconded (Lyman/Pardue-Okimoto) and carried unanimously to close the public hearing.

Mayor Quinto re-opened the public hearing.

Casey Weng, Richmond, expressed concerns with the Patel's development and asked that the City Council delay their decision.

Moved, seconded (Lyman/Abelson) and carried unanimously to close the public hearing.

Action: Moved, seconded (Pardue-Okimoto/Abelson) and carried unanimously to adopt Resolution No. 2018-27.

B. Master Fee Schedule Revision for Fiscal Year 2018-19

Conduct a public hearing and upon conclusion, adopt a resolution approving the Fiscal Year 2018-19 Master Fee Schedule.

Presenter: Shannon Collins, Accounting Supervisor.

Mayor Quinto opened the public hearing.

Speakers: Howdy Goudey, El Cerrito, said he is disappointed about the narrowness of what is being considered this evening regarding electrical vehicle (EV) charging and challenged the proposed EV and electrical fees. Mr. Goudey stressed that the City needs to be more thoughtful about permit fees so that the fees reflect actual cost and the City should also consider fees within the context of scalability.

Cordell Hindler, El Cerrito, expressed support for Mr. Goudey's statement, stated that a lot of work goes into the agenda reports and encouraged the City Council to pass the resolution.

Moved, seconded (Abelson/Lyman) and carried unanimously to close the public hearing.

Action: Moved, seconded (Lyman/Pardue-Okimoto) and carried unanimously to adopt Resolution No. 2018-28 as amended with changes to Exhibit A to incorporate the fee incentives for electrical vehicle charging including: 1) A 25% reduction in fee for two or more on the same property; 2) A 50% reduction for five or more electrical vehicle stations and making the fees in Table 3 of the staff report at 50% of the 100% cost recovery amount for accessory dwelling units for both planning and building permits with an additional 5% reduction if universal design is used.

C. Storm Drain Annual Report and Method of Collecting Storm Drain Fees

Conduct a public hearing and upon conclusion adopt a resolution approving the Fiscal Year 2018-19 Storm Drain Annual Report and directing that Storm Drain Fees be collected on the property tax rolls.

Presenter: Shannon Collins, Accounting Supervisor.

Mayor Quinto opened the public hearing. No Speakers.

Moved, seconded (Lyman/Abelson) and carried unanimously to close the public hearing.

Action: Moved, seconded (Lyman/Abelson) and carried unanimously to adopt Resolution No. 2018-29.

D. Landscape and Lighting Assessment District No. 1988-1

Conduct a public hearing and upon conclusion adopt a resolution setting the annual Landscape and Lighting Assessment for Fiscal Year 2018-19 as \$72 per residential parcel and as noted in the Engineer's Report for other classes of properties.

Presenter: Shannon Collins, Accounting Supervisor.

Mayor Quinto opened the public hearing. No speakers.

Moved, seconded (Lyman/Abelson) and carried unanimously to close the public hearing.

Action: Moved, seconded (Lyman/Fadelli) and carried unanimously to adopt Resolution No. 2018-30.

7. POLICY MATTERS

A. El Cerrito Police Employees' Association Memorandum of Understanding

Adopt a resolution approving the Memorandum of Understanding between the City of El Cerrito and the El Cerrito Police Employees' Association (PEA).

Presenter: Kristen Cunningham, Senior Human Resources Analyst.

Speakers: Cordell Hindler, Richmond, encouraged the City Council to adopt the resolution.

Action: Moved, seconded (Abelson/Pardue-Okimoto) and carried to adopt Resolution No. 2018–31 as amended to direct the City Manager to execute the agreements with any changes deemed necessary by the City Attorney and City Manager to clean up language in Exhibit A.

B. El Cerrito Public Safety Management Association Memorandum of Understanding

Adopt a resolution approving a Memorandum of Understanding between the City of El Cerrito and the El Cerrito Public Safety Management Association – Police Management unit.

Presenter: Kristen Cunningham, Senior Human Resources Analyst.

Speakers: Cordell Hindler, Richmond, encouraged the City Council to adopt the resolution.

Action: Moved, seconded (Pardue-Okimoto/Abelson) and carried to adopt Resolution No. 2018–32.

8. CITY COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENTS

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

Councilmember Lyman reported that the West County Integrated Waste Management Authority (RecycleMore) Board met last week and revised the terms of the Joint Powers Authority (JPA) agreement. One of the biggest changes is having the County come on as a voting member. The future JPA would only have one vote per jurisdiction as a result of scaling the scope back to core services. The City of Richmond which currently has three votes would have only one vote. Any deviation in scope or changes in scope funding requires a unanimous decision. The Authority Board also moved to reduce reserves at RecycleMore which will result in the potential disbursement of \$750,000 of which El Cerrito would get approximately 10% of the total amount.

Mayor Pardue-Okimoto reported that the Gilman Fields recently replaced turf and it is working out well for the users. The JPA voted to increase the fees for non-JPA members who use the field.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 9:42 p.m. in memory of Barbara Bush, former First Lady of the United States of America.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 4(G) Support of the Reinstatement of the Freedom for Immigrants Advocates Program

1. Comments urging support of the CIVIC program – *Submitted by Judith Tannenbaum, El Cerrito.*
2. Petition in support of proposed resolution – *Submitted by Wendy Fiering, El Cerrito.*
3. Petition in support of proposed resolution with additional names added – *Submitted by unidentified individual. Submitted at the City Council meeting.*
4. Petition in support of proposed resolution with additional names added – *Submitted by Richard Bell. Submitted at the City Council meeting.*

Item No. 6(A) Purchase and Sale Agreement with Mradula and Kanti Patel for 1718 Eastshore Boulevard

5. Site Map – *Submitted by Melanie Mintz, Community Development Director. Submitted at the City Council meeting.*

Item No. 6(B) Master Fee Schedule Revision for Fiscal Year 2018-19

6. Personal comments and March 20, 2018 Environmental Quality Committee recommendation regarding Community Development user fees – *Submitted by Howdy Goudey, El Cerrito.*

Other:

7. Stand Together Contra Costa: Your Rights under the United State Constitution – *Submitted by Mayor Quinto.*
8. Cigarette Litter and the Waters of America – *Submitted by Councilmember Abelson.*
9. Homelessness Task Force Report: Tools and Resources for Cities and Counties – *Submitted by Councilmember Abelson.*
10. Contra Costa Library Annual Report and First Wednesday photograph – *Submitted by Michael Fischer, El Cerrito representative to the Contra Costa County Library Commission.*

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING
Tuesday, May 1, 2018 – 6:40 p.m.
Hillside Conference Room

REGULAR CITY COUNCIL MEETING
Tuesday, May 1, 2018 – 7:00 p.m.
City Council Chambers

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

Gabriel Quinto – Mayor

Mayor Pro Tem Rochelle Pardue-Okimoto
Councilmember Paul Fadelli

Councilmember Janet Abelson
Councilmember Greg Lyman

ROLL CALL

Councilmembers Abelson, Fadelli, Lyman, Pardue-Okimoto, and Mayor Quinto all present.

6:40 p.m.

CONVENE SPECIAL CITY COUNCIL MEETING

Mayor Quinto convened the special City Council meeting at 6:40 p.m.

ORAL COMMUNICATIONS FROM THE PUBLIC – *No speakers.*

COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Conduct interviews of candidates for the City Boards and Commissions. Interviews may result in an announcement of appointment at the meeting.

Action: One interview completed. The City Council appointed Allison Cooper to the Arts and Culture Commission to a term concluding on March 1, 2022.

ADJOURNED SPECIAL CITY COUNCIL MEETING at 6:55 p.m.

ROLL CALL

Councilmembers Fadelli, Lyman, Pardue-Okimoto, Abelson and Mayor Quinto all present.

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Quinto convened the Regular City Council meeting at 7:02 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE was led by Mayor Pro Tem Rochelle Pardue-Okimoto.

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Quinto announced that the City Council appointed Allison Cooper to the Arts and Culture Commission to a term concluding on March 1, 2022.

Councilmember Fadelli announced that the Arts and Culture Commission has issued a Call to Poets to apply to serve a new term as the City's Poet Laureate. Interested candidates can apply for the position through June 11, 2018. Councilmember Fadelli also congratulated Councilmember Abelson for the success of the City's Earth Day Celebration on April 21 and reported that he attended the Richmond - Ohlone Greenway Gap connector bridge ribbon cutting at Baxter Creek on April 27.

Councilmember Lyman reminded all that the Hillside Festival is May 4-6 throughout the Hillside Natural Area. Councilmember Lyman stated that the event is free and that brochures with scheduling information are available in the lobby.

Councilmember Abelson stated that she also attended the ribbon cutting on April 27 for the Richmond-Ohlone Greenway Gap Closure Project at Baxter Creek. It is an exciting project that connects Richmond to El Cerrito. Councilmember Abelson invited all to visit the site and take a look at the project. Councilmember Abelson also attended the Recreation Department volunteer recognition event on April 27 and also noted that there was a large crowd for the Earth Day event this year.

Councilmember Quinto reported that he and Mayor Pro Tem Pardue-Okimoto will be attending the annual Richmond/San Pablo Cinco de Mayo Parade and Festival. On April 18 Mayor Quinto attended the League of California Cities Legislative Action Day in Sacramento and met with several elected officials. On April 20 Mayor Quinto met with other elected officials to discuss housing, poverty and the environment with Senator Skinner and her staff. The Richmond Ohlone Greenway Gap ribbon cutting on April 27 was amazing. Mayor Quinto invited all to visit the northern end of the city, visit the gardens at Baxter Creek and cross the bridge at San Pablo Avenue.

Cheryl Morse, City Clerk, announced that the Contra Costa County Elections Division will be hosting a workshop for anyone interested in running for elected office on May 12 from 9:00 a.m. to 12:30 p.m. at the Pacheco Community Center. There are two City Council seats open in the November 6, 2018 Election and anyone who has any questions is encouraged to attend the workshop or contact the City Clerk. Ms. Morse also announced that City Hall has been selected as a Regional Early Voting Center for the June and November 2018 elections. Anyone who is registered to vote in Contra Costa County will be able to vote early in the June 5 Statewide Primary Election at City Hall from May 29 through June 1, 11:00 a.m. to 7:00 p.m. and Saturday, June 2 from 8:00 a.m. to 5:00 p.m. The City Clerk will also be partnering with the County Elections Division in its "Vote-N-Go" Program. There will be a secure ballot box located at City Hall. Vote-by-Mail ballots can be placed in an official ballot box at City Hall from May 14 through June 5, 2018 during regular business hours. Ms. Morse also reminded all that the deadline to register to vote in the June 5 Direct Primary Election is May 21.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Judith Tannenbaum, El Cerrito, thanked Councilmember Fadelli for announcing the Arts and Culture Commission's "Call to Poets." Ms. Tanenbaum stated that Maw Shein Win, who was selected to serve as the City's first Poet Laureate, will have her last reading at the Community Center on May 20. The event will include four readings by Poet Laureates from neighboring cities and a musical performance by a band "Moeser" which has formed just for this event. Ms. Tannenbaum also invited all to visit the new installation in the City Hall Art Gallery featuring Wayne Pope who made a lot of the album covers for Arhoolie Records and also invited everyone to attend the reception on May 26 from 2-5 p.m. at City Hall. Ms. Tannenbaum also spoke in support of El Cerrito becoming a Charter City and expressed appreciation for the work that has been done by staff and the Charter Committee.

Khaled Ibrahim, Albany, stated that he is trying to develop his vacant lot at 1324 Contra Costa Avenue and is having difficulty resolving an issue with the City's Planning Division. Mr. Ibrahim is challenging the determination to perform environmental review and asked the City Council to review his project, the Planning Division's determinations and applicable state laws and the Zoning Ordinance.

Sherry Drobner, El Cerrito, thanked the City Council for passing the resolution requesting re-instatement of the Freedom for Immigrants program at the West County jail and noted that there was meeting today with the Sheriff about the program that went really well. Ms. Drobner also spoke in support of Consent Calendar Item No. 4(D). Ms. Drobner also thanked the Fire Department for their response to her husband's medical emergency which prompted her to think about the proposed closure of Alta Bates Hospital and its impact on the community.

4. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 4(A) through 4(E)

Moved, seconded (Lyman/Pardue-Okimoto) and carried unanimously to approve Consent Calendar Item No. 4(E). Items Nos. 4(A) through 4(D) were removed from the Consent Calendar at the request of Mayor Pro Tem Pardue-Okimoto for the purpose of making comments and voted on separately as indicated below.

Moved, seconded (Lyman/Fadelli) and carried unanimously to approve Consent Calendar Item Nos. 4A through 4C in one motion as indicated below. Item No. 4(D) was continued to May 15, 2018.

A. Asian Pacific Heritage Month Proclamation

Approve a proclamation declaring the month of May 2018 Asian Pacific American Heritage Month in the City of El Cerrito and inviting everyone to reflect on the notable accomplishments and outstanding services provided by Asian Americans and Pacific Islanders to the Nation, California and the City of El Cerrito.

Action: Approved proclamation.

B. Jewish American Heritage Month Proclamation

Approve a proclamation declaring May 2018 as Jewish American Heritage Month in the City of El Cerrito and calling upon all residents to celebrate Jewish Americans who have helped weave the fabric of not only American history, culture and society but also the City of El Cerrito, to visit www.jewishheritagemonth.gov to learn more about the heritage and contributions of Jewish Americans, and to observe this month with solemn remembrance, appropriate programs, activities and ceremonies.

Action: Approved proclamation.

C. Affordable Housing Week Proclamation

Approve a proclamation declaring May 11 to May 20, 2018 as Annual Affordable Housing Week in the City of El Cerrito and confirming the City's commitment to work to support

affordable housing at the local, regional and state level and encouraging residents of El Cerrito to participate in regional Affordable Housing Week activities (listed at www.ebho.org/events) to raise awareness about the importance of affordable housing for families and communities.

Action: Approved proclamation and presented to Lisa Motoyama, former Planning Commissioner/East Bay Housing Organizations representative.

D. Support for Assembly Bill 1793 Cannabis Convictions: Resentencing

At the request of Mayor Pro Tem Pardue-Okimoto, adopt a resolution supporting Assembly Bill 1793 which would require the State Department of Justice to review its database and notify the courts of all cases that are eligible of reduced sentencing or expungement if the person does not meet the eligibility criteria or presents an unreasonable risk to public safety. The resolution also requests that the District Attorney of Contra Costa County join the District Attorneys of Alameda, San Diego, San Francisco, Sonoma and Yolo Counties in supporting these efforts.

Action: Moved, seconded (Pardue-Okimoto/Lyman) and carried unanimously to continue consideration of the item to May 15, 2018.

E. Modify City Council Meeting Schedule

Reschedule the June 5, 2018 City Council meeting to Monday, June 11, 2018 at 7:00 p.m. due to a conflict with the June 5, 2018 Statewide Primary Election. City Hall is a polling place for this election. In addition, schedule a special City Council meeting on Monday, June 18, 2018 at 7:00 p.m. to conduct a public hearing to further discuss and consider a proposed City Charter and possible continued discussion regarding the City budget. The City Council will also meet on June 19, 2018 at 7:00 p.m. to consider adoption of the City's budgets.

Action: Moved, seconded (Lyman/Pardue-Okimoto) and carried unanimously to reschedule the June 5 meeting to June 11, 2018 and schedule a special City Council meeting on June 18 in addition to the June 19 regular meeting.

5. PRESENTATIONS – None

6. PUBLIC HEARINGS

A. Inclusionary Zoning Requirements for New Residential Development Projects, Including Fees In-Lieu of On-Site Affordable Units

Conduct a public hearing and upon conclusion, introduce by title and waive any further reading of an ordinance adding Chapter 19.30 to the El Cerrito Municipal Code to require the inclusion of affordable units within new residential development projects and allow the payment of a fee in lieu of providing units. *Exempt from CEQA.*

Presenters: Aissia Ashoori, Management Analyst and Debbie Kern, Keyser Marston Associates.

Mayor Quinto opened the public hearing.

Speakers: Al Miller, El Cerrito, spoke in support of the proposed ordinance. Mr. Miller stated that the housing shortage is real and the affordable housing shortage is at crisis level.

Robin Mitchell, El Cerrito, spoke in support of the proposed ordinance. Ms. Mitchell stated that the Planning Commissioners had a lot of the same concerns that Council had. The Planning Commission wanted to see the less than ten units category addressed and wanted no limits to the term of affordability. During the Planning Commission meeting Jeff Levin with EBHO, reported that the City of Oakland passed an impact fee different from what the City Council is considering tonight but Oakland has

still had a huge increase in units. Mr. Levin did not believe the fee proposed for El Cerrito will impact development (*in a negative way*). Ms. Mitchel said the proposed ordinance is a great step forward and the next issue to tackle is rent stabilization.

Howdy Goudey, El Cerrito, thanked staff and the City Council for prioritization of the issue. Mr. Goudey said the proposed ordinance is an important step but will not entirely solve the problem. The City will need to keep moving forward and keep evaluating the program to see if it is reasonable. Mr. Goudey urged the City Council to explore using \$20.00 per square foot for rental projects instead of \$17.00 for the fee and make the ordinance a little stronger.

Moved, seconded (Abelson/Lyman) and carried unanimously to close the public hearing.

Action: Moved, seconded (Abelson/Pardue-Okimoto) and carried unanimously to approve by title and waive any further reading of Ordinance No. 2018-02, an ordinance adding Chapter 19.30 to the El Cerrito Municipal Code to require the inclusion of affordable units within new residential development projects and allow the payment of a fee in lieu of providing units as revised with changes to Section 19.30.030 and as amended on the floor by Mayor Pro Tem Pardue-Okimoto with amendments to Section 19.30.040(B)(2) and 19.30.040(C) to specify moderate income units and incorporate corrections in certain sections of the revised ordinance to change “planning approval” back to “permit” as requested by the City Attorney. Additionally, Councilmember Lyman directed the City Attorney to review the definition for residential development as stated in Section 19.030.020 to ensure that when the project is on contiguous property under common ownership or control that if the total number of units would qualify the project for inclusionary requirements the ordinance will be amended as necessary to ensure that the project does not escape inclusionary requirements. *Second reading scheduled for May 15, 2018.*

B. Review City Charter Process and City Charter Committee Recommendation

Conduct a public hearing and receive a presentation from staff on the City Charter development process to date and review the proposed City Charter as recommended by the Charter Committee.

Presenters: Scott Hanin, City Manager and Sky Woodruff, City Attorney.

Mayor Quinto opened the public hearing.

Speakers: Al Miller, El Cerrito, stated that he supports El Cerrito becoming a charter city.

Howdy Goudey, El Cerrito, spoke in support of the Charter process and the draft language and encouraged effective communication with the public going forward.

Robin Mitchell, El Cerrito, spoke in support of the movement toward El Cerrito becoming a Charter City, praised the Charter development process, noted the importance of a robust public information effort, suggested the City Council consider separating the Charter City from the transfer tax on the ballot, and expressed a need to get the realtors and business community to support the measure.

Moved, seconded (Abelson/Lyman) and carried unanimously to close the public hearing.

Action: Received presentation and public testimony. *The second public hearing is scheduled for June 18, 2018 at 7:00 p.m.*

7. POLICY MATTERS – None

8. CITY COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENTS

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

Councilmember Lyman reported that the highlight from the April 19 Marin Clean Energy (MCE) meeting was the Board's approval of an investment policy. MCE is generating approximately \$50 million in surplus revenue this year and \$50 million next year, has approximately \$150 million cash on hand and spends approximately \$200 million each year. The Board also approved an energy risk management policy. Councilmember Lyman encouraged all to go online at <https://www.mcecleanenergy.org/> to take a look at the policies.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:21 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 4(D) Support for Assembly Bill 1793 Cannabis Convictions: Resentencing

1. Revised resolution with additional enacting clause.
2. Letter to Assembly Public Safety Committee in support of AB 1793 – *Submitted by Cora J. Ward, National Association for the Advancement of Colored People (NAACP), El Cerrito Branch.*

Item No. 6(A) Inclusionary Zoning Requirements for New Residential Development Projects, Including Fees In-Lieu of On-Site Affordable Units

3. Powerpoint presentation – *Submitted by Aissia Ashoori, Management Analyst.*
4. Comments provided by the Bay Area Building Industry Association – Submitted by Lisa A. Vorderbrueggen, BIA Bay Area.
5. Revised resolution – *Submitted by Aissia Ashoori, Management Analyst.*

Other:

6. Application for RAD design review (PL17-0127) – *Submitted by Khaled Ibrahim, Albany.*

ORDINANCE NO. 2018-XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 19 OF THE EL CERRITO MUNICIPAL CODE CHAPTER TO ADD CHAPTER 19.30, "INCLUSIONARY ZONING" RELATED TO THE INCLUSION OF AFFORDABLE HOUSING UNITS IN SOME NEW RESIDENTIAL DEVELOPMENT PROJECTS

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, 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 A. Leveraging private development to address affordable housing needs," recommends establishing a new inclusionary zoning ordinance and/or enact new housing in-lieu fees for affordable housing;

WHEREAS, the Housing Element of the adopted El Cerrito General Plan identifies Program H2.8, Inclusionary Housing Ordinance, to study the feasibility, terms and conditions of developing an ordinance that would require affordable housing units and/or in-lieu fees; and

WHEREAS, the Inclusionary Policy Analysis Report prepared by Keyser Marston Associates in April 2018 conducted financial feasibility analysis to test on-site affordable dwelling unit requirements and in-lieu fee options for new residential development and determined the following:

- Rental Projects could support an on-site obligation of up to 5% Low and 5% at Moderate income levels, as defined in State law;
- Ownership Projects could support up to 12% at Moderate income on-site obligation;
- Rental Projects could support an in-lieu fee of \$17 per square foot. using a specified formula; and
- Ownership Projects could support an in-lieu fee of \$20 per square foot, using a specified formula.

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 19 of the Municipal Code. Title 19, “Zoning”, of the El Cerrito Municipal Code is hereby amended to add Chapter 19.30, “Inclusionary Zoning” to read as follows:

Chapter 19.30 - INCLUSIONARY ZONING

19.30.010 - Findings and Purpose.

A. Findings.

The City Council finds and declares as follows:

1. Housing affordability continues to be a regional issue, especially for the residents of El Cerrito.
2. 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.
3. The 2015-2023 Housing Element identifies the need to study an inclusionary zoning ordinance to address a portion of the City’s affordable housing needs.
4. According to the 2015-2022 Regional Housing Needs Allocation (RHNA), determined by the Association of Bay Area Governments (ABAG), the City of El Cerrito has a total housing need of 398 units through the year 2022, out of which nearly sixty percent (60%) is for lower- and moderate-income households (232 units). Of the affordable units: 50 units (13%) are for extremely low-income households; 50 units (13%) for very low-income households; 63 units (16%) for lower income households; and 69 units (17%) for moderate income households.
5. The inclusionary ordinance codified in this Chapter will substantially advance the City's legitimate interest in providing additional housing affordable to all income levels and dispersed throughout the City because Inclusionary Units required by the ordinance codified in this Chapter, including both rental and for-sale units, must be affordable to lower, and moderate-income households.
6. 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. Requiring Inclusionary Units within each residential development is consistent with the community's housing element goals of protecting the public welfare by fostering an adequate supply of housing for persons at all economic levels and maintaining both economic diversity and geographically dispersed affordable housing. Requiring builders of new market rate housing to provide some housing affordable to lower and moderate-income households is also reasonably related to the impacts of

their projects.

B. Purpose.

The purposes of this Chapter are to:

1. Implement the housing goals set forth in the 2015-2023 Housing Element of the El Cerrito General Plan and the Affordable Housing Strategy of the City of El Cerrito.
2. Ensure that private market-rate development is making a reasonable and feasible contribution towards addressing the need for additional affordable housing.
3. Increase the production of affordable housing units for very low, low and moderate-income households.
4. Create a balanced community with a wide variety of housing available to households of all income levels.
5. Support the housing objectives contained in State law.
6. Establish policies and alternative methods of compliance for meeting the City's affordable housing needs.

19.30.020 - Definitions.

The definitions set forth in this part shall govern the application and interpretation of this Chapter. Words and phrases not defined in this Chapter shall be interpreted to give this Chapter its most reasonable application.

Affordable Housing Cost means the housing cost for Dwelling Units as defined by California Health and Safety Code Section 50052.5 for owner-occupied housing and the affordable rent for rental units as defined by California Health and Safety Code Section 50053, as applicable.

Affordable Housing Strategy means the City's affordable housing workplan that identifies a range of goals and implementation tools to preserve and expand housing opportunities for households with very low to moderate incomes and for persons with special housing needs

Affordable Sales Price means the maximum allowable sales price for an Inclusionary Unit in effect at the time of initial (first) sale to an Eligible Household. The Affordable Sales Price is a price that includes a reasonable down payment and results in projected average monthly housing payments during the first calendar year of a household's occupancy, including interest, principal, mortgage insurance, property taxes, homeowners' insurance, homeowners' association

dues, if any, not exceeding costs equal to thirty five percent of one hundred ten percent (110%) of Area Median Income for Moderate Income units. The City Manager may adjust the percentage of Area Median Income to between eighty percent (80%) and one hundred ten percent (110%) to address major shifts in the housing market or other related economic conditions affecting the demand for Inclusionary Units, as needed.

The Affordable Sales Price shall be determined for a household size based on the number of bedrooms in the Dwelling Unit plus one. The City Manager shall determine the sales price for Inclusionary Units by any reasonable method, so long as average monthly housing payments do not exceed those permitted by this Chapter. Affordable Sales Prices may be adjusted annually by the City Manager and will be provided to the Developer annually upon such adjustment.

Affordable Rent means the total monthly payments by the Tenant of an Inclusionary Unit for all of the following: (1) use and occupancy of the Inclusionary Unit, land and storage lockers, and use of all common areas; (2) any separately charged fees or service charges assessed by the Developer that are required of all tenants of Units in the Project, except security deposits; (3) an allowance for utilities paid by the Tenant as established by the Contra Costa Housing Authority, including garbage collections, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and (4) any other interest, taxes, fees or charges for use of the land or associated facilities that are assessed by a public or private entity other than the Developer and paid by the Tenant.

The Affordable Rent shall be determined for a household size based on the number of bedrooms in the Dwelling Unit plus one. The City Manager shall determine the rent for Inclusionary Units by any reasonable method, so long as average monthly housing payments do not exceed those permitted by this Chapter. Affordable Rent may be adjusted annually by the City Manager and shall be provided to the Developer annually upon such adjustment. For purposes of this Chapter, Affordable Rent shall not exceed costs equal to thirty percent (30%) of seventy percent (70%) of Area Median Income for Lower Income units or thirty percent of one hundred ten percent (110%) of Area Median Income for Moderate Income units.

Affordable Housing Trust Fund means a fund or account designated by the City to maintain and account for all monies received pursuant to this Chapter.

Affordable Housing Plan means a plan on a form provided by the City that shall be submitted by the Applicant or Developer, containing all of the information specified in and in conformance with Section 19.30.040 of this Chapter specifying the manner in which Inclusionary Units will be provided in conformance with this Chapter and any regulations adopted to implement this Chapter, and consistent with the El Cerrito General Plan.

Applicant or Developer means a person, persons, or entity that applies for a Residential Development and includes the owner or owners of the property if the Applicant does not own the property on which development is proposed.

Area Median Income or "AMI" means the annual median income for Contra Costa County as published annually by the State of California Department of Housing and Community Development, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision, or as established by the City of El Cerrito in the event that such median income figures are no longer published periodically in the California Code of Regulations.

Building Permit includes full structural building permits as well as partial permits such as foundation-only permits.

City means the City of El Cerrito.

City Manager means the City Manager of the City of El Cerrito or his or her designee.

Certificate of Occupancy is the permit issued by the El Cerrito building division authorizing the initial occupancy of a Dwelling Unit, including a temporary certificate of occupancy.

Common Ownership or Control refers to property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent (10%) or more of the interest in the property.

Community Development Director means the director of the Community Development Department or his or her designee.

Construction Phase means:

- A. The area included within one city approved tentative subdivision map for Residential Development where a single final map implements the entire approved tentative map;
- B. The area included within each separate final map for Residential Development where multiple final maps implement the entire approved tentative map; or
- C. An area designated as a construction phase in an approved Affordable Housing Plan. For Residential Development that does not require a

subdivision map, the Affordable Housing Plan shall identify Construction Phases.

Contiguous Property means any parcel of land that is:

- A. Touching another parcel at any point;
- B. Separated from another parcel at any point only by a public right of way, private street or way, or public or private utility, service, or access easement; or
- C. Separated from another parcel only by other real property of the Applicant which is not subject to the requirements of this Chapter at the time of the ~~planning permit~~Planning Permit application by the Applicant.

Determined to be Complete is a term that applies to an application for a specific land Planning Permits that is requested by the Applicant and in accordance with Title 19 (Zoning) herein, and means that such application:

- A. Accurately includes all data required on the appropriate ~~planning permit~~Planning Permit checklist that is utilized upon the date of receipt of the application;
- B. Is duly executed by the Applicant or the Applicant's authorized representative;
- C. Includes the full payment of all required fees;
- D. Includes an accurate and complete application for environmental clearance; and
- E. Includes the Affordable Housing Plan required by Section 19.30.040.

Density Bonus Units means Dwelling Units approved in a Residential Development pursuant to California Government Code Section 65915 et seq. that are in excess of the maximum residential density otherwise permitted by the El Cerrito General Plan, San Pablo Avenue Specific Plan or zoning ordinance.

Dwelling Unit shall have the definition given for dwellings in Title 19 (Zoning) of the El Cerrito Municipal Code.

Effective Date shall have the definition given in Section 19.30.030.

Eligible Household means a household which has been determined to be eligible to rent or purchase an Inclusionary Unit.

First Approval means the first of the following approvals to occur with respect to a Residential Development: development agreement, General Plan

amendment, specific or area plan adoption or amendment, zoning, rezoning, pre-zoning, annexation, planned development permit, tentative map, parcel map, conditional use permit, special use permit, or building permit.

For-sale means and refers to any Dwelling Unit, including a condominium, stock cooperative, community apartment, or attached or detached single family home, for which a parcel or tentative and final map is required for the lawful subdivision of the parcel upon which the Dwelling Unit is located or for the creation of the unit in accordance with the Subdivision Map Act (California Government Code Section 66410 et seq.), or any Residential Development including such for-sale Dwelling Units.

Inclusionary Housing Agreement means an agreement in conformance with Section 19.30.040 of this Chapter between the City and an Applicant, governing how the Applicant shall comply with this Chapter.

Inclusionary Unit means a Dwelling Unit imposed on new Residential Development as required by this Chapter to be affordable to Lower or Moderate-Income Households.

Livable Square Feet means the total square footage of the interior of all Dwelling Units within a Residential Development.

Lower Income Household means a household with incomes that do not exceed eighty percent (80%) of Area Median Income as set forth in California Health and Safety Code Section 50079.5.

Market Rate Unit means a new Dwelling Unit in a Residential Development that is not an Inclusionary Unit as defined by Section.

Moderate Income Household means a household with income ranging above eighty percent (80%) to one hundred twenty percent (120%) of Area Median Income as set forth in California Health and Safety Code Section 50093(b).

Planning Permit means a tentative map, parcel map, conditional use permit, site development permit, planned development permit, design review, development agreement, or special use permit, or any discretionary permit excluding General Plan amendments, zoning and rezoning, annexation, specific plans, and area development policies.

Rental means and refers to a Dwelling Unit that is not a For-sale Dwelling Unit, and does not include any Dwelling Unit, whether offered for rental or sale, that may be sold as a result of the lawful subdivision of the parcel upon which the

Dwelling Unit is located or creation of the unit in accordance with the Subdivision Map Act (California Government Code Section 66410 et seq.), or any Residential Development including such rental Dwelling Units.

Residential Development means any project requiring a ~~planning~~ ~~Planning permit-Permit~~ for which an application has been submitted to the City, and ~~where the Residential Development that either:~~

- A. Would create ten (10) or more new Rental Dwelling Units or nine (9) or more new For-sale Dwelling Units, ~~additional, or modified Dwelling Units~~^[SW4] by:
 1. The construction or alteration of structures, or
 2. The conversion of a use to residential from any other use.
- B. Is contiguous to property under Common Ownership or Control ~~where~~ and the cumulative residential capacity of all of the Applicant's property pursuant to the General Plan designation or zoning at the time of the ~~planning-Planning permit-Permit~~ application for the Residential Development is either:
 1. ~~ten~~ Ten (10) or more Rental or nine (9) or more For-sale Dwelling Units; or
 2. Any combination of nine (9) or more For-Sale and Rental Dwelling Units, in which case the inclusionary housing requirement shall be determined as though the project were a For-Sale Residential Development.

Tenant is a household occupying an Inclusionary Unit pursuant to a valid lease with the Developer.

Unit Type means any form of dwelling or Dwelling Unit described in Title 19 (Zoning) of the El Cerrito Municipal Code.

Utilities means garbage collection, sewer, water, electricity, gas and other heating, cooling, cooking and refrigeration fuels.

19.30.030 - 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:

1. All For-sale Residential Development that consist of nine (9) or more units;
2. All Rental Residential Development that consist of ten (10) or more units; and
3. All Residential Development and Contiguous Property that is under Common Ownership or Control.

C. Exemptions.

This Chapter shall not apply to any of the following:

1. Accessory Dwelling Unit(s).
2. Rental Residential Developments with a total of less than ten (10) Dwelling Units.
3. For-sale Residential Developments with a total of less than nine (9) Dwelling Units.
4. A Residential Development project the application for which has been determined to be complete prior to the Effective Date, and for which a building permit is issued within two (2) years from the issuance date of the last approval required for the Residential Development.
5. A Residential Development project that has received all required approvals prior to the Effective Date, and for which a building permit is issued within two (2) years from the date of the issuance date of last approval required for the Residential Development.
6. Residential Developments exempted by California Government Code Section 66474.2 or 66498.1, provided that such Residential Developments shall comply with any predecessor ordinance, resolution, or policy in effect on the date the application for the development was determined to be complete.

D. Special Circumstances Related to Exemptions.

1. Planning ~~approval~~ Permit expiration or extension.
 - a. Upon the expiration of any ~~planning~~ Planning Permit ~~approval~~, and unless otherwise exempted, a Residential Development shall be subject to the inclusionary housing requirements of this Chapter and shall not proceed until such time as an Affordable Housing Plan is approved in conjunction with any other required ~~planning~~ Planning Permit ~~approval~~ or amendment thereto.
 - b. Any Residential Development project that requests an extension of any ~~planning~~ Planning Permit ~~approval~~ shall be subject to the requirements of

this Chapter, unless the requirements are waived pursuant to Section 19.30.070.C.

2. Limited extension of exemption due to delay. The City Manager, may grant a request for an extension of the timelines in this section exempting Residential Development from this Chapter where a change in federal, state or local law would cause the need for a material redesign of the approved Residential Development that would render any of the approved Planning Permits, if implemented as approved, in violation of federal, state, or local law and would require amendment or revision of the ~~planning permit~~Planning Permit.

E. Application of Chapter to Residential Development after June 30, 2021.

All Residential Development that has not been issued a building permit by June 30, 2021 will be subject to this Chapter.

19.30.040 - Inclusionary Housing Requirements.

A. Inclusionary housing requirement.

1. All new Residential Developments and Contiguous Property under Common Ownership and Control shall include Inclusionary Units. Calculations of the number of Inclusionary Units required by this section shall be based on the number of Dwelling Units in the Residential Development, excluding any Density Bonus Units as defined in this Chapter.
2. On-site inclusionary requirement. Unless otherwise exempted or excepted from this Chapter, Residential Developments shall include Inclusionary Units upon the same site as the Residential Development as follows:
 - a. For-sale Residential Development: For For-Sale Residential Development projects with nine or more Dwelling Units, twelve percent (12%) of the total Dwelling Units in the Residential Development shall be built on-site and made available for purchase at an Affordable Housing Cost to Moderate Income Households.
 - b. Rental Residential Development: For Rental Residential Development projects with 10 or more Dwelling Units that elect to provide units, five (5%) of the total Dwelling Units in the Residential Development shall be made available for rent at an Affordable Housing Cost to Moderate Income Households, and five percent (5%) of the total Dwelling Units in the Residential Development shall be made available for rent at an Affordable Housing Cost to Lower Income Households.
3. If a project amendment results in a change in the total number of Dwelling Units, the number of Inclusionary Units will be recalculated to coincide with the final approved Residential Development.

B. Calculation of Inclusionary Units

1. To calculate the number of Inclusionary Units required:
 - a. For For-Sale Residential Development projects, multiply 12% by the total number of For-Sale Dwelling Units in the project.
 - b. For Rental Residential Development projects with 10 or more Dwelling Units, multiply 5% by the total number of Rental Dwelling Units in the project to determine the number of Dwelling Units that must be made available for rent at an Affordable Housing Cost to Moderate Income Households, and 5% by the total Dwelling Units in the project to determine the number of Dwelling Units that shall be made available for rent at an Affordable Housing Cost to Lower Income Households.
2. For Rental Residential Development projects, when 5% is multiplied by the total number of Dwelling Units to determine the number for each respective income category and the result is less than one unit for each income category, the number of Inclusionary Units required shall be calculated by multiplying 10% by the total number of Dwelling Units, and the required Inclusionary Units ~~may~~ shall be affordable to ~~Lower or Moderate-Income Households at the discretion of the City Manager.~~

C. Fractional units.

1. When the calculation of Inclusionary Units according to this section results in a number that includes a fractional unit, the fraction shall be rounded to the next whole number if the fraction is equal to one-half (0.50) or more. In that event an additional Inclusionary Unit shall be provided, or for Rental Residential Development projects either an additional Inclusionary Unit affordable to Moderate-Income Households shall be provided or a fee may be paid in lieu of the additional Inclusionary Unit.
2. If the result of the calculation of Inclusionary Units includes a fraction less than one-half (0.50), the Applicant shall have the option of either rounding up to next whole number and providing an additional Inclusionary Unit affordable to Moderate-Income Households or paying an in-lieu fee as provided in Chapter 19.30.50 for the fractional unit.

D. State Density Program

Any Inclusionary Units provided on site in compliance with this Chapter may be used to qualify for a density bonus under California Government Code Section 65915 or any ordinance implementing Government Code Section 65915. An Applicant seeking a density bonus under State Law shall provide reasonable documentation to establish eligibility for a requested density bonus, incentive or concession, and waiver or reduction

of development standards, as provided for under State Law and as consistent with the process and procedures detailed in a locally adopted ordinance implementing the State Law. The number of Inclusionary Units shall be based upon the total number of Dwelling Units in a Residential Development, including any Market Rate Units allowed as a result of Density Bonus. The Inclusionary Unit requirement for a Residential Development shall be recalculated after a Density Bonus is provided to determine the total Dwelling Units in the project. Regardless of State Density Bonus utilization, the Applicant is required to meet the inclusionary housing requirements defined in this Chapter.

E. Contiguous Property under Common Ownership and Control.

An Applicant for a ~~planning permit~~Planning Permit shall not avoid the requirements of this Chapter by submitting piecemeal Planning Permit applications. At the time of the application for first approval for the Residential Development, the Applicant shall identify all Contiguous Property under Common Ownership and Control. The Applicant shall not be required to construct Dwelling Units upon the Contiguous Property at the time of the application for first approval; however, the Applicant shall be required to include the Contiguous Property under Common Ownership or Control in its Affordable Housing Plan. The Inclusionary Housing Agreement shall be recorded against the Residential Development and all Contiguous Property under Common Ownership or Control and shall require compliance with this Chapter upon development of each Contiguous Property at such time as there are ~~planning permit~~Planning Permit applications that would authorize a total of ten (10) or more Rental or nine (9) or more For-sale Dwelling Units for the Residential Development and the Contiguous Property under Common Ownership or Control.

F. Residential Development with overlapping inclusionary requirements.

When overlapping inclusionary housing requirements could be applied to a Residential Development pursuant to this Chapter because the Residential Development is located upon a parcel or parcels subject to more than one of the requirements in this section, the entire Residential Development shall be subject to the requirement that results in the production of the greatest amount and greatest depth of affordability of Inclusionary Dwelling Units.

G. Residential Development with both For-sale and Rental units.

When a Residential Development includes both For-sale and Rental Dwelling Units, the provisions of this Chapter that apply to For-sale Residential Development shall apply to that portion of the development that consists of For-sale Dwelling Units, while the provisions of this Chapter that apply to Rental Residential Development shall apply to that portion of the development that consists of Rental Dwelling Units.

H. Timing of construction of Inclusionary Units.

All Inclusionary Units shall be constructed, completed, ready for occupancy, and marketed concurrently with or prior to the Market Rate Units, unless the City finds that extenuating circumstances exist. In phased developments, Inclusionary Units may be constructed and occupied in proportion to the number of units in each phase.

I. Standards for Inclusionary Units.

1. Single-family detached Inclusionary Units shall be dispersed throughout the Residential Development. Townhouse, row-house, and multifamily Inclusionary Units shall be located so as not to create a geographic concentration of Inclusionary Units within the Residential Development.
2. The quality of exterior design and overall quality of construction of the Inclusionary Units shall be consistent with the exterior design of all Market Rate Units in the Residential Development and meet all site, design, and construction standards included in Title 16 (Buildings and Construction), Title 18 (Subdivisions), and Title 19 (Zoning) of this code, including but not limited to compliance with all design guidelines included in applicable specific plans or otherwise adopted by the City council, and any regulations adopted to implement this Chapter shall have functionally equivalent parking when parking is provided to the Market Rate Units.
3. Inclusionary Units shall have the same interior finishes and features as the Market Rate Units that are durable and of good quality and comply with any regulations adopted to implement this Chapter.
4. The Inclusionary Units shall have the same amenities as the Market Rate Units, including the same access to and enjoyment of common open space and facilities in the Residential Development.
5. The Inclusionary Units shall have the same proportion of unit types as the market rate units in the Residential Development except:
 - a. Single-family detached residential projects may include single family attached Inclusionary Units;
 - b. Single-family detached Inclusionary Units may have smaller lots than single-family detached Market Rate Units in a manner consistent Title 19 (Zoning); and
6. The Inclusionary Units shall have a comparable square footage and the same bedroom count and bedroom count ratio as the Market Rate Units.

J. Minimum requirements.

The requirements of this Chapter are minimum requirements and shall not preclude a

Residential Development from providing additional Inclusionary Units or Inclusionary Units with lower Affordable Rents or Affordable Sales Prices than required by this Chapter.

K. Affordable Housing Plan and Inclusionary Housing Agreement.

1. An Affordable Housing Plan shall be submitted as part of the application for first approval of any Residential Development whether paying the in-lieu fee or providing Inclusionary Units on-site. No application for a first approval for a Residential Development may be determined to be complete unless an Affordable Housing Plan is submitted and approved by the City in conformance with the provisions of this Chapter.
2. For each construction phase, the Affordable Housing Plan shall specify, at the same level of detail as the application for the Residential Development, all of the following applicable information including, but not limited to:
 - a. Developer's Compliance option as specified in Section 19.30.050;
 - b. The calculations used to determine the number of Inclusionary Units;
 - c. A floor plan or site plan depicting the location of the Inclusionary Units;
 - d. The tenure and affordability level for each Inclusionary Unit;
 - e. The term of affordability;
 - f. Other affordability requirements;
 - g. A phasing plan for phased developments;
 - h. A description and details of any requested incentives, waivers or exemptions;
 - i. The process by which eligibility of qualified households will be reviewed and selected to purchase or rent Inclusionary Units;
 - j. Rental/ownership regulatory provisions;
 - k. An annual reporting schedule and requirements;
 - l. A statement signed by the Applicant and property owner, if different, that the Affordable Housing Agreement required by this Chapter shall include a provision that authorizes the City to recover reasonable attorneys' fees, investigation and litigation expenses, and related staff costs associated with enforcing the Inclusionary Housing Agreement; and
 - m. Any other information that is reasonably necessary to evaluate the compliance of the Affordable Housing Plan with the requirements of this Chapter and any regulations adopted to implement this Chapter.
3. Upon submittal, the Community Development Director shall determine if the Affordable Housing Plan is complete and conforms to the provisions of this Chapter and any regulations adopted to implement this Chapter. The decision of the Community Development Director may be appealed to the City Council.

4. The decision of the Community Development Director may be appealed to the City Council by filing a written appeal with the City Clerk. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be accompanied by the fee specified in the City's master fee schedule.
5. The City Clerk shall schedule the appeal for consideration by the City Council within 30 days of the date the appeal was filed. The Community Development Director shall prepare a staff report that responds to the issues raised by the appeal and may include a recommendation for action.
6. The Affordable Housing Plan shall be reviewed as part of the first approval of any Residential Development. The Affordable Housing Plan shall be approved if it conforms to the provisions of this Chapter and any regulations adopted to Implement this Chapter. A condition shall be attached to the first approval of any Residential Development to require recordation of the Inclusionary Housing Agreement described in this Section prior to the approval of any final or parcel map or building permit for the Residential Development.
7. A request for a minor modification of an approved Affordable Housing Plan may be granted by the Community Development Director if the modification is substantially in compliance with the original Affordable Housing Plan and conditions of approval. Other modifications to the Affordable Housing Plan shall be processed in the same manner as the original plan.
8. Following the first approval of a Residential Development, the City shall prepare an Inclusionary Housing Agreement providing for implementation of the Affordable Housing Plan and consistent with any regulations adopted to implement this Chapter. Prior to the approval of any final or parcel map or issuance of any building permit for a Residential Development subject to this Chapter, the Inclusionary Housing Agreement shall be executed by the City and the Applicant and recorded against the entire Residential Development property and any other property used for the purposes of providing inclusionary housing pursuant to this Chapter to ensure that the Affordable Housing Agreement will be enforceable upon any successor in interest. The Inclusionary Housing Agreement shall not be amended without the prior written consent of the City and shall also not be amended prior to any necessary amendments to applicable ~~planning permit~~ Planning Permits.
9. The City Council, by resolution, may establish fees for the ongoing administration and monitoring of the Inclusionary Units, which fees may be updated periodically, as required.

L. Lottery

At the initial offering of Inclusionary Units in a residential project and any Inclusionary Unit becomes available for sale or for rent in any Residential Project, the

City requires the use of a lottery approved by the City to select purchasers or renters.

19.30.050 – Developer’s Compliance Options.

A. On-site Provision of Inclusionary Rental Units Instead for Inclusionary For-Sale Units.

When on-site Inclusionary For-Sale Units are required by this Chapter, a Developer may instead construct on-site Inclusionary Rental. If a Developer chooses to construct on-site Inclusionary Rental Units in lieu of on-site Inclusionary For-Sale Units, the requirements for such on-site Rental Inclusionary Units shall be the same as if the Residential Development were a Rental Residential Development project.

B. In lieu fee.

1. The inclusionary housing requirement in Section 19.30.040 for For-Sale Residential Development must be satisfied by the provision of the required Inclusionary Units, except when the number of required Inclusionary Units includes a fraction less than one-half (0.5). In that case, an in-lieu fee may be paid for the fractional unit. The inclusionary housing requirement in Section 19.30.040 for Rental Residential Development may be satisfied by the payment of a fee to the City in lieu of constructing the Inclusionary Units within the Residential Development, including fractional units. In either case, any fee that the Developer chooses to pay must be received by the City upon issuance of a Building Permit for the Residential Development.
2. In lieu fees shall be as follows:
 - a. For-sale Residential Development: An in-lieu fee may be paid only for fractional units when the number of required Inclusionary Units includes a fraction less than one-half (0.5). In that case, the in-lieu fee for each For-sale Inclusionary Unit shall be \$20.00 per square foot multiplied by the Livable Square Footage of the entire project and divided by the number of required For-sale Inclusionary Units, including fractional units. The in-lieu fee for each fractional For-sale Inclusionary Unit shall be the per-unit in-lieu fee calculated using the preceding formula multiplied by the applicable fraction.
 - b. Rental Residential Development: An in-lieu fee may be paid for all or any portion of Inclusionary Units required in a Rental Residential Development, including fractional units. As noted in Section 19.30.040(C), however, if the number of required Rental Inclusionary Units is one-half (0.5) or greater, the fraction shall be rounded to the next whole number, and the Developer may either provide the Rental Inclusionary Unit or pay a fee in lieu of the Rental Inclusionary Unit. In the event that the Developer chooses to pay a fee in

lieu of providing Rental Inclusionary Units, the in-lieu fee for each Rental Inclusionary Unit shall be \$17.00 per square foot multiplied by the Livable Square Footage of the entire project and divided by the number of required Rental Inclusionary Units, including fractional units. The in-lieu fee for each fractional Rental Inclusionary Unit shall be the per-unit in-lieu fee calculated using the preceding formula multiplied by the applicable fraction.

3. The amount of in lieu fees established in this Section shall be included in the City's Master Fee Schedule and may be adjusted annually for inflation each July 1 using an appropriate index, as determined by the City Council.
4. If a project amendment results in a change in the total number of Dwelling Units, the in-lieu fee will be recalculated to coincide with the final approved Residential Development.
5. No Building Permit shall be issued by the City for any Market Rate Dwelling Unit in the Residential Development prior to the payment in full of all in-lieu fees to the City. The Developer shall provide both notice by recorded document against the Residential Development and, additionally, for each For-sale Dwelling Unit therein, the Developer shall provide specific written notice to any purchaser of any Dwelling Unit prior to the acceptance of any offer to purchase, and shall obtain executed acknowledgment of the receipt of such notice, that purchaser shall not have any right to occupy the Dwelling Unit until such time as all in lieu fees owing for the Residential Development are paid to the City.
6. All in lieu fees collected under this section shall be deposited in the City of El Cerrito Affordable Housing Trust Fund and utilized for the development of new Affordable Housing units.

19.30.060 - Continuing Affordability and Occupancy.

A. The duration of affordability and occupancy for units created through the inclusionary zoning provisions are this Chapter shall be as follows:

1. The Affordable Sales Price for Inclusionary Units shall be restricted for a period of 45 years pursuant to an Affordable Housing Agreement recorded against the property and resets upon resale of the unit(s).
2. The monthly Affordable Rent for Inclusionary Units shall be restricted for a period of 55 years pursuant to an Affordable Housing Agreement recorded against the property.
3. A longer term of affordability may be required if the Residential Development receives a subsidy of any type, including but not limited to loan, grant, mortgage financing, mortgage insurance, or rental subsidy, and the subsidy program requires a longer term of affordability.

B. The Developer shall be required to execute standard documents, in a form approved by the City Attorney, to ensure the continued affordability of the Inclusionary Units approved for each Residential Development. The documents may include, but are not limited to, Inclusionary Housing Agreements, regulatory agreements, promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase, and/or other documents. The affordability documents shall be recorded against the Residential Development, all Inclusionary Units, and any site subject to the provisions of this Chapter. Affordability documents for For-sale owner-occupied Inclusionary Units shall also include subordinate shared appreciation documents permitting the City to capture at resale the difference between the market rate value of the Inclusionary Unit and the affordable housing cost, plus a share of appreciation realized from an unrestricted sale in such amounts as deemed necessary by the City to replace the Inclusionary Unit.

C. Unless otherwise required by law, all promissory note repayments, shared appreciation payments, or other payments collected under this Section shall be deposited in the City of El Cerrito Affordable Housing Trust Fund established pursuant to Section 19.30.070.

D. Any household that occupies an Inclusionary Unit must occupy that unit as its principal residence at all times, unless the Community Development Director approves rental to a third party for a limited period of time due to household hardship.

E. No household may begin occupancy of an Inclusionary Unit until the household has been determined to be an Eligible Household to occupy that unit. Rental Inclusionary Units shall continue to be rented to income Eligible Households at an Affordable Rent for the entire term of the inclusionary housing restriction. The Community Development Director shall establish standards for determining household income, maximum occupancy, affordable housing cost, provisions for continued monitoring of tenant eligibility, and other eligibility criteria.

F. Officials, employees, or consultants of the City, and members of boards and commissions thereof, shall comply with all applicable laws, regulations, and policies relating to conflicts of interest as to their eligibility to develop, construct, sell, rent, lease, occupy, or purchase an Inclusionary Unit. City Council may adopt additional conflict of interest provisions relating to the administration of this paragraph and the eligibility of persons to occupy Inclusionary Units pursuant to this Chapter.

19.30.070 - Implementation, Waivers, Enforcement.

A. Affordable Housing Trust Fund.

1. Unless otherwise required by law, all in lieu fees, fees, promissory note repayments, shared appreciation payments, or other funds collected under this Chapter shall be deposited into a separate account to be designated as the City of El Cerrito Affordable Housing Trust Fund.
2. The moneys in the Affordable Housing Trust Fund and all earnings from investment of the moneys in the Affordable Housing Trust Fund shall be

expended exclusively to provide housing affordable to extremely low income, very low income, Lower Income, and Moderate-Income Households in the City of El Cerrito and administration and compliance monitoring of the inclusionary housing program.

B. Monitoring of compliance.

Each Inclusionary Housing Agreement shall include provisions for the monitoring by the City of each Residential Development and each Inclusionary Unit for compliance with the terms of this Chapter, the applicable Inclusionary Housing Agreement, and as required by law. Such provisions shall require annual compliance reports to be submitted to the City by the owner and the City shall conduct periodic on-site audits to insure compliance with all applicable laws, policies, and agreements. The City Council may adopt fees for the costs of monitoring and compliance by the City, which shall be deposited into the Affordable Housing Trust Fund for that purpose.

C. Waiver.

1. Notwithstanding any other provision of this Chapter, the requirements of this Chapter may be waived, adjusted, or reduced if an Applicant shows, based on substantial evidence, applying the requirements of this Chapter would take property in violation of the United States or California Constitutions.
2. Any request for a waiver, adjustment, or reduction under this section shall be submitted to the City concurrently with the Affordable Housing Plan required by Section 19.30.040 of this Chapter. The request for a waiver, adjustment, or reduction shall set forth in detail the factual and legal basis for the claim.
3. The request for a waiver, adjustment, or reduction shall be reviewed and considered in the same manner and at the same time as the Affordable Housing Plan and is subject to the appeal process for Affordable Housing Plans in Section 19.30.040.
4. In making a determination on an application for waiver, adjustment, or reduction, the Applicant shall bear the burden of presenting substantial evidence to support the claim. The City may assume each of the following when applicable:
 - a. That the Applicant will provide the most economical Inclusionary Units feasible, meeting the requirements of this Chapter and any regulations adopted to implement this Chapter.
 - b. That the Applicant is likely to obtain housing subsidies when such funds are reasonably available.
5. The waiver, adjustment or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this section.

D. Implementation and enforcement.

1. The Community Development Director may issue regulations or interpretations to assist in the implementation and administration of all aspects of this Chapter.
2. The City shall evaluate the effectiveness of the ordinance codified in this Chapter, for review by the City Council, three (3) years or sooner after the Effective Date of this Chapter.
3. The City Attorney shall be authorized to enforce the provisions of this Chapter and all Inclusionary Housing Agreements, regulatory agreements, covenants, resale restrictions, promissory notes, deed of trust, and other requirements placed on Inclusionary Units by civil action and any other proceeding or method permitted by law. The City may, at its discretion, take such enforcement action as is authorized under this code and/or any other action authorized by law or by any regulatory document, restriction, or agreement executed under this Chapter.
4. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any Applicant or owner from the requirements of this Chapter. No permit, license, map, or other approval or Planning Permit for a Residential Development shall be issued, including without limitation a final inspection or Certificate of Occupancy, until all applicable requirements of this Chapter have been satisfied.
5. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

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) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. This ordinance creates obligations for the inclusion of affordable housing units with some residential development projects. Those projects will be the subject of independent environmental review, if required by CEQA, at the earliest possible time prior to approval. It can therefore be seen with certainty that there is no possibility that the adoption of the ordinance itself will have 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 May 1, 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 May 15, 2018 and passed by the following vote:

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

APPROVED:

Gabriel Quinto, Mayor

ATTEST:

Cheryl Morse, City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on May ____, 2018.

Cheryl Morse, City Clerk

ORDINANCE CERTIFICATION

I, Cheryl Morse, 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 May 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 XX, 2018.

Cheryl Morse, City Clerk

2960361.1

ORDINANCE NO. 2018-XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 19 OF THE EL CERRITO MUNICIPAL CODE CHAPTER TO ADD CHAPTER 19.30, "INCLUSIONARY ZONING" RELATED TO THE INCLUSION OF AFFORDABLE HOUSING UNITS IN SOME NEW RESIDENTIAL DEVELOPMENT PROJECTS

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, 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 A. Leveraging private development to address affordable housing needs," recommends establishing a new inclusionary zoning ordinance and/or enact new housing in-lieu fees for affordable housing;

WHEREAS, the Housing Element of the adopted El Cerrito General Plan identifies Program H2.8, Inclusionary Housing Ordinance, to study the feasibility, terms and conditions of developing an ordinance that would require affordable housing units and/or in-lieu fees; and

WHEREAS, the Inclusionary Policy Analysis Report prepared by Keyser Marston Associates in April 2018 conducted financial feasibility analysis to test on-site affordable dwelling unit requirements and in-lieu fee options for new residential development and determined the following:

- Rental Projects could support an on-site obligation of up to 5% Low and 5% at Moderate income levels, as defined in State law;
- Ownership Projects could support up to 12% at Moderate income on-site obligation;
- Rental Projects could support an in-lieu fee of \$17 per square foot. using a specified formula; and
- Ownership Projects could support an in-lieu fee of \$20 per square foot, using a specified formula.

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.

Agenda Item No. 4(B)
All Amendments Incorporated

Section 2. Amendment of Title 19 of the Municipal Code. Title 19, "Zoning", of the El Cerrito Municipal Code is hereby is amended to add Chapter 19.30, "Inclusionary Zoning" to read as follows:

Chapter 19.30 - INCLUSIONARY ZONING

19.30.010 - Findings and Purpose.

A. Findings.

The City Council finds and declares as follows:

1. Housing affordability continues to be a regional issue, especially for the residents of El Cerrito.
2. 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.
3. The 2015-2023 Housing Element identifies the need to study an inclusionary zoning ordinance to address a portion of the City's affordable housing needs.
4. According to the 2015-2022 Regional Housing Needs Allocation (RHNA), determined by the Association of Bay Area Governments (ABAG), the City of El Cerrito has a total housing need of 398 units through the year 2022, out of which nearly sixty percent (60%) is for lower- and moderate-income households (232 units). Of the affordable units: 50 units (13%) are for extremely low-income households; 50 units (13%) for very low-income households; 63 units (16%) for lower income households; and 69 units (17%) for moderate income households.
5. The inclusionary ordinance codified in this Chapter will substantially advance the City's legitimate interest in providing additional housing affordable to all income levels and dispersed throughout the City because Inclusionary Units required by the ordinance codified in this Chapter, including both rental and for-sale units, must be affordable to lower, and moderate-income households.
6. 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. Requiring Inclusionary Units within each residential development is consistent with the community's housing element goals of protecting the public welfare by fostering an adequate supply of housing for persons at all economic levels and maintaining both economic diversity and geographically dispersed affordable housing. Requiring builders of new market rate housing to provide some housing affordable to lower and moderate-income households is also reasonably related to the impacts of

their projects.

B. Purpose.

The purposes of this Chapter are to:

1. Implement the housing goals set forth in the 2015-2023 Housing Element of the El Cerrito General Plan and the Affordable Housing Strategy of the City of El Cerrito.
2. Ensure that private market-rate development is making a reasonable and feasible contribution towards addressing the need for additional affordable housing.
3. Increase the production of affordable housing units for very low, low and moderate-income households.
4. Create a balanced community with a wide variety of housing available to households of all income levels.
5. Support the housing objectives contained in State law.
6. Establish policies and alternative methods of compliance for meeting the City's affordable housing needs.

19.30.020 - Definitions.

The definitions set forth in this part shall govern the application and interpretation of this Chapter. Words and phrases not defined in this Chapter shall be interpreted to give this Chapter its most reasonable application.

Affordable Housing Cost means the housing cost for Dwelling Units as defined by California Health and Safety Code Section 50052.5 for owner-occupied housing and the affordable rent for rental units as defined by California Health and Safety Code Section 50053, as applicable.

Affordable Housing Strategy means the City's affordable housing workplan that identifies a range of goals and implementation tools to preserve and expand housing opportunities for households with very low to moderate incomes and for persons with special housing needs

Affordable Sales Price means the maximum allowable sales price for an Inclusionary Unit in effect at the time of initial (first) sale to an Eligible Household. The Affordable Sales Price is a price that includes a reasonable down payment and results in projected average monthly housing payments during the first calendar year of a household's occupancy, including interest, principal, mortgage insurance, property taxes, homeowners' insurance, homeowners' association

Agenda Item No. 4(B)
All Amendments Incorporated

dues, if any, not exceeding costs equal to thirty five percent of one hundred ten percent (110%) of Area Median Income for Moderate Income units. The City Manager may adjust the percentage of Area Median Income to between eighty percent (80%) and one hundred ten percent (110%) to address major shifts in the housing market or other related economic conditions affecting the demand for Inclusionary Units, as needed.

The Affordable Sales Price shall be determined for a household size based on the number of bedrooms in the Dwelling Unit plus one. The City Manager shall determine the sales price for Inclusionary Units by any reasonable method, so long as average monthly housing payments do not exceed those permitted by this Chapter. Affordable Sales Prices may be adjusted annually by the City Manager and will be provided to the Developer annually upon such adjustment.

Affordable Rent means the total monthly payments by the Tenant of an Inclusionary Unit for all of the following: (1) use and occupancy of the Inclusionary Unit, land and storage lockers, and use of all common areas; (2) any separately charged fees or service charges assessed by the Developer that are required of all tenants of Units in the Project, except security deposits; (3) an allowance for utilities paid by the Tenant as established by the Contra Costa Housing Authority, including garbage collections, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and (4) any other interest, taxes, fees or charges for use of the land or associated facilities that are assessed by a public or private entity other than the Developer and paid by the Tenant.

The Affordable Rent shall be determined for a household size based on the number of bedrooms in the Dwelling Unit plus one. The City Manager shall determine the rent for Inclusionary Units by any reasonable method, so long as average monthly housing payments do not exceed those permitted by this Chapter. Affordable Rent may be adjusted annually by the City Manager and shall be provided to the Developer annually upon such adjustment. For purposes of this Chapter, Affordable Rent shall not exceed costs equal to thirty percent (30%) of seventy percent (70%) of Area Median Income for Lower Income units or thirty percent of one hundred ten percent (110%) of Area Median Income for Moderate Income units.

Affordable Housing Trust Fund means a fund or account designated by the City to maintain and account for all monies received pursuant to this Chapter.

Affordable Housing Plan means a plan on a form provided by the City that shall be submitted by the Applicant or Developer, containing all of the information specified in and in conformance with Section 19.30.040 of this Chapter specifying the manner in which Inclusionary Units will be provided in conformance with this Chapter and any regulations adopted to implement this Chapter, and consistent with the El Cerrito General Plan.

Applicant or Developer means a person, persons, or entity that applies for a Residential Development and includes the owner or owners of the property if the Applicant does not own the property on which development is proposed.

Area Median Income or "AMI" means the annual median income for Contra Costa County as published annually by the State of California Department of Housing and Community Development, adjusted for household size, as published periodically in the California Code of Regulations, Title 25, Section 6932, or its successor provision, or as established by the City of El Cerrito in the event that such median income figures are no longer published periodically in the California Code of Regulations.

Building Permit includes full structural building permits as well as partial permits such as foundation-only permits.

City means the City of El Cerrito.

City Manager means the City Manager of the City of El Cerrito or his or her designee.

Certificate of Occupancy is the permit issued by the El Cerrito building division authorizing the initial occupancy of a Dwelling Unit, including a temporary certificate of occupancy.

Common Ownership or Control refers to property owned or controlled by the same person, persons, or entity, or by separate entities in which any shareholder, partner, member, or family member of an investor of the entity owns ten percent (10%) or more of the interest in the property.

Community Development Director means the director of the Community Development Department or his or her designee.

Construction Phase means:

- A. The area included within one city approved tentative subdivision map for Residential Development where a single final map implements the entire approved tentative map;
- B. The area included within each separate final map for Residential Development where multiple final maps implement the entire approved tentative map; or
- C. An area designated as a construction phase in an approved Affordable Housing Plan. For Residential Development that does not require a

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subdivision map, the Affordable Housing Plan shall identify Construction Phases.

Contiguous Property means any parcel of land that is:

- A. Touching another parcel at any point;
- B. Separated from another parcel at any point only by a public right of way, private street or way, or public or private utility, service, or access easement; or
- C. Separated from another parcel only by other real property of the Applicant which is not subject to the requirements of this Chapter at the time of the Planning Permit application by the Applicant.

Determined to be Complete is a term that applies to an application for a specific land Planning Permits that is requested by the Applicant and in accordance with Title 19 (Zoning) herein, and means that such application:

- A. Accurately includes all data required on the appropriate Planning Permit checklist that is utilized upon the date of receipt of the application;
- B. Is duly executed by the Applicant or the Applicant's authorized representative;
- C. Includes the full payment of all required fees;
- D. Includes an accurate and complete application for environmental clearance; and
- E. Includes the Affordable Housing Plan required by Section 19.30.040.

Density Bonus Units means Dwelling Units approved in a Residential Development pursuant to California Government Code Section 65915 et seq. that are in excess of the maximum residential density otherwise permitted by the El Cerrito General Plan, San Pablo Avenue Specific Plan or zoning ordinance.

Dwelling Unit shall have the definition given for dwellings in Title 19 (Zoning) of the El Cerrito Municipal Code.

Effective Date shall have the definition given in Section 19.30.030.

Eligible Household means a household which has been determined to be eligible to rent or purchase an Inclusionary Unit.

First Approval means the first of the following approvals to occur with respect to a Residential Development: development agreement, General Plan amendment, specific or area plan adoption or amendment, zoning, rezoning, pre-

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zoning, annexation, planned development permit, tentative map, parcel map, conditional use permit, special use permit, or building permit.

For-sale means and refers to any Dwelling Unit, including a condominium, stock cooperative, community apartment, or attached or detached single family home, for which a parcel or tentative and final map is required for the lawful subdivision of the parcel upon which the Dwelling Unit is located or for the creation of the unit in accordance with the Subdivision Map Act (California Government Code Section 66410 et seq.), or any Residential Development including such for-sale Dwelling Units.

Inclusionary Housing Agreement means an agreement in conformance with Section 19.30.040 of this Chapter between the City and an Applicant, governing how the Applicant shall comply with this Chapter.

Inclusionary Unit means a Dwelling Unit imposed on new Residential Development as required by this Chapter to be affordable to Lower or Moderate-Income Households.

Livable Square Feet means the total square footage of the interior of all Dwelling Units within a Residential Development.

Lower Income Household means a household with incomes that do not exceed eighty percent (80%) of Area Median Income as set forth in California Health and Safety Code Section 50079.5.

Market Rate Unit means a new Dwelling Unit in a Residential Development that is not an Inclusionary Unit as defined by Section.

Moderate Income Household means a household with income ranging above eighty percent (80%) to one hundred twenty percent (120%) of Area Median Income as set forth in California Health and Safety Code Section 50093(b).

Planning Permit means a tentative map, parcel map, conditional use permit, site development permit, planned development permit, design review, development agreement, or special use permit, or any discretionary permit excluding General Plan amendments, zoning and rezoning, annexation, specific plans, and area development policies.

Rental means and refers to a Dwelling Unit that is not a For-sale Dwelling Unit, and does not include any Dwelling Unit, whether offered for rental or sale, that may be sold as a result of the lawful subdivision of the parcel upon which the Dwelling Unit is located or creation of the unit in accordance with the Subdivision

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Map Act (California Government Code Section 66410 et seq.), or any Residential Development including such rental Dwelling Units.

Residential Development means any project requiring a Planning Permit for which an application has been submitted to the City, and that either:

- A. Would create ten (10) or more new Rental Dwelling Units or nine (9) or more new For-sale Dwelling Units by:
 - 1. The construction or alteration of structures, or
 - 2. The conversion of a use to residential from any other use.
- B. Is contiguous to property under Common Ownership or Control and the cumulative residential capacity of all of the Applicant's property pursuant to the General Plan designation or zoning at the time of the Planning Permit application for the Residential Development is either:
 - 1. Ten (10) or more Rental or nine (9) or more For-sale Dwelling Units; or
 - 2. Any combination of nine (9) or more For-Sale and Rental Dwelling Units, in which case the inclusionary housing requirement shall be determined as though the project were a For-Sale Residential Development.

Tenant is a household occupying an Inclusionary Unit pursuant to a valid lease with the Developer.

Unit Type means any form of dwelling or Dwelling Unit described in Title 19 (Zoning) of the El Cerrito Municipal Code.

Utilities means garbage collection, sewer, water, electricity, gas and other heating, cooling, cooking and refrigeration fuels.

19.30.030 - 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:

- 1. All For-sale Residential Development that consist of nine (9) or more units;

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2. All Rental Residential Development that consist of ten (10) or more units; and
3. All Residential Development and Contiguous Property that is under Common Ownership or Control.

C. Exemptions.

This Chapter shall not apply to any of the following:

1. Accessory Dwelling Unit(s).
2. Rental Residential Developments with a total of less than ten (10) Dwelling Units.
3. For-sale Residential Developments with a total of less than nine (9) Dwelling Units.
4. A Residential Development project the application for which has been determined to be complete prior to the Effective Date, and for which a building permit is issued within two (2) years from the issuance date of the last approval required for the Residential Development.
5. A Residential Development project that has received all required approvals prior to the Effective Date, and for which a building permit is issued within two (2) years from the date of the issuance date of last approval required for the Residential Development.
6. Residential Developments exempted by California Government Code Section 66474.2 or 66498.1, provided that such Residential Developments shall comply with any predecessor ordinance, resolution, or policy in effect on the date the application for the development was determined to be complete.

D. Special Circumstances Related to Exemptions.

1. Planning Permit expiration or extension.
 - a. Upon the expiration of any Planning Permit , and unless otherwise exempted, a Residential Development shall be subject to the inclusionary housing requirements of this Chapter and shall not proceed until such time as an Affordable Housing Plan is approved in conjunction with any other required Planning Permit or amendment thereto.
 - b. Any Residential Development project that requests an extension of any Planning Permit shall be subject to the requirements of this Chapter, unless the requirements are waived pursuant to Section 19.30.070.C.
2. Limited extension of exemption due to delay. The City Manager, may grant a request for an extension of the timelines in this section exempting Residential Development from this Chapter where a change in federal, state or local law

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would cause the need for a material redesign of the approved Residential Development that would render any of the approved Planning Permits, if implemented as approved, in violation of federal, state, or local law and would require amendment or revision of the Planning Permit.

E. Application of Chapter to Residential Development after June 30, 2021.

All Residential Development that has not been issued a building permit by June 30, 2021 will be subject to this Chapter.

19.30.040 - Inclusionary Housing Requirements.

A. Inclusionary housing requirement.

1. All new Residential Developments and Contiguous Property under Common Ownership and Control shall include Inclusionary Units. Calculations of the number of Inclusionary Units required by this section shall be based on the number of Dwelling Units in the Residential Development, excluding any Density Bonus Units as defined in this Chapter.
2. On-site inclusionary requirement. Unless otherwise exempted or excepted from this Chapter, Residential Developments shall include Inclusionary Units upon the same site as the Residential Development as follows:
 - a. For-sale Residential Development: For For-Sale Residential Development projects with nine or more Dwelling Units, twelve percent (12%) of the total Dwelling Units in the Residential Development shall be built on-site and made available for purchase at an Affordable Housing Cost to Moderate Income Households.
 - b. Rental Residential Development: For Rental Residential Development projects with 10 or more Dwelling Units that elect to provide units, five (5%) of the total Dwelling Units in the Residential Development shall be made available for rent at an Affordable Housing Cost to Moderate Income Households, and five percent (5%) of the total Dwelling Units in the Residential Development shall be made available for rent at an Affordable Housing Cost to Lower Income Households.
3. If a project amendment results in a change in the total number of Dwelling Units, the number of Inclusionary Units will be recalculated to coincide with the final approved Residential Development.

B. Calculation of Inclusionary Units

1. To calculate the number of Inclusionary Units required:
 - a. For For-Sale Residential Development projects, multiply 12% by the total number of For-Sale Dwelling Units in the project.

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- b. For Rental Residential Development projects with 10 or more Dwelling Units, multiply 5% by the total number of Rental Dwelling Units in the project to determine the number of Dwelling Units that must be made available for rent at an Affordable Housing Cost to Moderate Income Households, and 5% by the total Dwelling Units in the project to determine the number of Dwelling Units that shall be made available for rent at an Affordable Housing Cost to Lower Income Households.
2. For Rental Residential Development projects, when 5% is multiplied by the total number of Dwelling Units to determine the number for each respective income category and the result is less than one unit for each income category, the number of Inclusionary Units required shall be calculated by multiplying 10% by the total number of Dwelling Units, and the required Inclusionary Units shall be affordable to Moderate-Income Households.

C. Fractional units.

1. When the calculation of Inclusionary Units according to this section results in a number that includes a fractional unit, the fraction shall be rounded to the next whole number if the fraction is equal to one-half (0.50) or more. In that event an additional Inclusionary Unit shall be provided, or for Rental Residential Development projects either an additional Inclusionary Unit affordable to Moderate-Income Households shall be provided or a fee may be paid in lieu of the additional Inclusionary Unit.
2. If the result of the calculation of Inclusionary Units includes a fraction less than one-half (0.50), the Applicant shall have the option of either rounding up to next whole number and providing an additional Inclusionary Unit affordable to Moderate-Income Households or paying an in-lieu fee as provided in Chapter 19.30.50 for the fractional unit.

D. State Density Program

Any Inclusionary Units provided on site in compliance with this Chapter may be used to qualify for a density bonus under California Government Code Section 65915 or any ordinance implementing Government Code Section 65915. An Applicant seeking a density bonus under State Law shall provide reasonable documentation to establish eligibility for a requested density bonus, incentive or concession, and waiver or reduction of development standards, as provided for under State Law and as consistent with the process and procedures detailed in a locally adopted ordinance implementing the State Law. The number of Inclusionary Units shall be based upon the total number of Dwelling Units in a Residential Development, including any Market Rate Units allowed as a result of Density Bonus. The Inclusionary Unit requirement for a Residential Development shall be recalculated after a Density Bonus is provided to determine the total Dwelling Units in the project. Regardless of State Density Bonus utilization, the Applicant is required to meet the inclusionary housing requirements defined in this Chapter.

E. Contiguous Property under Common Ownership and Control.

An Applicant for a Planning Permit shall not avoid the requirements of this Chapter by submitting piecemeal Planning Permit applications. At the time of the application for first approval for the Residential Development, the Applicant shall identify all Contiguous Property under Common Ownership and Control. The Applicant shall not be required to construct Dwelling Units upon the Contiguous Property at the time of the application for first approval; however, the Applicant shall be required to include the Contiguous Property under Common Ownership or Control in its Affordable Housing Plan. The Inclusionary Housing Agreement shall be recorded against the Residential Development and all Contiguous Property under Common Ownership or Control and shall require compliance with this Chapter upon development of each Contiguous Property at such time as there are Planning Permit applications that would authorize a total of ten (10) or more Rental or nine (9) or more For-sale Dwelling Units for the Residential Development and the Contiguous Property under Common Ownership or Control.

F. Residential Development with overlapping inclusionary requirements.

When overlapping inclusionary housing requirements could be applied to a Residential Development pursuant to this Chapter because the Residential Development is located upon a parcel or parcels subject to more than one of the requirements in this section, the entire Residential Development shall be subject to the requirement that results in the production of the greatest amount and greatest depth of affordability of Inclusionary Dwelling Units.

G. Residential Development with both For-sale and Rental units.

When a Residential Development includes both For-sale and Rental Dwelling Units, the provisions of this Chapter that apply to For-sale Residential Development shall apply to that portion of the development that consists of For-sale Dwelling Units, while the provisions of this Chapter that apply to Rental Residential Development shall apply to that portion of the development that consists of Rental Dwelling Units.

H. Timing of construction of Inclusionary Units.

All Inclusionary Units shall be constructed, completed, ready for occupancy, and marketed concurrently with or prior to the Market Rate Units, unless the City finds that extenuating circumstances exist. In phased developments, Inclusionary Units may be constructed and occupied in proportion to the number of units in each phase.

I. Standards for Inclusionary Units.

1. Single-family detached Inclusionary Units shall be dispersed throughout the Residential Development. Townhouse, row-house, and multifamily Inclusionary

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Units shall be located so as not to create a geographic concentration of Inclusionary Units within the Residential Development.

2. The quality of exterior design and overall quality of construction of the Inclusionary Units shall be consistent with the exterior design of all Market Rate Units in the Residential Development and meet all site, design, and construction standards included in Title 16 (Buildings and Construction), Title 18 (Subdivisions), and Title 19 (Zoning) of this code, including but not limited to compliance with all design guidelines included in applicable specific plans or otherwise adopted by the City council, and any regulations adopted to implement this Chapter shall have functionally equivalent parking when parking is provided to the Market Rate Units.
3. Inclusionary Units shall have the same interior finishes and features as the Market Rate Units that are durable and of good quality and comply with any regulations adopted to implement this Chapter.
4. The Inclusionary Units shall have the same amenities as the Market Rate Units, including the same access to and enjoyment of common open space and facilities in the Residential Development.
5. The Inclusionary Units shall have the same proportion of unit types as the market rate units in the Residential Development except:
 - a. Single-family detached residential projects may include single family attached Inclusionary Units;
 - b. Single-family detached Inclusionary Units may have smaller lots than single-family detached Market Rate Units in a manner consistent Title 19 (Zoning); and
6. The Inclusionary Units shall have a comparable square footage and the same bedroom count and bedroom count ratio as the Market Rate Units.

J. Minimum requirements.

The requirements of this Chapter are minimum requirements and shall not preclude a Residential Development from providing additional Inclusionary Units or Inclusionary Units with lower Affordable Rents or Affordable Sales Prices than required by this Chapter.

K. Affordable Housing Plan and Inclusionary Housing Agreement.

1. An Affordable Housing Plan shall be submitted as part of the application for first approval of any Residential Development whether paying the in-lieu fee or providing Inclusionary Units on-site. No application for a first approval for a

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Residential Development may be determined to be complete unless an Affordable Housing Plan is submitted and approved by the City in conformance with the provisions of this Chapter.

2. For each construction phase, the Affordable Housing Plan shall specify, at the same level of detail as the application for the Residential Development, all of the following applicable information including, but not limited to:
 - a. Developer's Compliance option as specified in Section 19.30.050;
 - b. The calculations used to determine the number of Inclusionary Units;
 - c. A floor plan or site plan depicting the location of the Inclusionary Units;
 - d. The tenure and affordability level for each Inclusionary Unit;
 - e. The term of affordability;
 - f. Other affordability requirements;
 - g. A phasing plan for phased developments;
 - h. A description and details of any requested incentives, waivers or exemptions;
 - i. The process by which eligibility of qualified households will be reviewed and selected to purchase or rent Inclusionary Units;
 - j. Rental/ownership regulatory provisions;
 - k. An annual reporting schedule and requirements;
 - l. A statement signed by the Applicant and property owner, if different, that the Affordable Housing Agreement required by this Chapter shall include a provision that authorizes the City to recover reasonable attorneys' fees, investigation and litigation expenses, and related staff costs associated with enforcing the Inclusionary Housing Agreement; and
 - m. Any other information that is reasonably necessary to evaluate the compliance of the Affordable Housing Plan with the requirements of this Chapter and any regulations adopted to implement this Chapter.
3. Upon submittal, the Community Development Director shall determine if the Affordable Housing Plan is complete and conforms to the provisions of this Chapter and any regulations adopted to implement this Chapter. The decision of the Community Development Director may be appealed to the City Council.
4. The decision of the Community Development Director may be appealed to the City Council by filing a written appeal with the City Clerk. The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be accompanied by the fee specified in the City's master fee schedule.
5. The City Clerk shall schedule the appeal for consideration by the City Council within 30 days of the date the appeal was filed. The Community Development Director shall prepare a staff report that responds to the

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issues raised by the appeal and may include a recommendation for action.

6. The Affordable Housing Plan shall be reviewed as part of the first approval of any Residential Development. The Affordable Housing Plan shall be approved if it conforms to the provisions of this Chapter and any regulations adopted to Implement this Chapter. A condition shall be attached to the first approval of any Residential Development to require recordation of the Inclusionary Housing Agreement described in this Section prior to the approval of any final or parcel map or building permit for the Residential Development.
7. A request for a minor modification of an approved Affordable Housing Plan may be granted by the Community Development Director if the modification is substantially in compliance with the original Affordable Housing Plan and conditions of approval. Other modifications to the Affordable Housing Plan shall be processed in the same manner as the original plan.
8. Following the first approval of a Residential Development, the City shall prepare an Inclusionary Housing Agreement providing for implementation of the Affordable Housing Plan and consistent with any regulations adopted to implement this Chapter. Prior to the approval of any final or parcel map or issuance of any building permit for a Residential Development subject to this Chapter, the Inclusionary Housing Agreement shall be executed by the City and the Applicant and recorded against the entire Residential Development property and any other property used for the purposes of providing inclusionary housing pursuant to this Chapter to ensure that the Affordable Housing Agreement will be enforceable upon any successor in interest. The Inclusionary Housing Agreement shall not be amended without the prior written consent of the City and shall also not be amended prior to any necessary amendments to applicable Planning Permits.
9. The City Council, by resolution, may establish fees for the ongoing administration and monitoring of the Inclusionary Units, which fees may be updated periodically, as required.

L. Lottery

At the initial offering of Inclusionary Units in a residential project and any Inclusionary Unit becomes available for sale or for rent in any Residential Project, the City requires the use of a lottery approved by the City to select purchasers or renters.

19.30.050 – Developer's Compliance Options.

A. On-site Provision of Inclusionary Rental Units Instead for Inclusionary For-Sale Units.

When on-site Inclusionary For-Sale Units are required by this Chapter, a Developer may instead construct on-site Inclusionary Rental. If a Developer chooses to construct on-site Inclusionary Rental Units in lieu of on-site Inclusionary For-Sale Units, the requirements for such on-site Rental Inclusionary Units shall be the same as if the Residential Development were a Rental Residential Development project.

B. In lieu fee.

1. The inclusionary housing requirement in Section 19.30.040 for For-Sale Residential Development must be satisfied by the provision of the required Inclusionary Units, except when the number of required Inclusionary Units includes a fraction less than one-half (0.5). In that case, an in-lieu fee may be paid for the fractional unit. The inclusionary housing requirement in Section 19.30.040 for Rental Residential Development may be satisfied by the payment of a fee to the City in lieu of constructing the Inclusionary Units within the Residential Development, including fractional units. In either case, any fee that the Developer chooses to pay must be received by the City upon issuance of a Building Permit for the Residential Development.
2. In lieu fees shall be as follows:
 - a. For-sale Residential Development: An in-lieu fee may be paid only for fractional units when the number of required Inclusionary Units includes a fraction less than one-half (0.5). In that case, the in-lieu fee for each For-sale Inclusionary Unit shall be \$20.00 per square foot multiplied by the Livable Square Footage of the entire project and divided by the number of required For-sale Inclusionary Units, including fractional units. The in-lieu fee for each fractional For-sale Inclusionary Unit shall be the per-unit in-lieu fee calculated using the preceding formula multiplied by the applicable fraction.
 - b. Rental Residential Development: An in-lieu fee may be paid for all or any portion of Inclusionary Units required in a Rental Residential Development, including fractional units. As noted in Section 19.30.040(C), however, if the number of required Rental Inclusionary Units is one-half (0.5) or greater, the fraction shall be rounded to the next whole number, and the Developer may either provide the Rental Inclusionary Unit or pay a fee in lieu of the Rental Inclusionary Unit. In the event that the Developer chooses to pay a fee in lieu of providing Rental Inclusionary Units, the in-lieu fee for each Rental Inclusionary Unit shall be \$17.00 per square foot multiplied by the Livable Square Footage of the entire project and divided by the number of required Rental Inclusionary Units, including fractional units. The in-lieu fee for each fractional Rental Inclusionary Unit shall be the per-unit in-lieu fee calculated using the preceding formula multiplied by the applicable fraction.

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3. The amount of in lieu fees established in this Section shall be included in the City's Master Fee Schedule and may be adjusted annually for inflation each July 1 using an appropriate index, as determined by the City Council.
4. If a project amendment results in a change in the total number of Dwelling Units, the in-lieu fee will be recalculated to coincide with the final approved Residential Development.
5. No Building Permit shall be issued by the City for any Market Rate Dwelling Unit in the Residential Development prior to the payment in full of all in-lieu fees to the City. The Developer shall provide both notice by recorded document against the Residential Development and, additionally, for each For-sale Dwelling Unit therein, the Developer shall provide specific written notice to any purchaser of any Dwelling Unit prior to the acceptance of any offer to purchase, and shall obtain executed acknowledgment of the receipt of such notice, that purchaser shall not have any right to occupy the Dwelling Unit until such time as all in lieu fees owing for the Residential Development are paid to the City.
6. All in lieu fees collected under this section shall be deposited in the City of El Cerrito Affordable Housing Trust Fund and utilized for the development of new Affordable Housing units.

19.30.060 - Continuing Affordability and Occupancy.

A. The duration of affordability and occupancy for units created through the inclusionary zoning provisions are this Chapter shall be as follows:

1. The Affordable Sales Price for Inclusionary Units shall be restricted for a period of 45 years pursuant to an Affordable Housing Agreement recorded against the property and resets upon resale of the unit(s).
2. The monthly Affordable Rent for Inclusionary Units shall be restricted for a period of 55 years pursuant to an Affordable Housing Agreement recorded against the property.
3. A longer term of affordability may be required if the Residential Development receives a subsidy of any type, including but not limited to loan, grant, mortgage financing, mortgage insurance, or rental subsidy, and the subsidy program requires a longer term of affordability.

B. The Developer shall be required to execute standard documents, in a form approved by the City Attorney, to ensure the continued affordability of the Inclusionary Units approved for each Residential Development. The documents may include, but are not limited to, Inclusionary Housing Agreements, regulatory agreements, promissory notes, deeds of trust, resale restrictions, rights of first refusal, options to purchase, and/or other documents. The affordability documents shall be recorded against the Residential Development, all Inclusionary Units, and any site subject to the provisions of this Chapter. Affordability documents for For-sale owner-occupied Inclusionary Units shall also include

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subordinate shared appreciation documents permitting the City to capture at resale the difference between the market rate value of the Inclusionary Unit and the affordable housing cost, plus a share of appreciation realized from an unrestricted sale in such amounts as deemed necessary by the City to replace the Inclusionary Unit.

C. Unless otherwise required by law, all promissory note repayments, shared appreciation payments, or other payments collected under this Section shall be deposited in the City of El Cerrito Affordable Housing Trust Fund established pursuant to Section 19.30.070.

D. Any household that occupies an Inclusionary Unit must occupy that unit as its principal residence at all times, unless the Community Development Director approves rental to a third party for a limited period of time due to household hardship.

E. No household may begin occupancy of an Inclusionary Unit until the household has been determined to be an Eligible Household to occupy that unit. Rental Inclusionary Units shall continue to be rented to income Eligible Households at an Affordable Rent for the entire term of the inclusionary housing restriction. The Community Development Director shall establish standards for determining household income, maximum occupancy, affordable housing cost, provisions for continued monitoring of tenant eligibility, and other eligibility criteria.

F. Officials, employees, or consultants of the City, and members of boards and commissions thereof, shall comply with all applicable laws, regulations, and policies relating to conflicts of interest as to their eligibility to develop, construct, sell, rent, lease, occupy, or purchase an Inclusionary Unit. City Council may adopt additional conflict of interest provisions relating to the administration of this paragraph and the eligibility of persons to occupy Inclusionary Units pursuant to this Chapter.

19.30.070 - Implementation, Waivers, Enforcement.

A. Affordable Housing Trust Fund.

1. Unless otherwise required by law, all in lieu fees, fees, promissory note repayments, shared appreciation payments, or other funds collected under this Chapter shall be deposited into a separate account to be designated as the City of El Cerrito Affordable Housing Trust Fund.
2. The moneys in the Affordable Housing Trust Fund and all earnings from investment of the moneys in the Affordable Housing Trust Fund shall be expended exclusively to provide housing affordable to extremely low income, very low income, Lower Income, and Moderate-Income Households in the City of El Cerrito and administration and compliance monitoring of the inclusionary housing program.

B. Monitoring of compliance.

Each Inclusionary Housing Agreement shall include provisions for the monitoring by the City of each Residential Development and each Inclusionary Unit for compliance with the terms of this Chapter, the applicable Inclusionary Housing Agreement, and as required by law. Such provisions shall require annual compliance reports to be submitted

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to the City by the owner and the City shall conduct periodic on-site audits to insure compliance with all applicable laws, policies, and agreements. The City Council may adopt fees for the costs of monitoring and compliance by the City, which shall be deposited into the Affordable Housing Trust Fund for that purpose.

C. Waiver.

1. Notwithstanding any other provision of this Chapter, the requirements of this Chapter may be waived, adjusted, or reduced if an Applicant shows, based on substantial evidence, applying the requirements of this Chapter would take property in violation of the United States or California Constitutions.
2. Any request for a waiver, adjustment, or reduction under this section shall be submitted to the City concurrently with the Affordable Housing Plan required by Section 19.30.040 of this Chapter. The request for a waiver, adjustment, or reduction shall set forth in detail the factual and legal basis for the claim.
3. The request for a waiver, adjustment, or reduction shall be reviewed and considered in the same manner and at the same time as the Affordable Housing Plan and is subject to the appeal process for Affordable Housing Plans in Section 19.30.040.
4. In making a determination on an application for waiver, adjustment, or reduction, the Applicant shall bear the burden of presenting substantial evidence to support the claim. The City may assume each of the following when applicable:
 - a. That the Applicant will provide the most economical Inclusionary Units feasible, meeting the requirements of this Chapter and any regulations adopted to implement this Chapter.
 - b. That the Applicant is likely to obtain housing subsidies when such funds are reasonably available.
5. The waiver, adjustment or reduction may be approved only to the extent necessary to avoid an unconstitutional result, after adoption of written findings, based on substantial evidence, supporting the determinations required by this section.

D. Implementation and enforcement.

1. The Community Development Director may issue regulations or interpretations to assist in the implementation and administration of all aspects of this Chapter.
2. The City shall evaluate the effectiveness of the ordinance codified in this Chapter, for review by the City Council, three (3) years or sooner after the Effective Date of this Chapter.
3. The City Attorney shall be authorized to enforce the provisions of this Chapter and all Inclusionary Housing Agreements, regulatory agreements, covenants, resale restrictions, promissory notes, deed of trust, and other requirements placed on Inclusionary Units by civil action and any other proceeding or method

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permitted by law. The City may, at its discretion, take such enforcement action as is authorized under this code and/or any other action authorized by law or by any regulatory document, restriction, or agreement executed under this Chapter.

4. Failure of any official or agency to fulfill the requirements of this Chapter shall not excuse any Applicant or owner from the requirements of this Chapter. No permit, license, map, or other approval or Planning Permit for a Residential Development shall be issued, including without limitation a final inspection or Certificate of Occupancy, until all applicable requirements of this Chapter have been satisfied.
5. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the City from any other remedy or relief to which it otherwise would be entitled under law or equity.

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) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. This ordinance creates obligations for the inclusion of affordable housing units with some residential development projects. Those projects will be the subject of independent environmental review, if required by CEQA, at the earliest possible time prior to approval. It can therefore be seen with certainty that there is no possibility that the adoption of the ordinance itself will have 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 May 1, 2018 and passed by the following vote:

AYES: Councilmembers Abelson, Fadelli, Lyman, Pardue-Okimoto and Mayor Quinto
NOES: None
ABSENT: None
ABSTAIN: None

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ADOPTED AND ORDERED published at a regular meeting of the City Council held on May 15, 2018 and passed by the following vote:

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

APPROVED:

Gabriel Quinto, Mayor

ATTEST:

Cheryl Morse, City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on May ____, 2018.

Cheryl Morse, City Clerk

ORDINANCE CERTIFICATION

I, Cheryl Morse, 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 May 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 XX, 2018.

Cheryl Morse, City Clerk



AGENDA BILL

Agenda Item No. 4(C)

Date: May 15, 2018
To: Honorable Mayor and El Cerrito City Council
From: Cheryl Morse, City Clerk
Subject: Consolidation of the November 6, 2018 General Municipal Election

ACTION REQUESTED

Adopt a Resolution: 1) Ordering and calling for a general municipal election to be held in the City of El Cerrito on Tuesday, November 6, 2018, for the purpose of electing two members of the City Council for full terms of four years each; 2) Requesting and consenting to consolidation of the municipal election with the general election to be held on November 6, 2018; 3) Requesting the services of the Contra Costa County Registrar of Voters; 4) Providing for notice of the election; and 5) Setting specifications of the Election Order to include limiting candidate statements to 250 words, requiring candidates to pay for the costs of their candidate statement, establishing the estimated cost of each candidate statement to be \$365.00 payable at the time of filing; and determining that, in the event of a tie vote, the winner shall be determined by lot at a time and place designated by the City Council.

The City Clerk must file the City Council's election resolution with the Contra Costa County Elections Division no later than July 5, 2018.

BACKGROUND

Two seats on the City Council will be open this November. Mayor Quinto and Councilmember Abelson's terms will expire in 2018. To conduct its municipal election, the City must adopt a resolution calling for the election. In addition to consolidating the municipal election with the November 2018 general election, the City must adopt a resolution to that effect. State law requires that the resolution calling for a municipal election and requesting consolidation with the statewide election be adopted and filed with the County elections official.

The City may also increase the length of candidate statements from 200 words up to 400 words, and set the amount of the deposit for printing and distributing the statement.

The City customarily authorizes the County to conduct its elections; the County has in fact conducted most aspects of the general election for many years. The staff time, special equipment and skills associated with printing, duplicating, mailing, establishing polling locations, hiring and training pollworkers,

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canvassing, counting and certifying ballots and discharging other tasks associated with the election make this arrangement cost-effective.

The City Clerk will continue to act as the local Elections Official and be responsible for processing nomination papers and candidate statements, conducting research and responding to inquiries from candidates and the public regarding candidacy and other election matters and will also function as the Filing Officer for state mandated Fair Political Practices Commission campaign disclosure filings.

Candidates will be able to procure nomination documents from the City Clerk during the period of July 16, 2018 to August 10, 2018. Although City Offices are closed on August 10, the City Clerk's Office will remain open on this day to receive the filing of all required candidate nomination papers. If an eligible incumbent does not file for re-election by this deadline, the nomination period is automatically extended by five calendar days per California Elections Code Sections 10225 and 10407 to August 15, 2018 for non-incumbents only.

Each candidate for elective office may prepare an optional candidate statement at their own expense (unless a city or district determines that it will pay the cost). The candidate statement is designed to familiarize voters with a candidate's qualifications for the office he/she is seeking. The candidate statement is incorporated into the Voter Information Guide, and is mailed to all registered voters who are eligible to vote for that particular office. The candidate statement is printed in English, Spanish and Chinese.

At the 2016 municipal election, the City Council set the word count for candidate statements at 250 words. For this election, the County has estimated the cost to publish a 250 word candidate statement for the City of El Cerrito at approximately \$329.00, including Spanish and Chinese translations. A majority of cities in Contra Costa County have routinely set a 200-250 word count limit for each election. The cost of publishing statements consisting of between 251 and 400 words would double this cost for all candidates. Therefore, staff recommends limiting candidate statements to 250 words, and charging candidates \$365.00 to cover any publication anomalies or unforeseen overages at the time all nomination documents are filed. Overpayments will be refunded promptly and underpayments will be billed upon receipt of the final invoice from Contra Costa County. The filing of a candidate statement is optional, not mandatory.

ANALYSIS

City Council action is required to call a general municipal election for Tuesday, November 6, 2018, for the purpose of electing two members of the City Council for full terms of four years each, publish the required notices and authorize the County to conduct the election on behalf of the City.

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Staff also recommends setting the length of the candidate statement at 250 words rather than 300 to 400 words to achieve consistency with many other cities in Contra Costa County and to also achieve cost savings for any candidates who wish to file a candidate statement and run for City Council. Some of the other cities in Contra Costa County may limit candidate statements to 200 words, but the costs of printing and distributing statements up to 250 words would not result in any substantial processing inefficiencies and therefore does not affect the County's estimate of \$329.00 per statement. The option of 251–400 words is also available, but doubles the printing cost because a candidate statement in excess of 250 words is likely to result in less statements being printed per page or run onto a second page in the voter pamphlet.

The City Council must also determine whether the candidate or City will pay for the candidate statement. Based on the County Election Division's estimate of \$329.00 per candidate statement for a city the size of El Cerrito, staff recommends requiring the estimated cost of \$365.00 to be paid by each candidate. This amount would be due at the time of filing the statement with the City Clerk, presuming the candidate chooses to file a statement, which is optional. Alternatively, the City Council could choose to have the City assume the cost of printing all candidate statements resulting in expenditure of additional funds for the election. The City could also forgo requiring payment of the estimated cost by the candidate at the time the statement is filed, and require the payment at some later date. However, there is no assurance that staff will be able to collect funds from a candidate once the election is over.

Finally, the City Council must determine the method of resolving a tie vote – either by choosing a winner by lot, or ordering a special run-off election. Previous City election consolidation resolutions have specified resolving a tie vote by lot. In this instance, the City Council would summon the candidates who received an equal number of votes to appear before them at a time and place designated by the City Council. The City Council would then resolve the tie vote by lot by selecting a person to either toss a coin, or by placing each candidate's name in an unmarked, sealed envelope, drawing the envelope and reading the name of the winning candidate. Alternatively, the City Council could direct that a special runoff election be conducted for those candidates who receive an equal number of votes. However, a special run-off election would delay seating a new City Councilmember and the City would also incur substantial costs conducting a separate special run-off election. California Election Code Section 15651(b) requires a special run-off election to be held on a Tuesday not less than 40 nor more than 125 days after certification of the election.

It is important to note that adopting the provisions for a run-off election in the event of a tie vote will remain in effect for all future elections unless the Council later rescinds the authority for special runoff elections. Previous election consolidation resolutions have specified resolving a tie vote by lot. Staff recommends action consistent with this practice as established by resolution for past general municipal elections.

In the attached resolution, staff recommendations are underlined and are consistent with prior election orders for candidate elections adopted by the City Council.

FINANCIAL CONSIDERATIONS

The County estimates that the 2018 General Municipal Candidate Election will cost approximately \$1.25-\$1.75 per registered voter. As of May 4, 2018 there were 15,304 registered voters in the City of El Cerrito. This number is expected to increase prior to November. Staff estimates that the November 2018 municipal election is estimated to cost approximately \$21,000 – \$28,000 including election consolidation, public noticing, printing fees and any temporary or overtime personnel that might be needed and has been included in the proposed fiscal year 2018-19 budget. However, the Contra Costa Elections Division has cautioned that because of the number of variables involved in preparing for and conducting an election, it is not possible to pre-determine the final, actual cost of the election. Should the Council decide to provide for a special runoff election in the event of a tie vote rather than resolving a tie by lot, the Registrar of Voters has estimated the additional cost of a stand-alone special run-off election to be approximately \$5.00 per voter or \$76,520.

LEGAL CONSIDERATIONS

Election code requirements are fulfilled by adoption of the attached resolution.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution
2. Contra Costa County Registrar of Voters estimate of candidate statement costs by City
3. Sample of 250-word statements as they would appear in the voter information portion of the "Sample Ballot and Voter Information Pamphlet"
4. November 8, 2018 Candidate Election Calendar

RESOLUTION NO. 2018-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ORDERING AND CALLING A GENERAL MUNICIPAL ELECTION TO FILL TWO CITY COUNCIL SEATS; REQUESTING AND CONSENTING TO CONSOLIDATION OF THE MUNICIPAL ELECTION WITH THE GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2018; REQUESTING THE SERVICES OF THE CONTRA COSTA COUNTY REGISTRAR OF VOTERS; PROVIDING FOR NOTICE OF ELECTION; AND SETTING SPECIFICATIONS OF THE ELECTION ORDER

WHEREAS, the terms of two members of the City of El Cerrito ("City") Council are due to expire and the positions must be filled; and

WHEREAS, the City Council has ordered a Municipal Election to be held on Tuesday, November 6, 2018, to fill those offices; and

WHEREAS, other elections may be held in whole or in part of the territory of the city and it is to the advantage of the City to consolidate its municipal election pursuant to California Elections Code Sections 10002 and 10400; and

WHEREAS, the City's boundaries have not changed since the last municipal election; and

WHEREAS, California Elections Code Sections 10002 and 10400 provide that a City Council may request that the Contra Costa County ("County") Board of Supervisors consolidate a general municipal election with the statewide general election; and

WHEREAS, California Elections Code Section 10242 provides that the City Council shall determine the hours of opening and closing the polls; and

WHEREAS, California Elections Code Section 10002 requires the City to reimburse the County in full for the services performed upon presentation of a bill to the City by the County Elections Official; and

WHEREAS, California Elections Code Section 13307 requires that before the nominating period opens the City Council must determine whether a charge shall be levied against each

candidate submitting a candidate's statement to be sent to the voters; and may estimate the cost and determine whether the estimate must be paid in advance; and

WHEREAS, California Elections Code Section 12101 requires publication of notice of the election once in a newspaper of general circulation in the City; and

WHEREAS, tie votes shall be determined by lot unless the City Council adopts the provisions of California Elections Code Section 15651(b) prior to the conduct of the election resulting in the tie vote.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY RESOLVE AND ORDER that an election be held in accordance with the following specifications:

SPECIFICATIONS OF THE ELECTION ORDER

1. The City Council hereby calls for a general municipal election in and for the City of El Cerrito. The Election shall be held on Tuesday, the 6th day of November, 2018. The purpose of the election is to choose successors for the following offices:

Councilmember	4 year term
Councilmember	4 year term

2. The El Cerrito City Council hereby requests and consents to the consolidation of this election with other elections which may be held in whole or in part of the territory of the City, as provided in California Elections Code Sections 10002 and 10400.
3. The City Council hereby designates that the polls are shall be kept open from 7:00 A.M. to 8:00 P.M.
4. The City will reimburse the County for the actual costs incurred in conducting the election upon receipt of a bill stating the amount due as determined by the elections official.
5. The City Council has determined that the candidate will pay for the Candidate's Statement. The Candidate's Statement will be limited to 250 words. As a condition of having the

Agenda Item No. 4(C)
Attachment 1

Candidate's Statement published, the candidate shall pay the full estimated cost at the time of filing. The City Council hereby establishes the estimated cost for a candidate statement as \$365.00.

6. The City Clerk is hereby authorized and directed to publish a Notice of Election in the West Contra Costa Times, which is a newspaper of general circulation that is published daily in the city.
7. In the event of a tie vote for a City Council seat the method to resolve it will be determined by lot at a time and place designated by the Election Board (City Council).
8. The City Council directs the City Clerk to file a certified copy of this Resolution with the Registrar of Voters and the Board of Supervisors of Contra Costa County.

I CERTIFY THAT THE FOREGOING RESOLUTION WAS ADOPTED upon motion of Councilmember _____ and seconded by Councilmember _____ at a regular meeting on May 15, 2018 by the City Council of the City of El Cerrito who passed this resolution by the following vote:

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

Cheryl Morse, City Clerk

APPROVED:

Gabriel Quinto, Mayor

CITY	STATEMENT COSTS	WORD LIMIT	PAID BY
Antioch	\$809.00	250	Candidate
Brentwood	\$557.00		
Clayton	\$233.00		
Concord			
District TBD	\$200.00		
District TBD	\$200.00		
District TBD	\$200.00		
Treasurer	\$965.00		
Danville	\$509.00		
El Cerrito	\$329.00		
Hercules	\$317.00		
Lafayette	\$365.00		
Martinez			
District TBD	\$200.00		
District TBD	\$200.00		
Mayor	\$449.00		
Moraga	\$269.00		
Oakley	\$389.00		
Orinda	\$305.00		
Pinole	\$269.00		
Pittsburg	\$545.00		
Pleasant Hill	\$401.00		
Richmond	\$797.00		
San Pablo	\$269.00		
San Ramon	\$653.00		
Walnut Creek	\$713.00		

Minimum cost for a candidate statement is \$200.00. A district may elect to go over 250 words in which case the candidate statement costs will double.

SAMPLE CANDIDATE STATEMENT LAYOUT

Below are samples of 250-word candidate statements, as they would appear in the Voter Information Guide. Statements will appear in the same order as the candidates appear on the ballot. Each candidate is paying for a ¼ page.

WASHINGTON UNIFIED SCHOOL DISTRICT

JANE DOE
Businesswoman

I am running for the governing board of the Washington Unified School District because I feel I can bring a balance to the board. I attended local schools, graduating from Washington High School in 1985. I am married and currently have two children attending school in the district.

I own and operate my own business, so I am well aware of the need to operate within a budget. With proper distribution of resources and educational materials I am convinced we can offer quality education to all students within the district.

I fully understand the value of a quality public education. As your next school board member, I will work to protect small class sizes and better learning environments for our students. I will also ensure that we create a safer learning environment to achieve these goals.

I have been active in the P.T.A., served on the Save Our Youth committee, and am an active member of the All-Faith Church. I have served as Boy Scout Den Mother and Girl Scout Leader for the past 3 years. I also serve as a volunteer at the Community Recycling Center as time allows.

If elected to serve as a Governing Board Member, I will build on this experience and work diligently to maintain financial stability and foster an educational environment that meets the intellectual and social-developmental needs of our children.

I am looking forward to serving you on the Washington Unified School District Governing Board. I respectfully ask for your vote. Thank you.

MARY SMITH
Teacher

I am running for the governing board of the Washington Unified School District because I feel I can bring a balance to the board. I attended local schools, graduating from Washington High School in 1985. I am married and currently have two children attending school in the district. I own and operate my own business, so I am well aware of the need to operate within a budget. With proper distribution of resources and educational materials I am convinced we can offer quality education to all students within the district. I fully understand the value of a quality public education. As your next school board member, I will work to protect small class sizes and better learning environments for our students. I will also ensure that we create a safer learning environment to achieve these goals. I have been active in the P.T.A., served on the Save Our Youth committee, and am an active member of the All-Faith Church. I have served as Boy Scout Den Mother and Girl Scout Leader for the past 3 years. I also serve as a volunteer at the Community Recycling Center as time allows. If elected to serve as a Governing Board Member, I will build on this experience and work diligently to maintain financial stability and foster an educational environment that meets the intellectual and social-developmental needs of our children. I am looking forward to serving you on the Washington Unified School District Governing Board. I respectfully ask for your vote.

Thank you.

JOHN T. WHEELER
Attorney/Educator/Rancher

I am running for the governing board of the Washington Unified School District because I feel I can bring a balance to the board. I attended local schools, graduating from Washington High School in 1985. I am married and currently have two children attending school in the district.

I own and operate my own business, so I am well aware of the need to operate within a budget. With proper distribution of resources and educational materials I am convinced we can offer quality education to all students within the district.

I fully understand the value of a quality public education. As your next school board member, I will work to protect small class sizes and better learning environments for our students. I will also ensure that we create a safer learning environment to achieve these goals.

I have been active in the P.T.A., served on the Save Our Youth committee, and am an active member of the All-Faith Church. I have served as Boy Scout Den Mother and Girl Scout Leader for the past 3 years. I also serve as a volunteer at the Community Recycling Center as time allows.

If elected to serve as a Governing Board Member, I will build on this experience and work diligently to maintain financial stability and foster an educational environment that meets the intellectual and social-developmental needs of our children.

I am looking forward to serving you on the Washington Unified School District Governing Board. I respectfully ask for your vote. Thank you.

Each candidate statement is formatted into a box measuring approximately 3.5" x 4.25"

4.25 inches

3.5 inches

NOVEMBER 6, 2018 GENERAL ELECTION CANDIDATE CALENDAR

	APPLIES TO	DATES
Candidate Filing Period – Nomination Period	All Cities, School and Special Districts	Jul. 16 – Aug. 10 E-113 – 88
First Semi-Annual Campaign Expenditure Statements Due (____ - Jun. 30, 2018)	All Candidate Controlled Committees, Ballot Measure Committees and General Purpose Committees	Jul. 31
24-hr Late Contribution Disclosure Period Begins (\$1,000 or more in aggregate)	All Candidates and Committees	Aug. 8 – Nov. 6
Extended Filing Period	If no incumbent files nomination papers by August 10, the filing period is extended for non-incumbents only	Aug. 11 – 15 E-87 – 83
Public Review of “Ballot Designations” and “Candidate Statements”	All candidates	Aug. 11 – 20 E-87 – 78
	For “Candidate Statements” and “Ballot Designations” filed during the extended period	Aug. 16 – 25 E-82 – 73
Last day to withdraw “Candidate Statement”	All candidates	Aug. 13 E-85
	Candidates who filed during the extended filing period	Aug. 16 E-82
Last day to file a petition forcing a contest on the General Election ballot	Applies only to offices where the number of candidates does not exceed the number of open positions	Aug. 15 E-83
Randomized alphabet drawing for ballot placement	All Candidates	Aug. 16 E-82
Candidate Write-In Period	All offices	Sept. 10 – Oct. 23 E-57 – E-14
First Pre-Election Campaign Statement due (July 1 – Sept. 22, 2018)	All Candidates and Committees	Sept. 27 E-40
Deadline to register to vote in the November 6, 2018 General Election	All voters	Oct. 22 E-15
Second Pre-Election Campaign Statement due (Sept. 23 – Oct. 20, 2018)	All Candidates and Committees	Oct. 25 GC §84200.7
Election Day	Polls are open from 7:00 am to 8:00 pm	November 6, 2018
Deadline for County to certify the Election.		Dec. 6 E+30
Council to Adopt and Certify Election Results. Newly elected Councilmembers sworn-in and seated. The City Council also re-organizes.		Dec. 18
Semi-Annual Campaign Statement due (Oct. 21 – Dec. 31, 2018)	All Candidates and Committees	Jan. 31, 2018

CALENDAR OF IMPORTANT DATES

Military Overseas Voter Ballot Mailing	September 21, 2018
Voter Information Guide Mailing	Approximately September 27, 2018
Vote-by-Mail Mailing	October 9, 2018
Registration Deadline	October 22, 2018
Supplemental Sample Ballot Mailing	October 25, 2018
Last Day to Request Vote-by-Mail Ballot	October 30, 2018
Last Day to Return or Mail Vote-by-Mail Ballot	November 6, 2018
Election Day	November 6, 2018
Canvass / 1% Period	November 7 – December 6, 2018
Certification Deadline / Results Transmitted	December 6, 2018

***EL CERRITO CITY COUNCIL PROCLAMATION
Designating May 20 through 26, 2018 as National Public Works
Week in the City of El Cerrito***

WHEREAS, public works infrastructure, facilities, programs and services are of vital importance to sustainable and resilient communities and to the public health, safety and quality of life in our communities; and

WHEREAS, high quality and effective infrastructure, facilities, programs and services could not be provided without the dedicated and skilled efforts of public works personnel; and

WHEREAS, public works personnel in the City of El Cerrito are involved in the planning, design, construction, and maintenance of parks, playfields, open space, creeks, paths, storm drains, streets, transportation facilities, and public buildings, and operations of our recycling, solid waste and environmental programs; and

WHEREAS, since 1960, the American Public Works Association has sponsored National Public Works Week to promote an understanding and appreciation for the role that public works play in our communities; and

WHEREAS, the 2018 National Public Works Week theme is “Power of Public Works” to voice the impact that the many facets of public works have on modern civilization - from providing clean water to disposing of solid waste, to building roads and bridges or maintaining public landscapes and the urban forest; to responding to citizen requests for service or devising emergency management strategies to meet natural or manmade disasters.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby proclaim May 20 through May 26, 2018 as “National Public Works Week” in the City of El Cerrito and encourages all residents and civic organizations to acquaint themselves with the issues involved in providing public works infrastructure, facilities, programs and services in El Cerrito and to recognize the contributions that public works personnel make every day to our health, safety, comfort, and quality of life.

Dated: May 15, 2018

Gabriel Quinto, Mayor



AGENDA BILL

Agenda Item No. 4(E)

Date: May 15, 2018
To: El Cerrito City Council
From: Melissa Tigbao, Engineering Manager/Senior Engineer
Yvetteh Ortiz, Public Works Director/City Engineer
Subject: On-Call Engineering and Project Management Services – Professional Services Agreements

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to execute on-call professional services agreements with four consultant firms, Parisi Design Group, BKF Engineers, Avila Project Management, and Coastland Engineering to provide on-call engineering and project management services for three years with options to extend for an additional two years in an amount not to exceed \$200,000 per fiscal year for each agreement.

DISCUSSION

The City regularly requires the services of consultant firms to assist Public Works staff to provide various types of engineering services and deliver capital projects. This type of work is usually variable in scope that may be short-term assignments or may be part of larger capital or planning projects. As a result, most cities, big and small, enter into on-call agreements with consultant firms to assign work as needed. In addition, many cities choose to enter into on-call agreements with multiple firms in order to assure that a consultant's workload issues will not get in the way of a city's critical-path needs, and also to allow staff to best fit the expertise of a particular firm with the specific needs of an assignment. For complex projects, a city may ask for task proposals from more than one of their on-call firms to further ensure compatibility.

For the past five years, the City of El Cerrito has had three firms, BKF Engineering, Avila Project Management and Coastland Engineering, under contract for on-call services. The contract terms with these firms recently expired. To meet current and anticipated needs for engineering and project management services, City staff issued a Request for Qualifications (RFQ) asking that qualified consultants submit a Statement of Qualifications (SOQ) demonstrating their ability to perform these services. The general scope of work for these firms includes (but is not limited to) design development and cost estimating, preparation of plans, specifications and estimates, feasibility evaluation and alternatives analysis, management and monitoring of capital improvement projects, preparation of grant applications, review of land development projects, and general engineering support services as assigned.

City staff released the RFQ for On-Call Engineering & Project Management Services on March 8, 2018. The availability of the RFQ was posted on the City's website and emailed

to 57 firms on the City's consultant list. Eleven SOQs were submitted by the due date of March 30, 2018. City staff reviewed the SOQs based on the following evaluation criteria as listed in the RFQ:

- Presentation, completeness, clarity, organization, and conformance to the RFQ content and format requirements. (10%)
- Demonstrated ability, based on firm experience and specific experience of the project manager and proposed team, to provide technical assistance on a broad range of engineering and project management services listed in the RFQ. (30%)
- Demonstrated ability, based on firm experience and specific experience of the project manager and proposed team, for problem solving, development of solutions, project management, and quality control/quality assurance, to successfully manage multiple projects of varying sizes. (30%)
- Prior experience and ability to work with City staff, community groups and other stakeholders, and translating various requirements and interests into successful projects. (15%)
- Availability and depth of staff and resources to deliver quality products on schedule, including work on short notice and under time constraints. (15%)

The list of eleven was reduced to six, which were interviewed on April 18, 2018. From this selection process, four firms emerged as the most qualified to provide the required services: Parisi Design Group, BKF Engineers, Avila Project Management, and Coastland Civil Engineering Inc. All four firms possess several key or all requested areas of expertise, have demonstrated experience handling on-call services for municipalities and are available to commence services immediately.

City staff is recommending that the City enter into agreements with these four firms due to the high demand of a variety of upcoming projects, such as park rehabilitations, facilities, large developments, transportation, and storm drain improvements. The agreements will be based on the City's standard and crafted as a master agreement, with specific scope of services, schedule and cost to be determined on a task order basis. The agreements have an initial term of three years with options to extend for up to two additional years. This time frame will allow the City and the respective consultants to efficiently and effectively develop and implement projects to better serve the City's residents, businesses and other stakeholders. The firms have submitted billing rate sheets for the various skill levels and specific team members listed in their SOQs along with other charge conditions such as direct costs and mileage.

As needs arise, one or more of the firms will be asked to propose on the scope, schedule and fee for an individual task. Once a proposal is agreed upon, the Public Works Director will issue a task order and work will begin. If the cost of any one task exceeds \$200,000 in any one fiscal year or if a series of tasks with one firm exceed \$200,000, staff will present additional information and analyses to the City Council for final consideration.

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. Completing various engineering projects, planning, and related efforts in a professional and timely manner is consistent with Strategic Plan *Goal A - Delivering Exemplary Government Services*.

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

The on-call agreements do not have dollar amounts directly associated with them. The agreed upon proposal for each task will be subject to funding available for that project or for non-project related expenses which will be covered by the Public Works Department's operating budget.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed action and found that legal considerations have been addressed. In addition, the City Attorney will review and approve the final professional services agreements.

Reviewed by:



Scott Hanin
City Manager

Attachment:

1. Resolution

RESOLUTION NO. 2018-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE PROFESSIONAL SERVICES AGREEMENTS WITH PARISI DESIGN GROUP, BKF ENGINEERS, AVILA PROJECT MANAGEMENT, AND COASTLAND ENGINEERING TO PROVIDE ON-CALL ENGINEERING AND PROJECT MANAGEMENT SERVICES

WHEREAS, the City requires the services of consulting firms to assist Public Works staff in providing various types of engineering services and delivering capital projects; and

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

WHEREAS, the City released a Request for Qualifications (RFQ) for On-Call Engineering and Project Management Services on March 8, 2018, posted the availability of the RFQ on the City's website and emailed 57 firms on the City's consultant list; and

WHEREAS, eleven firms submitted Statements of Qualifications (SOQs) by the due date of March 30, 2018; and

WHEREAS, City staff evaluated the SOQs based on the criteria listed in the RFQ, reduced the list to six firms which were interviewed on April 18, 2018, and ranked Parisi Design Group, BKF Engineers, Avila Project Management, and Coastland Engineering as the most qualified applicants for the requested services; and

WHEREAS, City staff recommended that the City enter into agreements with these four consulting firms due to the high demand of a variety of upcoming projects, such as park rehabilitations, facilities, large developments, transportation, and storm drain improvements; and

WHEREAS, the on-call agreements do not have dollar amounts directly associated with them; and the agreed upon proposal for each task will be subject to funding available for that project or for non-project related expenses will be covered by the Public Works Department's operating budget.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito, that it hereby authorizes the City Manager to execute professional services agreements Parisi Design Group, BKF Engineers, Avila Project Management, and Coastland Engineering to provide on-call engineering and project management services for three years with options to extend for an additional two years in an amount not to exceed \$200,000 per fiscal year for each agreement.

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

Agenda Item No. 4(E)
Attachment 1

I CERTIFY that at a regular meeting on May 15, 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 May XX, 2018.

Cheryl Morse, City Clerk

APPROVED:

Gabriel Quinto, Mayor



AGENDA BILL

Agenda Item No. 4(F)

Date: May 15, 2018
To: El Cerrito City Council
From: Mark R. Rasiah, Finance Director/City Treasurer
Subject: Cash & Investments Report for Quarter Ending March 31, 2018

ACTION REQUESTED

Receive and file the City's Quarterly Investment Report for the quarter ending March 31, 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 January 1, 2018 to March 31, 2018 shows that the City's investments had a par value of \$3,246,811 as of March 31, 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, \$3,042,468 is invested in the pooled funds with the State Treasurer's Local Agency Investment Funds (LAIF) and \$204,343 is held in money market funds. Cash with Mechanics Bank was \$2,110,972. Total cash and investments were \$5,357,783. Of this amount, \$5,153,440 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 \$4,742 was earned and debt service payments for the Recycle Center, City Hall, Master Lease, Swim Center and the final Successor Agency Payments were made totaling \$1,083,188.

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 March 31, 2018.

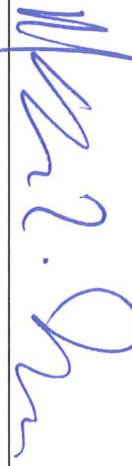
Agenda Item No. 4(F)

City of El Cerrito
Quarterly Cash & Investment Report
For the Period Ending Mar. 31, 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	\$3,042,468	\$3,042,468	1.43%	N/A	100.00	\$3,042,468
Solar Project Financing	Fidelity Institutional Fund	Prime Money Market	Deutsche Bank	\$10,205	\$10,205	0.01%	N/A	100.00	\$10,205
Swim Center Fund	Blackrock Institutional Money Market	Union Bank/Blackrock Liquidity	Union Bank of CA	\$194,138	\$194,138	0.01%	N/A	100.00	\$194,138
Cash with Bank (General Checking)	Mechanics Bank	N/A	N/A	\$2,110,972	\$2,110,972	N/A	N/A	N/A	\$2,110,972
Total Cash and Investments				\$5,357,783	\$5,357,783				\$5,357,783

I certify that this report is in compliance with the City of El Cerrito Investment Policy and the California Government Code Section 53646. The City has sufficient cash flow to meet the next six months of estimated expenditures as required by the Code. The balance of the pools 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 Rasiyah, Finance Director/City Treasurer

RESOLUTION NO. 2018-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO SUPPORTING
AB 1793 CANNABIS CONVICTIONS: RESENTENCING**

WHEREAS, Proposition 215 legalized the medicinal use of cannabis in 1996; and

WHEREAS, Proposition 64 legalized the adult use of cannabis in 2016; and

WHEREAS, the City of El Cerrito voted in 2016 to pass Proposition 64, the Adult Use of Marijuana Act, by over 70%; and

WHEREAS, Proposition 64 states intent to: “authorize courts to resentence persons who are currently serving a sentence for offenses for which the penalty is reduced by the Act so long as the person does not pose a risk to public safety and to redesignate or dismiss such offenses from the criminal records of persons who have completed their sentences as set forth in this Act;” and

WHEREAS, the language in Proposition 64 left the financial burden of having previous convictions expunged on the person convicted; and

WHEREAS, those with previous convictions may not have the legal knowledge or financial resources to expunge their records; and

WHEREAS, according to a report by the Drug Policy Alliance, approximately 500,000 people were arrested for cannabis felonies and misdemeanors from 2006 to 2015, and as of September 2017, only 4,885 people had sought to modify their records; and

WHEREAS, according to the same report, cannabis related convictions have disproportionately affected people of color and created barriers for these individuals to obtain employment and housing; and

WHEREAS, the City of El Cerrito lifted the ban on cannabis dispensaries and now has a city ordinance allowing for the operation of up to two cannabis dispensaries within the City.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of El Cerrito supports the passage of AB 1793 which would require the State Department of Justice to review its database and notify the courts of all cases that are eligible for reduced sentencing or expungement and allow the District Attorney to review and challenge the resentencing or expungement if the person meets the eligibility criteria and does not present an unreasonable risk to public safety.

BE IT FURTHER RESOLVED, that the City Council of the City of El Cerrito requests that the District Attorney of Contra Costa County join the District Attorneys of Alameda County, San Diego County, the County of San Francisco, the County of Sonoma, and Yolo County in supporting these efforts.

Agenda Item No. 4(G)

BE IT FURTHER RESOLVED, the City of El Cerrito will send a copy of this Resolution to the office of Governor Jerry Brown, the office of Senator Nancy Skinner, the office of Assemblymember Tony Thurmond, the office of Assemblymember Rob Bonta, the office of Supervisor John Gioia, and the office of District Attorney Diana Becton.

I CERTIFY that at a regular meeting on May 15, 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 May XX, 2018.

Cheryl Morse, City Clerk

APPROVED:

Gabriel Quinto, Mayor


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AB-1793 Cannabis convictions: resentencing. (2017-2018)

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Date Published: 04/12/2018 09:00 PM

AMENDED IN ASSEMBLY APRIL 12, 2018

AMENDED IN ASSEMBLY MARCH 22, 2018

CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 1793

Introduced by Assembly Member Bonta
(Principal coauthors: Senators Skinner and Wiener)
(Coauthor: Assembly Member Quirk)

January 09, 2018

An act to add Section 11361.9 to the Health and Safety Code, relating to cannabis.

LEGISLATIVE COUNSEL'S DIGEST

AB 1793, as amended, Bonta. Cannabis convictions: resentencing.

Existing law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), enacted by the voters at the November 8, 2016, statewide general election, regulates the cultivation, distribution, and use of cannabis for nonmedical purposes by individuals 21 years of age and older. Under AUMA, a person 21 years of age or older may, among other things, possess, process, transport, purchase, obtain, or give away, as specified, up to 28.5 grams of cannabis and up to 8 grams of concentrated cannabis. Existing law authorizes a person to petition for the ~~recall and resentencing~~ *recall or dismissal of a sentence, dismissal and sealing of a conviction, or redesignation* of a conviction of an offense for which a lesser offense or no offense would be imposed under AUMA.

This bill would require the Department of Justice, before July 1, 2019, to review the records in the state summary criminal history information database and to identify past convictions that are potentially eligible for ~~resentencing or dismissal~~ *recall or dismissal of sentence, dismissal and sealing, or redesignation* pursuant to AUMA. The bill would require the department to notify the courts of all cases in their jurisdiction that are eligible for ~~resentencing or dismissal~~ *recall or dismissal of a sentence, dismissal and sealing, or redesignation*. The bill would require the courts to notify the prosecution of all cases under review and would authorize the prosecution to challenge the ~~resentencing or dismissal~~ *resentencing, dismissal and sealing, or redesignation* if the person does not meet the eligibility requirements or presents an unreasonable risk to public safety. The bill would require the court to automatically ~~resentence~~ *reduce* or dismiss the conviction pursuant to AUMA if there is no challenge. The bill would require the department to modify the state summary criminal history information database in conformance with the ~~resentencing or dismissal~~ *recall or dismissal of sentence, dismissal and sealing, or redesignation* within 30 days and to give specified notifications to the eligible person.

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

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

SECTION 1. Section 11361.9 is added to the Health and Safety Code, to read:

11361.9. (a) On or before July 1, 2019, the Department of Justice shall review the records in the state summary criminal history information database and shall identify past convictions that are potentially eligible for ~~resentencing or dismissal~~ *recall or dismissal of sentence, dismissal and sealing, or redesignation* pursuant to Section 11361.8. The department shall notify the superior courts of all cases in their jurisdiction that are eligible for ~~resentencing or dismissal~~ *recall or dismissal of sentence, dismissal and sealing, or redesignation* and shall notify the person whose conviction is being considered.

(b) A court that receives notice pursuant to subdivision (a) shall notify the prosecution in all cases under review that the conviction is being reviewed for ~~resentencing or dismissal~~ *recall or dismissal of sentence, dismissal and sealing, or redesignation*. The prosecution shall have 30 days from receipt of notice to review the case and determine whether to challenge the ~~resentencing or dismissal~~ *recall or dismissal of sentence, dismissal and sealing, or redesignation*.

~~(c)(1) The prosecution may challenge the resentencing or dismissal when the person does not meet the criteria established in Section 11361.8 or presents an unreasonable risk to public safety. When challenging the resentencing or dismissal, the prosecution shall notify the court and the department and shall state the reasons for that challenge. If the resentencing or dismissal is challenged, the court shall review the case pursuant to the provisions of Section 11361.8.~~

(c) (1) The prosecution may challenge the resentencing of a person pursuant to this section when the person does not meet the criteria established in Section 11361.8 or presents an unreasonable risk to public safety.

(2) The prosecution may challenge the dismissal and sealing or redesignation of a person pursuant to this section who has completed his or her sentence for a conviction when the person does not meet the criteria established in Section 11361.8.

~~(2)~~

(3) The department, when it receives notice that a resentencing or dismissal is being challenged pursuant to paragraph ~~(1)~~, (1) or (2), shall notify the eligible person.

(d) If the prosecution does not challenge the ~~resentencing or dismissal~~ *recall or dismissal of sentence, dismissal and sealing, or redesignation* within 30 days after receiving notice, the court shall reduce or dismiss the conviction pursuant to Section 11361.8.

(e) The court shall notify the department of the ~~resentencing or dismissal~~ *recall or dismissal of sentence, dismissal and sealing, or redesignation* and the department shall modify the state summary criminal history information database accordingly. The department shall make the changes and notify the person whose record has been modified within 30 days.

Agenda Item No. 4(G)
Updated Attachment
(5/7/18)



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AB-1793 Cannabis convictions: resentencing. (2017-2018)

Date	Action
05/02/18	In committee: Set, first hearing. Referred to APPR. suspense file.
04/17/18	From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (April 17). Re-referred to Com. on APPR.
04/16/18	Re-referred to Com. on PUB. S.
04/12/18	From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.
04/02/18	Re-referred to Com. on PUB. S.
03/22/18	From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.
03/22/18	Referred to Com. on PUB. S.
01/10/18	From printer. May be heard in committee February 9.
01/09/18	Read first time. To print.


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AB-1793 Cannabis convictions: resentencing. (2017-2018)

Senate:
Assembly: 1st Cmt

Bill Status	
Measure:	AB-1793
Lead Authors:	Bonta (A)
Principal Coauthors:	Skinner (S) , Wiener (S)
Coauthors:	Quirk (A)
Topic:	Cannabis convictions: resentencing.
31st Day in Print:	02/09/18
Title:	An act to add Section 11361.9 to the Health and Safety Code, relating to cannabis.
House Location:	Assembly
Last Amended Date:	04/12/18
Voting Committee Location:	Asm Public Safety
Committee Action Date:	04/17/18
Committee Motion:	Do pass and be re-referred to the Committee on [Appropriations]
Committee Vote Result:	(PASS) »» Ayes: 6; Noes: 0; Abstain: 1;

Type of Measure
Active Bill - In Committee Process
Majority Vote Required
Non-Appropriation
Fiscal Committee
Non-State-Mandated Local Program
Non-Urgency
Non-Tax levy

Last 5 History Actions	
Date	Action
05/02/18	In committee: Set, first hearing. Referred to APPR. suspense file.
04/17/18	From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (April 17). Re-referred to Com. on APPR.
04/16/18	Re-referred to Com. on PUB. S.
04/12/18	From committee chair, with author's amendments: Amend, and re-refer to Com. on PUB. S. Read second time and amended.
04/02/18	Re-referred to Com. on PUB. S.

Date of Hearing: May 2, 2018

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez Fletcher, Chair

AB 1793 (Bonta) – As Amended April 12, 2018

Policy Committee: Public Safety

Vote: 6 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill requires the courts to automatically resentence, redesignate, or dismiss cannabis-related convictions. Specifically, this bill:

- 1) Requires the Department of Justice (DOJ), by July 1, 2019, to review the records in the state summary criminal history information database to identify past cannabis-related convictions and notify the superior courts of all cases in their jurisdictions that are eligible for resentencing or dismissal.
- 2) Requires the DOJ to notify a person whose conviction is being considered for resentencing or dismissal.
- 3) Provides that a court, when it receives notice, to notify the prosecution that a conviction is being reviewed for resentencing or dismissal. This bill allows the prosecution to challenge resentencing or dismissal if a person does not meet specified criteria, or presents an unreasonable risk to public safety.
- 4) Provides that the court must review a case if the prosecutor challenges the resentencing, redesignation, or dismissal.
- 5) Requires the DOJ to notify the eligible person when it receives notice that resentencing, redesignation, or dismissal is being challenged by the prosecution.
- 6) Provides that if the prosecution does not challenge resentencing, redesignation, or dismissal within 30 days of receiving notice, the court shall reduce, redesignate, or dismiss the conviction.
- 7) States that the court must notify the DOJ of a resentencing, redesignation, or dismissal and the DOJ must modify the state summary criminal history information database accordingly.
- 8) Requires the DOJ to notify a person whose record has been modified within 30 days.

FISCAL EFFECT:

- 1) Onetime GF costs to DOJ, likely in the millions of dollars, to review records and provide notices as required by this bill. Given the magnitude of the work involved and the limited timeline specified in this bill, it is likely that DOJ would require a significant temporary increase in staffing.

- 2) Onetime GF costs to the courts, likely in the millions of dollars, to provide notices and review cases. Specifically the Judicial Council estimates onetime costs of between \$6.9 million and \$28.5 million.

COMMENTS:

- 1) **Background.** Proposition 64, the Adult Use of Marijuana Act, was approved by voters in 2016. Proposition 64 legalized the possession, use, and cultivation of marijuana for people 21 years of age and older. Proposition 64 also reduced the penalties for possession, cultivation of cannabis and possession with the intent to sell, and transportation for sale. Any person who was convicted of a cannabis offense for cultivation, possession, intent to sell, or transportation for sale prior to the enactment of Proposition 64 is eligible to petition the court for resentencing or dismissal of the person's conviction, or the person may apply for redesignation of an offense if the sentence was already served.

- 2) **Purpose.** According to the author:

AB 1793 creates a simpler and expedited pathway for Californians to turn the page by having certain criminal convictions for cannabis-related offenses automatically removed from or reduced on their records. Proposition 64 – which voters passed with 57 percent approval in November 2016 – contained provisions that not only prospectively reduced or eliminated many cannabis law violations, but made those changes retroactive. This means people with felonies or misdemeanors for cannabis-related offenses that were changed by Proposition 64 are now legally entitled to petition the courts to expunge or reduce those convictions.

- 3) **Related legislation.**

AB 2599 (Holden), of the current legislative session, requires law enforcement agencies and probation departments to increase awareness and access to the arrest record sealing and expungement process. AB 2599 is scheduled to be heard in this committee on May 2, 2018.

AB 2438 (Ting), of the current legislative session, requires automatic expungements of certain convictions, as specified. AB 2438 is currently on this committee's suspense file.



AB 1793 (Bonta) – Cannabis Convictions (As Amended March 22, 2018)

Agenda Item No. 4(G)
Attachment

SUMMARY

AB 1793 removes barriers to housing, employment and public benefits by creating a simpler and expedited pathway for Californians to have certain criminal convictions for cannabis-related offenses automatically removed from or reduced on their records.

BACKGROUND

In November 2016, 57 percent of California voters approved Proposition 64: The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA/"Prop. 64"), which legalized the adult-use of cannabis. Prop. 64 contained provisions that not only reduced or eliminated many cannabis law violations, but made those changes retroactive. Under the law, people with certain felonies or misdemeanors on their records are now legally entitled to petition the courts to expunge or reduce their cannabis convictions. Some offenses that were crimes are now legal including possession of up to an ounce of cannabis and growing up to six cannabis plants for personal use.

It is estimated that just under one million people in California have cannabis convictions eligible to be reduced or expunged from their records. According to a report issued by Drug Policy Alliance, there were approximately 500,000 people arrested for cannabis felonies and misdemeanors between 2006-2015. As of September 2017, only 4,885 people have petitioned to the courts to have their records modified.

Data from that same report shows penalties for cannabis-related offenses have disproportionately affected minority communities. While Black, Latino, and white people use and sell cannabis at similar rates, Black and Latino people are more likely to be arrested for a cannabis law violation. The report found that Black people were more than twice as likely as white people to be arrested for cannabis misdemeanors and nearly five times more likely than white people to be arrested for cannabis felonies. Latinos are 35 percent more likely than white people to be arrested for a cannabis offense: 45 percent more likely for a misdemeanor and 26 percent more likely for a felony.

To ease the burden associated with petitioning the courts for relief, several local district attorneys in counties across California are reducing or dismissing Prop. 64-eligible convictions without requiring individuals to initiate the process. These include the counties of Alameda, San Diego, San Francisco, Sonoma, and Yolo.

THE NEED FOR THE BILL

While Prop. 64 included provisions that will either reduce or expunge hundreds of thousands of convictions, the majority of eligible individuals have not gone through the process of petitioning the courts, meaning thousands of Californians still live with convictions that could be changed on their records. Advocates state that many people are unaware of the newly created opportunity to change their records, are unsure of how to navigate the process on their own, or do not have access to free legal resources to engage in the process.

Adjusting records could have a significant impact on peoples' lives. Felonies and misdemeanors create thousands of barriers to employment, housing, public benefits and more. Many low-income communities and people of color have been disproportionately criminalized by the drug war and have had to live with the ramifications. Now that California has legalized adult-use cannabis, the state should be doing all it can to provide people with the relief they deserve and are legally entitled.

SOLUTION

AB 1793 allows for cannabis-related offenses to be automatically removed or reduced from a person's record as long as they meet the criteria established by Prop. 64. AB 1793 will offer almost one million people negatively impacted by the drug war a chance to reclaim their lives.

Specifically, AB 1793

- Requires the State Department of Justice to review its records in the state database by July 1, 2019 to identify past cannabis convictions

potentially eligible for resentencing or expungement under Proposition 64.

- Requires the Department to notify the courts of all cases eligible within their jurisdiction.
- Requires the courts to notify the prosecution, allowing them 30 days to review and challenge the resentencing or expungement if the person does not meet the eligibility criteria or presents an unreasonable risk to public safety.
- If no challenge, AB 1793 requires the court to automatically resentence or expunge the conviction.
- Requires the Department to modify the state database to reflect the resentencing or expungement within 30 days and to give notice to the qualified person.
- AB 1793 continues to allow the option under current law for a person to petition for resentencing and expungement.

SUPPORT

Drug Policy Alliance

California Growers Association

California National Organization for the Reform of Marijuana Laws (CA NORML)

Los Angeles Regional Reentry Partnership

WeDrop

CONTACT

Viviana Becerra

Legislative Director

Office of Assemblymember Rob Bonta

Email: Viviana.Becerra@asm.ca.gov

Phone: 916-319-2018

Date of Hearing: April 17, 2018

Counsel: Liah Burnley

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

AB 1793 (Bonta) – As Amended April 12, 2018

SUMMARY: Requires the court to automatically resentence, redesignate, or dismiss cannabis-related convictions. Specifically, **this bill:**

- 1) States that on or before July 1, 2019, the Department of Justice (DOJ) shall review the records in the state summary criminal history information database to identify past cannabis-related convictions, and notify the superior courts of all cases in their jurisdiction that are eligible for resenting or dismissal.
- 2) Requires the DOJ to notify the person whose conviction is being considered for resenting or dismissal.
- 3) Provides that a court, when it receives notice, to notify the prosecution that the conviction is being reviewed for resentencing or dismissal.
- 4) States that the prosecution may challenge resentencing or dismissal if a person does not meet specified criteria, or presents an unreasonable risk to public safety.
- 5) States that the prosecution has 30 days from the receipt of notice to review the case and determine whether to challenge the resentencing or dismissal.
- 6) Requires the prosecutor to notify the court and the DOJ of its challenge and reasons for its challenge.
- 7) Provides that the court must review a case if the prosecutor challenges the resentencing, redesignation, or dismissal.
- 8) Requires the DOJ to notify the eligible person when it receives notice that resentencing, redesignation, or dismissal is being challenged by the prosecution.
- 9) Provides that if the prosecution does not challenge resentencing, redesignation, or dismissal within 30 days of receiving notice, the court shall reduce, redesignate, or dismiss the conviction.
- 10) States that the court must notify the DOJ of the resentencing, redesignation, or dismissal and the DOJ must modify the state summary criminal history information database accordingly.
- 11) Requires the DOJ to notify the person whose record has been modified within 30 days.

EXISTING LAW:

- 1) Allows a person currently serving a sentence for a cannabis-related conviction, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), to petition for a recall or dismissal of sentence. (Health & Saf. Code, § 11361.8 subd. (a).)
- 2) Provides that the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety. (Health & Saf. Code, § 11361.8 subd. (b).)
- 3) Defines an “unreasonable risk of danger to public safety” as an unreasonable risk that the petitioner will commit a violent felony within the meaning of Section 667. (Health & Saf. Code, § 11361.8 subd. (b)(2).)
- 4) States that a person who is serving a sentence and is resentenced shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody, or whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, releases the person from supervision. (Health & Saf. Code, § 11361.8 subd. (c).)
- 5) States that under no circumstances may resentence result in the imposition of a term longer than the original sentence or the reinstatement of charges dismissed pursuant to a negotiated plea agreement. (Health & Saf. Code, § 11361.8 subd. (d).)
- 6) Provides that a person who has completed a sentence for a cannabis-related conviction, and would not have been guilty of an offense or would have been guilty of a lesser offense under the AUMA, may file an application to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction, as specified. (Health & Saf. Code, § 11361.8 subd. (e).)
- 7) States that the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the AUMA. (Health & Safety Code, § 11361.8 subd. (f).)
- 8) Provides that unless requested by the applicant, no hearing is necessary to grant or deny an application filed for dismissal or redesignation. (Health & Safety Code, § 11361.8 subd. (g).)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author’s Statement:** According to the author, “AB 1793 creates a simpler and expedited pathway for Californians to turn the page by having certain criminal convictions for cannabis-related offenses automatically removed from or reduced on their records. Proposition 64 – which voters passed with 57 percent approval in November 2016 – contained provisions that not only prospectively reduced or eliminated many cannabis law violations, but made those changes retroactive. This means people with felonies or

misdemeanors for cannabis-related offenses that were changed by Proposition 64 are now legally entitled to petition the courts to expunge or reduce those convictions.

“AB 1793 will help Californians take advantage of this opportunity to clear their own records by removing barriers and streamlining the process. AB 1793 will require automatic expungement of these prior criminal convictions and create a path that is less onerous on the individual.

“AB 1793 will give people the fresh start to which they are legally entitled and allow them to move on with their lives. The drug war unjustly and disproportionately targeted young people of color. Long after paying their debt to society, individuals are burdened by the collateral consequences of having a criminal conviction, which may permanently affect their ability to obtain employment, housing, and social services.

“The role of government should be to ease burdens and expedite the operation of law— not create unneeded obstacles, barriers and delay. This is a practical, common sense bill. These individuals are legally-entitled to expungement or reduction and a fresh start. It should be implemented without unnecessary delay or burden.”

- 2) **Cannabis-Related Convictions Post-Proposition 64:** Proposition 64, the Adult Use of Marijuana Act, was a 2016 statewide ballot initiative that, among other regulations, legalized the possession, use, and cultivation of marijuana for people over age 21. Proposition 64 also reduced the penalties for possession, cultivation of cannabis and possession with the intent to sale, and transportation for sale. The changes to the criminal penalties for these offenses are as follows:

Offense	Old Penalty	Current Penalty
Possession	Possession of concentrated cannabis was a misdemeanor, punishable by one year in jail, a \$500 fine, or both. Possession of 28.5 grams or less of cannabis was a \$100 infraction. Possession of more than 28.5 grams of cannabis by adults over 18 years old was a misdemeanor, punishable by \$500, six months in jail, or both. Possession on the grounds of a K-12 school, of less than 28.5 grams of cannabis, by adults over 18, was a misdemeanor punishable by a fine of \$250, or \$500 and 10 days in jail for repeat offenses.	Possession by persons under 18 years old is an infraction requiring drug education or community service. Possession of 28.5 grams or less of cannabis or eight grams or less of concentrated cannabis by persons age 18- 21 is a \$100 infraction. Possession of more than 28.5 grams of cannabis or eight grams of concentrated cannabis by adults over 18 years old is a misdemeanor, punishable by \$500 or six months in jail, or both. Possession on the grounds of a K-12 school, of less than 28.5 grams of cannabis or eight grams of concentrated cannabis, by adults over 18 is a misdemeanor punishable by a fine of \$250, or \$500 and 10 days in jail for repeat offenses. (Health & Saf. Code, § 11357.)

	Possession on the grounds of a K-12 school, of less than 28.5 grams of cannabis, by minors under 18 was a misdemeanor punishable by a fine of \$250, or \$500 and commitment to a juvenile hall or camp.	
Cultivation	Cultivation was a felony, punishable by imprisonment pursuant to subdivision (h) of Section 1170.	Cultivation by persons under 18 years old is an infraction requiring drug education or community service. Cultivation of six plants or less by persons age 18-21 is a \$100 infraction. Cultivation of more than six plants is a misdemeanor punishable by \$500, 6 months in jail, or both. Felony enhancements are permitted for repeat offenders and offenders with serious or violent prior convictions. (Health & Saf. Code, § 11358.)
Possession for Sale	Possession for sale was a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170.	Possession for sale by persons under 18 years old is an infraction requiring drug education or community service. Possession for sale by persons over 18 years old is a misdemeanor punishable by \$500 or 6 months in jail, or both. Felony enhancements are permitted for repeat offenders, offenders with serious or violent prior convictions, and sale to a minor under 18 years old. (Health & Saf. Code, § 11359.)
Transport for Sale	Transportation for sale was a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170. Transport for sale of not more than 28.5 grams of cannabis, other than concentrated cannabis, was a misdemeanor, punishable by a \$100 fine.	Transport for sale by persons under 18 years old is an infraction requiring drug education or community service. Transport for sale of 28.5 grams of cannabis or less, other than concentrated cannabis, is a \$100 infraction. Transport for sale is a misdemeanor punishable by \$500 or 6 months in jail, or both. Felony enhancements are permitted for importing, exporting, or transporting for sale more than one ounce of marijuana or four grams of concentrate. (Health & Saf. Code, § 11360.)

Anyone who was convicted of one of the above-listed offenses prior to the enactment of the AUMA is eligible to petition for resentencing and/or dismissal or apply for redesignation. (Health & Safety Code, § 11361.8.)

It is estimated that between 1915 and 2016, California law enforcement made 2,756,778 cannabis arrests. (<http://sfdistrictattorney.org/district-attorney-george-gascón-applies-proposition-64-retroactively-every-marijuana-case-1975>.) According to a report by the Drug Policy Alliance, there were approximately 500,000 people arrested for cannabis felonies and misdemeanors between 2006-2015. (<http://www.drugpolicy.org/news/2016/08/its-not-legal-yet-nearly-500000-marijuana-arrests-california-last-decade>.) As of September 2017, only 4,885 people petitioned to the courts to have their records modified. (<http://www.latimes.com/local/lanow/la-me-san-francisco-marijuana-20180131-story.html>.)

- a) **Resentencing:**¹ For resentencing, a person must be currently serving a sentence for one of the above-mentioned cannabis offenses, and would not have been guilty of an offense, or would have been guilty of a lesser offense, had the AUMA been in effect at the time of the offense. Resentencing may depend on factors such as the type and quantity of cannabis involved, the date of the offense, the punishment imposed, and the age of the person at the time of the offense. Though the AUMA does not define “currently serving a sentence” it has been interpreted to mean anyone serving a term of imprisonment in county jail, mandatory supervision, parole, postrelease community supervision, and probation.

There is a four step process for resentencing. (Health & Safety Code, § 11361.8 subd. (a)-(d).) First, the individual seeking resentencing must file a petition; second the court will conduct an initial screening for eligibility; third the court will hold a qualification hearing where the merits of the petition are considered, and; fourth, the court will resentence the petitioner. Resentencing must be granted if the court finds that the petitioner is eligible, unless there is an unreasonable risk that the person will commit a violent felony. Notably, the court is required to presume the petitioner is eligible unless a prosecutor opposes the petition and proves with clear and convincing evidence that the offense is not eligible for resentencing or if resentencing poses an unreasonable risk of danger to public safety.

If a petition for resentencing is granted, one of three things will occur: the court will impose a new term of custody or supervision as authorized by the AUMA, redesignate an offense that was previously a felony but now a misdemeanor or infraction, or dismiss a sentence for a conviction that is no longer a crime.

- b) **Redesignation:** Individuals who have already completed a sentence for a cannabis-related conviction can apply for redesignation and/or dismissal. Individuals can have their cannabis-related felony conviction reduced to a misdemeanor or infraction, or dismissed

¹For a more detailed information on the Proposition 64’s resentencing, redesignation, and dismissal procedures, see Retired Judge Richard Couzens and Presiding Court of Appeal Justice Tricia A. Bigelow’s memorandum on propositions 64’s resentencing procedures, available at <http://www.courts.ca.gov/documents/prop64-Memo-20161110.pdf>

and sealed if the conduct underlying the conviction is no longer a crime. Much like resentencing, redesignation requires a four step process that begins with the individual filing out an application, then the court will screen the application for eligibility and hold a hearing, if necessary and requested by the applicant. If the applicant is eligible for relief, the court must redesignate or dismiss and seal the conviction. (Health & Safety Code, § 11361.8 subd. (a)- (d).)

Proposition 64 offers millions of individuals the opportunity to clear their records of convictions for conduct that California no longer deems criminal. However, many individuals may be unaware of this newly created opportunity, or lack the resources to navigate the record change process on their own. Indeed, hiring an attorney to help expunge a misdemeanor marijuana conviction could cost an individual \$2,500 and \$3,750 to reduce a marijuana felony to a misdemeanor.
(https://convictionfree.com/expungement_fees/)

- 3) **Local Solutions:** Proposition 64 modeled Proposition 47's redesignation and resentencing provisions, which allows for reclassification and resentencing of wobbler offenses including simple drug possession, petty theft, shoplifting, forgery, and writing a bad check. As many as 1 million people were estimated to be eligible for reclassification under Proposition 47. (<http://myprop47.org/reclassification/>) However, the barriers to petitioning the court for reclassification are evident: as of March 2017, only a quarter of eligible people have petitioned the court for resentencing. (<http://myprop47.org/resources/second-chances-systems-change-proposition-47-changing-california/>) The barriers to petition the court for resentencing may affect the opportunities that these individuals have, stifling opportunities to pursue education employment, housing, and more. Unlike Proposition 47, which reduced penalties for low-level offenses, Californian's went a step further and decriminalized most cannabis-related offenses when enacting Proposition 64. Thus, the barriers preventing people from petitioning the court for resentencing and redesignation are arguably more important to eliminate in cannabis-related cases.

In recognizing the barriers to resenting and redesignation, some district attorney's offices have taken the lead on undoing the damage of the failed war on drugs. The San Francisco District Attorney's Office will dismiss and seal 3,038 misdemeanor convictions and will review 4,940 felony convictions to consider reducing them to misdemeanors, with no action necessary from those who were convicted. San Diego District Attorney's Office has identified 4,700 cases, both felonies and misdemeanors, that it will ask the court and DOJ to dismiss or redesignate. (<http://www.sandiegouniontribune.com/news/marijuana/sd-me-pot-revocations-20180201-story.html>) However, the majority of California's 58 district attorneys, including in Los Angeles—with more than 40,000 cannabis felony cases alone since 1993—have made no indication that they will review their marijuana charges. The Legislature should consider whether this relief should be also afforded to all eligible Californians with a cannabis-related conviction record.

This bill would require the DOJ to search its criminal records database to identify all Californians who might qualify for relief, and provide this information to the courts. After a review of the records, the court can modify the record to reflect the appropriate sentence under current law. This bill also requires that prosecutors be given notice and an opportunity to oppose a resentencing request where they believe that the former defendant either does not qualify or where resentencing might pose a danger to society.

- 4) **Immigration Considerations:** As the Supreme Court stated, “[d]eportation as a consequence of a criminal conviction has become an integral part of the penalty for a criminal conviction for noncitizens, sometimes the most important part.” (*Padilla v. Kentucky* (2010) 559 U.S. 356, 364.) For non-citizens, reducing or dismissing a criminal conviction is a powerful tool to obtain citizenship benefits and avoid deportation. For example, reducing a drug possession conviction from felony to a misdemeanor could help an individual qualify for or potential future Deferred Action for Childhood Arrivals (DACA) legislation.

Sentence reductions and dismissals could also help an individual avoid deportation. Under federal immigration law, a non-citizen is deportable for a single conviction of a crime committed within five years of the first admission, if the offense has a maximum possible sentence of one year or more. (8 USC § 1227, subd., (a)(2)(A).) In California, felony drug convictions have a possible sentence of one year or more. A misdemeanor conviction has a maximum possible sentence of 364 days. (Pen. Code § 18.5.) The Legislature intentionally limited the maximum sentence for misdemeanor convictions to 364 days so that immigrants can avoid immigration consequences for misdemeanor convictions. As stated in the Assembly Public Safety Committee Analysis, “[t]his ... will ensure, consistent with federal law and intent, legal residents are not deported from the state and torn away from their families for minor crimes.” (Assem. Com. on Public Safety, Analysis on SB 1310, p. 2.)

Many individuals could face severe immigration consequences if they have a felony conviction. However, a court order that specifies that a conviction has been reduced or dismissed, *specifically because the conviction was “legally invalid,”* will help an individual with immigration matters. This is true even if the sentence reduction is sought solely for immigration purposes. (See *Matter of Cota-Vargas* (2005) 23 I&N Dec. 849 BIA.) Proposition 64 requires redesignation and dismissal orders to state “the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid...” (Health & Safe. Code, § 11361.8 subd. (d).) As such, this bill would ensure that non-citizens, many of whom may be hesitant to initiate contact with the district attorney’s office, DOJ, and courts to apply for a dismissal or a sentence reduction, are also able to obtain the benefits of this relief.

- 5) **Promoting Fairness and Parity:** As explained in California Conference of Bar Association’s Resolution 14-01-2017, proposed by the Bay Area Lawyers for Individual Freedom: “Cannabis was only recently legalized and many of the legalization movement’s most ardent advocates were convicted of felonies during the pursuit of legalization. The modern-day cannabis legalization movement is rooted in the AIDS epidemic, which decimated the LGBT community in the early 80s.” Moreover, “[s]tatistics show that minorities, most notably African Americans, have been unjustly affected by the war on drugs. These communities have suffered for years from disproportionate arrest rates, which take a toll on their families, community relations, and personal lives.”

Failure to redesignate, resentence, and dismiss these conviction records “overlooks the sacrifices of people members of the LGBT community and punishes them for their early humanitarian efforts” and furthers “inequity by allowing for increased penalties to be enforced against certain historically disproportionately impacted communities and only serves to further the United States’ mass over-incarceration problem, despite the fact that the underlying harm for this victimless crime is no different, regardless of one’s status as a prior

felon or not. (<http://calconference.org/html/wp-content/uploads/2017/08/Series-14-Health-Safety.pdf>.)

- 6) **Marijuana Justice Act of 2018:** A federal analogue to this bill, HR 4815, the “Marijuana Justice Act of 2018” (Representative Barbara Lee, D-CA 13), which would direct federal courts to expunge all previous federal convictions for marijuana use or possession, is currently pending in congress. The Act also aims to remove Marijuana from the Controlled Substance Act.

7) **Arguments in Support:**

- a) Writing in support, the *California Growers Association* states, “When it comes correcting injustice, it is not enough to simply change the law moving forward. We must also work actively to ensure that the damage done by that injustice historically is corrected. The intent of your legislation—to automatically expunge cannabis convictions that are no longer a crime—is consistent with this principle.”
- b) According to the *Conference of California Bar Associations*, “A criminal conviction – particularly a felony conviction – can prevent an individual from obtaining employment, getting housing, obtaining a professional license, etc. If the voters have decided that the acts upon which those convictions are based are no longer criminal, and the convictions reduced or erased, we should do every reasonable thing to facilitate and expedite the process. This is particularly true of cannabis-related crimes, which statistics show have been prosecuted with most vigor against people of color and the poor, whose communities have suffered for years from disproportionate arrest rates that take a toll on their families, community relations, and personal lives. And it also is true of the LGBT community, whose members were disproportionately impacted by the War on Drugs during the AIDS epidemic of the 1980s.”
- c) *California NORML* states, “In our experience, the majority of prior offenders are unaware of their rights to resentencing under AUMA. Only a few thousand resentencing requests have been processed so far. In addition, our attorneys report that many misdemeanor possession defendants whose records were supposed to be expunged after two years under prior law (HSC 11361.5) never actually had their records cleared.”

- 8) **Argument in Opposition:** According to the *California Police Chiefs Association*, “Under the Adult Use of Marijuana Act, better known as Prop. 64, individuals with cannabis convictions are legally entitled to petition the courts to expunge or reduce their convictions as it relates to cannabis. The author states that many individuals with cannabis convictions are unaware of the opportunity to change their records; however, automatically removing or reducing an individual’s cannabis conviction, regardless if they meet the criteria established by Prop. 64, is not the solution.

“While we recognize that some of the convictions are misdemeanors, such as possession of small amounts of cannabis, we also recognize that some of these offenses are felonies such as the sale of cannabis and the transportation of cannabis for sale. Our members feel these types of felonies still pose a risk to public safety and should not be eligible for automatic expungement or reduction.”

9) Related Legislation:

- a) AB 2599 (Holden), of the 2017-2018 Legislative Session, would require law enforcement agencies and probation departments to increase awareness and access to the arrest record sealing and expungement process. AB 2599 is pending in Assembly Public Safety Committee.
- b) AB 2513 (Jones-Sawyer), of the 2017-2018 Legislative Session, would require local law enforcement agencies to purge information in narcotics registries. AB 2513 is pending in Assembly Appropriations Committee.
- c) AB 2438 (Ting), of the 2017-2018 Legislative Session, would require automatic expungements of certain convictions, as specified. AB 2438 is pending in Assembly Appropriations Committee.
- d) AB 2687 (Gonzales Fletcher), of the 2017-2018 Legislative Session, would clarify the timing and procedural requirements of motions for post-conviction relief that are based on either a legal error regarding a defendant's comprehension of immigration consequences stemming from his or her conviction, or newly discovered evidence of actual innocence. AB 2687 is pending in Assembly Appropriations Committee.
- e) AJR 27 (Low), of the 2017-2018 Legislative Session, urges the United States Department of Justice not to direct its enforcement priorities towards California's lawfully and closely regulated cannabis industry. AJR 27 is pending in Assembly Public Safety Committee.

10) Prior Legislation:

- a) AB 813 (Gonzalez Fletcher) Chapter 739, Statutes of 2016 created a mechanism of post-conviction relief for a person to vacate a conviction or sentence based on error damaging his or her ability to meaningfully understand, defend against, or knowingly accept the immigration consequences of the conviction.
- b) SB 124 (Lara), Chapter 789, Statutes of 2016, authorizes a person who was sentenced to a term of one year prior to January 1, 2015, to submit an application to the trial court to have the term of the sentence reduced to the maximum term of 364 days.

REGISTERED SUPPORT / OPPOSITION:**Support**

American Civil Liberties Union of California
 California Cannabis Industry Association
 California NORML
 California Growers Association
 California Public Defender's Association
 Center on Juvenile and Criminal Justice
 Conference of California Bar Associations
 Drug Policy Alliance
 Ella Baker Center for Human Rights

Los Angeles Regional Reentry Partnership
National Association of Social Workers – California Chapter
WeDrop

Opposition

California Police Chiefs Association

Analysis Prepared by: Liah Burnley / PUB. S. / (916) 319-3744

RESOLUTION NO. 2018-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO SUPPORTING THE
VETERANS AND AFFORDABLE HOUSING BOND ACT 2018**

WHEREAS, housing affordability is an urgent issue facing many communities in California, where a majority of renters (3 million households) pay more than 30 percent of their income toward rent and nearly one-third (over 1.5 million households) spend more than 50 percent of their income on rent; and

WHEREAS, the housing crisis is a contributing factor to homelessness in our communities; and

WHEREAS, California's homeownership rates are at the lowest point since the 1940's; and

WHEREAS, recent housing production levels are about half of pre-recession levels (roughly 200,000 per year) and are far short of the state's projected housing need for 180,000 new homes per year; and

WHEREAS, the proceeds from the 2006 housing bond that helped create and preserve affordable apartments, urban infill infrastructure, and single-family homes have been expended; and

WHEREAS, even though federal funding for affordable housing comprises a significant portion of California's resources to support affordable housing, federal spending has been on the decline in recent years; and

WHEREAS, between 2003 and 2015, Community Development Block Grant (CDBG) and HOME funds allocated to California by the U.S. Department of Housing and Urban Development (HUD) to produce affordable housing units have declined by 51 percent and 66 percent respectively; and

WHEREAS, last year the California State Legislature passed and Governor Brown signed Senate Bill 3 (Beall), which placed the \$4 billion Veterans and Affordable Housing Bond Act on the November 6, 2018 general election ballot; and

WHEREAS, the Veterans and Affordable Housing Bond Act will provide funding to support multifamily housing, higher density housing near transit, infill infrastructure, farmworker housing, first-time home buyer assistance, and veteran home loans; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby supports the Veterans and Affordable Housing Bond Act on the November 6, 2018 ballot to infuse much needed funding to support important affordable housing projects and spur housing construction statewide.

BE IT FURTHER RESOLVED that the City of El Cerrito supports and can be listed as a member of the Affordable Housing Now coalition.

BE IT FURTHER RESOLVED that the City Clerk is directed to email a copy of this adopted resolution to the League of California Cities at cityletters@cacities.org.

Agenda Item No. 4(H)

I CERTIFY that at a regular meeting on May 15, 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 May XX, 2018.

Cheryl Morse, City Clerk

APPROVED:

Gabriel Quinto, Mayor

FILED

in the office of the Secretary of State
of the State of California

SEP 29 2017

At 12:10 O'Clock P. M.

By Nick Panuzi
Deputy Secretary of State

Approved SEP 29, 2017

Ed L Brown
Governor

Senate Bill No. 3

Passed the Senate September 15, 2017

[Signature]
Secretary of the Senate

Passed the Assembly September 14, 2017

[Signature]
Chief Clerk of the Assembly

This bill was received by the Governor this 21st day
of September, 2017, at 5:30 o'clock P. M.

[Signature]
Private Secretary of the Governor

Ch. 365
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CHAPTER _____

An act to add Part 16 (commencing with Section 54000) to Division 31 of the Health and Safety Code, and to add Article 5z (commencing with Section 998.600) to Chapter 6 of Division 4 of the Military and Veterans Code, relating to housing, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 3, Beall. Veterans and Affordable Housing Bond Act of 2018.

Under existing law, there are programs providing assistance for, among other things, emergency housing, multifamily housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time home buyers. Existing law also authorizes the issuance of bonds in specified amounts pursuant to the State General Obligation Bond Law and requires that proceeds from the sale of these bonds be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks. Existing law, the Veterans' Bond Act of 2008, authorized, for purposes of financing a specified program for farm, home, and mobilehome purchase assistance for veterans, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$900,000,000.

This bill would enact the Veterans and Affordable Housing Bond Act of 2018, which, if adopted, would authorize the issuance of bonds in the amount of \$4,000,000,000 pursuant to the State General Obligation Bond Law. Of the proceeds from the sale of these bonds, \$3,000,000,000 would be used to finance various existing housing programs, as well as infill infrastructure financing and affordable housing matching grant programs, as provided, and \$1,000,000,000 would be used to provide additional funding for the above-described program for farm, home, and mobilehome purchase assistance for veterans, as provided.

This bill would provide for submission of the bond act to the voters at the November 6, 2018, statewide general election in accordance with specified law.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Veterans and Affordable Housing Bond Act of 2018.

SEC. 2. The Legislature finds and declares all of the following:

(a) California is experiencing an extreme housing shortage with 2.2 million extremely low income and very low income renter households competing for only 664,000 affordable rental homes. This leaves more than 1.54 million of California's lowest income households without access to affordable housing.

(b) While homelessness across the United States is in an overall decline, homelessness in California is rising. In 2015, California had 115,738 homeless people, which accounted for 21 percent of the nation's homeless population. This is an increase of 1.6 percent from the prior year. California also had the highest rate of unsheltered people, at 64 percent or 73,699 people; the largest numbers of unaccompanied homeless children and youth, at 10,416 people or 28 percent of the national total; the largest number of veterans experiencing homelessness, at 11,311 or 24 percent of the national homeless veteran population; and the second largest number of people in families with chronic patterns of homelessness, at 22,582 or 11 percent of the state's homeless family population.

(c) It is essential to continue funding, which is soon to expire, for housing programs that are necessary to address the housing needs of the large number of veterans and their families living in California.

(d) California is home to 21 of the 30 most expensive rental housing markets in the country, which has had a disproportionate impact on the middle class and the working poor. California requires the third highest wage in the country to afford housing, behind Hawaii and Washington, D.C. The fair market rent, which indicates the amount of money that a given property would require if it were open for leasing, for a two-bedroom apartment is \$1,386. To afford this level of rent and utilities, without paying more than

30 percent of income on housing, a household must earn an hourly “housing wage” of \$26.65 per hour. This means that a person earning minimum wage must work an average of three jobs to pay the rent for a two-bedroom unit. In some areas of the state, these numbers are even higher.

(e) Low-income families are forced to spend more and more of their income on rent, which leaves little else for other basic necessities. Many renters must postpone or forgo home ownership, live in more crowded housing, commute further to work, or, in some cases, choose to live and work elsewhere.

(f) California has seen a significant reduction of state funding in recent years. The funds from Proposition 46 of 2002 and Proposition 1C of 2006, totaling nearly \$5 billion for a variety of affordable housing programs, have been expended. Combined with the loss of redevelopment funds, \$1.5 billion of annual state investment dedicated to housing has been lost, leaving several critical housing programs unfunded.

(g) High housing costs and the shortage of housing stock in California directly affect the future health of California’s economy and, given the staggering numbers indicated above, bold action is necessary. Investment in existing and successful housing programs to expand the state’s housing stock should benefit California’s homeless and low-income earners, as well as some of the state’s most vulnerable populations, including foster and at-risk youth, persons with developmental and physical disabilities, farmworkers, the elderly, single parents with children, and survivors of domestic violence. Investments should also be made in housing for Medi-Cal recipients served through a county’s Section 1115 Waiver Whole Person Care Pilot program and family day care providers.

(h) Investment in housing creates jobs and provides local benefits. The estimated one-year impacts of building 100 rental apartments in a typical local area include \$11.7 million in local income, \$2.2 million in taxes and other revenue for local governments, and 161 local jobs or 1.62 jobs per apartment. The additional annually recurring impacts of building 100 rental apartments in a typical local area include \$2.6 million in local income, \$503,000 in taxes and other revenue for local governments, and 44 local jobs or .44 jobs per apartment.

(i) California has 109 federally recognized tribes and 723,000 residents with Native American ancestry, the largest number of

tribes and residents in the United States. Due to historic dislocation and lack of housing choices, most do not live on tribal lands and those who do live in severely substandard, overcrowded homes lacking quality water and sewer services at rates greater than the general population.

SEC. 3. Part 16 (commencing with Section 54000) is added to Division 31 of the Health and Safety Code, to read:

PART 16. VETERANS AND AFFORDABLE HOUSING BOND ACT OF 2018

CHAPTER 1. GENERAL PROVISIONS

54000. Together with Article 5z (commencing with Section 998.600) of Chapter 6 of Division 4 of the Military and Veterans Code, this part shall be known, and may be cited, as the Veterans and Affordable Housing Bond Act of 2018.

54002. As used in this part, the following terms have the following meanings:

(a) “Board” means the Department of Housing and Community Development for programs administered by the department, and the California Housing Finance Agency for programs administered by the agency.

(b) “Committee” means the Housing Finance Committee created pursuant to Section 53524 and continued in existence pursuant to Sections 53548 and 54014.

(c) “Fund” means the Affordable Housing Bond Act Trust Fund of 2018 created pursuant to Section 54006.

54004. This part shall only become operative upon adoption by the voters at the November 6, 2018, statewide general election.

CHAPTER 2. AFFORDABLE HOUSING BOND ACT TRUST FUND OF 2018 AND PROGRAM

54006. The Affordable Housing Bond Act Trust Fund of 2018 is hereby created within the State Treasury. It is the intent of the Legislature that the proceeds of bonds (exclusive of refunding bonds issued pursuant to Section 54026) be deposited in the fund and used to fund the housing-related programs described in this chapter. The proceeds of bonds issued and sold pursuant to this

part for the purposes specified in this chapter shall be allocated in the following manner:

(a) One billion five hundred million dollars (\$1,500,000,000) to be deposited in the Housing Rehabilitation Loan Fund established pursuant to Section 50661. The moneys in the fund shall be used for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to be expended to assist in the new construction, rehabilitation, and preservation of permanent and transitional rental housing for persons with incomes of up to 60 percent of the area median income (AMI). These funds may also be used to provide technical assistance pursuant to Section 54007.

(b) One hundred fifty million dollars (\$150,000,000) to be deposited into the Transit-Oriented Development Implementation Fund, established pursuant to Section 53561, for expenditure, upon appropriation by the Legislature, pursuant to the Transit-Oriented Development Implementation Program authorized by Part 13 (commencing with Section 53560) to provide local assistance to cities, counties, cities and counties, transit agencies, and developers for the purpose of developing or facilitating the development of higher density uses within close proximity to transit stations that will increase public transit ridership. These funds may also be expended for any authorized purpose of this program and for state incentive programs, including loans and grants, within the department. Any funds not encumbered for the purposes of this subdivision by November 6, 2028, shall revert for general use in the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, unless the Department of Housing and Community Development determines that funds should revert sooner due to diminished demand.

(c) Three hundred million dollars (\$300,000,000) to be deposited in the Regional Planning, Housing, and Infill Incentive Account, which is hereby created within the fund. Moneys in the account shall be available, upon appropriation by the Legislature, pursuant to the Infill Incentive Grant Program of 2007 established by Section 53545.13 for infill incentive grants to assist in the new construction and rehabilitation of infrastructure that supports high-density affordable and mixed-income housing in locations designated as infill, including, but not limited to, any of the following:

(1) Park creation, development, or rehabilitation to encourage infill development.

(2) Water, sewer, or other public infrastructure costs associated with infill development.

(3) Transportation improvements related to infill development projects.

(4) Traffic mitigation.

These funds may also be expended for any authorized purpose of this program. Any funds not encumbered for the purposes of this subdivision by November 6, 2028, shall revert for general use in the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, unless the Department of Housing and Community Development determines that funds should revert sooner due to diminished demand.

(d) One hundred fifty million dollars (\$150,000,000) to be transferred to the Self-Help Housing Fund established pursuant to Section 50697.1. Notwithstanding Section 13340 of the Government Code and Section 50697.1, these funds are hereby continuously appropriated to the Department of Housing and Community Development without regard to fiscal years, which funds shall be transferred by the department to the California Housing Finance Agency for purposes of the home purchase assistance program established pursuant to Chapter 6.8 (commencing with Section 51341) of Part 3.

(e) Three hundred million dollars (\$300,000,000) to be deposited in the Joe Serna, Jr. Farmworker Housing Grant Fund, established pursuant to Section 50517.5, to fund grants or loans, or both, for local public entities, nonprofit corporations, limited liability companies, and limited partnerships, for the construction or rehabilitation of housing for agricultural employees and their families or for the acquisition of manufactured housing as part of a program to address and remedy the impacts of current and potential displacement of farmworker families from existing labor camps, mobilehome parks, or other housing. These funds may also be expended for any authorized purpose of this program. These funds may also be used to provide technical assistance pursuant to Section 54007. Any funds not encumbered for the purposes of this subdivision by November 6, 2028, shall revert for general use in the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, unless the Department

of Housing and Community Development determines that funds should revert sooner due to diminished demand.

(f) Three hundred million dollars (\$300,000,000) to be deposited in the Affordable Housing Innovation Fund established pursuant to subparagraph (F) of paragraph (1) of subdivision (a) of Section 53545. Moneys in the fund shall be available, upon appropriation by the Legislature, pursuant to the Local Housing Trust Fund Matching Grant Program established by Section 50842.2 to fund competitive grants or loans to local housing trust funds that develop, own, lend, or invest in affordable housing and used to create pilot programs to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing. Local housing trust funds shall be derived on an ongoing basis from private contribution or governmental sources that are not otherwise restricted in use for housing programs. These funds may also be expended for any authorized purpose of this program. Any funds not encumbered for the purposes of this subdivision by November 6, 2028, shall revert for general use in the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, unless the Department of Housing and Community Development determines that funds should revert sooner due to diminished demand.

(g) Three hundred million dollars (\$300,000,000) to be deposited in the Self-Help Housing Fund established pursuant to Section 50697.1. The moneys in the fund shall be available for the CalHome Program authorized by Chapter 6 (commencing with Section 50650) of Part 2, to provide direct, forgivable loans to assist development projects involving multiple home ownership units, including single-family subdivisions, for self-help mortgage assistance programs, and for manufactured homes. These funds may also be expended for any authorized purpose of this program. At least thirty million dollars (\$30,000,000) of the amount deposited in the Self-Help Housing Fund shall be used to provide grants or forgivable loans to assist in the rehabilitation or replacement, or both, of existing mobilehomes located in a mobilehome or manufactured home community. These funds may also be used to provide technical assistance pursuant to Section 54007. Any funds not encumbered for the purposes of this subdivision by November 6, 2028, shall revert for general use in the Multifamily Housing Program authorized by Chapter 6.7

(commencing with Section 50675) of Part 2, unless the Department of Housing and Community Development determines that funds should revert sooner due to diminished demand.

54007. (a) (1) Notwithstanding any other provision of this part, the Department of Housing and Community Development may provide technical assistance to eligible counties and eligible cities, or developers of affordable housing within eligible counties and eligible cities, to facilitate the construction of housing for the target populations for the following programs funded pursuant to this part:

(A) The Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2).

(B) The Joe Serna, Jr. Farmworker Housing Grant Program (Chapter 3.2 (commencing with Section 50515.2) of Part 2).

(C) The CalHome Program (Chapter 6 (commencing with Section 50650) of Part 2).

(2) Technical assistance pursuant to this section shall be provided using the bond proceeds allocated pursuant to Section 54006 to the program for which the technical assistance is provided.

(3) The Department of Housing and Community Development shall not provide more than three hundred sixty thousand dollars (\$360,000) total in technical assistance pursuant to this section, and an eligible county or eligible city shall not receive more than thirty thousand dollars (\$30,000) in technical assistance annually.

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

(1) "Eligible city" means a city that is located within a county with a population of 150,000 residents or fewer.

(2) "Eligible county" means a county with a population of 150,000 residents or fewer.

(3) "Technical assistance" includes engineering assistance and environmental review related to an affordable housing project and reimbursement of administrative costs related to developing a grant proposal.

54008. (a) The Legislature may, from time to time, amend any law related to programs to which funds are, or have been, allocated pursuant to this chapter for the purposes of improving the efficiency and effectiveness of those programs or to further the goals of those programs.

(b) The Legislature may amend this chapter to reallocate the proceeds of bonds issued and sold pursuant to this part among the programs to which funds are to be allocated pursuant to this chapter as necessary to effectively promote the development of affordable housing in this state.

54009. Programs funded with bond proceeds shall, when allocating financial support, give preference to projects that are "public works" for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and other projects on which all construction workers will be paid at least the general prevailing rate of per diem wages as determined by the Director of Industrial Relations.

CHAPTER 3. FISCAL PROVISIONS

54010. Bonds in the total amount of three billion dollars (\$3,000,000,000), exclusive of refunding bonds issued pursuant to Section 54026, or so much thereof as is necessary as determined by the committee, are hereby authorized to be issued and sold for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. All bonds herein authorized which have been duly issued, sold, and delivered as provided herein shall constitute valid and binding general obligations of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal of and interest on those bonds when due.

54012. The bonds authorized by this part shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), except subdivisions (a) and (b) of Section 16727 of the Government Code, and all of the provisions of that law as amended from time to time apply to the bonds and to this part, except as provided in Section 54028, and are hereby incorporated in this part as though set forth in full in this part.

54014. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this part, the committee is continued in existence. For the purposes of this part, the Housing Finance

Committee is "the committee" as that term is used in the State General Obligation Bond Law.

(b) The Department of Housing and Community Development may adopt guidelines establishing requirements for administration of its financing programs. The guidelines shall not constitute rules, regulations, orders, or standards of general application and are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) For the purposes of the State General Obligation Bond Law, the Department of Housing and Community Development is designated the "board" for programs administered by the department, and the California Housing Finance Agency is the "board" for programs administered by the agency.

54016. Upon request of the board stating that funds are needed for purposes of this part, the committee shall determine whether or not it is necessary or desirable to issue bonds, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and are not required to be sold at any one time. Bonds may bear interest subject to federal income tax.

54018. There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collections of state revenues to do or perform each and every act which is necessary to collect that additional sum.

54020. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this part, an amount that will equal the total of both of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this part, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out Section 54024, appropriated without regard to fiscal years.

54022. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for purposes of this part. The amount of the request shall not exceed

the amount of the unsold bonds that the committee has, by resolution, authorized to be sold, excluding any refunding bonds authorized pursuant to Section 54026, for purposes of this part, less any amount loaned pursuant to this section and not yet repaid and any amount withdrawn from the General Fund pursuant to Section 54024 and not yet returned to the General Fund. The board shall execute any documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated in accordance with this part.

54024. For purposes of carrying out this part, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of any amount or amounts not to exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold, excluding any refunding bonds authorized pursuant to Section 54026, for purposes of this part, less any amount loaned pursuant to Section 54022 and not yet repaid and any amount withdrawn from the General Fund pursuant to this section and not yet returned to the General Fund. Any amounts withdrawn shall be deposited in the fund to be allocated in accordance with this part. Any moneys made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from moneys received from the sale of bonds which would otherwise be deposited in that fund.

54026. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. Approval by the electors of this act shall constitute approval of any refunding bonds issued to refund bonds issued pursuant to this part, including any prior issued refunding bonds. Any bond refunded with the proceeds of a refunding bond as authorized by this section may be legally defeased to the extent permitted by law in the manner and to the extent set forth in the resolution, as amended from time to time, authorizing that refunded bond.

54028. Notwithstanding any provisions in the State General Obligation Bond Law, the maturity date of any bonds authorized by this part shall not be later than 35 years from the date of each such bond. The maturity of each series shall be calculated from the date of issuance of each bond.

54030. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this part are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

54032. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this part that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, the Treasurer may maintain a separate account for investment earnings, may order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of tax-exempt bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

54034. All moneys derived from premiums and accrued interest on bonds sold pursuant to this part shall be transferred to the General Fund as a credit to expenditures for bond interest; provided, however, that amounts derived from premiums may be reserved and used to pay the costs of bond issuance prior to transfer to the General Fund.

SEC. 4. Article 5z (commencing with Section 998.600) is added to Chapter 6 of Division 4 of the Military and Veterans Code, to read:

Article 5z. The Veterans and Affordable Housing Bond Act of
2018

998.600. Together with Part 16 (commencing with Section 54000) of Division 31 of the Health and Safety Code, this article shall be known and may be cited as the Veterans and Affordable Housing Bond Act of 2018.

998.601. (a) The State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), as amended from time to time, except as otherwise provided herein, is adopted for the purpose of the issuance, sale, and repayment of, and otherwise providing with respect to, the bonds authorized to be issued by this article, and the provisions of that law are included in this article as though set

out in full in this article. All references in this article to "herein" refer both to this article and that law.

(b) For purposes of the State General Obligation Bond Law, the Department of Veterans Affairs is designated the board.

998.602. As used herein, the following terms have the following meanings:

(a) "Board" means the Department of Veterans Affairs.

(b) "Bond" means a veterans' bond, a state general obligation bond, issued pursuant to this article adopting the provisions of the State General Obligation Bond Law.

(c) "Bond act" means this article authorizing the issuance of state general obligation bonds and adopting the State General Obligation Bond Law by reference.

(d) "Committee" means the Veterans Finance Committee of 1943, established by Section 991.

(e) "Fund" means the Veterans' Farm and Home Building Fund of 1943, established by Section 988.

(f) "Payment Fund" means the Veterans' Bonds Payment Fund established by Section 988.6.

998.603. For the purpose of creating a fund to provide farm and home aid for veterans in accordance with the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50)), and of all acts amendatory thereof and supplemental thereto, the committee may create a debt or debts, liability or liabilities, of the State of California, in the aggregate amount of not more than one billion dollars (\$1,000,000,000), exclusive of refunding bonds, in the manner provided herein.

998.604. (a) All bonds authorized by this article, when duly sold and delivered as provided herein, constitute valid and legally binding general obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest thereof.

(b) There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money, in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, these bonds as provided herein, and all officers required by law to perform any duty in regard to the collection of state revenues shall collect this additional sum.

(c) On the dates on which funds are to be remitted pursuant to Section 16676 of the Government Code for the payment of debt service on the bonds in each fiscal year, there shall be transferred to the Payment Fund to pay the debt service all of the money in the fund, not in excess of the amount of debt service then due and payable. If the money transferred on the remittance dates is less than debt service then due and payable, the balance remaining unpaid shall be transferred to the General Fund out of the fund as soon as it shall become available, together with interest thereon from the remittance date until paid, at the same rate of interest as borne by the bonds, compounded semiannually. Notwithstanding any other provision of law to the contrary, this subdivision shall apply to all veterans' farm and home purchase bond acts pursuant to this chapter. This subdivision does not grant any lien on the fund, the Payment Fund, or the moneys therein to the holders of any bonds issued under this article. For the purposes of this subdivision, "debt service" means the principal (whether due at maturity, by redemption, or acceleration), premium, if any, or interest payable on any date with respect to any series of bonds. This subdivision shall not apply, however, in the case of any debt service that is payable from the proceeds of any refunding bonds.

998.605. There is hereby appropriated from the General Fund, for purposes of this article, a sum of money that will equal both of the following:

(a) That sum annually necessary to pay the principal of, and the interest on, the bonds issued and sold as provided herein, as that principal and interest become due and payable.

(b) That sum necessary to carry out Section 998.606, appropriated without regard to fiscal years.

998.606. For the purposes of this article, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of a sum of money not to exceed the amount of the unsold bonds which have been authorized by the committee to be sold pursuant to this article. Any sums withdrawn shall be deposited in the fund. All moneys made available under this section to the board shall be returned by the board to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this article.

998.607. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for the purposes of carrying out this article. The amount of the request shall not exceed the amount of unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this article. The board shall execute whatever documents are required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this article.

998.608. Upon request of the board, supported by a statement of its plans and projects approved by the Governor, the committee shall determine whether to issue any bonds authorized under this article in order to carry out the board's plans and projects, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out these plans and projects progressively, and it is not necessary that all of the bonds be issued or sold at any one time.

998.609. (a) As long as any bonds authorized under this article are outstanding, the Secretary of Veterans Affairs shall, at the close of each fiscal year, require a survey of the financial condition of the Division of Farm and Home Purchases, together with a projection of the division's operations, to be made by an independent public accountant of recognized standing. The results of each survey and projection shall be reported in writing by the public accountant to the Secretary of Veterans Affairs, the California Veterans Board, the appropriate policy committees dealing with veterans affairs in the Senate and the Assembly, and the committee.

(b) The Division of Farm and Home Purchases shall reimburse the public accountant for these services out of any money that the division may have available on deposit with the Treasurer.

998.610. (a) The committee may authorize the Treasurer to sell all or any part of the bonds authorized by this article at the time or times established by the Treasurer.

(b) Whenever the committee deems it necessary for an effective sale of the bonds, the committee may authorize the Treasurer to sell any issue of bonds at less than their par value, notwithstanding Section 16754 of the Government Code. However, the discount on the bonds shall not exceed 3 percent of the par value thereof.

998.611. Out of the first money realized from the sale of bonds as provided herein, there shall be redeposited in the General Obligation Bond Expense Revolving Fund, established by Section 16724.5 of the Government Code, the amount of all expenditures made for the purposes specified in that section, and this money may be used for the same purpose and repaid in the same manner whenever additional bond sales are made.

998.612. Any bonds issued and sold pursuant to this article may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. The approval of the voters for the issuance of bonds under this article includes approval for the issuance of bonds issued to refund bonds originally issued or any previously issued refunding bonds.

998.613. Notwithstanding any provision of the bond act, if the Treasurer sells bonds under this article for which bond counsel has issued an opinion to the effect that the interest on the bonds is excludable from gross income for purposes of federal income tax, subject to any conditions which may be designated, the Treasurer may establish separate accounts for the investment of bond proceeds and for the earnings on those proceeds, and may use those proceeds or earnings to pay any rebate, penalty, or other payment required by federal law or take any other action with respect to the investment and use of bond proceeds required or permitted under federal law necessary to maintain the tax-exempt status of the bonds or to obtain any other advantage under federal law on behalf of the funds of this state.

998.614. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this article are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by Article XIII B.

SEC. 5. Sections 3 and 4 of this act shall become operative upon the adoption by the voters of the Veterans and Affordable Housing Bond Act of 2018.

SEC. 6. Sections 3 and 4 of this act shall be submitted by the Secretary of State to the voters as a single measure, the Veterans and Affordable Housing Bond Act of 2018, at the November 6, 2018, statewide general election.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to maximize the time available for the analysis and preparation of the proposed issuance of bonds pursuant to Sections 3 and 4 of this act, it is necessary that this act take effect immediately.

***CITY COUNCIL OF THE CITY OF EL CERRITO PROCLAMATION
Recognizing June as LGBT Pride Month in the City of El Cerrito***

WHEREAS, the City of El Cerrito has a diverse Lesbian, Gay, Bisexual, Transgender (LGBT) community and is committed to supporting visibility, dignity and equity for all people in the community; and

WHEREAS, many of the residents, students, city employees, and business owners within the City of El Cerrito who contribute to the enrichment of our City are a part of the lesbian, gay, bisexual, transgender, and questioning community; and

WHEREAS, various advancements have been made with respect to equitable treatment of lesbians, gay men, bisexual, transgendered, and questioning persons throughout the nation, but there continues to be some opposition against people from this community and around the world making it important for cities like El Cerrito to stand up and show support for our residents who are affected; and

WHEREAS, several cities across the United States recognize and celebrate June as LGBT Pride Month; and

WHEREAS, June has become a symbolic month in which lesbians, gay men, bisexual people, transgender, and supporters come together in various celebrations of pride; and

WHEREAS, the rainbow flag, also known as the LGBT pride flag or gay pride flag, has been used since the 1970s as a symbol of Lesbian, Gay, Bisexual, Transgender pride and LGBT social movements; and

WHEREAS, flying the rainbow flag at City Hall throughout the month of June further symbolizes the City's celebration of diversity and support for the Lesbian, Gay, Bisexual, Transgender community.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby declare the month of June as LGBT Pride month in the City of El Cerrito, and invites everyone to reflect on ways we all can live and work together with a commitment to mutual respect and understanding, and further, recognizes Pride Month by flying the rainbow flag at City Hall during the month of June.

Dated: May 15, 2018

Gabriel Quinto, Mayor

Age Friendly Community

Growth of California

- ▶ 7,000 Californians turn 65 every week;
 - ▶ 30,000 people per month
 - ▶ 365,000 people per year
- ▶ 20% of Californians will be 65 years or older in 2030
- ▶ Fastest growing segment is age 85 and older

Contra Costa's Aging Population in 40 years:

Ages 65 – 74 will grow by **125%**

Ages 75 – 84 will grow by **198%**

Ages 85 years and older will grow by **299%**

Senior Aging Policy Platform Contra Costa County

Shared understanding of:

- Demographic trends
- Living environment
- Health conditions and access to care issues

Articulation of a policy platform:

- To improve service access
- To improve service quality and overall quality of life for seniors

Endorsement of a strategic plan:

- Outline of specific strategies
- Steps to achieve the policy platform.

Learning Lab Goals:

- Understand elements that create age-friendly communities:
 - Public space
 - Transportation
- Identify age-friendliness barriers in Contra Costa County
- Develop and Assess ideas to become more age-friendly:
 - Transportation project ideas
 - Public space-related project ideas



**Contra Costa's
Potential Goal
Can Be An**

**Age-Friendly Community that is
welcoming to all whether one is
eight years-old or 80 years-old.**



**We need to stop
building cities as
though everyone
is 30 years old
and athletic.**

**-Gil Penalosa
Founder & Chair of 8 80 Cities**

Thank you!

Contra Costa Senior Policy Platform
Policy Platform 2020
September 2016

OVERVIEW

The Contra Costa Senior Policy Platform (CCSPP) is a collaborative effort of senior service providers, healthcare agencies, advocates, public agencies and concerned individuals committed to ensuring that Contra Costa County's aging community (residents aged 65 and older) can age with dignity and receive the services and support they deserve.

In addition to the many service and support needs that aging community members living in Contra Costa County exhibit today, this need is expected to grow exponentially in the near future. By 2030, the number of community residents aged 65 and over living in Contra Costa County will grow by more than 90%. Today aging residents represent just 13% of the County population. By 2030, they will represent 27% of all Contra Costa County residents.

To pro-actively address this need, the Contra Costa Senior Policy Platform (CCSPP) has articulated a Policy Platform 2020 with specific local priorities and strategic steps to propel Contra Costa County investments and initiatives to support aging with dignity. The platform addresses four priorities:

1. **EVALUATE.** Support research that describes and assesses local service needs and gaps impacting aging residents and that proposes specific and actionable local strategies to address these needs.
2. **CONVENE.** Strengthen service delivery and coordination, including discharge planning and information exchange, by convening community-based service providers, healthcare providers, behavioral health providers, law enforcement, transportation, public guardians and other partners.
3. **EDUCATE.** Actively educate the Board of Supervisors, local city councils and Conference of Mayors, and other elected officials, County agency officials, seniors and family members, and other community leaders about the dramatic increase in the aging population, key unmet service needs and gaps, and the roles that local officials and agencies can play in supporting aging residents.
4. **ADVOCATE.** Conduct coordinated advocacy to promote County and city policies that significantly increase investment into services to support aging with dignity.

FOUR-YEAR POLICY PLATFORM

1) EVALUATE. Support research that describes and assesses local service needs and gaps impacting aging residents and that proposes specific and actionable local strategies to address these needs.

- Utilize existing data and conduct new studies to evaluate access to long-term services and support for vulnerable aging residents and to make recommendations to increase the number of vulnerable aging residents with affordable access to long-term care, services and supports.
- Using existing data and new evaluations, analyze and articulate the key issues affecting seniors, including: 1) housing affordability and economic stability, 2) transportation, 3) medical service access, 4) senior homelessness and 5) the shortage of skilled caregivers and senior service workforce with the goal of presenting key needs and recommendations to decision-makers.
- Enhance the Area Agency on Aging needs assessment to more effectively describe how many aging residents are receiving services from all providers, including public, non-profit and private providers, and the continuum of care for seniors.

2) CONVENE. Strengthen service delivery and coordination, including discharge planning and information exchange, by convening community-based service providers, healthcare providers, behavioral health providers, law enforcement, transportation, public guardians and other partners.

- Convene a multi-disciplinary and multi-agency workgroup to review best-practices and propose pilot projects that enhance care coordination and reduce care silos. Potential workgroup partners could include funders, community-based service providers, healthcare providers, behavioral health providers, law enforcement, transportation agencies, public guardians and other partners.
- Identify and leverage the work of existing workgroups addressing similar issues by educating and engaging them to collaborate in Policy Platform 2020 and linking Policy Platform 2020 participants to existing efforts in the community.
- Improve the quality of discharge planning by hospitals, nursing homes, community based organizations and County departments by providing training programs, developing practice standards and referral protocols and regularly convene discharge planners and other interested staff to discuss shared challenges and best practices.

- Convene a local workgroup to promote information exchange between community-based service providers, behavioral health providers and healthcare providers with a priority on sharing acute hospital re-admission data.

3) EDUCATE. Actively educate the Board of Supervisors, local city councils and Conference of Mayors, and other elected officials, County agency officials, seniors and family members, and other community leaders about the dramatic increase in the aging population, key unmet service needs and gaps, and the roles that local officials and agencies can play in supporting aging residents.

- Create easy to understand fact sheets, report briefs, mapping tools and other resources to educate elected officials and other key stakeholders.
- Complete public presentations and individual visits with governing bodies, individual elected officials and other stakeholder groups.
- Market the effectiveness of current programs to key stakeholders and funders by demonstrating the return on investment of successful programs.

4) ADVOCATE. Conduct coordinated advocacy to promote County and city policies that significantly increase investment into services to support aging with dignity.

- Advocate for the Board of Supervisors and all city councils to implement an “aging friendly” policy that ensures that all new policies consider the impact on Contra Costa County seniors and utilize the aging-friendly components/domains defined by the World Health Organization.¹
- Based on evaluation findings, advocate for new policies and investments related to long-term care, senior housing affordability, medical service access, transportation, isolation and other quality of life issues.
- Facilitate coordinated state-level advocacy by community stakeholders, agencies and elected officials to promote the interests of Contra Costa County aging residents.

¹ World Health Organization, Aging-Friendly Practice. <https://extranet.who.int/agefriendlyworld/age-friendly-in-practice/>

SAVE THE DATE!

LEARNING LAB FOR POLICY MAKERS



**Imagine a community
where 8-year-olds and
80-year-olds can live
and play together!**

Let's make this a reality! Join
us for a Learning Lab hosted
by Choice in Aging and the
Contra Costa Advisory
Council on Aging

This is an invitation only event
RSVP info below

Supported by a grant from The SCAN Foundation



MAY 30, 2018 9:00AM - 3:30PM

CENTER FOR COMMUNITY ARTS
111 NORTH WIGET LANE, WALNUT CREEK
(925) 682-6330 | ncuneo@choiceinaging.org



**CHOICE
IN AGING**



El Cerrito Police 2017 in Review

Paul Keith – El Cerrito Police
May 15, 2018



Mission Statement

The El Cerrito Police Department is committed to service, safety, and enhancing the public trust through professionalism and leadership.



Department Goals – 2017

- ▶ Expand Outreach
- ▶ Increase Traffic Safety
- ▶ Increase Safety in Business Districts



Expand Outreach







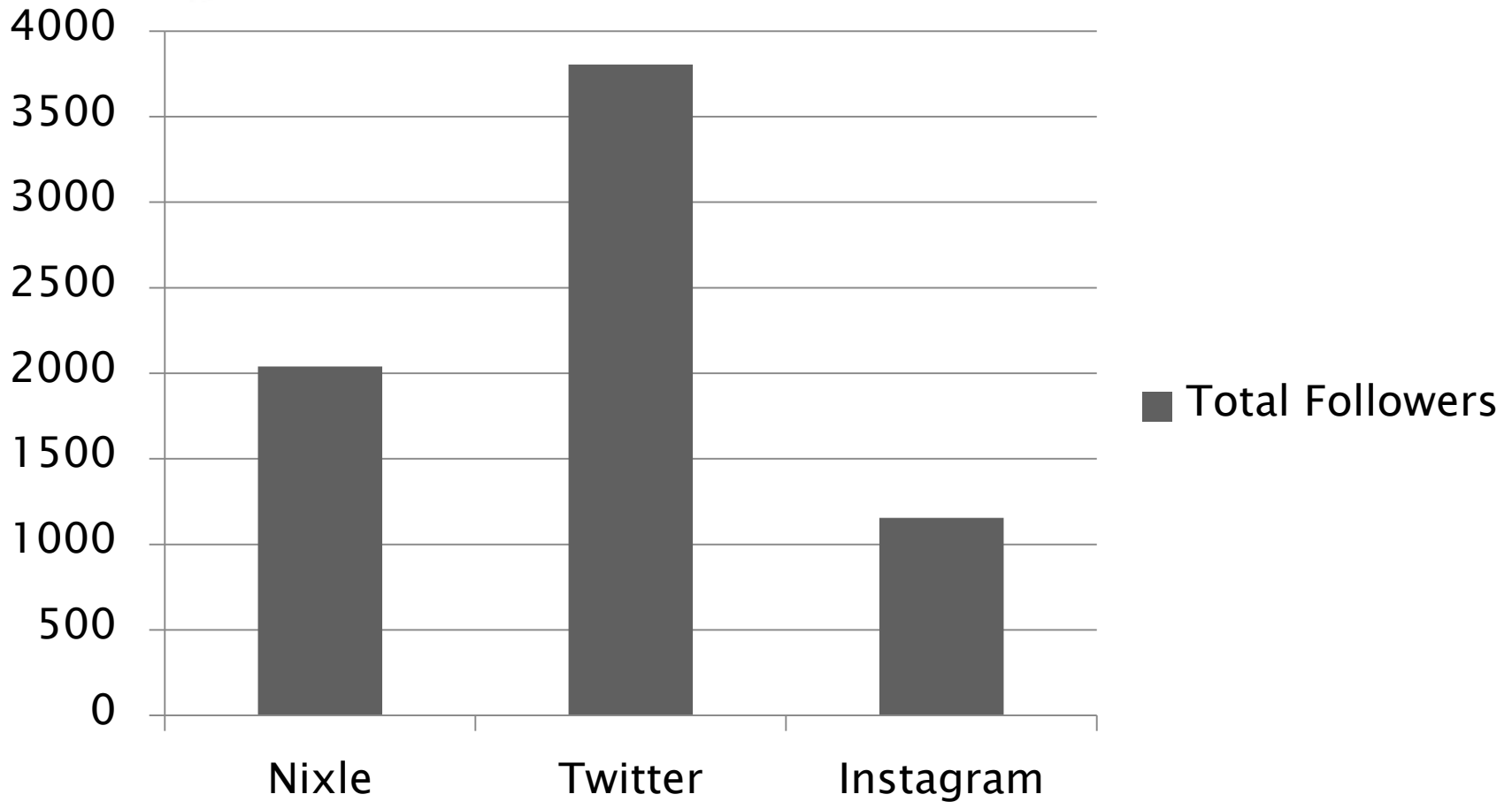








Outreach Stats



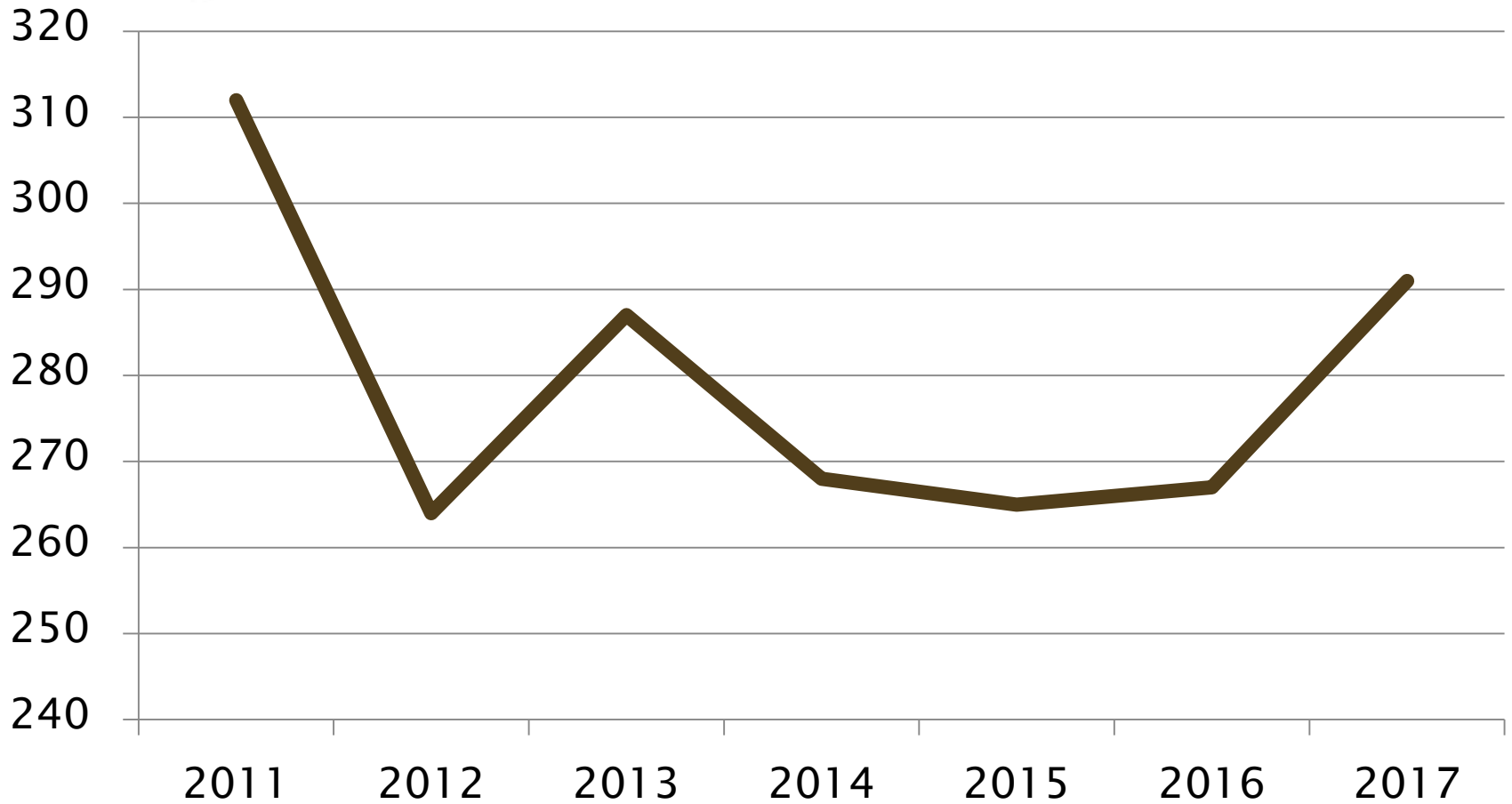


Increase Traffic Safety

- ▶ DUI Enforcement
- ▶ Traffic Education and Enforcement
- ▶ Collisions



Total Collisions



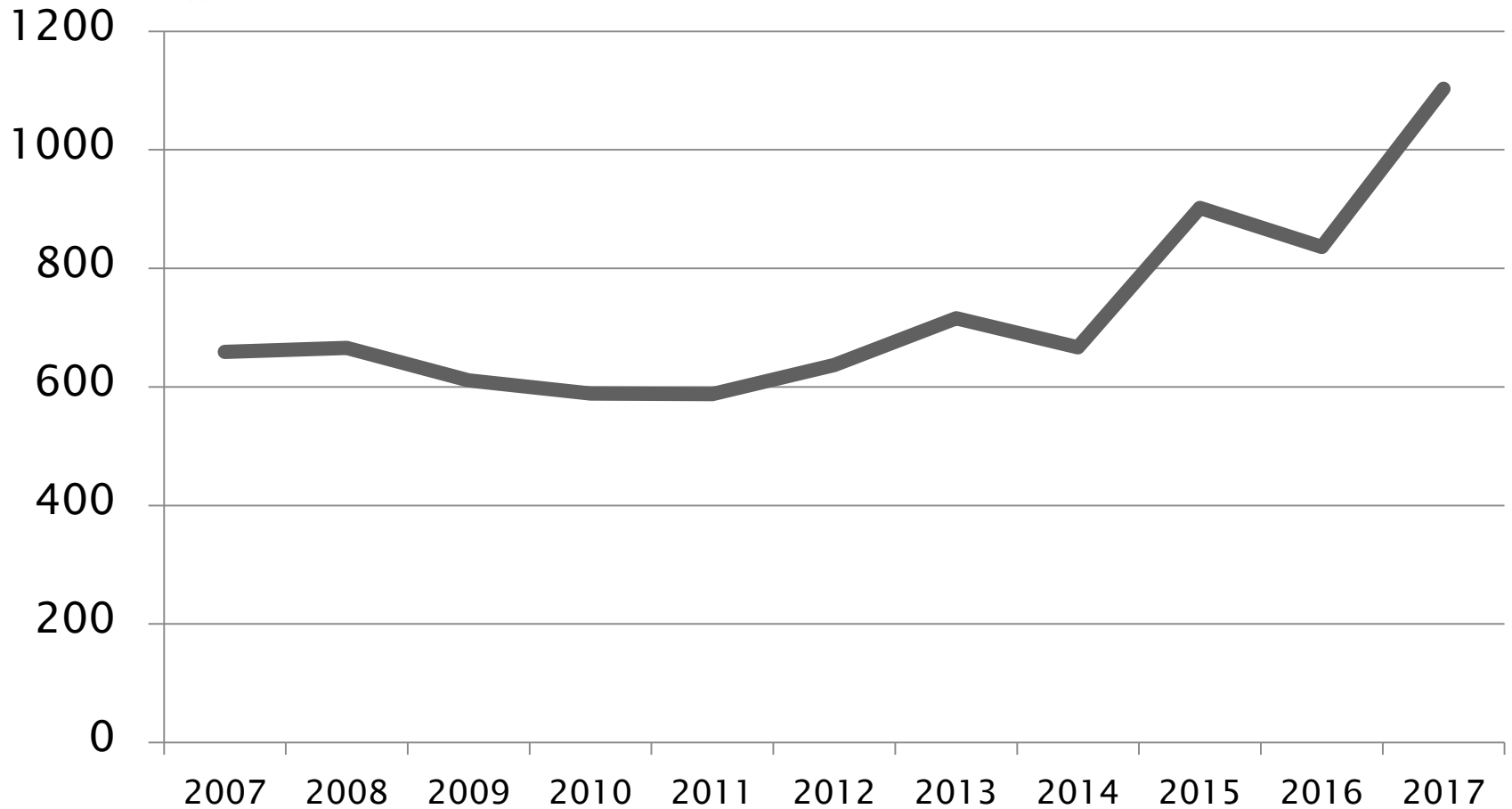


Crime

- ▶ Homicide
- ▶ Robbery
- ▶ Burglary
- ▶ Theft

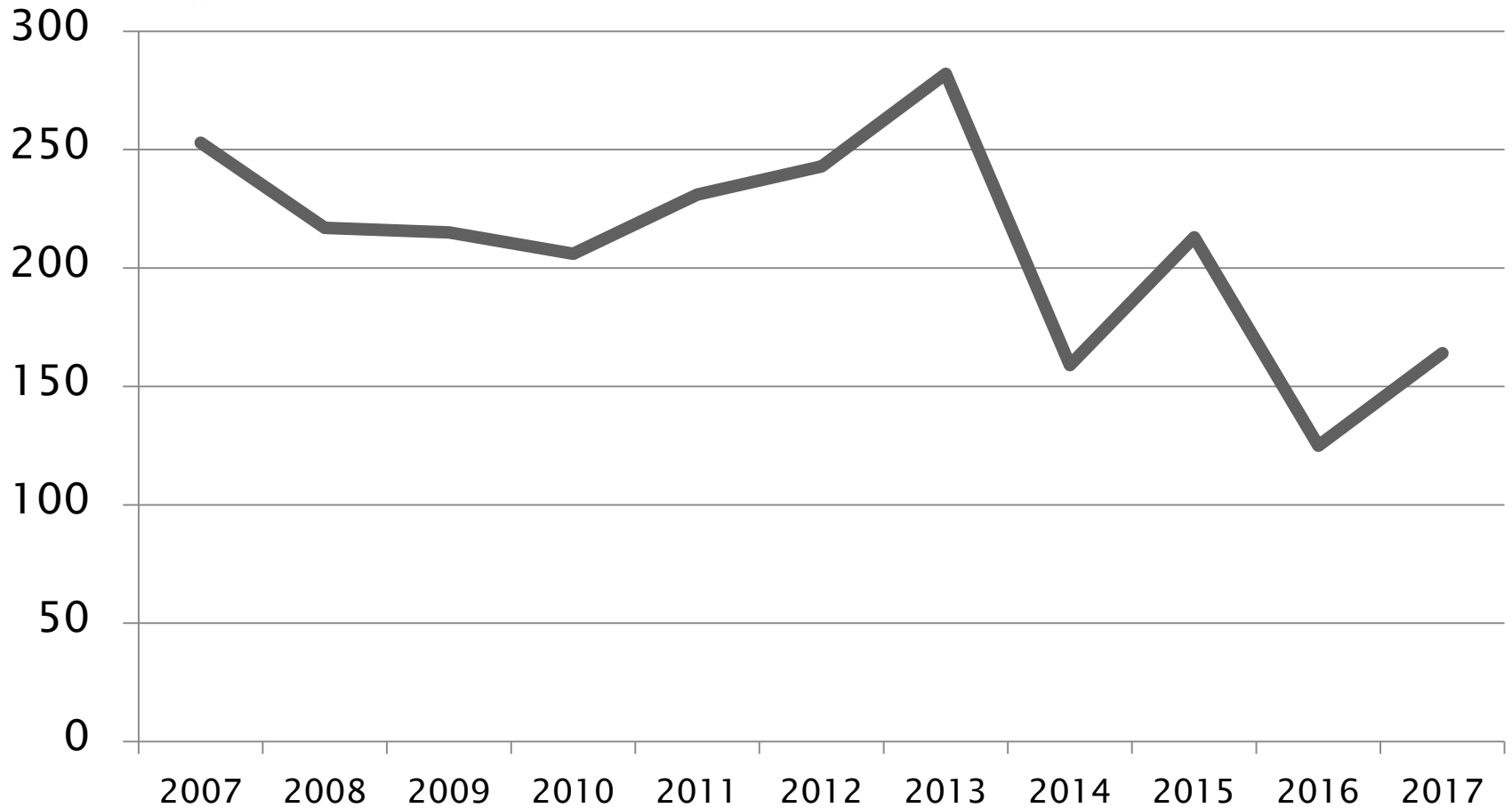


Larceny Trend



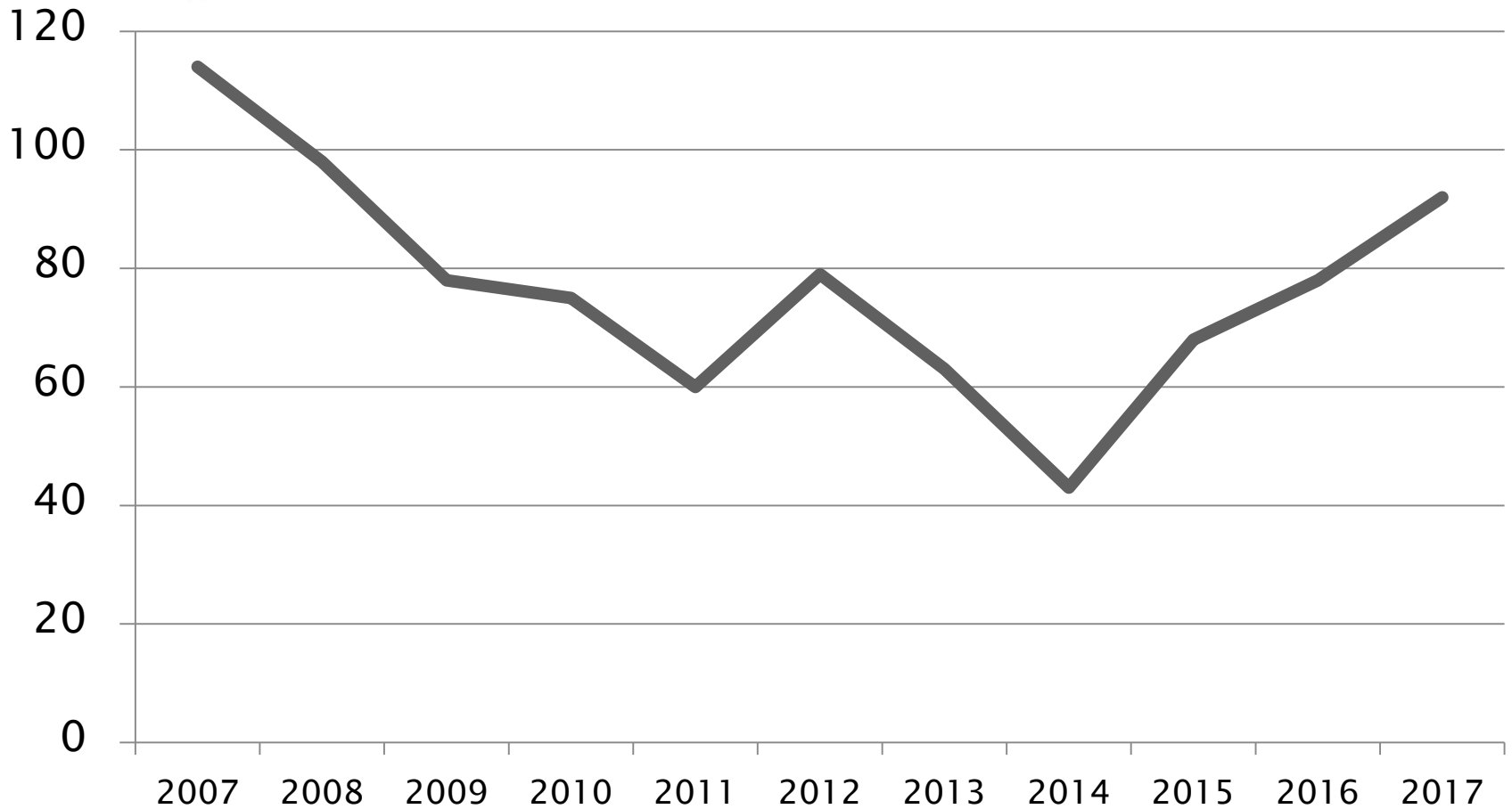


Burglary Trend





Robbery Trend





Sanctuary City Update

- ▶ Training
- ▶ Law Changes
- ▶ Limited Communication
- ▶ No collaborations with U.S. Immigrations and Customs Enforcement in 2017



2018 Goals

▶ **Community**

- Find new opportunities for community engagement
- Focus on Community Quality of Life

▶ **Agency**

- Reinforce Communication and Collaboration
- Embrace Emerging (and Existing) Technology

▶ **Employee**

- Focus on Employee Wellness and Development



More Information

- ▶ El Cerrito Police Annual Report for 2017
 - www.el-cerrito.org/police

- ▶ Nixle
 - www.nixle.com

- ▶ Instagram
 - [@elcerritopolice](https://www.instagram.com/elcerritopolice)

- ▶ Twitter
 - [@elcerritopd](https://twitter.com/elcerritopd)



Getting Involved

- ▶ Neighborhood Watch Groups
- ▶ Crime Prevention Committee
- ▶ Community Police Academy
- ▶ Volunteers in Policing (VIPs)
- ▶ ECPD Police Explorer Post
- ▶ Job Opportunities



El Cerrito Police 2017 in Review

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2017 Annual Report

EL CERRITO POLICE DEPARTMENT





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LETTER FROM THE CHIEF



It is my pleasure to present the El Cerrito Police Department Annual Report for 2017. This report represents a fraction of the time and energy our employees gave to the City of El Cerrito last year. I hope you will find that the things that are important to the residents, workers and visitors of El Cerrito are the same things that are important to the members of the El Cerrito Police Department.

We spent 2017 working to fulfill our department goals for the year. For 2017, we strove to expand outreach, increase traffic safety, and increase safety in our business districts. During the year, we created a new position to help coordinate public information and outreach efforts. The Police Department deployed this new position, the Community Liaison Officer (CLO) during the summer. The CLO has helped streamline the ways in which the police department shares information with our community members. Officers organized special events, attended community celebrations, and helped organize the centennial parade, El Cerrito's largest parade in at least twenty years. We worked closely with Public Works, during the year, to improve traffic safety issues around El Cerrito. While we feel that we made excellent strides in connecting with our residents and collaborating to improve traffic safety, we still have a lot of work to do in our business districts.

Last year was a challenging year for our local businesses. In particular, shoplifting and shoplifting related robberies increased significantly. The City of El Cerrito saw an 18% increase in robbery and a 31% increase in larceny, the highest number of thefts in over ten years. Since the passage of Proposition 47 in 2014, theft has increased by 65%, to over 1,100 theft incidents annually.

Our experience in working toward our goals in 2017 helped to develop our goals for 2018. Our 2018 goals focus on three different categories; our community, our agency, and our employees. At the community level, we plan to continue to improve community engagement and focus on safety and quality of life. In our agency, our goals are to reinforce communication and collaboration and embrace emerging and existing technology. At the employee level, we will focus on employee wellness and development.

Thank you for taking the time to read about our accomplishments and challenges in 2017. I hope you find your time well spent.



MISSION, VISION, VALUES

Mission

The El Cerrito Police Department is committed to service, safety, and enhancing the public trust through professionalism and leadership

Vision

As a model law enforcement agency, we will continue to foster an environment of collaboration, honesty, and respect with each member of our community, our department, and our allied agencies. We will represent the highest ideals of public service in carrying out our mission and living our values. El Cerrito Police Department will be known for its commitment to steadfast compassionate service and vigorous crime fighting.

Values

Individual Values

Each member of the El Cerrito Police Department recognizes that service is the foundation of our value system and ethical behavior is the cornerstone of public trust. We believe the character of our department is best reflected in the quality of service provided by each of our members during each community contact. We will demonstrate, through our actions, an uncompromising allegiance to the core principles set forth in the Police Officer's Code of Ethics and the standards modeled at every level of our organization. Every El Cerrito Police Department employee will embrace ideals consistent with our values.

Organizational Values

As members of the El Cerrito Police Department we accept responsibility for contributing to the safety and quality of life in our community. We will meet the challenge of fulfilling our responsibility through our shared values and commitment to:

Honor

We will express with our fellow department members, and the public, that we are genuinely concerned with how we treat each other. To honor and respect others in the delivery of law enforcement service is the mindset and spirit that enables us to model our values.

Integrity

We will demonstrate our allegiance to the character of sound moral principles as described in the Police Officer's Code of Ethics coupled with the qualities of honesty and openness. Our words will match our actions.

Pride

We will reflect in our actions that every member of our department matters and that how we get the job done is as important as simply getting the job done.

Leadership

We will serve with humility, authenticity, initiative, bearing, and courage at every level of our organization.

Accountability

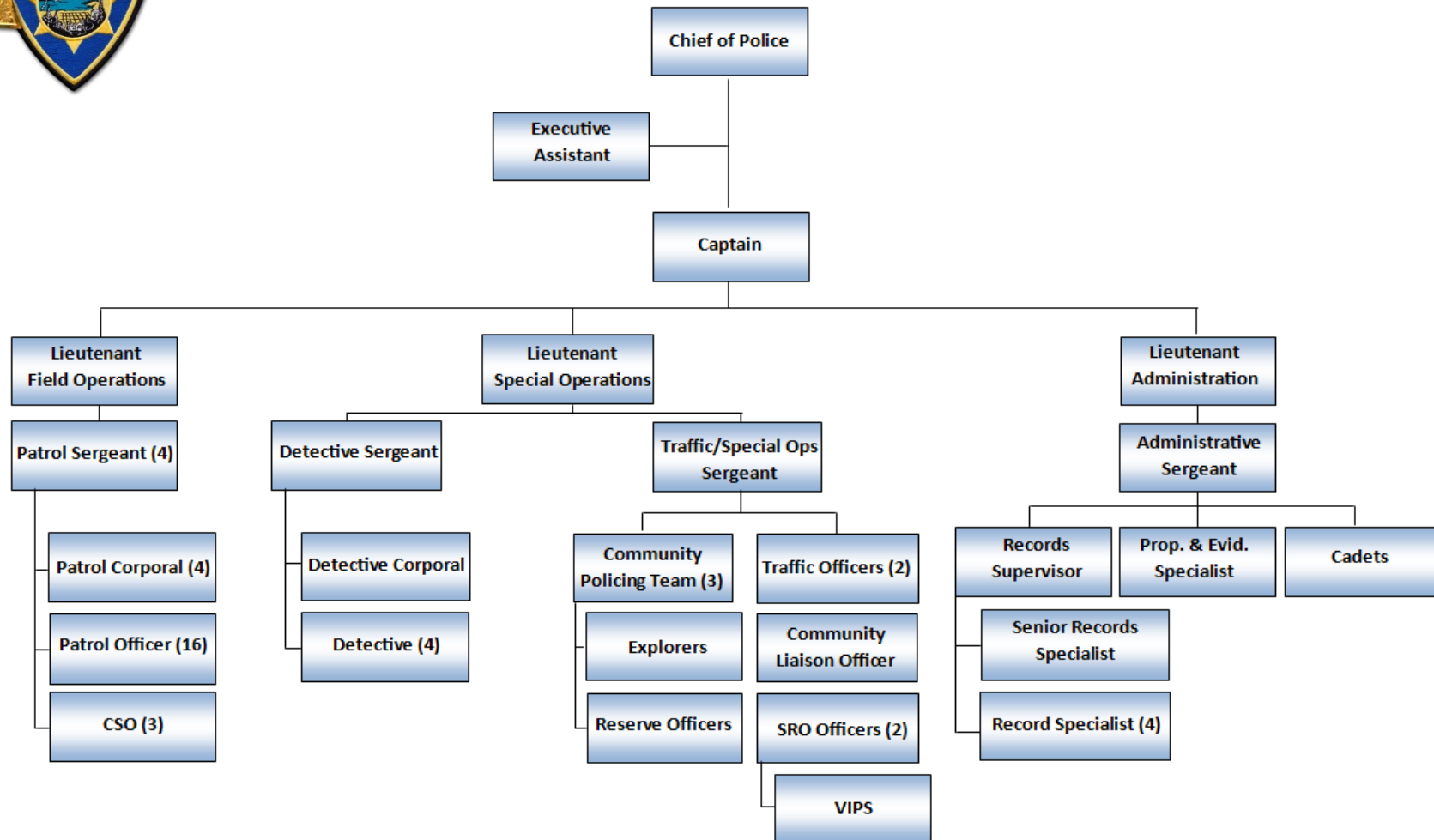
We consistently improve our individual and organizational performance by enabling a culture of responsibility, openness, and continuous development. We will take responsibility for our actions and be willing to admit our mistakes.

Commitment

We will reflect our inner strength through our dedication to public service in how we carry out our mission, pursue our vision and exhibit our values.



El Cerrito Police Department Organizational Chart





PERSONNEL UPDATES

New Hires

Police Officers

Michael Popke
Humberto Rivera
Vahe Minassian
Galina Pavlova
Angelica Perez

Records Specialist

Veronica Ceja

Police Cadets
Vanessa Flores
Juan Mejia

Explorer

Liam Holden

Volunteer
Ravi Karki

Promotions

Jose Delatorre (Sergeant)

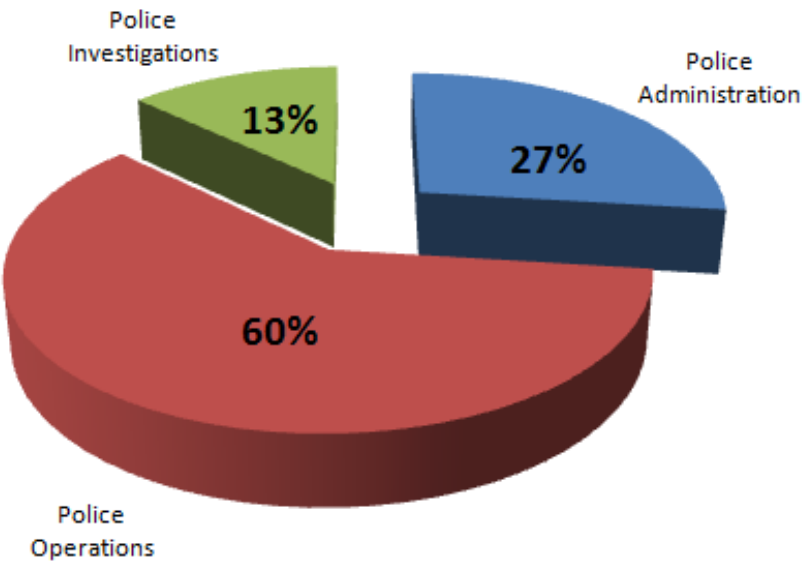
Retirement

Sergeant Shawn Maples





BUDGET OVERVIEW



ANNUAL BUDGET

\$11,454,594.00

POLICE ADMINISTRATION

\$3,086,122.00

- Dispatch Services Contract
- Animal Control Services Contract
- Other Contracts
- Training
- Records Staff

POLICE OPERATIONS

\$6,880,255.00

- Front Line Staff
- Traffic Division
- School Resource Officers
- Vehicle & Equipment Maintenance

POLICE INVESTIGATIONS

\$1,488,217.00

- Investigators
- Evidence Contract
- Crime Lab Fees
- Crime Prevention



2017 CRIME STATISTICS

16,417
Calls for Service

1,809
Pedestrian Stops

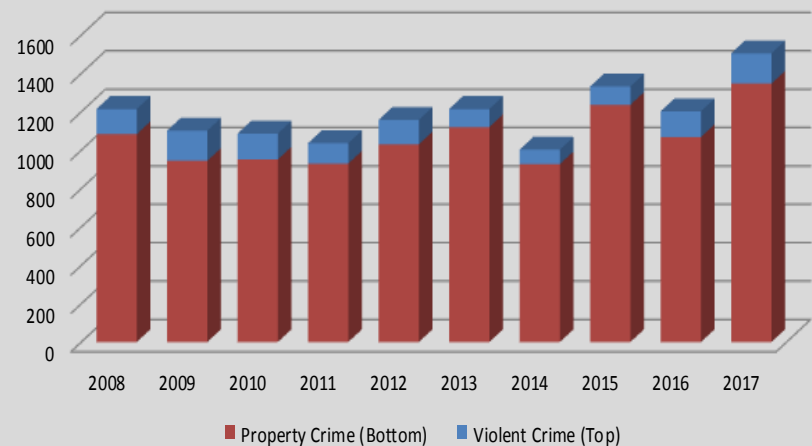
5,996
Traffic Stops

Officers and Community Service Officers tagged **283** abandoned vehicles and recovered **79** stolen vehicles.

Uniform Crime Reporting Statistics

PART 1 CRIMES TOTALS	2013	2014	2015	2016	2017
Murder	0	0	1	1	2
Forcible Rape	0	3	1	4	2
Robbery	63	43	68	78	92
Aggravated Assault	31	29	25	51	62
Burglary	282	159	213	125	164
Larceny / Theft	716	667	902	836	1103
Motor Vehicle Theft	122	101	121	107	79
Total Offenses	1214	1002	1331	1202	1504

Property Crime vs. Violent Crime





ADMINISTRATIVE DIVISION



Division Lieutenant: Robert De La Campa

The Administrative Division plays an essential role in the management, training, risk reduction, and effectiveness for the Department. The mission of the Division is to manage, support, and develop programs by ensuring the services provided are consistent with the expectations of the community, are practiced under the standards established by the law enforcement profession and are completed in accordance with legislatively mandated and continual professional training.

The Division is responsible for recruiting, testing, and hiring individuals with the character and work ethic to support the mission, vision, and values of the Police Department and strive to provide quality service to the community that we serve. Administrative Division is also responsible for providing initial and ongoing training to all personnel to maintain a constant state of readiness.

HIRING & TRAINING

The ECPD maintained its commitment of continuous training for all employees. Sworn Officers attended training in a variety of subjects. Some attended Crisis Intervention and De Escalation courses. Some attended training on Crime Scene Investigation, Interview and Interrogation, Collision Investigations and Search Warrants.

All received regular training on the rapidly changing State laws and even social media.

Use of Force Training – All Sworn Officers complete frequent updates on firearms, less lethal munitions, chemical agents, defensive tactics, and TASER's. They all also attend annual training in force options scenario training where decision making and stress response are tested.

Driving Training – ECPD employees, including Sworn and CSO's, Volunteers and Cadets received regular training on driving skills. We did slow speed cone pattern training for half of the ECPD. Some also did driving simulators. Even the motorcycle and bicycle trained officers completed their annual updates.

Commission on P.O.S.T. Perishable Skills Training – Every two years, regulations from the Commission on P.O.S.T. require that police officers minimally complete the following: 4 hours of firearms training, 4 hours of arrest and control training, 2 hours of communication training, 4 hours of driver training, and 10 hours of training in any other approved category. At the conclusion of the two year cycle, the Commission on P.O.S.T. audits agencies for compliance with these basic requirements. The ECPD as is our usual practice exceeded this statewide minimum training requirement.

Canine Training – The El Cerrito Police Department added a second canine officer in 2017. Roman (Dutch Sheppard) began service with Officer Cooper. Roman completed 5 weeks of patrol training and will do 5 weeks of narcotics detection training in the spring of 2018. Both of our K9 teams attend two days of training each month.

Tactical Training – The ECPD works with the Richmond PD Special Response Team. Two ECPD members attend monthly training with the RPD. Three members are involved with the Crisis Negotiation Team. They attend quarterly negotiations training. We also have a contingent who trains quarterly with the county wide Mutual Aid Mobile Field Force.

HIRING

In 2017, the El Cerrito Police Department hired various employees for different divisions. We hired one Public Safety Executive Assistant, two Records Specialists, two cadets, one Community Service Office, five Police Officers, one Volunteer and several Explorers.



PROPERTY / EVIDENCE & RECORDS

The Administrative Division is responsible for the safekeeping and management of property and evidence. Property arrives in the Police Department in several ways. Citizens locate property, belonging to another, and turn it over to the Police Department to locate the owner of the property. Suspects are occasionally arrested while in possession of more property than they can take to county jail. Officers will book this property into safekeeping at the agency. The department does not hold these items indefinitely. Periodically, the police department auctions off or donates unclaimed property.

The safeguarding of evidence is the highest responsibility for the Property and Evidence unit. The unit must ensure evidence is stored in a manner that does not allow the evidence to degrade. The unit is responsible for making sure that evidence, of all types, can be presented in court to support criminal prosecutions.

In 2017, the Property and Evidence unit took in 5,212 pieces of property and evidence. Items were not sent for destruction as the Property & Evidence Specialist was on military deployment the majority of 2017.

Records work as a team to provide public assistance at the front counter, providing public information, performing live scan requests, signing off correctable citations and various other tasks to assist the public.

In 2017, the Records staff entered 4927 reports into the records management system (RMS). Much of the statistical data entered by the Records staff is required by the FBI, Department of Justice (DOJ), National Crime Information Center (NCIC) and other law enforcement entities.

The Records staff also provides assistance to the Detective Bureau, preparing booking packages to include copies of reports, printouts of sensitive and confidential information, to be provided to the District Attorney's office.

The Records staff assists Patrol Officers during the booking process itself, providing information by searching the various automated systems, including warrants, criminal history, stolen vehicles, missing persons and several other automated law enforcement systems. In 2017, ECPD transitioned from the NWS records management system to the cloud based Mark43 records management system.

	ARRESTS	CITATIONS	FI CARDS	IMPOUNDS	REPORTS
2017	1146	3498	311	635	4927

PROPERTY AND EVIDENCE PROCESSED - 2017

BOOKED ITEMS	Total = 5,212		
	Evidence	Safekeeping	Found
Firearms	16	0	0
Narcotics	154	2	1
Bicycles	3	59	15





SPECIAL OPERATIONS DIVISION



Division Lieutenant: David Hartung

The Special Operations Division contains the Investigative, Traffic Enforcement, School Resource Officers (SROs), and Special Events sections of the Police Department, as well as volunteer programs. Members of this Division are responsible for responding to and examining major crime scenes, conducting criminal investigations, providing liaison services to community groups as well conducting proactive investigations into events or circumstances that could negatively impact the safety of our community.

The Special Operations Division conducts a majority of the Department's community outreach efforts through events such as Crime Prevention and Neighborhood Watch meetings, National Night Out, Tri-City Safety Day, Martin Luther King Jr. Parade, ECHS Homecoming Parade, Little League Baseball Parade and fundraisers for the Special Olympics. The Division also oversees the training and deployment of the Department's representatives to the County Mutual Aid Mobile Field Force, Richmond-El Cerrito Crisis Response Team (CRT-SWAT) Evidence Technicians, and Crisis Negotiation Team, as well as volunteer programs including

Reserve Officers, El Cerrito Community Academy, and the Volunteer in Police Service Program.

School Resource Officers

The El Cerrito Police Department School Resource Officer (SRO) program was developed to address juvenile crime and safety concerns in our local schools. Our SRO's help provide a positive and safe learning environment and build trust between students and law enforcement officials. ECPD has two SRO's, who are assigned to the Special Operations Unit. The SRO's are assigned to the middle and high school. They are routinely used as a resource within the school district for questions related to serious offenses, CPS issues, juvenile law, substance abuse, and school safety.



Community Liaison Officer

The El Cerrito Police Department strongly embraces the philosophy of Community Policing in all its daily operations and functions. In order for the police and the community to share responsibility for identifying, reducing, eliminating and preventing problems that impact community safety and order, the ECPD created the Community Liaison Officer (CLO). The CLO is responsible for planning community outreach events such as National Night Out, Community Police Academy, 4th of July Festival and many other special events. The CLO is also the primary contributor to the agency's social media platforms.





TRAFFIC UNIT

The El Cerrito Police Department Traffic Unit strives to keep our community's roadways safe for all motorists and pedestrians. In an effort to accomplish this goal, we employ the three "E"s of traffic safety: Education, Engineering and Enforcement. The Traffic Unit was developed with this objective in mind. The Traffic Unit provides daily traffic enforcement and is responsible for investigating all serious injury and fatal collisions in the city. As available, the Traffic Unit will investigate all reported collisions that occurred within city limits. The Traffic Unit participates in a variety of programs designed to make our roadways safer such as "Click it or Ticket" and Distracted Driving operations. Additionally, the Traffic Unit coordinates many programs related to Traffic including Child Safety Seat installation programs, Sobriety Checkpoints and Commercial Vehicle Checkpoints.

EVENTS

The City of El Cerrito installed temporary rubberized speed cushions and striped bulb outs on Richmond Street near Waldo Avenue. This is in response to the residents completing a NTMP (Neighborhood Traffic Management Program) process which requires more than 70% of the residents on that street agreeing to the traffic calming measures.

Traffic conducted several Disabled Placard/Plate enforcement operations in and around the Del Norte BART station. Officers contacted drivers who displayed placards when parking and requested the registration cards. 24 contacts were made, 4 parking citations were issued, and 3 misdemeanor cite releases were issued for fraudulent use.

BART Operation

El Cerrito PD collaborated up with BART PD and took action to keep passengers safe at the Plaza and Del Norte BART Stations in El Cerrito by targeting people suspected of committing fare evasion and other infractions.

The two week (6 day) BART operation was very successful for ECPD yielding 115 citations for fare evasion, littering, open containers, and other violations. In addition to the citations, officers made 6 arrests. The operation made a significant impact for the riders on BART and the surrounding businesses. Numerous riders and business owners thanked ECPD for conducting the operation and stated that they have noticed a reduction in criminal and suspicious activity over the last three days.



	Total Citations	Excess Speed Citations	DUI Arrests	DUI Accidents	Accident Reports	Fatal/Injury Accidents
2017	3498	463	90	2	454	0



INVESTIGATIONS

The El Cerrito Police Department Investigations Division is staffed with a Sergeant, Corporal, and three investigators. The ECPD also has a detective assigned to the Safe Streets Taskforce which is spearheaded jointly by the Contra Costa County District Attorney's Office and the Federal Bureau of Investigation. Members of the Investigations Division work 4 ten-hour shifts and work primarily during the week. However, investigators are available around the clock in the event there is a major incident in the City which requires a detective response.

Detectives are responsible for investigating all crimes which occur within the City of El Cerrito and presenting the cases to the District Attorney's Office. During 2017, detectives presented five-hundred and three cases to the District Attorney's Office for review. Detectives work closely with the West County Family Justice Center and other allied agencies within the county to ensure the best possible service to our community.

In addition to their investigative responsibilities, detectives also handle other ancillary duties such as being the liaison to the Crime Prevention Committee and coordinating National Night Out. Currently, two of our investigators serve as instructors for department training, and three have been trained in the implementation of the concept of Crime Prevention Through Environmental Design (CPTED). CPTED is a concept where the design of homes and businesses tend to reduce the opportunity for illegal activity. Investigators work closely with the City's Building Department and citizens to minimize locations for criminal activity.



SIGNIFICANT CASES

During 2017, detectives and patrol personnel testified at a preliminary hearing in regards to a shooting that occurred on Dylans Way in 2016. In this particular case the victim was shot by an acquaintance over drugs and money. ECPD investigators teamed up with members of the Safe Streets Taskforce and captured the suspect and located a firearm within 24-hours. After the preliminary hearing the suspect accepted a plea bargain settlement to include 15-years in prison.

In April, El Cerrito Police Officers were dispatched to a residence in the 7400 block of Park Vista. Officers responded and found one subject inside the house dead from a gunshot wound. A second subject, identified as Lance A. Paulson, a 50 year-old male from Rio Vista, was found with what appeared to be a self-inflicted gunshot wound and was transported to a local hospital. Paulson was treated at an area hospital for several weeks and then booked into the County Jail on murder charges. Paulson remains in custody with future court dates set for 2018.

In August, the El Cerrito Police Department responded to a call of an assault in the area of Stockton and Balra Avenues. A resident living in the area called to report witnessing a male, later identified as Mario Hills, attacking a female in the driveway of a residence. A local resident armed himself with a firearm and ran out after the suspect which scared the man away. Unfortunately, Hills fled the area and was not arrested that day. During the investigation, detectives located surveillance footage of Hills cutting through the campus of a nearby school immediately after the attack. Still images made from the footage were sent to allied police agencies and Hills was identified from prior police contacts. An arrest warrant was obtained for Hills who was later located and arrested in Berkeley. Physical evidence collected from the scene further linked Hills to the crime.



VIPS & EXPLORERS

Reserve Officers

The El Cerrito Police Department's Reserve Officer program has a long history of service to the City of El Cerrito. Reserve Police Officers are volunteers who depending on their training levels, either ride with full time Officers or work alone.

Reserve Police Officers assist in a variety of capacities in addition to patrol duties. They take prisoners to the county jail, provide scene security at major crime scenes, patrol on bicycles, and assist the SRO's with events at the schools.



In 2017, 3467.5 total service hours were graciously donated from all of our volunteer groups.

Volunteers in Police Service (VIPS)

The Volunteers in Police Service Program began in 2013. We now have 7 Volunteers, most of whom are graduates of our Community Police Academy. Our Volunteers help at all public outreach events, such as National Night Out, Relay for Life, Tri City Safety Day, MLK Parade, and many others.

Volunteers also help the PD with logistics during training days and with the Community Academy.

Explorers

The ECPD offers the opportunity for young people between the ages of 14-21 to be Police Explorers. Explorers attend training meetings and go through a one week academy to learn about law enforcement and to find out if it may be the right career for them.





FIELD OPERATIONS DIVISION



Division Lieutenant: Steve Bonini

The uniformed members of the Field Operations Division are the front line of the El Cerrito Police Department's law enforcement effort. This division includes patrol officers, corporals, sergeants, and canine handlers. If a person calls the Police Department with a problem or a need for help, members of the Field Operations Division respond to help.

Patrol officers are among the first to arrive at traffic collisions, medical crises, and crimes in progress. The canine (K-9) handler addresses problems using different means: Canine handlers rely on the enhanced senses of their canine partners for tracking and apprehension. K-9's provide enhanced safety for their human counterparts in the department during searches of buildings and spaces where suspects hide which compromise the safety of police officers.

Community Services Officers (CSOs) are non-sworn members who investigate crimes for which sworn officers are not needed. CSOs provide essential service to the community in reporting, minor investigations, crime scene processing, and parking enforcement.

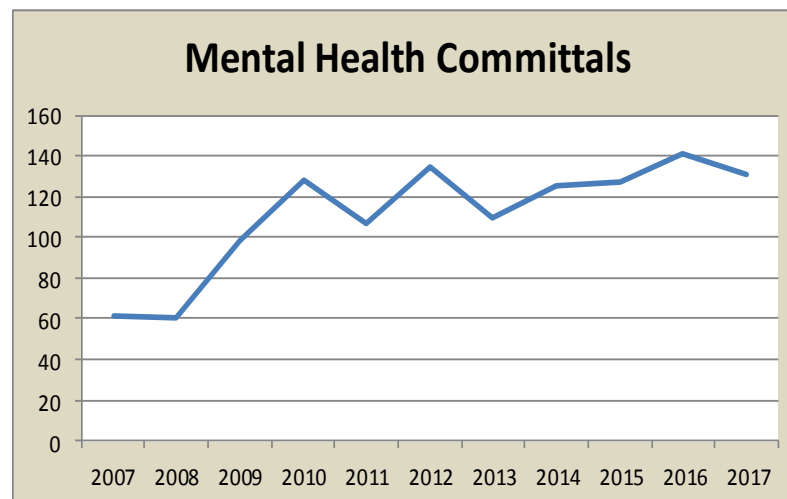
Members of the Field Operations Division also serve as Field Training Officers (FTOs) for newly hired officers. In the El Cerrito Police Department we hire untrained civilians who we sponsor through the Basic Police Academy, Basic Academy graduates, and Officers who laterally transfer from other police departments. Officers newly hired by the police department endure rigorous on the job training in the field. While in training, officers are closely monitored, evaluated, trained, and mentored by seasoned officers. Police corporals and sergeants act as supervisors for officers in this division.

PATROL RESPONSE TO MENTAL HEALTH CRISIS

Patrol Officers are the first level of response to calls involving people in the midst of mental health crises. These calls can be volatile and charged with emotions. ECPD regularly responds to mental health calls and some result in committals for mental health evaluation. ECPD Officers are trained to use patience and de-escalation tactics to resolve these mental health related calls.

Mental health calls can recur, depending on many factors. When mental health calls involve violence or weapons, ECPD officers use regional resources to help address the potential for future problems. ECPD partners with Richmond Police and Contra Costa Behavioral Health to follow up on mental health issues involving violence or weapons. This multi-jurisdictional approach helps increase after incident care, address the potential for further violence, and provide resources to family members.

The City of El Cerrito has experienced a remarkable increase in mental health committals, during the last 10 years. As shown on the chart, mental health committals have increased over 100% since the economic downturn in 2008.





FIELD OPERATIONS DIVISION

PATROL HIGHLIGHTS

Napa & Sonoma County Fire Response

In October of 2017, the North Bay counties of Napa and Sonoma were devastated by many large and uncontrollable fires. In response to a mutual aid request from the Sonoma County Office of Emergency Services, the ECPD responded, along with most Bay Area Law Enforcement agencies. We sent two employees at a time, day and night for 6 consecutive days to assist at the scene of what was essentially a natural disaster.

ECPD Supervisors and Officers were in the burn areas, helping to direct traffic, evacuate people, evacuate livestock and to prevent looting of fire victims' homes. The ECPD Traffic Unit spent one day patrolling on dual sport – off road motorcycles as part of our commitment to regional cooperation and mutual aid agreements.



Golden State Warriors Parade

In June the ECPD responded to a mutual aid request from the Oakland Police Department who was expecting upwards of one million people to attend the victory parade for the Golden State Warriors having won the NBA Championship. This was primarily to help with traffic and to deter acts of violence during the celebration.

The ECPD sent one Supervisor and three Officers to the event. They were posted on Broadway Avenue and played an integral part in securing the event for the fans and for the safety of the members of the Golden State Warriors. *Go Warriors!*





K9 PROGRAM

2017 was a great year for the K-9 program as we added an additional dog handler, Officer Paul Cooper and his K-9 partner Roman. The addition of this police dog was a result of the El Cerrito Police Department's readiness and recognition of the need for a second dog, and the community's generous donations through the K-9 fundraising crab feed. The second dog was truly a collaborative effort between the citizens of El Cerrito and the Police Department.

Officer Cooper and Roman began their partnership in September with the 5 week basic training course. The team was deployed for patrol duties on October 1st. Officer Cooper was selected as the new handler after a lengthy selection process which included applicant interviews and home visits for each applicant. A dog run and kennel had to be constructed at Officer Cooper's residence, and that was paid for through monies raised during the El Cerrito Police Association Crab Feeds. Officer Cooper and Roman are scheduled for the narcotics detection course in April 2018.

Throughout the year, the K9 unit is asked to appear at several community functions. Some of the notable appearances would be the Community Police Academy, National Night Out, and the Tri-City Safety Day. The ECPD Canine Unit is also a valuable regional asset to other law enforcement agencies. It is not unusual for allied agencies to request the assistance of our K9 teams to assist when their K9 teams are unavailable. Our teams have assisted the Richmond, San Pablo and Berkeley Police Departments as well as the Contra Costa County Sheriff's Office on several occasions.



Yearly Activity	Frequency
Surrenders	1
Tracks	0
Community Events	3
Vehicle Searches	10
Alarm Calls	77
Hours of Training	420





SPECIAL OLYMPICS

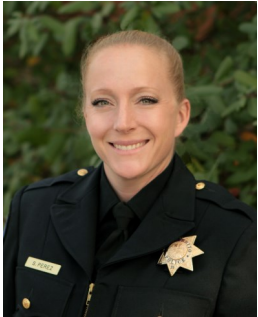


The El Cerrito Police Department has been involved with Northern California Special Olympics for over 18 years. The department hosts Tip-A-Cop events, where El Cerrito Police officers act as your waiters and waitresses for the evening. Diners give an extra tip to the Special Olympics program, where the money is used to send intellectually disabled athletes to sporting events throughout California and to the Summer/Winter games every year.

Lt. Steve Bonini and a retired sergeant created and organized a Special Olympics fundraising event called Bike the Bridges. This event was created in 2009 and stemmed from a competition between local police agencies riding police mountain bikes. Through the collaboration with neighboring police departments, the Bike the Bridges event was created. The ride takes participants across the Carquinez and Benicia Bridges, as well as a scenic overlook to the Carquinez Straight. To date this single event has raised over \$600,000 for Northern California Special Olympics.



AWARDS & RECOGNITION



Officer of the Year: Sarah Perez

During 2017, Officer Sarah Perez has expanded the department's outreach to the community by utilizing social media to disseminate advisory and other important information in a timely manner. She has increased the trust between the department and the community by organizing fun and creative events for children and families. Officer Sarah Perez has displayed her dedication to the community and her fellow law enforcement professionals by working to enhance public trust, processes a commendable work ethic, has displayed exemplary performance.



Professional Staff of the Year: Stacy Corr

Records Specialist Stacy Corr helped the department by working the Evidence & Property Specialist assignment for 10 months of the year. She then transferred temporarily into the Public Safety Executive Assistant assignment while the department conducted recruitment for a full time employee. She has worked with dedications to organize the Police Department's participation in the annual American Cancer Society Relay for Life, bringing together staff members and the community with a shared mission to cure cancer. Her versatility and positive attitude helped the Department serve the community and maintain operations despite personnel vacancies.



Volunteer of the Year: Bob Rugeroni

Volunteer Bob Rugeroni helped the department in a variety of ways. He worked with the Evidence & Property Specialist nearly every Wednesday by helping to organize the property room. He went to all ECPD ranges and helped with logistics, setting up targets and generally assisting to make the training operate smoothly. He and another Volunteer also organized the records in the Public Safety Building attic. In 2017, Rugeroni spent over 495 hours helping people, preparing officers for their duties, and repairing equipment. His assistance was integral to the success of the Police Department. Volunteer Rugeroni's versatility and positive attitude helped the Department serve our community and demonstrated a great partnership between the ECPD and an El Cerrito resident.



AWARDS & RECOGNITION

Life Saving Medal: Corporal Matthew Wong & Officer Edward Perales

On July 2017, just before midnight, El Cerrito Officers were sent to a report of a man down in a driveway who was not breathing. Corporal Wong and Officer Perales were the first personnel to arrive on scene and immediately assessed the man's condition as critical. Officer Perales began CPR chest compressions while Corporal Wong provided the man with rescue breaths. The two officers continued their life saving efforts for 3 minutes, until the El Cerrito Fire Department arrived on scene. The man's life was saved, due to the rescue efforts of Officer Perales, Corporal Wong and the El Cerrito Fire Department.

Unit Citation Award: Jerry Duda, Bob Rugeroni & Ed Murphy

In 2017, the department undertook some large projects to revamp our evidence rooms, personnel records storage and jail. Mr. Duda and Mr. Rugeroni helped us reorganize our filing systems, audit, move and catalogue our evidence, and preserve, throw out or find homes for innumerable closets and storage areas. In the last two years, Mr. Duda, Mr. Rugeroni and Mr. Murphy committed to over 2,200 hours to improving how our department functions, stores information and gets things done. They have also been steadfast allies in our public outreach efforts, attending many public events and helping officers make sure they are a success.

10851 Award: Officer Paul Cooper

This award recognizes officers superior efforts in the recovery of stolen vehicles and apprehension of vehicle thieves. The award criteria requires an officer to recover six occupied stolen vehicles in a revolving twelve month period, or an officer can recover three occupied stolen vehicles and nine unoccupied stolen vehicles.





2018 DEPARTMENT GOALS

Community

Find New Opportunities for Community Engagement

The department will continue to find new opportunities to engage with our community. We want the people we serve to know and trust their police department. During this year, we will find new ways to communicate and collaborate.

Focus on Community Quality of Life

We will focus on ways in which we can improve the quality of life in our community. As examples, our officers will continue to improve the sense of safety while our community shops, assist our homeless population to connect with services, and intervene to stop crimes of violence.

Agency

Reinforce Communication and Collaboration

Our agency works best when we share the same vision and innovate when the policing environment demands it. In particular, we will focus on bringing ideas forward in the organization and sharing the decision making.

Embrace Emerging (and Existing) Technology

The current state of technology allows for greater flexibility and freedom from traditional workspaces. This year, the department will focus on ways to enable officers to work from their location of choice, improve our ability to connect with community members, and increase our department's accountability.

Employee

Focus on employee Wellness and Development

Employees should find satisfaction, enjoyment, growth and health in their work. This year, we will create more opportunities in each of these categories. We will focus on employee training, opportunity and fitness.



Keep up with us on Social Media and with your Smartphone!



El Cerrito App available for free in the iTunes and Google Play Stores. With the app you are able to submit an anonymous tip, commend an officer, view upcoming events, and much more!



Nixle: Stay instantly informed of trusted, neighborhood-level public safety and community information. You choose the information you want, for the addresses you want, all delivered at no cost by text message, email, or web.



Follow us on Twitter @elcerritopd for all the latest information, events, pictures, and tweets from the El Cerrito Police Department.



El Cerrito residents can join private neighborhood websites to share information, including neighborhood public safety issues, community events and activities, local services, and even lost pets.



Follow us on Instagram @elcerritopolice to keep up with all the latest events, pictures and posts from the El Cerrito Police Department.



EL CERRITO POLICE DEPARTMENT
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