AGENDA

REGULAR CITY COUNCIL MEETING
Tuesday, December 19, 2017 – 7:00 p.m.
City Council Chambers

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

Janet Abelson – Mayor

Mayor Pro Tem Gabriel Quinto
Councilmember Greg Lyman
Councilmember Paul Fadelli
Councilmember Rochelle Pardue-Okimoto

ROLL CALL

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

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – *led by Councilmember Paul Fadelli.*

2. COUNCIL / STAFF COMMUNICATIONS and CITY COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENTS

(Reports on matters of general interest which are announced by the City Council & City Staff. Mayor and City Council communications regarding local and regional liaison assignments and committee reports.)

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 No. 4(A) through 4(I)

A. Approval of Minutes

Approve the November 21, 2017 Regular City Council meeting minutes.

B. Commercial Cannabis Ordinance

Adopt Ordinance No. 2017-07 repealing and replacing Chapter 6.80 of the El Cerrito Municipal Code, allowing dispensaries in the City of El Cerrito.

Introduced November 21, 2017 and approved with amendments by the following vote: Ayes – Councilmembers Fadelli, Pardue-Okimoto, Quinto and Mayor Abelson; Noes – Councilmember Lyman; Abstain – None; Absent – None.

C. Inclusionary Zoning Program Consultant Award

Adopt a resolution authorizing the City Manager to execute a professional services agreement with Keyser Marsten Associates, Inc. in an amount not to exceed $36,000 to assist with development of an Inclusionary Zoning program and authorizing change orders in an amount not to exceed $5,000.

D. Lease-Purchase of Two Side-Loading Recycling Trucks

Adopt two resolutions authorizing the City Manager to: 1) Execute an equipment lease purchase agreement with Capital One Public Funding, LLC for the purpose of purchasing two side-loading recycling collection trucks for $551,498 at a fixed interest rate not to exceed 3.0% interest for seven years; and 2) Enter into a purchase agreement through the National Joint Powers Alliance (NJPA) bid process with McNeilus Truck and Manufacturing per the amount above for said trucks, subject to Council approval of an Equipment Lease-Purchase Agreement with Capital One Public Funding.

E. Annual Review of Investment Policy

Adopt a resolution approving the City's Investment Policy.

F. Designating Primary and Alternate Board Members to the Municipal Pooling Authority of Northern California (MPA)

Adopt a resolution designating the Assistant City Manager as Primary Board Member and the Senior Human Resources Analyst/Human Resources Manager as Alternate Board Member to the Municipal Pooling Authority of Northern California (MPA).

G. Recognition of the El Cerrito Centennial Celebration Task Force

Adopt a resolution thanking the Centennial Celebration Planning Task Force, acknowledging that the Task Force has fulfilled its duties in planning and carrying out the City's Centennial celebration and dissolving the Task Force.

H. Environmental Quality Committee Appointment

Approve an Environmental Quality Committee recommendation to appoint Allison Kittleson to the Environmental Quality Committee, effective December 19, 2017.

I. Support the City of Berkeley and the Alta Bates Regional Task Force in the Preparation of a Health Impact Assessment of the Proposed Closure of Alta Bates Hospital

At the request of Councilmember Pardue–Okimoto, adopt a resolution contributing $5,000 toward the cost of preparation of a Health Impact Assessment (HIA) by the University of California at Berkeley, incorporating the proposed scope approved by the Alta Bates Task Force.

5. PRESENTATION

Recognition of the Centennial Planning Task Force and Presentation of Centennial Passport Prizes.

6. PUBLIC HEARINGS – *None*

7. POLICY MATTERS

A. Urgency Ordinance to Repeal and Replace Chapter 6.80 of the El Cerrito Municipal Code to Adopt Local Regulations of Commercial Cannabis Uses as an Interim Measure until Ordinance No. 2017-07 Becomes Effective

Adopt an urgency ordinance repealing and replacing Chapter 6.80 of the El Cerrito Municipal Code to adopt local regulations of commercial cannabis uses as an interim measure until Ordinance No. 2017–07 becomes effective. A four-fifths vote of the City Council is necessary for approval. *Exempt from CEQA.*

B. City Council Reorganization

Annual selection of Mayor and Mayor Pro Tem, Councilmember remarks and administration of the oath of office.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, January 16, 2017 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 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.

EL CERRITO CITY COUNCIL

MINUTES

REGULAR CITY COUNCIL MEETING
Tuesday, November 21, 2017 – 7:00 p.m.
City Council Chambers

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

Janet Abelson – Mayor

Mayor Pro Tem Gabriel Quinto
Councilmember Greg Lyman
Councilmember Paul Fadelli
Councilmember Rochelle Pardue-Okimoto

7:00 p.m. ROLL CALL

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

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Abelson convened the regular City Council meeting at 7:04 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE was led by Mayor Abelson.

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Pro Tem Quinto stated that he attended the West Contra Costa Mayors Conference. Those present received a presentation from Public Defender Ali Saidi regarding the Contra Costa Rapid Response Program. Mr. Saidi has been invited to make a presentation to the City Council so El Cerrito residents can learn more about the program. Mayor Pro Tem Quinto reminded all that December 12th is the last time for people to return their centennial passports to City Hall as prizes will be awarded in December.

Councilmember Lyman announced that the City is looking for applications for boards, commissions and committees. He noted that there are many opportunities to participate in local government and encouraged residents to apply. Councilmember Lyman also noted that a Charter Review Committee will be formed and described the process for reviewing applications and appointment. The deadline for submitting an application is December 18, 2017.

Councilmember Fadelli reported that he attended a Parks and Recreation workshop on future park facilities. He also announced that December 9 is the annual Christmas Holiday Breakfast at the Community Center and reminded all that El Cerrito has its own safe exchange zone at the Police Department for Craigslist. Councilmember Fadelli has been appointed to the League of California Cities Transportation, Communication, and Public Works Policy Committee and also reported that in his

capacity as Marin Clean Energy Board Alternate, announced that El Cerrito received two awards. The City, along with fourteen other cities, received recognition for achieving 100 percent renewable energy for municipalities. El Cerrito also received the Charles F. McGlashen Award for outstanding environmental leadership by a community. The Environmental Quality Committee (EQC) won the award for their hard work on its 100 for 100 initiatives project. Their goal is to increase the "deep green" 100 percent renewable customers in the City. EQC members Howdy Goudey, Mark Miner, and Rebecca Milliken were present and acknowledged for their hard work.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler, Richmond, invited all to attend local events and noted the importance of listening to youth comments when considering city items. Mr. Hindler thanked the City Council for the workplace bullying proclamation approved at the last meeting and noted the importance of keeping Alta Bates Hospital in the community.

Ronnie Polansky, El Cerrito, urged the City Council to protect tenants in El Cerrito and affordable housing units.

Sherry Drobner, El Cerrito, expressed concerns about housing and homelessness and urged the Council to be part of the Core program.

Nick Galloro, El Cerrito, stated that the City needs to protect tenants and prevent them from becoming homeless by enacting tenant protections. The greatest concentration of renters in El Cerrito is in the flatlands along the San Pablo corridor. Renters make up approximately 64% of households in the flatlands. Mr. Galloro urged the Council to follow other cities and pass rent stabilization and just cause eviction ordinance.

Norman LaForce, El Cerrito, thanked the Council for being proactive on maintaining the pool and reiterated the benefits of swimming.

Howdy Goudey, El Cerrito, expressed concerns that it has been three months since affordable housing strategy was passed and noted that there are actions to be completed within the next year. He encouraged the Council to keep implementation of affordable housing strategies a top priority this year and hoped the Council will receive a six month progress report in February during a Council meeting to make sure it is on track. Mr. Goudey asked the Council to recommend that staff look at affordable requirements for both rental and for sale projects after the passage of AB1505. He emphasized that the San Pablo Specific Plan needs to have affordable housing programs in place before there is an expansion of more units.

4. ADOPTION OF THE CONSENT CALENDAR – Item No. 4(A) through 4(G)

Moved, seconded (Lyman/Pardue-Okimoto) and carried unanimously to approve Consent Calendar Item Nos. 4(A) and 4(B) and 4(E) through 4(G) as indicated below. Item No. 4(C) was removed from the Consent Calendar by Mayor Abelson and Item No. 4(D) was removed from the Consent Calendar at the request of Councilmember Fadelli.

A. Approval of Minutes

Approve the November 7, 2017 Regular City Council meeting minutes.

Action: Approved minutes.

B. Repeal of Local Campaign Literature Disclosure Ordinance to Achieve Consistency with State Law

Adopt Ordinance No. 2017-06 repealing El Cerrito Municipal Code Chapter 2.32 – Campaign Literature Disclosure for Local Candidacies and Measures (Ordinance No. 92-2) to achieve consistency with State Law. *Introduced and approved by unanimous vote on November 7, 2017.*

Action: Adopted Ordinance No. 2017-06. *Effective December 21, 2017.*

C. Homeless Awareness Month Proclamation

Approve a proclamation declaring November as Homeless Awareness Month in the City of El Cerrito.

Presenter: Sara Marsh, Director of Support Services at Contra Costa Interfaith Housing.

Action: Removed from the Consent Calendar at the request of Mayor Abelson for the purposes of presenting the proclamation. Moved, seconded (Pardue-Okimoto/Quinto) and carried unanimously to approve the proclamation.

D. El Cerrito Swim Center Locker Rooms / Pool Equipment Room Upgrades and Renovations

Adopt a resolution taking the following actions: 1) Approving plans and specifications for the El Cerrito Swim Center Locker Rooms / Pool Equipment Room Upgrades and Renovations, City Project No. C3050.4 (Project); 2) Rejecting the sole bid submitted by Mar Con Builders, Inc. for the Project as non-responsive; 3) Amending the Fiscal Year 2017-18 Adopted Budget and Capital Improvement Program to appropriate an additional $220,000 in the Measure A Swim Center Fund (Fund 206) for the Project; and 4) Authorizing the City Manager to award and execute a contract, contingent on successful negotiations with Mar Con Builders, Inc. for a deductive change order including but not limited to revisions to the project scope, for a total amount not to exceed $560,000 and approving change orders in an amount not to exceed $60,000 for construction of the Project. *Exempt from CEQA.*

Action: Removed from the Consent Calendar at the request of Councilmember Fadelli for the purpose of clarifying information regarding funding and locker room improvements. Moved, seconded (Fadelli/Pardue-Okimoto) and carried unanimously to adopt Resolution No. 2017-75.

E. Ohlone Greenway BART Station Area Access, Safety and Placemaking Improvements Project

Adopt a resolution taking the following actions: 1) Approving plans and specifications for the Ohlone Greenway BART Station Area Access, Safety and Placemaking Improvements Project, City Project No. C3076A, Federal Project No. CML 5239(025) (Project); 2) Rejecting the bid submitted by Bay Construction as non-responsive and accepting the other three submitted bids for the Project; and 3) Authorizing the City Manager to execute a contract in the amount of $3,287,480.95 with FBD Vanguard Construction, Inc. and approving change orders in an amount not to exceed $328,750 for the construction of the Project. *NEPA Categorical Exclusion and CEQA Negative Declaration.*

Action: Adopted Resolution No. 2017-76.

F. I-80/Central Interchange Improvement Project, Phase 1

Adopt a resolution authorizing the City Manager to execute Amendment No. 3 to Cooperative Agreement No. 07W.02 between the Contra Costa Transportation Authority (CCTA), the City of El Cerrito, and the City of Richmond for final design

services of I-80/Central Avenue Interchange Improvement Project, Phase 1 (Operational Improvements). *Exempt from CEQA.*

Action: Adopted Resolution No. 2017-77.

G. Cash and Investments Report for Quarter Ending September 30, 2017

Receive and file the City's Quarterly Investment Report for the quarter ending September 30, 2017.

Action: Received and filed.

5. PRESENTATION

A. Proclamation Honoring Brett Guest

Approve a proclamation commending Brett Guest for his admirable actions toward protecting his neighbors and aiding in the capture of a dangerous suspect. The City Council extends its appreciation to Mr. Guest in recognition of his quick thinking and selfless actions.

Presenter: Paul Keith, Police Chief.

Speaker: Cordell Hindler, Richmond, expressed his gratitude to Mr. Guest.

Action: Moved, seconded (Lyman/Quinto) and carried unanimously to approve the proclamation.

B. Arts and Culture Commission Workplan

Receive and discuss the Arts and Culture Commission's presentation regarding the Commission's accomplishments, activities, goals and workplan. The City Council may provide feedback as desired.

Presenter: Christopher Sterba, Chair, Arts and Culture Commission. Mr. Sterba introduced Sandy Drobny, the City's first Artist in Residency at the Recycling Center.

Speaker: Cordell Hindler, Richmond, expressed his appreciation for El Cerrito's arts program.

Al Miller, El Cerrito, expressed his appreciation for El Cerrito's One City/One Book program.

Action: Received presentation.

6. PUBLIC HEARINGS

A. Commercial Cannabis Ordinance

Conduct a public hearing and upon conclusion, introduce by title and waive any further reading and approve an ordinance repealing and replacing Chapter 6.80 of the El Cerrito Municipal Code which would allow dispensaries in El Cerrito.

Presenters: Sean Moss, Senior Planner. Paul Keith, Chief of Police, also provided the City Council with information regarding surveillance.

Mayor Abelson opened the public hearing.

Speakers: Sherry Drobner, El Cerrito, expressed concerns about surveillance provisions described in the ordinance, particularly remote live feed of surveillance video.

Delfina Fung, El Cerrito, urged the Council not to allow any commercial marijuana activity in the city and asked that indoor marijuana cultivation be regulated.

Nick Krause, El Cerrito, advocated for delivery operations by vendors outside El

Cerrito. Deliveries associated with storefront operations are less safe. Mr. Krause asked the Council to consider separating dispensaries from deliveries.

Vivian Cheung, expressed concerns about marijuana addiction, the effects of marijuana on the brain and the use of marijuana in the community.

Reverend Royan Yuen, Life Church, El Cerrito, spoke about opium addiction in China and expressed concerns about legalizing marijuana use and the potential for addiction in the United States.

Obadian Liou stated that he has researched marijuana and that it is addictive due to THC, described its effects on dopamine and stated that there is more crime associated with marijuana use.

Cheung Wan stated that El Cerrito is a nice city to live in and that she is afraid that if the City allows marijuana to be sold that the city will decline. Ms. Wan said that marijuana is very bad for children and that the city should not just look at tax revenue. Ms. Wan said that America is a country of God's people and she prays that God will not allow marijuana into the city.

Olivia Liou, said that there is more crime associated with marijuana use and sales, spoke about marijuana use and crime in Colorado and expressed concerns about potential liability and lawsuits. Ms. Liou urged the Council to wait until next year before making a decision.

Chris Jasinski, Oakland, expressed concerns about the video surveillance live feed language in the ordinance, particularly with Northern California Regional Intelligence Center (NCRIC) who shares data with many other agencies. Mr. Jasinski said crimes associated with marijuana decrease with regulated retail businesses.

Chris Gray, Fremont, complimented city staff for their thoughtful process and a well-crafted ordinance. Dispensaries will provide medicine to patients who need it and revenue to the city. Mr. Gray stated that 73% of voters in El Cerrito voted for the Proposition 64, noted the additional revenue which would be generated, and urged the Council to pass the ordinance.

Howdy Goudey, El Cerrito, stated that having cannabis regulated is better for public health management and that it would be nice to have a mechanism for broader public notification.

Cordell Hindler, Richmond, commented on the proposed hours of operation and said opening at 8:00 a.m. is too early.

Rick Bonde, El Cerrito, expressed his support for approval of the ordinance.

Courtney Chu, El Cerrito, clarified recent state law regarding limits on delivery inventory. She also stated that the cash and delivery payment method is difficult because El Cerrito's proposed regulations will require patients who are immobilized by medical conditions to make cash payments in person.

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

Action: Moved, seconded (Pardue-Okimoto/Quinto; Ayes – Councilmembers Fadelli, Pardue-Okimoto, Quinto and Mayor Abelson; Noes – Councilmember Lyman; Abstain – None; Absent – None) and carried to approve by title and waive any further reading Ordinance No. 2017–07, an ordinance repealing and replacing Chapter 6.80 of the El Cerrito Municipal Code which would allow commercial

cannabis dispensaries in El Cerrito with the following technical changes to the ordinance as proposed by Councilmember Lyman and a change in hours of operation as proposed by Councilmember Fadelli:

"Cannabis storefront business" was numbered as subsection 6.80.020(E) resulting in renumbering of the remaining subsections within Section 6.80.020. (Lyman)

6.80.020 Definitions
6.80.020(D) "Cannabis retail" or "cannabis retail business" means a cannabis business that distributes, dispenses, stores, exchanges, ~~processes~~, packages, re-packages, labels, sells, makes available, transmits, or gives away cannabis or cannabis products for either medical or recreational use and is operated in accordance with state and local laws and regulations. Cannabis retail includes, but is not limed to, selling and/or delivering cannabis or cannabis products as part of a sale, pursuant to a Type 10 cannabis license, or a cannabis license subsequently established. *(Lyman)*

6.80.020(H) "Commercial cannabis use" means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including but not limited to cultivation, possession, distribution, transportation, laboratory testing, labeling, retail, delivery, sale, processing, storing, packaging or manufacturing of cannabis or cannabis products for medical or recreational use. Commercial cannabis use includes cannabis retail.

6.80.030 Applicability
Commercial cannabis uses shall be permitted only in compliance with the requirements of this chapter, state law and all applicable requirements of the El Cerrito Municipal Code and an operating permit issued pursuant to this chapter. Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to commercially cultivate, distribute, process, manufacture, sell, deliver, or test cannabis, in amounts that exceed personal use allowances under California law, within the City without a valid permit issued pursuant to the provisions of this chapter. Cultivation of cannabis for noncommercial use shall only be permitted inside a private residence or inside an enclosed structure upon the grounds of a private residence, and pursuant to the provisions of the MAUCRSA. Possession of other types of State or City permits or licenses does not exempt an operator from the requirement of obtaining a permit under this chapter. *(Lyman)*

6.80.050 Operating Permits
6.08.050(H) Disclosure of litigation and legal proceedings. A description of any litigation in which the applicant(s) has been involved within the ~~five~~ ten years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the ten years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the ten

years immediately preceding the date of the application. *(Lyman)*

6.80.070 Performance Standards
6.080.070(A) Hours of operation. Cannabis businesses shall not be open to the public and shall not conduct retail sales or deliveries before 8:00 a.m. or after ~~8:00 p.m.~~ 10:00 p.m. on any day of the week. *(Fadelli)*

6.080.070(C)(2) Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, manufacturing or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation, processing, manufacturing or labeling activities. *(Lyman)*

6.80.070(L) ~~Retail business~~ Commercial Cannabis use conducted within buildings. No ~~production~~, processing, manufacturing, distribution, storage, advertising, or display of cannabis or cannabis products shall be visible from the exterior of a building where a cannabis business is located. *(Lyman)*

6.80.080 Location Requirements – Cannabis Storefront Retail Businesses
Cannabis storefront retail businesses shall only be permitted in the San Pablo Avenue Specific Plan Area and only on the San Pablo Avenue Commercial and San Pablo Avenue Community street types…. *(Lyman)*

Second reading scheduled for December 19, 2017.

B. Proposed Integrated Waste Management Fees and East Bay Sanitary Garbage and Green Waste Collection and Process Rates

Staff requests that the City Council take the following actions: 1) Conduct a public hearing and upon conclusion adopt a resolution setting Integrated Waste Management (IWM) fees, effective January 1, 2018; and 2) Conduct a public hearing and upon conclusion adopt a resolution setting maximum allowable East Bay Sanitary (EBS) garbage and green waste collection and disposal and processing rates, effective January 1, 2018.

Presenters: Maria Sanders, Operations + Environmental Services Manager.

Mayor Abelson opened the public hearing setting Integrated Waste Management fees.

Speakers: No speakers.

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

Action: Moved, seconded (Lyman/Quinto) and carried to adopt Resolution No. 2017-78 setting Integrated Waste Management fees.

Mayor Abelson opened the public hearing setting maximum allowable East Bay Sanitary garbage and green waste collection and disposal and processing rates.

Speakers: No speakers.

Moved, seconded (Lyman/Quinto) and carried unanimously to close the public

hearing

Action: Moved, seconded (Lyman/Quinto) and carried to adopt Resolution No. 2017-79 setting maximum allowable East Bay Sanitary garbage and green waste collection and disposal and processing rates.

7. POLICY MATTERS

A. Revisions to El Cerrito Wall of Fame Policy and Guidelines

Adopt a resolution accepting the City Council Wall of Fame Subcommittee's recommendations by amending Resolution No. 2008-77 to modify the policy, guidelines, nomination and selection process for Wall of Fame inductees and transition to a virtual Wall of Fame by publishing inductee photos and resolutions highlighting inductee community contributions and achievements on the City's website to further promote volunteerism, visibility and recognition.

Presenter: Mayor Abelson

Speaker: Cordell Hindler, Richmond, encouraged the Council to make the Wall of Fame virtual for the modern age.

Action: Moved, seconded (Fadelli/Lyman) and carried to adopt Resolution No. 2017–80.

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 Contra Costa Integrated Waste Management Authority Board set rates at its last meeting and received a presentation after a long discussion about the participation of city staff consulting to the regional director.

Councilmember Pardue-Okimoto reported on her attendance at the Financial Advisory Board (FAB) meeting. The FAB discussed the cash report on the Council's agenda this evening. The FAB was also very interested in the idea of El Cerrito becoming a Charter City as a way of building reserves.

Moved, seconded (Lyman/Pardue-Okimoto) and carried unanimously to extend the meeting from 10:30 p.m. to 11:30 p.m.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:55 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 5(A) Proclamation Honoring Brett Guest

1. Expression of gratitude and appreciation for Mr. Guest – *Submitted by Mollie Hazen, Chair, Crime Prevention Committee.*

Item No. 6(A) Commercial Cannabis Ordinance

2. Sixty-four letters signed by residents of Richmond, El Sobrante, El Cerrito, Fremont, Hayward, Oakland, Albany, San Leandro, Walnut Creek and Hercules requesting that the ban on Marijuana be maintained – *Submitted by Olivia Liou.*

3. Report written by Ms. Liou's son – *Submitted by Olivia Liou*.

4. Letter written to No on 64 Campaign and SAM Action by Mitchell R. Morrissey, Denver District Attorney – *Submitted by Olivia Liou.*

5. Letter to Opposing Organization regarding Proposition 64 Oppose – *Submitted by Olivia Liou.*

6. Comments on the draft Commercial Cannabis Ordinance – Deliveries – *Submitted by Nick Krause, El Cerrito.*

7. Letter urging the City Council to refrain from allowing marijuana businesses to be established in the City – *Submitted by Delfina Lin-Sau Fung.*

Agenda Item No. 4(B)

ORDINANCE NO. 2017-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL CERRITO REPEALING AND REPLACING CHAPTER 6.80 “COMMERCIAL CANNABIS” TO THE EL CERRITO MUNICIPAL CODE

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare, of their citizens; and

WHEREAS, California voters enacted the Compassionate Use Act (“CUA”) in 1996, legalizing medical cannabis; and

WHEREAS, in 2003, the California Legislature adopted the Medical Marijuana Program Act (“MMPA”) allowing for collective, cooperative cultivation projects, commonly known as “dispensaries”; and

WHEREAS, in 2006, the City of El Cerrito banned medical marijuana dispensaries (Ordinance No. 2006-06); and

WHEREAS, in 2015, the Legislature enacted the Medical Cannabis Regulation and Safety Act (“MCRSA”), creating a comprehensive licensing and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis; and

WHEREAS, in 2016, the City of El Cerrito banned cultivation and delivery of marijuana (Ordinance No. 2016-01); and

WHEREAS, in November 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), legalizing recreational cannabis use for adults 21 years of age and older with certain restrictions; and

WHEREAS, the AUMA creates a comprehensive regulatory and licensing structure for commercial nonmedical cannabis businesses, including cultivation, manufacturing and retail; and

WHEREAS, the Legislature adopted SB 94 in June 2017 to consolidate the medical and recreational regulatory schemes to create one single comprehensive regulatory system to regulate all commercial cannabis uses; and

WHEREAS, the new comprehensive regulatory system created by SB 94, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, state licenses for all cannabis businesses are expected to be ready for issuance in January 2018; and

WHEREAS**,** the CUA, MMPA, and MAUCRSA do not prevent a city from using its constitutional authority to enact nuisance, health, and safety, and land use regulations regarding commercial cannabis uses and a city retains the authority to prohibit, limit or regulate commercial cannabis uses within its jurisdiction; and

WHEREAS**,** the City Council desires to regulate all commercial cannabis uses operating in the City in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City's General Plan and the San Pablo Avenue Specific Plan; and

WHEREAS, the City is constitutionally authorized to make and enforce within its limits all ordinances for the protection and promotion of the public health, safety, and general welfare; and

WHEREAS, an applicant for a state commercial cannabis license must first obtain local approval prior to receiving state approval and cannot submit an application for a state license if the proposed cannabis business violates a local ordinance; and

WHEREAS**,** no commercial cannabis business shall be permitted within the City unless it complies with the licensure and regulatory requirements contained in the El Cerrito Municipal Code Chapter 6.80.

THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. Amendment of Municipal Code. Chapter 6.80 of the El Cerrito Municipal Code is stricken in its entirety and replaced with the following:

6.80 – COMMERCIAL CANNABIS

6.80.010 Purpose and Intent.

The purpose of this chapter is to impose regulatory requirements on various commercial cannabis uses authorized and licensed by the State of California pursuant to state law. This chapter imposes licensing and regulatory requirements on cannabis businesses in addition to any other business license and regulatory requirements imposed on cannabis businesses by applicable state law. If a commercial cannabis use is not specifically permitted in this chapter, it is not allowed to operate within the City.

6.80.020 Definitions

A. “Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or be discovered, or developed, that has psychoactive or medical properties, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26001(f), as both may be amended from time to time. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products, unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. Cannabis does not include the mature stalks of the plant; fiber produced from the stalks; any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom); fiber, or the sterilized seed of the plant which is incapable of germination.

B. “Cannabis business” means a person, partnership, corporation, company, association, collective, or cooperative which engages in commercial cannabis use(s).

C. “Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into concentrate, including, but not limited to concentrated cannabis, or an edible or topical product containing cannabis and other ingredients.

D. “Cannabis retail” or “cannabis retail business” means a cannabis business that distributes, dispenses, stores, exchanges, ~~processes~~, packages, re-packages, labels, sells, makes available, transmits, or gives away cannabis or cannabis products for either medical or recreational use and is operated in accordance with state and local laws and regulations. Cannabis retail includes, but is not limed to, selling and/or delivering cannabis or cannabis products as part of a sale, pursuant to a Type 10 cannabis license, or a cannabis license subsequently established.

E. “Cannabis storefront business” means a cannabis business with a physical, permanent location in the City of El Cerrito. A cannabis retail business with a physical, permanent location in El Cerrito may be referred to as a “cannabis storefront retail business.”

F. “Chief of Police” means the Chief of the El Cerrito Police Department or his or her designee.
G. “City Manager” means the city manager of the City of El Cerrito, or his/her designee.
H. “Commercial cannabis use” means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including but not limited to cultivation, possession, distribution, transportation, laboratory testing, labeling, retail, delivery, sale, processing, storing, packaging or manufacturing of cannabis or cannabis products for medical or recreational use. Commercial cannabis use includes cannabis retail.
I. “Cannabis delivery” means a commercial transfer of cannabis or cannabis products from a fixed location to a destination specified by a customer.
J. “Medical cannabis” means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.7 *et seq.*), the Medical Marijuana Program Act (Health and Safety Code section 11362.7 *et seq.*) and the Medical Cannabis Regulation and Safety Act (Business and Professions Code section 19300 *et seq.*).
K. “MAUCRSA” refers to the California State law entitled Medicinal and Adult-Use Cannabis Regulation and Safety Act and regulations promulgated thereunder.
L. “Operating Permit” shall mean a permit issued by the City pursuant to this chapter for the operation of a cannabis business within the City.
M. “Specific Plan” shall mean the San Pablo Avenue Specific Plan, as it may be amended.

6.80.030 Applicability.

Commercial cannabis uses shall be permitted only in compliance with the requirements of this chapter, state law and all applicable requirements of the El Cerrito Municipal Code and an operating permit issued pursuant to this chapter. Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to commercially cultivate, distribute, process, manufacture, sell, deliver, or test cannabis, in amounts that exceed personal use allowances under California law, within the City without a valid permit issued pursuant to the provisions of this chapter. Cultivation of cannabis for noncommercial use shall only be permitted inside a private residence or inside an enclosed structure upon the grounds of a private residence, and pursuant to the provisions of the MAUCRSA. Possession of other types of State or City permits or licenses does not exempt an operator from the requirement of obtaining a permit under this chapter.

6.80.040 Limitations on Use.

Commercial cannabis uses shall only be allowed in compliance with this chapter and all applicable codes set forth in the El Cerrito Municipal Code, including but not limited to: building, plumbing, electrical, fire, hazardous materials, and public health and safety. The operator shall comply with all laws and regulations applicable to the type of use, and shall comply with all permit, license, approval, inspection, reporting and operational requirements of other local, state or other agencies having jurisdiction over the type of operation. Commercial cannabis uses shall only be permitted in areas of the City in which such uses are permitted or conditionally permitted by the Zoning Ordinance of this Municipal Code. Cannabis retail is considered to be a category of retail within the meaning of and as that term is used in the Zoning Ordinance of this Municipal Code. The operator shall provide copies of other agency and department permits, licenses, or certificates to the City to serve as verification for such compliance. No other type of cannabis uses are permitted within the city.

6.80.050 Operating Permits.

An operating permit shall be required for all cannabis businesses operating within El Cerrito. The form and content of the application for an operating permit shall be specified by the City and shall include the following minimum information, which will be evaluated as part of the consideration of whether to approve an operating permit:

A. Identifying information for ownership and management. The name and address of each cannabis business owner and an explanation of the legal form of business ownership.
B. Description of the proposed site. The site address, description of the premises, name and address of the property owner(s) where the cannabis business will be located, and a site plan and floor plan(s) of the proposed cannabis business.
C. Conceptual elevations of the building proposed to contain the cannabis business and any other necessary information that demonstrates the proposed means of compliance with the standards of the San Pablo Avenue Specific Plan.
D. Additional identifying information for owners and key employees. Each cannabis business owner, as well as each employee shall submit specific personal information including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor or partner information, and electronic fingerprint images and related information as required by the Chief of Police for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests.
E. Description of proposed operations. A description of the nature of the proposed commercial cannabis use, product types, average or expected sales amounts by product type, average or expected amount of cannabis storage, and sources of cannabis.

F. Proof of State license compliance. A description of the specific State cannabis license(s) or permits that the applicant has obtained or plans to obtain. The applicant shall describe how the business will meet the State licensing requirements.

G. Information regarding other local licenses. A description of the specific cannabis licenses or permits that the applicant(s) has obtained or plans to obtain from other local jurisdictions.

H. Disclosure of litigation and legal proceedings. A description of any litigation in which the applicant(s) has been involved within the ~~five~~ ten years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the ten years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the ten years immediately preceding the date of the application.

I. Security Plan. A description and documentation of how the applicant will secure the premises at all times. The security plan shall include, but is not limited to, the following:

   1. A site security plan shall be required at the time of permit application and shall be subject to review and approval by the Chief of Police and the City Manager. All site security plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Such plans shall include, at a minimum, information regarding the implementation of the requirements of this section. The Chief of Police may require additional information, including but not limited to, if required, identification of on-site security personnel and proper certification of personnel, be included in the site security plan.
   2. Measures for preventing individuals from remaining on the premises if they are not engaged in authorized activity.
   3. Measures to prevent smoking of cannabis and cannabis products and any other consumption or use of cannabis or cannabis products on the premises.
   4. Measures for disposing of expired, contaminated, adulterated, deteriorated, or excess cannabis products.
   5. Measures for preventing off-site impacts to adjacent businesses or properties.
   6. Measures for limiting the amount of cash held on the premises.

J. Certificate of insurance. Certificate of insurance demonstrating ability to comply with the insurance requirements contained under Performance Standards in this chapter.

K. Community benefits of the proposed cannabis business. A description of the benefits that the cannabis business would provide to the local community, such

as employment for residents of the City, community contributions, improvements to the property where the cannabis business is proposed to be operated and adjoining properties, or economic incentives to the City.

L. Signature of applicant(s) and property owner(s). The application shall be signed by all applicants, certifying, under penalty of perjury, that all information submitted as part of the application process is, to the best of the applicant's knowledge, true, accurate, and complete. The application shall be signed by all property owners of the location where the cannabis business will be located, certifying, that the property owner(s) has/have reviewed the application and approves the use of the property for the purposes stated in the application.

M. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a completed building occupancy classification form, identifying all hazardous materials proposed for storage, use or handling on the premises, including compressed and cryogenic gases such as carbon dioxide, nitrogen, and others. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.

N. Pro forma. Three years of pro forma estimates for operations, including a discussion of the business assumptions used to develop the estimates. Example assumptions include revenue, customer volume, visits, and product costs, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs.

O. Fees. An application fee established by the City Council. The applicant shall also be responsible for reimbursing the City for the cost of any staff time and City resources, in excess of the application fee, expended on the application process.

6.80.060 - Application Process.

A. The City shall issue no more than two (2) valid operating permits for cannabis businesses in the City. The following activities shall be permitted:
   1. Cannabis retail by a cannabis storefront business.
   2. Cannabis delivery to locations within El Cerrito by cannabis storefront businesses possessing an operating permit in El Cerrito.

B. The City reserves the right to reject any or all applications. Prior to permit issuance, the City may also modify, postpone, or cancel any request for applications at any time without liability, obligation, or commitment to any party, firm, or organization. Applicants for permits assume the risk that the City may elect to terminate or not issue permits for any commercial cannabis uses at any time

prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application.

C. Review of application. The City Manager shall consider applications for operating permits and shall have the authority to approve or disapprove operating permits. In approving or disapproving such permit, the City Manager shall give particular consideration to the capacity, capitalization, and history of the applicant, the community benefit provided by the business and any other factors that the City, in its discretion, deems necessary to maintain health, safety, and general welfare of the public.

D. Public notice.
   1. At least 21 days prior to approval of an operating permit, the City Manager shall provide notice by First Class mail to all property owners of record, residents and businesses within a 300-foot radius of the proposed cannabis business and any person or group that has specifically requested in writing notice regarding applications for cannabis businesses. The notice shall contain the following information:
      a. A general description of the proposed cannabis business, the content of the application, and the property included in the application, as well as the proposed conditions of approval;
      b. The name(s) of the applicant(s);
      c. The location and times at which the complete application may be viewed by the public;
      d. A statement describing how and the deadline to submit written comments.
   2. In lieu of providing notice 21 days prior to approval, the City Manager may hold a public hearing and provide notification of the hearing pursuant to Section 19.32.050.
   3. The City Manager may consider any written comments received regarding a proposed cannabis business application and modify proposed conditions of approval or take any other action with regard to the application authorized by this chapter.

E. Conditions. The City Manager shall have the authority to impose conditions on operating permits deemed necessary to maintain the health, safety, and general welfare of the public.

F. Disqualification. The following items may disqualify an application from consideration:
   1. The cannabis business owner has knowingly made a false statement in the application or any other information furnished to the City.
   2. The cannabis business owner or any employee has been convicted of an offense that is substantially related to the qualifications, functions, or duties, of the cannabis business for which the application is made. However, prior

marijuana or cannabis conviction shall not be an automatic bar to approval for an operating permit.

G. Confidentiality. The security plan and operations plan required by Section 6.80.50 shall be confidential and shall not be subject to public inspection or disclosure except as may be required by Federal, State or local law.

H. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application for the operating permit, and shall include affidavits agreeing to abide by and conform to the conditions of the permit and all provisions of the El Cerrito Municipal Code pertaining to the establishment and operation of the cannabis business, including, but not limited to, the provisions of this Section. The affidavit(s) shall acknowledge that the approval of the cannabis permit shall, in no way, permit any activity contrary to the El Cerrito Municipal Code, or any activity which is in violation of any applicable local or state laws and regulations.

I. The City will review and evaluate all necessary information related to the proposed commercial cannabis use and its proposed operators, including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor or partner information, and APN number of the parcel upon which the commercial cannabis use will be located. Certain private information will be exempt from disclosure to the public, pursuant to applicable law, to protect an individual's privacy interests and public health and safety.

J. The City will evaluate the Security Plan required by Section 6.80.50 in determining whether to approve an operating permit.

K. Permit Term. The City Manager, or designee, may approve operating permits for a maximum term of three (3) years.

L. Indemnification. By accepting an operating permit, the permittee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law, the City, its officers, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with the permittee's operations, except such liability caused by the active negligence, sole negligence or willful misconduct of the City, its officers, agents, and employees. An applicant's agreement to indemnify, defend, and hold harmless the City shall be a condition of approval of an operating permit and a provision of the affidavit required by paragraph (G) of this section.

6.80.070 - Performance Standards.

The following standards shall apply to all cannabis businesses. Failure to comply with the following standards shall be grounds for suspension or revocation of an operating permit.

A. Hours of operation. Cannabis businesses shall not be open to the public and shall not conduct retail sales or deliveries before 8:00 a.m. or after ~~8:00~~ 10:00 p.m. on any day of the week.
B. Odor control. Odors shall be contained on the property on which the cannabis business is located.
C. Alarm and video surveillance. Cannabis businesses must have security cameras installed, which shall be motion-sensored and capable of recording activity on the premises, including entry points to the property, and within all buildings and structures on the premises, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area. Security cameras shall record 24 hours per day, 7 days per week. The premises shall be equipped with, and at all times be monitored by, a secure web-based surveillance system. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual committing a crime on the premises and the ability to capture license plates entering and exiting the premises. The operator shall provide the Chief of Police remote access of any on-site web-based video surveillance to monitor remotely at any time. The City of El Cerrito will only monitor video surveillance for law enforcement purposes related to in-progress or past crimes committed on the premises of a cannabis business. Additionally:
    1. Areas where cannabis is stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.
    2. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, manufacturing or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation, processing, manufacturing or labeling activities.
    3. At least one camera must be dedicated to record the access points to the secured surveillance recording area.
    4. At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.
    5. Surveillance video shall be kept for a minimum of sixty (60) days in a format that can be easily accessed for viewing. Operators shall be required to cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request. Motion-sensor lighting and alarms shall be required and shall be professionally installed and monitored to insure the safety of persons and to protect the premises from theft. Alarm and surveillance systems shall be equipped with a failure notification system that

provides prompt notification to the operator of any prolonged surveillance interruption or failure of the system. All surveillance equipment, records and recordings must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system or alarm system.

6. An operator shall maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of any alarm installation company, and the name of any monitoring company. All monitoring companies shall be licensed by the Bureau of Security and Investigative Services to monitor motion-sensor lighting and alarms. Off-site monitoring and video recording storage of the premises by the operator or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.
7. All security measures installed on the premises shall have the capability to remain fully operational during a power outage.
8. Weapons and firearms are prohibited on the premises, unless authorized by the Chief of Police. This provision shall not apply to public officials engaged in official duty.
9. Security measures shall be designed to ensure emergency access in compliance with fire safety standards.
10. All structures used for commercial cannabis use shall have locking doors, with commercial-grade non-residential locks, to prevent free access.
11. Security measures shall prevent individuals from remaining on the premises of the cannabis business if they are not engaging in activities expressly related to the operations of the cannabis business.
12. Security measures shall include a transportation plan that details the procedures established for the safe and secure transport of cannabis, cannabis products, and currency to and from the cannabis business premises, including the transfer of currency for remitting City tax payments
13. Except for limited amounts of cannabis used for display purposes, samples, immediate sales, and other authorized uses, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault that meets approval of the Chief of Police. To the fullest extent possible, all cannabis and cannabis products shall be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.
14. Panic buttons shall be installed in all cannabis business premises with easy access by employees and all employees shall be properly trained on its use.

15. Any security bars installed on the windows or the doors of the cannabis business shall be installed only on the interior of the building in compliance with all applicable codes.
16. Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable provisions in this Code.
17. Each cannabis business shall identify a liaison and provide contact information to the Chief of Police who shall be available at all times to meet with the Chief of Police regarding security measures and operational issues.
18. Minimum lighting level of one-foot candle shall be provided at building entrances and in parking lot areas. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. Exterior lighting on the premises shall be balanced to complement the security/surveillance systems to ensure all areas of the premises are visible, and shall provide increased lighting at all entrances to the premises. The lighting required shall be turned on from dusk to dawn. The site security plan shall include a photometric plan meeting these requirements and fixture details if new or upgraded lighting is required.

D. Insurance coverage. Cannabis businesses shall maintain at all times commercial general liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one(1) or more persons, property damage and personal injury with limits of not less than one million dollars ($1,000,000.00) per occurrence and comprehensive automobile liability (owns, nonowned, hired) providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one(1) or more persons, property damage and personal injury with limits of not less than one million dollars ($1,000,000.00). The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall name the City, its officers, and employees and additional insured.

E. Ledger. Cannabis businesses shall maintain, for a minimum of three (3) years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including any in-kind contributions) as well as records of all operational expenditures and costs incurred by the permittee in accordance with generally accepted accounting practices and standards typically applicable to business records. Such ledger shall be made available to the City for inspection during business hours upon reasonable notice by the Chief of Police.

F. Inspections. To the extent permissible by law, the City shall have the right to enter and inspect any cannabis business for the purpose of ensuring compliance with the regulations of this chapter, provided that any such entry and inspection shall be conducted in a reasonable manner. The City shall also have the right to inspect any delivery vehicle for the purpose of ensuring compliance with the regulations of this chapter, provided that any such entry and inspection shall be conducted in a reasonable manner. Peace officers, whether in plain clothes or uniform, have the right to visit and inspect any cannabis business or delivery vehicle at any time during business hours without a search warrant, upon presentation of appropriate credentials. This includes inspection of all areas of the business premise or vehicle, including, but not limited to sales areas, back-of-house areas, store rooms, offices, closed or locked cabinets, safes, kitchens, and appurtenant buildings.

G. Notification. Within twenty-four hours after discovering any of the following, a cannabis business shall notify the Police Department:
   1. Diversion, theft, loss, or any criminal activity involving cannabis or cannabis products or any agent or employee or permittee.
   2. The loss or unauthorized alteration of records related to cannabis or cannabis products, customers, employees or agents.
   3. Significant discrepancies identified between inventory records and inventory.
   4. Any other material breach of security.

H. Onsite consumption. Cannabis shall not be consumed on the premises of a cannabis business.

I. A cannabis business shall notify the Chief of Police within three (3) days of receiving any notices of violation or other corrective action ordered by a State agency or other local licensing authority, and shall provide copies of relevant documents.

J. A cannabis business shall notify the Chief of Police within three (3) days of any staffing changes. New employees shall be subject to the same requirements of the initial application process.

K. Deliveries. Deliveries within El Cerrito shall only be permitted by cannabis storefront businesses which have been granted an operating permit by the City. Deliveries shall be subject to the following standards:
   1. Any person who delivers cannabis shall have in possession a copy of all licenses and permits required by the State of California and the City.
   2. A licensed cannabis business which is authorized to conduct deliveries in El Cerrito shall provide to the Chief of Police a list of all vehicles to be used for delivery of cannabis and cannabis products, including the vehicle's make, model, year, license plate number and vehicle identification number. The

cannabis business shall update the list prior to any vehicle being added to or removed from service.

3. Cash shall be prohibited as a form of payment for cannabis delivery transactions at the delivery location. Payments shall be made via credit card, check, or other means of cashless payment or a cash payment shall be made in advance at the business location.
4. Delivery vehicles shall not be marked or otherwise identified with advertisements, the name of the cannabis business, or any other distinctive marking associated with cannabis.
5. Delivery of cannabis shall be directly to the residence or business address of the designated recipient; deliveries to any other location are prohibited.
6. Deliveries shall occur only between the hours of 8:00 a.m. and 8:00 p.m.

L. ~~Retail business~~ Commercial Cannabis use conducted within buildings. No ~~production~~, processing, manufacturing, distribution, storage, advertising, or display of cannabis or cannabis products shall be visible from the exterior of a building where a cannabis business is located.

M. Cannabis businesses shall make all reasonable efforts to ensure that advertising and marketing of cannabis and cannabis products are not targeted to individuals less than 21 years of age.

N. Regular meetings. The applicant shall schedule and be available for an in-person meeting with the City Manager and Chief of Police not less than once every 180 days. These meetings shall be used to discuss ongoing operation of the cannabis business and any modifications to the operating permit necessary to maintain peace, order, and welfare of the public. The City Manager may waive these meetings at his/her discretion.

O. Operator Qualifications. Commercial cannabis operators must meet the following qualifications:

1. Operators must be 21 years of age or older.
2. Operators shall be subject to a background investigation by the Chief of Police at the time of application for a permit.

6.80.080 Location Requirements –Cannabis Storefront Retail Businesses

Cannabis storefront retail businesses shall only be permitted in the San Pablo Avenue Specific Plan Area and only on the San Pablo Avenue Commercial and San Pablo Avenue Community street types, as defined in the Specific Plan. Within the Theater District designation of the Specific Plan, Cannabis storefront retail businesses shall only be permitted in upper floor locations with access to an elevator or other means of accessibility approved by the Building Official.

A. Land use buffers. No operating permit shall be issued for a cannabis storefront retail business within six hundred (600) feet of public and private schools and areas with youth populations, including:
   1. A public or private kindergarten, elementary, middle, junior high, or high school.
   2. A library open to the public.
   3. A publicly owned park (excluding the Ohlone Greenway and pocket parks as defined in the San Pablo Avenue Specific Plan) or recreation facility including, but not limited to, a clubhouse, community center, or public pool.

B. No operating permit shall be granted for a cannabis storefront retail business within one thousand (1,000) feet of another licensed cannabis business.

C. Distances. The distances set forth in this section shall be measured as a straight line, without regard to intervening structures or objects. Distances between cannabis storefront retail businesses and public and private schools and areas with youth populations shall be measured from the property line of the property containing the school or areas with youth populations to the outside wall of the tenant space of or, for single-occupancy structures, the outside wall of the structure containing the cannabis storefront retail business. Distances between cannabis storefront retail businesses shall be measured between the outside walls of the tenant spaces of or, for single-occupancy structures, the outside wall of the structure containing the cannabis storefront retail businesses.

D. Nonconforming locations. Cannabis storefront retail businesses which become nonconforming after the issuance of an operating permit due to the establishment of any of the land uses listed in this section, may continue to operate as long as the business's operating permit remains valid.

6.80.090 – Renewal, nonrenewal, suspension, revocation, transfer, modification, or appeal.

A. Permit renewal. A permit renewal application and any applicable fees shall be submitted at least sixty (60) days prior to the expiration of the operating permit. The City Manager shall have the authority to expire any operating permits for which a permit renewal application has not been submitted in accordance with this section. Thereafter, the City may open applications for the operating permit, and a cannabis business that previously held an operating permit shall have to file a new application. Permit renewal shall be subject to the laws and regulations in place at the time of renewal, and may require submittal of additional information to ensure applicable laws are regulations are met. No person or entity shall have any entitlement or vested right to receive an operating permit under this chapter.

B. Violation and Noncompliance. The City Manager may refuse to renew an operating permit or may revoke or suspend an existing permit on the grounds that the cannabis business has failed to comply with the permit conditions or requirements of this chapter, or its State license has been revoked. The City Manager may additionally suspend or revoke an operating permit for any of the following causes:
    1. Failure to comply with the operating permit conditions.
    2. Failure to comply with the plans and materials included with an approved operating permit.
    3. Conviction of the business owner or an employee who makes operational or management decisions that directly impact the business of an offence that is substantially related to the qualifications, functions, or duties of the cannabis business after an operation permit has been granted.
    4. Revocation of a State cannabis license or permit or any cause that would allow the State to deny or revoke a license under MAUCRSA.
    5. Failure to pay any applicable City taxes or fees after a reasonable period following notice of delinquency.
    6. Violation of any provisions of MAUCRSA or any provisions of this chapter.
    7. Violation of any other City statutes necessary to maintain the health, safety, and general welfare of the public.
C. Transfer of Permit. Operating permits shall not be transferable to another location. However, operating permits may be transferred to another owner subject to the following requirements:
    1. A request for change in permit ownership shall be submitted to the City at least 60 days prior to the anticipated change in business ownership.
    2. A new owner(s) shall meet all requirements for applicants of an initial permit and shall submit all information required for initial permits.
    3. All conditions of the operating permit shall apply to the new owner.
D. Modifications to Permits. Any holder of an operating permit may request modifications to any aspect or condition of an operating permit at least thirty (30) days prior to the anticipated change. The City Manager, or designee, may approve such modifications at his/her discretion.
E. Notice of Proposed Denial, Suspension, Revocation, or Refusal to Renew an Operating Permit. When the City Manager concludes that grounds for denial, suspension, revocation or refusal to renew or approve the transfer or modification of an operating permit exist, he/she shall serve the permit holder, either personally, by certified U.S. mail or overnight delivery service that provides tracking, addressed to the business or residence address of the permit holder, with a notice of his or her decision pursuant to this section. This notice shall state the reasons for the proposed action, the effective date of the decision, the right of

the applicant or permit holder to appeal the decision and that the decision will be final if no appeal is filed within the time permitted.

F. Appeal. The right to appeal a decision of the City Manager pursuant to this section shall terminate upon the expiration of fifteen business days from deposit of the notice with the U.S. Mail, or deposit with an overnight delivery. All requests for appeals shall be submitted in writing to the City Manager and set for the reasons why the decision was improper.
   1. A nonrenewal, revocation, or suspension shall be effective upon deposit of the notice in the U.S. mail or overnight delivery service.
   2. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council.
   3. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
   4. The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing. The operator shall not operate the cannabis business while awaiting appeal.
   5. At the hearing, the appellant may present any information the appellant deems relevant to the decision appealed.
   6. At the conclusion of the hearing the City Council may affirm, reverse or modify the decision of the City Manager. The decision of the City Council shall be final.

6.80.100 Enforcement

A. Violations.
   1. Any activity performed contrary to the provisions of this chapter is hereby declared to be a public nuisance.
   2. Any violation of a term, condition, or the approved plans and specifications of any permit issued pursuant to this chapter shall constitute a violation.

B. Remedies. In addition to the nonrenewal, suspension, and revocation provisions in Section 6.80.90 and any and all available remedies under the law, the following remedies shall be available to the City or other enforcement agency regarding violations of this chapter:
   1. Administrative enforcement pursuant to Chapters 1.08 and 1.14 of the Municipal Code.
   2. Civil enforcement.
   3. Criminal enforcement.

C. In any enforcement action brought pursuant to this section, whether by administrative or judicial proceedings, each person who causes, permits, suffers,

or maintains the unlawful cannabis use shall be liable for all costs incurred by the City, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this section. In any action by the agency having jurisdiction to abate unlawful cannabis uses under this section, whether by administrative or judicial proceedings, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this section shall be limited to those actions or proceedings in which the City elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding.

SECTION 3. Compliance with the California Environmental Quality Act. Approval of the amendments is exempt from environmental review in accordance with Business and Professions Code section 26055(h), the exemption for the adoption of an ordinance that requires discretionary review of permits. Additionally, approval of the amendments is exempt from further 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. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 5. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of El Cerrito, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on November 21, 2017 and passed by the following vote:

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

ADOPTED AND ORDERED published at a regular meeting of the City Council held on December 19, 2017 and adopted by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

_____
Janet Abelson, Mayor

ATTEST:

_____
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. 2017-07 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 19th day of December 2017; and that said ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this ___ day of December, 2017.

_____
Cheryl Morse, City Clerk

AGENDA BILL

Agenda Item No. 4(C)

Date: December 19, 2017

To: El Cerrito City Council

From: Melanie Mintz, Community Development Director

Subject: Inclusionary Zoning Program Consultant Award

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to execute a professional services agreement with Keyser Marsten Associates, Inc. in an amount not to exceed $36,000 to assist with development of an Inclusionary Zoning program and authorizing change orders in an amount not to exceed $5,000.

BACKGROUND

On August 15, 2017, City Council adopted the City's first Affordable Housing Strategy (Strategy) (Resolution 2017-61). The Strategy identified *establishing a new inclusionary zoning policy and/or enacting new housing impact fees for affordable housing* as one strategy to ensure that private development was making a reasonable contribution toward addressing the need for additional affordable housing. In the Strategy's Implementation Plan, this task was identified for immediate implementation, e.g. for completion within the year. In October, Community Development issued a Request for Proposals for a Housing Impact Fee Nexus Study and Inclusionary Policy Analysis.

There are two methods to require housing development projects to address their impacts on the availability of affordable housing. One is the application of inclusionary zoning, which requires the inclusion of affordable units within a project. Some cities adopt a fee that developers may pay in lieu of constructing all or a portion of the affordable units (usually referred to as an "in-lieu fee"). The other approach is to adopt a development impact fee that developers must pay.

At the time the Affordable Housing Strategy was developed and adopted, cities could not require rental apartment projects to include on-site affordable units. Development impact fees were therefore the only way to require rental housing developments to address their impacts on the availability of affordable housing. With the recent passage of AB 1505, cities' power to apply inclusionary zoning on rental housing projects was restored. They can now require developers of both ownership and rental projects to provide on-site affordable units and can allow for the payment of an in-lieu fee for all or a portion of the units that a project would otherwise be required to build pursuant to the inclusionary zoning.

As a result of that change in law, proposers addressed both the impact fee and inclusionary zoning/in-lieu fee approaches. As discussed below, staff is recommending

proceeding with the inclusionary zoning/in-lieu fee approach for both for-sale and rental housing projects, and not pursuing a development impact fee approach.

Proposals were due to the City November 6. The City received four proposals, summarized below.

Firm	Cost
BAE (Bay Area Economics)	$69,500
DRA (David Paul Rosen & Associates)	$56,000
Keyser Marsten Associates, Inc.	$49,368
Strategic Economics	$84,120

Due to the quality and competitive cost of the proposals, City staff interviewed DRA and Keyser Marsten Associates. Keyser Marsten Associates is being recommended by staff due to their expertise in the area, their familiarity with the City of El Cerrito's development economics, the cost effectiveness of their proposal and the shortest timeframe from start to finish for the effort.

ANALYSIS

The Affordable Housing Strategy identifies several factors that need to be considered in development on an Inclusionary Zoning policy, including the need to conduct financial feasibility studies. Keyser Marsten Associates' scope of services includes:

- *Real Estate Financial Feasibility Analysis* evaluating residential development economics in El Cerrito and testing the sustainability of increased affordable housing requirements, including on-site and fee requirements.
- *Inclusionary On-Site Cost Equivalency Analysis* to assist in understanding the cost associated with complying with on-site requirements at various income levels.
- *Other Jurisdiction Affordable Housing Requirement Summary* to provide context regarding programs in nearby jurisdictions.
- *Customized Recommendations* drawn from the analyses conclusions.
- *Adoption Process Support*, including participation in stakeholder meetings.

As discussed in the Strategy, cities often phase in inclusionary requirements over time, giving the market time to adjust to the new policies. Phasing and timing of implementation will be explored through development of the inclusionary zoning requirements and recommendations. It is estimated that completion of the inclusionary zoning program recommendations will take approximately 12-14 weeks to be completed.

Inclusionary Zoning/In-lieu Fee vs. Impact Fees Approaches

The Community Development Department is currently recommending only proceeding with development of inclusionary zoning and not proceeding with conducting a study to establish impact fees. This was determined through review of the proposals, in the consultant interviews and through discussions with the City Attorney. The analysis conducted for the inclusionary zoning program will evaluate the advantages and disadvantages of allowing inclusionary units to be provided on-site versus allowing some of the on-site requirements to be converted instead into an in-lieu fee payment to be used by the City to provide funding towards the construction of affordable units off-site or other affordable housing programs. As such, the recommended award amount of $36,000 is less than the original proposal of $49,368.

FINANCIAL CONSIDERATIONS

The cost of the recommended agreement will be covered by a combination of grant funds from the Metropolitan Transportation Commission's Priority Development Area Implementation Assistance program and the Department's operating budget. No new appropriations are required.

LEGAL CONSIDERATIONS

The City Attorney has reviewed this report and the attached ordinance.

Reviewed by:

Scott Hanin
City Manager

Attachments:

1. Resolution

Agenda Item No. 4C
Attachment 1

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH KEYSER MARSTEN ASSOCIATES, INC. TO PREPARE AN INCLUSIONARY ZONING PROGRAM

WHEREAS, the City Council adopted an Affordable Housing Strategy (Resolution 2017-61); and

WHEREAS, the Strategy identified establishing a new inclusionary zoning policy as a strategy to leverage private development to address affordable housing needs; and

WHEREAS, the Community Development staff issued a Request for Proposals for development of an inclusionary housing policy; and

WHEREAS, the City received four proposals for completion of the Affordable Housing Strategy task; and

WHEREAS, Keyser Marsten Associates, Inc. presented qualifications, a cost proposal and scope of services which best met the City's needs for this project and provided the most competitive cost and schedule ; and

WHEREAS, completion of this task is a high priority Affordable Housing Strategy item; and

WHEREAS, the scope of services will be paid for through a Metropolitan Transportation Commission Priority Development Area Implementation Assistance grant and adopted departmental budget and no new appropriations are required.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to execute a professional services agreement with Keyser Marsten Associates, Inc. in an amount not to exceed $36,000 to assist with development of an Inclusionary Zoning program and to authorize change orders in an amount not to exceed $5,000.

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

I CERTIFY that at a regular meeting on December 19, 2017 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December 19, 2017.

_____
Cheryl Morse, City Clerk

APPROVED:

_____
Janet Abelson, Mayor

AGENDA BILL

Agenda Item No. 4(D)

Date: December 19, 2017

To: El Cerrito City Council

From: Maria Sanders, Operations & Environmental Services Division Manager
Yvetteh Ortiz, Public Works Director/City Engineer

Subject: Lease-Purchase of Two Side-Loading Recycling Trucks

ACTION REQUESTED

Adopt the following resolutions authorizing the City Manager to:

1. Execute an equipment lease purchase agreement with Capital One Public Funding, LLC for the purpose of purchasing two side-loading recycling collection trucks for $551,498 at a fixed interest rate not to exceed 3.0% interest for 7 years; and
2. Enter into a purchase agreement with McNeilus Truck and Manufacturing through the National Joint Powers Alliance (NJPA) bid process in the amount above for said trucks, subject to Council approval of an Equipment Lease-Purchase Agreement with Capital One Public Funding.

BACKGROUND

The City of El Cerrito currently owns, operates, and maintains four recycling trucks used in the City's residential and commercial curbside recycling program. The residential curbside recycling routes are currently being serviced by two 20-cubic yard (CY) side-loading refuse collection trucks that were purchased by the City in 2008. These trucks were purchased to replace aging recycling trucks in order to accommodate the additional volume of recyclable material collected as the City improved and modernized its collection programs.

Over their life, each one of these trucks has traveled more than 95,000 miles, made approximately 1.9 million stops and moved its lifting arms approximately 3.8 million times. Side-loaders such as these have a normal useful life of between 7 and 10 years. As these trucks near the end of their useful life, the vehicle downtime and maintenance costs for each has increased. In addition, staff anticipates a need for trucks with a larger collection capacity. Since 2007, the amount of material collected by the City has increased by nearly 8%, accelerating since 2014 as the economy has recovered. As new multi-family complexes are built and occupied, staff anticipates additional increases in the amount of material needing to be collected.

ANALYSIS

Research: Due to the age and collection capacity of the current recycling trucks, City staff is recommending that these trucks be replaced at this time. As part of the research process, staff hired R3 Consulting, a waste consulting firm, and interviewed other refuse

collection fleet operators to provide insight into procurement methods and desired truck features. Highlights from this investigation include:

- Options to procure the trucks through municipal contracting joint power authorities rather than developing and issuing a detailed specification and bid package.
- Recommendations for truck features that highlighted:
    - Larger collection capacity to maximize routes and minimize runs to the sorting facility;
    - Braking systems, turning radii, and torque appropriate for narrow, hilly streets;
    - Durable container lifting mechanisms;
    - Durable components for the packer blades and hopper bed constructed with "wear resistant" materials;
    - Cab ergonomics for driver convenience and safety; and
    - On-board camera systems for backing-up and monitoring lifting arms and hopper.
- The Pros and Cons of Diesel versus Compressed Natural Gas (CNG) fueling systems, including cost differentials, maintenance regimes and fueling infrastructure.
- Equipment Lease-Purchase Options and Vendors for financing the purchase of the trucks.

Selection Process: Based on this research, staff was able to determine that the best value to the City was to piggy back on awarded contracts for refuse collection trucks through the National Joint Powers Alliance (NJPA), a municipal contracting agency serving local government agencies in the United States and Canada. NJPA offers a wide range of competitively procured products, equipment, and service opportunities, enabling participating local government agencies to leverage the benefits of cooperative purchasing in order to reduce procurement costs. El Cerrito is a member and first joined in 2007 in order to purchase furnishings for City Hall when it was constructed. Because NJPA specifically caters to municipal agencies throughout the country, it had a greater selection of awarded contracts for refuse collection vehicles than other procurement pools available to El Cerrito.

Selecting from the list of NJPA awarded contracts, staff solicited proposals from three companies based on the truck options that best met the City's needs. This process also included test drives of the proposed equipment and interviews with other fleet operators of similar equipment. The dealership teams (representing the chassis and body manufacturers) that participated included representatives from 1) Western Truck Center for Labrie (body) and Autocar (chassis), 2) McNeilus (body) and Peterbilt (chassis); and 3) National Auto Fleet Group for McNeilus (body) and Mack (chassis). While each manufacturing team had slightly different ways of meeting the City's desired options, staff requested as similar proposals as possible. Based on the process described, staff

determined that the proposal from McNeilus/ Peterbilt provided the best value for the lowest cost. Following is the results of the proposals submitted:

Proposer (Body /Chassis)	Per Truck Cost	Total Proposal Amount
Western Truck (Labrie /Autocar)	$ 312,947.81	$ 625,895.62
McNeilus / Peterbilt	$ 276,087.00	$ 551,498.00
National Auto Fleet (McNeilus / Mack)	$ 291,319.24	$ 582,638.48

Lease-Purchase Financing: As part of the research process, R3 Consulting identified and solicited preliminary quotes from three equipment financing agents or brokers (First Capital Equipment Leasing, City National Bank, and Ascentium). When this research was conducted in November 2016, all provided municipal lease-to-own financing at acceptable terms, with First Capital Equipment Leasing, a third-party broker, providing the lowest interest rate. In November 2017, staff asked First Capital Equipment and National Cooperative Leasing, a lease-purchase agent under contract with NJPA, to provide new proposals based on the final truck price. First Capital Equipment Leasing was able to offer the lowest interest rate at 2.855% per annum over 7 years with Capital One Public Funding. National Cooperative Leasing provided a quote for a 3.5% interest rate per annum over 7 years.

Given that First Capital Equipment has consistently brokered the most competitive rates and flexible terms to meet the City's needs, staff recommends accepting their Municipal Lease-To-Own Financing Estimate (Attachment 3) and entering into a lease-purchase agreement with Capital One Public Funding (Attachment 4). The interest rate of 2.855% is locked for contracts that close by December 29, 2017. Thereafter, the interest rate may change based on when contracts actually close. Because this is an ambitious timeline, we have structured the lease-purchase resolution (Attachment 1) to include an interest rate not to exceed 3% per annum.

Recycling trucks are built-to-order and take about 5 to 7 months from time of order to delivery.The first payment of $43,750 (at an interest rate of 2.855%) would be payable near the end of the fiscal year and will be paid from Fiscal Year 2018-19 Integrated Waste Managment Fund appropriations. Thereafter, the annual payment would be $87,500. If the interest rate approached 3%, payments would be in the range of $87,620 and $87,940 per year. With interest the total amount paid over the life of the lease for both trucks will be $612,500 at 2.855% and $615,580 if at 3% interest.

STRATEGIC PLAN CONSIDERATIONS

A well-maintained and modern recycling truck fleet is necessary in order for the City to provide efficient, reliable, and safe curbside recycling services. Replacing recycling vehicles at the end of their useful life is consistent with the following City's Strategic Plan goals:

- Goal A: Deliver exemplary government service by using reliable trucks that incorporate the latest safety features, better ergonomics, and capacity to pick up more material.
- Goal B: Achieve long-term financial sustainability by avoiding vehicle (and driver) downtime and high vehicle maintenance and repair costs.
- Goal F: Foster environmental sustainability by continuing to invest in the City's recycling programs and efficiently serving El Cerrito citizens as they continue to divert waste from the landfill.

ENVIRONMENTAL CONSIDERATIONS

The recommended McNeilus body/ Peterbilt chassis trucks are compliant with state and federal environmental regulations. They meet all current emissions requirements, having about 11% better fuel efficiency and emitting 60% less NOx and 50% less particulate matter than the current trucks. Staff considered an option to fuel these trucks with compressed natural gas (CNG). However, both the fueling infrastructure and the maintenance expertise available to service CNG refuse collection trucks would need to be outsourced and would create additional daily and weekly truck trips, wait times for our truck drivers, as well as more vehicle miles for each truck. Thus, staff ultimately determined that the maintenance and fueling time required for CNG vehicles would significantly impact operational logistics, contribute to an increase in staff overtime hours, and add to the overall annual vehicle miles travelled by each truck.

Several refuse collection truck manufacturing firms are developing an electric version, but none are available on the market at this time. Staff will continue to monitor opportunities to purchase lower-emissions vehicles as it reviews vehicle replacement needs in the Operations and Environmental Services Division.

FINANCIAL CONSIDERATIONS

Depending on when the final interest rate is locked in, payments would be in the range of $87,500 and $87,940 per year. With interest the total amount paid over the life of the lease for both trucks will be $612,500 at 2.855% and $615,580 if at 3% interest. Funding for the first semi-annual lease payment of $43,750 is included in the Fiscal Year 2017-18 Adopted Budget in the Integrated Waste Management (IWM) Fund. Funding for subsequent semi-annual payments of that amount over 6.5 years are included in the Fund's Ten-Year Business Plan, which is used to plan annual budgets and help model IWM rates over time, including the rates approved by Council in November.

LEGAL CONSIDERATIONS

Procurement of the McNeilus side-loading recycling vehicles through the NJPA bid process is consistent with the City's Procurement Policy, which allows for the purchase of equipment through competitively solicited contracts through other public agencies. NJPA is a municipal contracting agency operating under the enabling authority of Minnesota Statute 123A.21.

The City attorney has reviewed the First Capital Equipment Leasing Corporation Municipal Lease-to-Own Financing Estimate (Attachment 3), the Capital One Public Funding Lease Purchase Agreement (Attachment 4), and the McNeilus Purchase Authorization (Attachment 5) and affirms their legality.

Reviewed by:

Scott Hanin
City Manager

Attachments:

1. Capital One Public Funding Lease-Purchase Resolution
2. McNeilus Purchase Agreement Resolution
3. First Capital Equipment Leasing Corporation Municipal Lease-to-Own Financing Estimate
4. Capital One Public Funding Equipment Lease Purchase Agreement
5. McNeilus Truck and Manufacturing Purchase Authorization

Agenda Item No. 4(D)
Attachment 1

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE AN EQUIPMENT LEASE-PURCHASE AGREEMENT WITH CAPITAL ONE PUBLIC FUNDING, LLC FOR THE PURPOSE OF PURCHASING TWO SIDE-LOADING RECYCLING COLLECTION TRUCKS FOR $551,498 PRINCIPAL AMOUNT AT A FIXED INTEREST RATE NOT TO EXCEED 3.0% PER ANNUM FOR 7 YEARS

WHEREAS, the City of El Cerrito, California (the "City") is a political subdivision duly organized under the constitution and laws of the State of California; and

WHEREAS, it is hereby determined that a true and real need exists for the acquisition of two new recycling collection trucks (the "Equipment") for use by the City; and

WHEREAS, First Capital Equipment Leasing Corporation has provided a proposal to provide lease-purchase financing with Capital One Public Funding, LLC for the purchase of the above-mentioned trucks in principal amount not to exceed $551,498 at a fixed interest rate of 2.855% per annum for 7 years; and

WHEREAS, the interest rate of 2.855% is locked for contracts closing by December 29, 2017 and may change thereafter, but will not exceed 3.0% unless expressly authorized by City Council; and

WHEREAS, it is necessary and desirable and in the best interest of the City, as lessee, to enter into an Equipment Lease-Purchase Agreement (the "Agreement") with Capital One Public Funding, LLC, as lessor (the "Lessor"), and certain related documents, for the purposes described therein, including the leasing of the Equipment; and

WHEREAS, funding for the lease interest and principal payments are included in the Fiscal Year 2017-18 Adopted Budget in the Integrated Waste Management (IWM) Fund, as well as the Fund's Ten-Year Business Plan.

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

Section 1. The Lease-Purchase Agreement, in substantially the same form as presented at this meeting with such changes that are approved by the City Attorney, and the terms and performance thereof are hereby approved, and the City Manager is hereby authorized to execute and deliver the Agreement on behalf of the City, with such changes therein as shall be approved by such officer, such approval to be conclusively evidenced by such officer's execution thereof.

Section 2. The Escrow Agreement (the "Escrow Agreement"), among the City, the Lessor and the escrow agent named therein, in substantially the same form as presented at this meeting, and the terms and performance thereof are hereby approved, and the Escrow Agreement is hereby authorized to be executed and delivered on behalf of the City by a duly authorized officer of the City, with such changes therein as shall be approved by such officer, such approval to be conclusively evidenced by such officer's execution thereof.

Section 3. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the City with respect to the Agreement and the Escrow Agreement.

Section 4. In the event the City has made certain capital expenditures in connection with the acquisition of the Equipment prior to the date hereof, and the City expects to make additional capital expenditures in connection with the acquisition of the Equipment in the future, the City intends to reimburse itself for all or a portion of such expenditures, to the extent permitted by law, with the proceeds of the Agreement or other tax-exempt obligations to be delivered by the City. The maximum principal amount of the Agreement or other tax-exempt obligations expected to be delivered for the Equipment is not expected to exceed $551,498.

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

I CERTIFY that at a regular meeting on December 19, 2017 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2017.

_____
Cheryl Morse, City Clerk

APPROVED:

_____
Janet Abelson, Mayor

Agenda Item No. 4(D)
Attachment 2

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO ENTER INTO A PURCHASE AGREEMENT WITH MCNEILUS TRUCK AND MANUFACTURING THROUGH THE NATIONAL JOINT POWERS ALLIANCE (NJPA) BID PROCESS FOR TWO SIDE-LOADING RECYCLING TRUCKS AT A TOTAL COST OF $551,498, SUBJECT TO FINAL COUNCIL APPROVAL OF AN EQUIPMENT LEASE-PURCHASE AGREEMENT WITH CAPITAL ONE PUBLIC FUNDING, LLC

WHEREAS, the City owns and operates two side-loading recycling collection trucks that are used to service the City's residential curbside recycling routes; and

WHEREAS, these trucks were purchased in 2008 and are currently nearing the end of their useful life, which is expected to be between 7 and 10 years; and

WHEREAS, driver downtime and annual repair costs for these trucks are steadily rising due to vehicle aging and wear and tear on vehicle components, and equipment must be replaced based upon a reasonable schedule that allows operators to efficiently and effectively carry out their duties; and

WHEREAS, the City is a member of the National Joint Powers Alliance (NJPA), a joint powers authority serving as a joint procurement agency for municipal agencies throughout the United States and Canada, and which has contract bid procedures which satisfies the procurement requirements of the City of El Cerrito; and

WHEREAS, City staff solicited proposals from three refuse collection truck manufacturers currently contracted through the NJPA bid process; and

WHEREAS, Division staff test drove trucks from each manufacturer and interviewed fleet operators and maintenance staff who have experience with each truck; and

WHEREAS, McNeilus Truck and Manufacturing provided the lowest total purchase price of $551,498 for two recycling trucks, while also providing the best value; and

WHEREAS, the City desires to enter into a lease-purchase agreement in a form acceptable to the City Attorney for this purchase price with Capital One Public Funding, LLC for the purpose of purchasing these trucks; and

WHEREAS, funding for the lease interest and principal payments are included in the Fiscal Year 2017-18 Adopted Budget in the Integrated Waste Management (IWM) Fund, as well as the Fund's Ten-Year Business Plan.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to enter into a purchase agreement with McNeilus Truck and Manufacturing through the National Joint Powers Alliance (NJPA) bid process for two side-loading recycling trucks at a total cost of $551,498. The purchase of the trucks is subject to City Council approval of the final lease-purchase agreement with Capital One Public Funding.

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

Agenda Item No. 4(D)
Attachment 2

I CERTIFY that at a regular meeting on December 19, 2017 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2017.

_____
Cheryl Morse, City Clerk

APPROVED:

_____
Janet Abelson, Mayor

First Capital Equipment Leasing Corp.
LeaseExperts.com™
Phone 800-541-0114 ● Fax 800-403-3529 ● Email: VPsales@LeaseExperts.com

Celebrating 32 Years
April 4, 2017

December 8, 2017

Maria Sanders, Manager
Operations & Environmental Services Division
City of El Cerrito, California
Main PH: 510-215-4350 ● Contact PH: 510-215-4350 ● Email: msanders@ci.el-cerrito.ca.us

CONFIDENTIAL

Municipal Lease-To-Own Financing Estimate - Revised
& General Outline of Terms

City of El Cerrito, California

Equipment To Be Financed:	(2) 28 C.Y. McNeilus Side-Loader Trash Collection Bodies on Peterbilt chassis'	
Anticipated Vendor Delivery/Payment:	T.B.D.	
Net Amount to Finance:	**$551,498.00**	Program: MUNIc

OPTIONS	**7 Year Lease**
Payment Amount:	$ 43,750.04 / Semi-Annual Payments
Interest:	2.855%

Rates Locked For Contracts That Close By:	Dec 29, 2017	*(After December 29, 2017, rates float until executed lease documents are received)*

Down Payment + Security Deposit:	Waived	*(Due at Lease Signing)*
Documentation & Legal:	$687	*(Due at Lease Signing)*
First Lease Payment Due:	**Jul 01, 2018**	*(Up to 100% of vendor funds can be disbursed as soon as 5 business days after closing*)*

*Questions? Please call me at **800-541-0114 x-15**!*

Regards,
Bob Arnowitt
Vice President Government Finance
Bob@LeaseExperts.com

☑

Estimate Terms & Important Notes

*I have circled my **Preferred Term & Payment** above. I have reviewed and approved this Lease Estimate and the **Important Notes** outlined below.*

Approved By: _____

Title: _____ Date: _____

IMPORTANT NOTES:

*This is a tax-exempt municipal lease-to-own financing estimate only, not a commitment to finance by First Capital Equipment Leasing Corporation ("**FCELC**") and supersedes any previous estimates or communications. State, county & municipal entities, special districts & authorities must qualify as issuers of tax-exempt debt under IRS Section 103 of 1986, as amended to be eligible. ALL contract documents are created by the bank and the contract will be directly between Lessee and CAPITAL ONE PUBLIC FUNDING ("the bank"). Title/Ownership transfers to the Lessee at vendor delivery subject only to the bank's security interest. NO mileage, hours or usage restrictions, NO maintenance and NO condition requirements (other than reasonable care). There is NO MONEY DUE AT LEASE END. Final payment amounts, terms and conditions for this estimate are subject to the bank's credit-based review, vendor and equipment approval, all applicable federal, state and local laws and are subject to change, correction or withdrawal by the bank. THE BANK'S LEASE PURCHASE CONTRACT DOCUMENTS WILL CONTAIN ALL APPLICABLE LEASE TERMS & CONDITIONS as approved by them for this transaction and supersede ALL rates and terms in the estimate should there be any variance. All equipment is assumed to be NEW. There are no "points," closing costs or expenses other than shown above. Interest quoted is a FIXED rate. **TIME IS OF THE ESSENCE** -- Executed contracts must be returned by the December 29, 2017 closing date after which quoted interest rates & payments may float with the market until the actual closing date. We reserve the right to adjust the estimated payment and/or interest rate based on changes in transaction timing and/or the cost of funds after December 29, 2017. (Adjustments, if necessary, will favor retaining the estimated payment amount.) This estimate assumes no material omissions or inaccuracies in the information provided and further assumes no adverse changes in Lessee's financial status or credit rating, nor any material changes in transaction timing, structure, or the equipment to be financed, prior to funding. Lease payments do not include required insurance, title, taxes, tags, maintenance, supplies, vendor usage/click charges, delivery or installation, unless specifically included above. Vendor advances/progress payments are not included unless pre-approved in writing. **Your vendors are paid directly by the bank** on your behalf and at your instruction via bank wire transfer or bank check, within five (5) business days of receiving your executed contract and 1) your unqualified acceptance of the equipment, 2) your signed payment request authorization, 3) proper vendor invoices, 4) certificate of insurance and documentation as may be specified in the "Vendor Prompt Payment Notes" that will be provided. **THE INFORMATION PROVIDED IN THIS DOCUMENT IS NOT INTENDED TO BE AND SHOULD NOT BE CONSTRUED AS "ADVICE." FCELC is not the bank**, the lender or lessor and acts for its own interest only. **FCELC does not act as a municipal advisor**, municipal financial consultant, fiduciary or agent to any person or entity pursuant to Section 15B of the Securities Exchange Act of 1934, the municipal advisor rules of the SEC, or otherwise. **FCELC is not recommending** that you take an action with respect to the information presented in this estimate. You should review and discuss this and all FCELC and bank documentation with such independent financial, tax and legal advisors as you deem appropriate.*

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GILMORE & BELL, P.C.
DRAFT #1-DECEMBER 8, 2017

$[551,498]
EQUIPMENT LEASE PURCHASE AGREEMENT
DATED AS OF [DATED DATE],
BETWEEN
CAPITAL ONE PUBLIC FUNDING, LLC, AS LESSOR, AND THE
CITY OF EL CERRITO, CALIFORNIA, AS LESSEE

CLOSING DATE: [DATED DATE]

LIST OF CLOSING DOCUMENTS

Document Number

1. Equipment Lease Purchase Agreement, with the following exhibits attached:

   Exhibit A: Equipment Schedule.
   Exhibit B: Payment Schedule.

2. Escrow Agreement, with the following exhibit attached:

   Exhibit A: Certificate of Acceptance and Payment Request.

3. Lessee's Closing Certificate, with the following exhibits attached:

   Exhibit A: Authorizing resolution from Lessee's governing body.
   Exhibit B: List of Outstanding Obligations (since June 30, 2016).

4. Essential Use Certificate.

5 Opinion of Lessee's Counsel.

6. IRS Form 8038-G.

7. Evidence of Insurance; Certificate of Origin for Titled Vehicle.

8. UCC-1 Financing Statement.

9. Lender Certificate, together with related correspondence to Lessee.

10. Lessee's Form W-9.

11. Distribution List.

# # #

EQUIPMENT LEASE PURCHASE AGREEMENT

THIS EQUIPMENT LEASE PURCHASE AGREEMENT (the "Agreement"), is dated as of [Dated Date], between **CAPITAL ONE PUBLIC FUNDING, LLC**, a limited liability company organized and existing under the laws of the State of New York, as Lessor ("Lessor"), and the **CITY OF EL CERRITO, CALIFORNIA,** a political subdivision existing under the laws of the State of California, as Lessee ("Lessee"), wherein the parties hereby agree as follows:

Section 1. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"Agreement" means this Equipment Lease Purchase Agreement and any other schedule, exhibit or escrow agreement made a part hereof by the parties hereto, together with any amendments to this Agreement.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commencement Date" is the date when the term of this Agreement and Lessee's obligation to pay rent commences, which date will be the earlier of (i) the date on which the Equipment is accepted by Lessee in the manner described in **Section 13**, or (ii) the date on which sufficient moneys to purchase the Equipment are deposited for that purpose with an escrow agent.

"Equipment" means the property described on the Equipment Schedule attached hereto as **Exhibit A**, and all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto.

"Event of Default" means an Event of Default described in **Section 35**.

"Issuance Year" is the calendar year in which the Commencement Date occurs.

"Lease Term" means the Original Term and all Renewal Terms, but ending on the occurrence of the earliest event specified in **Section 6**.

"Lessee" means the entity described as such in the first paragraph of this Agreement, its successors and its assigns.

"Lessor" means the entity described as such in the first paragraph of this Agreement, its successors and its assigns.

"Maximum Lease Term" means the Original Term and all Renewal Terms through the Renewal Term including the last Rental Payment Date set forth on the Payment Schedule.

"Net Proceeds" means the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses (including attorneys' fees) incurred in the collection of such claim or award.

"Original Term" means the period from the Commencement Date until the end of the fiscal year of Lessee in effect at the Commencement Date.

"Payment Schedule" means the schedule of Rental Payments and Purchase Price set forth on **Exhibit B**.

"Purchase Price" means the amount set forth on the Payment Schedule that Lessee may, at its option, pay to Lessor to purchase the Equipment.

"Renewal Terms" means the optional renewal terms of this Agreement, each having a duration of one year and a term co-extensive with Lessee's fiscal year.

"Rental Payment Dates" means the dates set forth on the Payment Schedule on which Rental Payments are due.

"Rental Payments" means the basic rental payments payable by Lessee pursuant to **Section 9**.

"State" means the State of California.

"Vendor" means the manufacturer of the Equipment as well as the agents or dealers of the manufacturer from whom the Equipment is or has been purchased, as listed on **Exhibit A**.

Section 2. Representations and Covenants of Lessee. Lessee represents, warrants and covenants for the benefit of Lessor as follows:

(a) Lessee is a political subdivision duly organized and existing under the constitution and laws of the State. Lessee will do or cause to be done all things to preserve and keep in full force and effect its existence as a political subdivision. Lessee has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power.

(b) Lessee is authorized under the constitution and laws of the State to enter into this Agreement and the transaction contemplated hereby and to perform all of its obligations hereunder.

(c) Lessee has been duly authorized to execute and deliver this Agreement by proper action and approval of its governing body at a meeting duly called, regularly convened and attended throughout by a requisite majority of the members thereof or by other appropriate official approval.

(d) This Agreement constitutes the legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.

(e) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the Commencement Date.

(f) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the Original Term and to meet its other obligations for the Original Term, and such funds have not been expended for other purposes.

(g) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Equipment hereunder.

(h) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Agreement or any other document, agreement or certificate which is used or contemplated for use in the consummation of the transactions contemplated by this Agreement or materially adversely affect the financial condition or properties of Lessee.

(i) All authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by Lessee of this Agreement or in connection with the carrying out by Lessee of its obligations hereunder have been obtained.

(j) The entering into and performance of this Agreement or any other document or agreement contemplated hereby to which Lessee is or is to be a party will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance on any assets of Lessee or the Equipment pursuant to any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided.

(k) The Equipment described in this Agreement is essential to the function of Lessee or to the service Lessee provides to its citizens. Lessee has an immediate need for, and expects to make immediate use of,

substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future. The Equipment will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of Lessee's authority.

(l) Neither the payment of the Rental Payments hereunder nor any portion thereof is (i) secured by any interest in property used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code) or in payments in respect of such property or (ii) derived from payments in respect of property, or borrowed money, used or to be used in a trade or business of a non-exempt person (within the meaning of Section 103 of the Code). No portion of the Equipment will be used directly or indirectly in any trade or business carried on by any non-exempt person (within the meaning of Section 103 of the Code).

(m) Lessee will comply with all applicable provisions of the Code, including without limitation Sections 103 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

(n) Lessee will use the proceeds of this Agreement as soon as practicable and with all reasonable dispatch for the purpose for which this Agreement has been entered into. No part of the proceeds of this Agreement will be invested in any securities, obligations or other investments or used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of this Agreement, would have caused any portion of this Agreement to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the applicable regulations of the Treasury Department.

(o) Lessee has never failed to pay payments coming due under any bond issue, lease purchase agreement or other indebtedness obligation of Lessee.

(p) The useful life of the Equipment will not be less than the Maximum Lease Term.

(q) The application, statements and credit or financial information submitted by Lessee to Lessor are true and correct and made to induce Lessor to enter into this Agreement and the escrow agreement, if any, and Lessee has experienced no material change in its financial condition since the date(s) of such information.

(r) Lessee has provided Lessor with audited financial statements through June 30, 2016. Lessee has experienced no material change in its financial condition or in the revenues expected to be utilized to meet Rental Payments due under the Agreement since June 30, 2016.

(s) Lessee shall pay the excess (if any) of the actual costs of acquiring the Equipment under the Agreement over the amount deposited by Lessor in the escrow fund, if any, established under any related escrow agreement and interest earnings thereon.

(t) Lessee agrees that proceeds of the Agreement shall be held in escrow by an escrow agent appointed by Lessor (or assignee thereof) and invested as directed by Lessor (or assignee thereof) within the authority granted by Section 53601(m) of the California Government Code.

Section 3. Certification as to Arbitrage. Lessee hereby represents as follows:

(a) The estimated total costs of the Equipment, together with any costs of entering into this Agreement that are expected to be financed under this Agreement, will not be less than the total principal portion of the Rental Payments.

(b) The Equipment has been ordered or is expected to be ordered within six months of the Commencement Date, and the Equipment is expected to be delivered and installed, and the Vendor fully paid, within eighteen months of the Commencement Date.

(c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments, or (ii) that may be used solely to prevent a default in the payment of the Rental Payments.

(d) The Equipment has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments.

(e) To the best of our knowledge, information and belief, the above expectations are reasonable.

Section 4. Lease of Equipment. Lessor hereby demises, leases and lets the Equipment to Lessee, and Lessee rents, leases and hires the Equipment from Lessor, in accordance with the provisions of this Agreement, for the Lease Term.

Section 5. Lease Term. The Original Term of this Agreement will commence on the Commencement Date and will terminate on the last day of Lessee's current fiscal year. The Lease Term may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for an additional Renewal Term up to the Maximum Lease Term. At the end of the Original Term and at the end of each Renewal Term until the Maximum Lease Term has been completed, Lessee will be deemed to have exercised its option to continue this Agreement for the next Renewal Term unless Lessee has terminated this Agreement pursuant to **Section 6** or **Section 31**. The terms and conditions during any Renewal Term will be the same as the terms and conditions during the Original Term, except that the Rental Payments will be as provided in the Payment Schedule.

Section 6. Termination of Lease Term. The Lease Term will terminate upon the earliest of any of the following events:

(a) the expiration of the Original Term or any Renewal Term of this Agreement and the nonrenewal of this Agreement in the event of nonappropriation of funds pursuant to **Section 8**;

(b) the exercise by Lessee of the option to purchase the Equipment under the provisions of **Section 31** and payment of the Purchase Price and all amounts payable in connection therewith;

(c) a default by Lessee and Lessor's election to terminate this Agreement under **Section 36**; or

(d) the payment by Lessee of all Rental Payments authorized or required to be paid by Lessee hereunder during the Maximum Lease Term.

Section 7. Continuation of Lease Term. Lessee currently intends, subject to the provisions of **Section 8** and **Section 12**, to continue the Lease Term through the Original Term and all of the Renewal Terms and to pay the Rental Payments hereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the Original Term and each of the Renewal Terms can be obtained. The responsible financial officer of Lessee will do all things lawfully within his or her power to obtain and maintain funds from which the Rental Payments may be made, including making provision for such Rental Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with applicable procedures of Lessee and to exhaust all available reviews and appeals in the event such portion of the budget is not approved. Notwithstanding the foregoing, the decision whether or not to budget or appropriate funds or to extend this Agreement for any Renewal Term is solely within the discretion of the then current governing body of Lessee.

Section 8. Nonappropriation. Lessee is obligated only to pay such Rental Payments under this Agreement as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. In the event sufficient funds will not be appropriated or are not otherwise legally available to pay the Rental Payments required to be paid in the next occurring Renewal Term, as set forth in the Payment Schedule, this Agreement will be deemed to be terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination at least 90 days prior to the end of the then current Original Term or Renewal Term, but failure to give such notice will not extend the Lease Term beyond such Original Term or Renewal Term. If this Agreement is terminated in accordance with this Section, Lessee agrees, at Lessee's cost and expense, to peaceably deliver the Equipment to Lessor at the location or locations specified by Lessor.

Section 9. Rental Payments. Lessee will pay Rental Payments, exclusively from legally available funds, in lawful money of the United States of America to Lessor in the amounts and on the dates set forth on the Payment Schedule. Rental Payments will be in consideration for Lessee's use of the

Equipment during the fiscal year in which such payments are due. Any Rental Payment not received on or before its due date will bear interest at the rate of 10% per annum or the maximum amount permitted by law, whichever is less, from its due date.

In the event that it is determined that any of the interest components of Rental Payments may not be excluded from gross income for purposes of federal income taxation, Lessee agrees to pay to Lessor promptly after any such determination and on each Rental Payment Date thereafter an additional amount determined by Lessor to compensate Lessor for the loss of such excludability (including without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive absent manifest error.

Section 10. Interest Component. As set forth on the Payment Schedule, a portion of each Rental Payment is paid as, and represents payment of, interest.

Section 11. Rental Payments To Be Unconditional. Except as provided in Section 8, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained herein shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the equipment or any accident, condemnation or unforeseen circumstances.

Section 12. Rental Payments to Constitute a Current Expense of Lessee. The obligation of Lessee to pay Rental Payments hereunder will constitute a current expense of Lessee, are from year to year and do not constitute a mandatory payment obligation of Lessee in any fiscal year beyond the then current fiscal year of Lessee. Lessee's obligation hereunder will not in any way be construed to be an indebtedness of Lessee in contravention of any applicable constitutional, charter or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor will anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of Lessee.

Section 13. Delivery, Installation and Acceptance of the Equipment. Lessee will order the Equipment, cause the Equipment to be delivered at the location specified on **Exhibit A** and pay any and all delivery and installation costs in connection therewith. When the Equipment has been delivered and installed, Lessee will immediately accept the Equipment and evidence said acceptance by executing and delivering to Lessor an acceptance certificate in form and substance acceptable to Lessor. After it has been delivered, the Equipment will not be moved from the location specified on **Exhibit A** without Lessor's consent, which consent will not be unreasonably withheld.

Section 14. Enjoyment of Equipment. Lessor hereby covenants to provide Lessee with quiet use and enjoyment of the Equipment during the Lease Term, and Lessee will peaceably and quietly have and hold and enjoy the Equipment during the Lease Term, without suit, trouble or hindrance from Lessor, except as otherwise expressly set forth in this Agreement.

Section 15. Right of Inspection. Lessor will have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

Section 16. Use of the Equipment. Lessee will not install, use, operate or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement. Lessee will obtain all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each item of the Equipment) with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body; provided, however, that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Equipment or its interest or rights under this Agreement.

Section 17. Maintenance of Equipment. Lessee agrees that it will, at Lessee's own cost and expense, maintain, preserve and keep the Equipment in good repair, working order and condition. Lessor will have no responsibility to maintain, or repair or to make improvements or additions to the Equipment. If

requested to do so by Lessor, Lessee will enter into a maintenance contract for the Equipment with Vendor.

Section 18. Title to the Equipment. During the Lease Term, title to the Equipment and any and all additions, repairs, replacements or modifications will vest in Lessee, subject to the rights of Lessor under this Agreement; provided that title will thereafter immediately and without any action by Lessee vest in Lessor, and Lessee will immediately surrender possession of the Equipment to Lessor upon (a) any termination of this Agreement other than termination pursuant to **Section 31** or (b) the occurrence of an Event of Default. It is the intent of the parties hereto that any transfer of title to Lessor pursuant to this Section will occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee will, nevertheless, execute and deliver any such instruments as Lessor may request to evidence such transfer. Lessee irrevocably designates, makes, constitutes and appoints Lessor and its assignee as Lessee's true and lawful attorney (and agent in-fact) with power, at such time of termination or times thereafter as Lessor in its sole and absolute discretion may determine, in Lessee's or Lessor's or such assignee's name, to endorse the name of Lessee upon any bill of sale, document, instrument, invoice, freight bill, bill of lading or similar document relating to the Equipment in order to vest title in Lessor and transfer possession to Lessor.

Section 19. Security Interest. To secure the payment of all of Lessee's obligations under this Agreement and to the extent permitted by law, Lessor retains a security interest constituting a first lien on the Equipment and on all additions, attachments and accessions thereto and substitutions therefor and proceeds therefrom. Lessee agrees to execute such additional documents in form satisfactory to Lessor, that Lessor deems necessary or appropriate to establish and maintain its security interest. Lessee agrees that financing statements may be filed with respect to the security interest in the Equipment.

As further security therefor, Lessee grants to Lessor a first priority security interest in the cash and negotiable instruments from time to time comprising the escrow fund, if any, established under any related escrow agreement and all proceeds (cash and non-cash) thereof, and agrees with respect thereto that Lessor shall have all the rights and remedies of a secured party.

Section 20. Personal Property. Lessor and Lessee agree that the Equipment is and will remain personal property. The Equipment will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to such real estate or any building thereon. Upon the request of Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

Section 21. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee will keep the Equipment free and clear of all liens, charges and encumbrances, except those created under this Agreement. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Equipment will be exempt from all property taxes and other similar charges. If the use, possession or acquisition of the Equipment is found to be subject to taxation in any form, Lessee will pay all taxes and governmental charges lawfully assessed or levied against or with respect to the Equipment. Lessee will pay all utility and other charges incurred in the use and maintenance of the Equipment. Lessee will pay such taxes and charges as the same become due; provided that, with respect to any such taxes and charges that may lawfully be paid in installments over a period of years, Lessee will be obligated to pay only such installments that accrue during the Lease Term.

Section 22. Insurance. At its own expense, Lessee will maintain (a) casualty insurance insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Lessor in an amount at least equal to the then applicable Purchase Price of the Equipment, (b) liability insurance that protects Lessor from liability in all events in form and amount satisfactory to Lessor, and (c) workers' compensation coverage as required by the laws of the State; provided that, with Lessor's prior written consent, Lessee may self-insure against the risks described in clauses (a) and (b). All insurance proceeds from casualty losses will be payable as hereinafter provided. Lessee will furnish to Lessor certificates evidencing such coverage throughout the Lease Term.

All such casualty and liability insurance will be with insurers that are acceptable to Lessor, will name Lessor as a loss payee and an additional insured and will contain a provision to the effect that such insurance will not be cancelled or modified materially without first giving written notice thereof to Lessor at least ten days in advance of such cancellation or modification. All such casualty insurance will contain a provision making any losses payable to Lessee and Lessor, as their respective interests may appear.

Section 23. Advances. In the event Lessee fails to maintain the insurance required by this Agreement, pay taxes or charges required to be paid by it under this Agreement or fails to keep the Equipment in good repair and operating condition, Lessor may (but will be under no obligation to) purchase the required policies of insurance and pay the cost of the premiums on the thereof, pay such taxes and charges and make such Equipment repairs or replacements as are necessary and pay the cost thereof. All amounts so advanced by Lessor will become additional rent for the then current Original Term or Renewal Term. Lessee agrees to pay such amounts with interest thereon from the date paid at the rate of 10% per annum or the maximum permitted by law, whichever is less.

Section 24. Financial Information. Within 180 days after the end of each fiscal year, Lessee will provide Lessor with current financial statements, budgets and proofs of appropriation for the ensuing fiscal year and such other financial information relating to the ability of Lessee to continue this Agreement as may be requested by Lessor.

Section 25. Release and Indemnification. To the extent permitted by law, Lessee will indemnify, protect and hold harmless Lessor from and against any and all liability, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith (including, without limitation, counsel fees and expenses and any federal income tax and interest and penalties connected therewith imposed on interest received) arising out of or as the result of (a) the entering into this Agreement, (b) the ownership of any item of the Equipment, (c) the manufacturing, ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment, (d) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury or death to any person or (e) the breach of any covenant herein or any material misrepresentation contained herein. The indemnification arising under this paragraph will continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

Section 26. Risk of Loss. Lessee assumes, from and including the Commencement Date, all risk of loss of or damage to the Equipment from any cause whatsoever. No such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof will relieve Lessee of the obligation to make Rental Payments or to perform any other obligation under this Agreement.

Section 27. Damage, Destruction, Condemnation; Use of Proceeds. If (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or (b) title to, or the temporary use of, the Equipment or any part thereof or the interest of Lessee or Lessor in the Equipment or any part thereof will be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment, unless Lessee has exercised its option to purchase the Equipment pursuant to **Section 31**. Any balance of the Net Proceeds remaining after such work has been completed will be paid to Lessee.

Section 28. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in **Section 27**, Lessee will either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) purchase Lessor's interest in the Equipment pursuant to **Section 31**. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing the Equipment will be retained by Lessee. If Lessee will make any payments pursuant to this Section, Lessee will not be entitled to any reimbursement therefor from Lessor nor will Lessee be entitled to any diminution of the amounts payable under **Section 9**.

Section 29. Disclaimer of Warranties. ***LESSOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS***

FOR PARTICULAR USE OR PURPOSE OF THE EQUIPMENT OR AGAINST INFRINGEMENT, OR ANY OTHER WARRANTY OR REPRESENTATION WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY ACTUAL, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEE'S USE OR MAINTENANCE OF ANY EQUIPMENT OR SERVICES PROVIDED FOR IN THIS AGREEMENT.

Section 30. Vendor's Warranties. Lessee may have rights under the contract evidencing the purchase of the Equipment; Lessee is advised to contact the Vendor for a description of any such rights. Lessee hereby assigns to Lessor during the Lease Term all warranties running from Vendor to Lessee. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee will not be in default hereunder, to assert from time to time whatever claims and rights (including without limitation warranties) related to the Equipment that Lessor may have against the Vendor. Lessee's sole remedy for the breach of any such warranty, indemnification or representation will be against the Vendor, and not against Lessor. Any such matter will not have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or availability of such warranties by the Vendor.

Section 31. Purchase Option. Lessee will have the option to purchase the Equipment, upon giving written notice to Lessor at least 30 days before the date of purchase, at the following times and upon the following terms:

(a) On any Rental Payment Date beginning _____, 20__, upon payment in full of the Rental Payment then due hereunder plus all other amounts due hereunder plus the then-applicable Purchase Price to Lessor; or

(b) In the event of substantial damage to or destruction or condemnation (other than by Lessee or any entity controlled by or otherwise affiliated with Lessee) of substantially all of the Equipment, on the day Lessee specifies as the purchase date in Lessee's notice to Lessor of its exercise of the purchase option, upon payment in full of the Rental Payment and all other amounts then due hereunder plus (i) the Purchase Price designated on the Payment Schedule for such purchase date if such purchase date is a Rental Payment Date or the Purchase Price for the immediately preceding Rental Payment Date if such purchase date is not a Rental Payment Date, and (ii) if such day is not a Rental Payment Date, an amount equal to the portion of the interest component of the Rental Payment scheduled to come due on the following Rental Payment Date accrued from the immediately preceding Rental Payment Date to such purchase date, computed on the basis of a 360-day year of twelve 30-day months; or

(c) In the event monies remain in any escrow fund established under an escrow agreement, upon receipt by the escrow agent under such escrow agreement of a duly executed certificate of acceptance and payment request identified as the final such request, the remaining monies in such escrow fund shall, first be applied to all reasonable fees and expenses incurred by such escrow agent, if applicable, in connection with such escrow fund as evidenced by its statement forwarded to Lessor and Lessee; and, second be paid to Lessor, for application against the outstanding principal components of Rental Payments, including prepayment of Rental Payments hereunder, unless Lessor directs that payment of such amount be made in such other manner that, in the opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes. If any such amount is applied against the outstanding principal components of Rental Payments, the Payment Schedule attached hereto will be revised accordingly; or

(d) In the event monies remain in any escrow fund upon final acceptance of the Equipment, such funds will be applied as set forth in **Section 5(c)** of such related escrow agreement.

Upon the exercise of the option to purchase set forth above, title to the Equipment will be vested in Lessee, free and clear of any claim by or through Lessor.

Section 32. Determination of Fair Purchase Price. Lessee and Lessor hereby agree and determine that the Rental Payments hereunder during the Original Term and each Renewal Term represent the fair

value of the use of the Equipment and that the amount required to exercise Lessee's option to purchase the Equipment pursuant to **Section 31** represents, as of the end of the Original Term or any Renewal Term, the fair purchase price of the Equipment. Lessee hereby determines that the Rental Payments do not exceed a reasonable amount so as to place Lessee under a practical economic compulsion to renew this Agreement or to exercise its option to purchase the Equipment hereunder. In making such determinations, Lessee and Lessor have given consideration to (a) the costs of the Equipment, (b) the uses and purposes for which the Equipment will be employed by Lessee, (c) the benefit to Lessee by reason of the acquisition and installation of the Equipment and the use of the Equipment pursuant to the terms and provisions of this Agreement, and (d) Lessee's option to purchase the Equipment. Lessee hereby determines and declares that the acquisition and installation of the Equipment and the leasing of the Equipment pursuant to this Agreement will result in equipment of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Equipment were performed by Lessee other than pursuant to this Agreement. Lessee hereby determines and declares that the Maximum Lease Term does not exceed the useful life of the Equipment.

Section 33. Assignment by Lessor. Lessor's interest in, to and under this Agreement and the Equipment may be assigned and reassigned in whole or in part to one or more assignees by Lessor without the necessity of obtaining the consent of Lessee; and such assignment, transfer or conveyance shall be made only to (i) an affiliate of Lessor or (ii) banks, insurance companies or other financial institutions or their affiliates, but no such assignment, transfer or conveyance shall be effective as against Lessee unless and until Lessor has delivered to Lessee written notice thereof that discloses the name(s) and address(es) of the assignee(s) or the Lease Servicer (as hereafter provided). Nothing herein shall limit the right of Lessor or its assignees to sell, assign or grant participation interests in this Agreement to one or more entities listed in (i) or (ii); provided that if such assignment is made pursuant to a participation, custodial or similar agreement under which multiple ownership interests in this Agreement are created, it shall establish a single entity, owner, servicer or other fiduciary or agent to act on behalf of all of the holders of such participation interests (herein referred to as the "Lease Servicer") with respect to the rights and interests of such holders hereunder, including the exercise of rights and remedies thereunder upon the occurrence of an event of default or an event of non-appropriation, and further including the maintenance of a register by which a record of the names and addresses of such holders as of any particular time is kept and agrees, upon request of Lessee, to furnish such information to Lessee. Lessee will retain all notices of assignment as a register of all assignees and will make all payments to the assignee, assignees or Lease Servicer designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interest in the Equipment and in this Agreement and agrees to the filing of financing statements with respect to the Equipment and this Agreement. Lessee will not have the right to and will not assert against any assignee any claim, counterclaim, defense, set-off or other right Lessee may have against Lessor.

Section 34. Assignment and Subleasing by Lessee. None of Lessee's right, title and interest in, to and under this Agreement and the Equipment may be assigned or encumbered by Lessee for any reason, except that Lessee may sublease all or part of the Equipment if Lessee obtains the prior written consent of Lessor and an opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to Lessor that such subleasing will not adversely affect the exclusion of the interest components of the Rental Payments from gross income for federal income tax purposes. Any such sublease of all or part of the Equipment will be subject to this Agreement and the rights of Lessor in, to and under this Agreement and the Equipment.

Section 35. Events of Default Defined. Subject to the provisions of **Section 8**, any of the following will be "Events of Default" under this Agreement:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder at the time specified herein;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in **Section 35(a)**, for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to Lessee by Lessor, unless Lessor will agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably

withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance will prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(d) Any provision of this Agreement will at any time for any reason cease to be valid and binding on Lessee, or will be declared to be null and void, or the validity or enforceability thereof will be contested by Lessee or any governmental agency or authority if the loss of such provision would materially adversely affect the rights or security of Lessor, or Lessee will deny that it has any further liability or obligation under this Agreement;

(e) Lessee will (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(f) An order, judgment or decree will be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree will continue unstayed and in effect for any period of 30 consecutive days.

Section 36. Remedies on Default. Whenever any Event of Default exists, Lessor will have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may declare all Rental Payments and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term to be due;

(b) With or without terminating this Agreement, Lessor may enter the premises where the Equipment is located and retake possession of the Equipment or require Lessee at Lessee's expense to promptly return any or all of the Equipment to the possession of Lessor at a place specified by Lessor, and sell or lease the Equipment or, for the account of Lessee, sublease the Equipment, holding Lessee liable for the difference between (i) the Rental Payments and other amounts payable by Lessee hereunder plus the applicable Purchase Price, and (ii) the net proceeds of any such sale, lease or sublease (after deducting all expenses of Lessor in exercising its remedies under this Agreement, including without limitation, all expenses of taking possession, storing, reconditioning and selling or leasing the Equipment and all brokerage, auctioneers' and attorneys' fees) provided that the amount of Lessee's liability under this subparagraph (b) shall not exceed the Rental Payments and other amounts otherwise due hereunder plus the remaining Rental Payments and other amounts payable by Lessee to the end of the then current Original Term or Renewal Term;

(c) Lessor may provide written notice of the occurrence of an Event of Default to the escrow agent under any related escrow agreement, and the escrow agent shall thereupon promptly remit to Lessor the entire balance of the escrow fund established thereunder; and

(d) Lessor may take whatever other action at law or in equity may appear necessary or desirable to enforce its rights as the owner of the Equipment.

In addition, Lessee will remain liable for all covenants and indemnities under this Agreement and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

Section 37. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy will be cumulative and will be in addition to every other remedy

given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Agreement it will not be necessary to give any notice, other than such notice as may be required in this Agreement.

Section 38. Notices. All notices, certificates or other communications hereunder will be sufficiently given and will be deemed given when delivered or mailed by registered mail, postage prepaid, to the parties at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto will designate in writing to the other for notices to such party), to any assignee at its address as it appears on the register maintained by Lessee.

Section 39. Binding Effect. This Agreement will inure to the benefit of and will be binding upon Lessor and Lessee and their respective successors and assigns.

Section 40. Severability. In the event any provision of this Agreement will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

Section 41. Entire Agreement. This Agreement constitutes the entire agreement between Lessor and Lessee.

Section 42. Amendments. This Agreement may be amended, changed or modified in any manner by written agreement of Lessor and Lessee. Any waiver of any provision of this Agreement or any right or remedy hereunder must be affirmatively and expressly made in writing and will not be implied from inaction, course of dealing or otherwise.

Section 43. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

Section 44. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 45. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State.

Section 46. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 47. Role of Lessor. Lessor is acting solely for its own loan account and not as a fiduciary for Lessee or in the capacity of broker, dealer, placement agent, municipal securities underwriter, municipal advisor or fiduciary. Lessor has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of Lessee (including to any financial advisor or any placement agent engaged by Lessee) with respect to the structuring, issuance, sale or delivery of this Agreement. Lessor has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to Lessee with respect to the transactions relating to the structuring, issuance, sale or delivery of this Agreement and the discussions, undertakings and procedures leading thereto. Each of Lessee, its financial advisor and its placement agent has sought and shall seek and obtain financial, legal (including securities law), tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters and compliance with legal requirements applicable to such parties) with respect to this Agreement from its own financial, legal, tax and other advisors (and not from the undersigned or its affiliates) to the extent that Lessee, its financial advisor or its placement agent desires, should or needs to obtain such advice. The undersigned expresses no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable

to any other party, including but not limited to Lessee's financial advisor or placement agent, or the correctness of any legal interpretation made by counsel to any other party, including but not limited to counsel to Lessee's financial advisor or placement agent, with respect to any such matters. The transactions between Lessee and Lessor are arm's length, commercial transactions in which Lessor is acting and has acted solely as a principal and for its own interest and Lessor has not made recommendations to Lessee with respect to the transactions relating to this Agreement.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their corporate names by their duly authorized officers as of the date first above written.

CAPITAL ONE PUBLIC FUNDING, LLC

By: _____
Name: _____
Title: _____
Address: 275 Broadhollow Road, 4th Floor
Melville, NY 11747

CITY OF EL CERRITO, CALIFORNIA

By: _____
Name: _____
Title: _____
Address: 10890 San Pablo Ave.
El Cerrito, CA 94530

CERTIFICATION

I, the undersigned, do hereby certify (i) that the officer of Lessee who executed the foregoing Agreement on behalf of Lessee and whose genuine signature appears thereon, is the duly qualified and acting officer of Lessee as stated beneath his or her signature and has been authorized to execute the foregoing Agreement on behalf of Lessee, and (ii) that the fiscal year of Lessee is from July 1 to June 30.

DATED: [Dated Date].

By: _____

Name: _____

Title: _____

EXHIBIT A TO EQUIPMENT LEASE PURCHASE AGREEMENT

EQUIPMENT SCHEDULE

Equipment Description:
The Equipment consists of two (2) 28 C.Y. McNeilus Side-Loader Trash Collection Bodies on Peterbilt chassis, together with any and all replacement parts, additions, repairs, modifications, attachments and accessories thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or proceeds thereof.

Equipment Location:
The Equipment will primarily be located at the following address:

_____
_____
_____

Please provide address where the trucks will primarily be located.

Vendor:
The Vendor is _____.

This Equipment Schedule shall be deemed to be supplemented by the descriptions of the Equipment included in the Certificate of Acceptance and Payment Requests submitted to BOKF, N.A., as escrow agent, pursuant to the Escrow Agreement dated as of [Dated Date], among Lessor, Lessee and BOKF, N.A., as escrow agent, which descriptions shall be deemed to be incorporated herein.

EXHIBIT B TO EQUIPMENT LEASE PURCHASE AGREEMENT

PAYMENT SCHEDULE

Principal Amount: $[551,498]

Interest Rate: [2.855]%

Rental payments will be made in accordance with **Section 9** and this Payment Schedule.

Rental Payment Date	Total Rental Payment	Interest Portion	Principal Portion	Purchase Price

[To Come.]

CITY OF EL CERRITO, CALIFORNIA

By: _____

Name: _____

Title: _____

ESCROW AGREEMENT

LESSOR:
CAPITAL ONE PUBLIC FUNDING, LLC
275 Broadhollow Road, 4th Floor
Melville, NY 11747

ESCROW AGENT:
BOKF, N.A.
200 N. Broadway, Suite 1710
St. Louis, MO 63102
Attention: Corporate Trust Department

LESSEE:
CITY OF EL CERRITO, CALIFORNIA
10890 San Pablo Ave.
El Cerrito, CA 94530

THIS ESCROW AGREEMENT (this "Escrow Agreement") dated [Dated Date] is entered into by and among Capital One Public Funding, LLC ("Lessor"), the City of El Cerrito, California ("Lessee"), and BOKF, N.A. (the "Escrow Agent").

Lessor and Lessee have heretofore entered into that certain Equipment Lease Purchase Agreement dated [Dated Date] (the "Agreement"). The Agreement contemplates that certain Equipment described therein (the "Equipment") is to be acquired from the vendor(s) or manufacturer(s) thereof.

After acceptance of the Equipment by Lessee, the Equipment is to be leased by Lessor to Lessee pursuant to the terms of the Agreement.

The Agreement contemplates that Lessor will deposit with the Escrow Agent cash in the amount of $[551,498], to be held in escrow by the Escrow Agent and applied on the express terms and conditions set forth herein. Such deposit, together with all interest and additions received with respect thereto (hereinafter, the "Escrow Fund"), is to be applied from time to time to pay certain costs of acquiring the Equipment (a portion of which may, if required, be paid prior to final acceptance of the Equipment by Lessee and, if requested by Lessee, to pay certain costs of entering into the Agreement).

The parties desire to set forth the terms on which the escrow is to be created and to establish the rights and responsibilities of the parties hereto.

NOW, THEREFORE, the parties agree as follows:

1. The Escrow Agent hereby agrees to serve as escrow agent upon the terms and conditions set forth herein. The Escrow Agent agrees that the Escrow Fund shall be held irrevocably in trust for the account and benefit of Lessee and Lessor and all interest earned with respect to the Escrow Fund shall accrue to the benefit of Lessee and shall be applied as expressly set forth herein.

To the limited extent required to perfect the security interest granted by Lessee to Lessor in the cash and negotiable instruments from time to time comprising the Escrow Fund, Lessor hereby appoints the Escrow Agent as its security agent, and the Escrow Agent hereby accepts the appointment as security agent, and agrees to hold physical possession of such cash and negotiable instruments on behalf of Lessor.

2. On such day as determined to the mutual satisfaction of the parties (the "Commencement Date"), Lessor shall deposit with the Escrow Agent cash in the amount of $[551,498] to be held by the Escrow Agent on the express terms and conditions set forth herein. The Escrow Agent agrees to accept the deposit of the Escrow Fund by Lessor, and further agrees to hold the amount so deposited together with all interest and other additions received with respect thereto in escrow on the express terms and conditions set forth herein.

3. The Escrow Agent shall at all times segregate the Escrow Fund into an account maintained for that express purpose, which shall be clearly identified on the books and records of the Escrow Agent as being held in its capacity as Escrow Agent. Securities and other negotiable instruments comprising the Escrow Fund from time to time shall be held or registered in the name of the Escrow Agent (or its

nominee). The Escrow Fund shall not, to the extent permitted by applicable law, be subject to levy or attachment or lien by or for the benefit of any creditor of any of the parties hereto (except with respect to the security interest therein held by Lessor).

4. Lessee hereby directs the Escrow Agent to invest the cash comprising the Escrow Fund from time to time in Qualified Investments (as hereinafter defined). Interest or other amounts earned and received by the Escrow Agent with respect to the Escrow Fund shall be deposited in and comprise a part of the Escrow Fund. No investment shall be made that would cause the Agreement to be deemed to be an arbitrage bond within the meaning of Section 148(a) of the Internal Revenue Code of 1986, as amended. For the purpose of this paragraph 4, the term "Qualified Investments" means the _____ *[To be determined by Lessee and Escrow Agent]* or, in the event such fund is not at the time available, such other investments as Lessee may specify in writing, to the extent the same are at the time legal for investment of the funds being invested.

5. Lessor and Lessee hereby authorize the Escrow Agent to take the following actions with respect to the Escrow Fund:

a. From time to time, the Escrow Agent shall pay the vendor or manufacturer of the Equipment or Lessee or other payee upon receipt of the following: (a) a duly executed Certificate of Acceptance and Payment Request in the form attached as **Exhibit A** to this Escrow Agreement approved for payment by Lessor (or its assignee, if any), (b) the vendor(s) or manufacturer(s) invoice(s) specifying the acquisition price of the Equipment described in the requisition request, (c) in the event that certain costs of entering into this Agreement are described in the requisition request, invoice(s) or other evidence specifying the amount(s) of such costs, and (d) any additional documentation required by Lessor.

b. In the event that Lessor provides to the Escrow Agent written notice of the occurrence of an Event of Default or a nonappropriation by Lessee under the Agreement, the Escrow Agent shall thereupon promptly remit to Lessor the entire balance of the Escrow Fund.

c. Upon receipt by the Escrow Agent of a duly executed Certificate of Acceptance and Payment Request identified as the final such request, the remaining monies in the Escrow Fund shall, *first* be applied to all reasonable fees and expenses incurred by the Escrow Agent, if applicable, in connection herewith as evidenced by its statement forwarded to Lessor and Lessee; and, *second* be paid to Lessor, for application against the outstanding principal components of Rental Payments (as defined in the Agreement), including prepayment of Rental Payments under the Agreement, as provided therein, unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes. If any such amount is used to prepay principal, the Payment Schedule attached to the Agreement will be revised accordingly as specified by Lessor.

6. The reasonable fees and expenses of the Escrow Agent incurred in connection herewith shall be the responsibility of Lessor and are herein defined as the sum of $1,200, for escrow services as described herein; plus any extraordinary expenses incurred by the Escrow Agent at the request of Lessor or Lessee.

7. The Escrow Agent shall have no liability for acting upon any written instruction presented by Lessee and Lessor in connection with this Escrow Agreement which the Escrow Agent in good faith believes to be genuine. Furthermore, the Escrow Agent shall not be liable for any act or omission in connection with this Escrow Agreement except for its own gross negligence, willful misconduct or bad faith. The Escrow Agent shall not be liable for any loss or diminution in value of the Escrow Fund as a result of the investment decisions made pursuant to Section 4, Qualified Investments at the direction of Lessee.

8. To the extent authorized by law, Lessee hereby agrees to indemnify and save the Escrow Agent harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder and which are not due to the Escrow Agent's gross negligence or willful misconduct.

No indemnification will be made under this Section or elsewhere in this Escrow Agreement for damages arising solely out of gross negligence, willful misconduct or bad faith by the Escrow Agent, its officers, agents, employees, successors or assigns.

9. The Escrow Agent may at any time resign by giving at least 30 days' prior written notice to Lessee and Lessor, but such resignation shall not take effect until the appointment of the successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, the Escrow Agent may be removed at any time, with or without cause, by instrument in writing executed by Lessor and Lessee. Such notice shall set forth the effective date of the removal. In the event of any resignation or removal of the Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent.

Upon the effective date of resignation or removal, the Escrow Agent will transfer the Escrow Fund then held by it to the successor Escrow Agent selected by Lessor and Lessee.

10. This Escrow Agreement and the Escrow Fund established hereunder shall terminate upon receipt by the Escrow Agent of the written notice from Lessor specified in Section 5(b) or Section 5(c) hereof.

11. All notices hereunder shall be in writing, sent by certified mail, return receipt requested, or by mutually recognized overnight carrier addressed to the other party at its respective address shown on page 1 of this Escrow Agreement or at such other address as such party shall from time to time designate in writing to the other parties; and shall be effective on the date or receipt.

12. This Escrow Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. No rights or obligations of the Escrow Agent under this Escrow Agreement may be assigned without the prior written consent of Lessor and Lessee.

13. This Escrow Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no waiver, consent, modification or change of terms hereof shall bind any party unless in writing signed by all parties.

14. The Escrow Agent may employ agents, attorneys and accountants in connection with its duties hereunder and shall not be liable for any action taken or omitted in good faith in accordance with the advice of counsel, accountants or other skilled persons.

15. This Escrow Agreement shall be governed by and be construed and interpreted in accordance with the internal laws of the State of California.

16. This Escrow Agreement may be executed in several counterparts, and each counterpart so executed will be an original. In addition, the parties agree that the transaction described herein may be conducted and related documents may be received, sent or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

17. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Escrow Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed as of the day and year first above set forth.

LESSOR: CAPITAL ONE PUBLIC FUNDING, LLC

By: _____

Name: _____

Title: _____

LESSEE: CITY OF EL CERRITO, CALIFORNIA

By: _____

Name: _____

Title: _____

ESCROW AGENT: BOKF, N.A.

By: _____

Name: _____

Title: _____

EXHIBIT A

CERTIFICATE OF ACCEPTANCE AND PAYMENT REQUEST

BOKF, N.A. (the "Escrow Agent"), as escrow agent under that certain Escrow Agreement dated [Dated Date] (the "Escrow Agreement"), by and among the City of El Cerrito, California ("Lessee"), Capital One Public Funding, LLC ("Lessor") and the Escrow Agent, is hereby requested to pay from the Escrow Fund established and maintained thereunder, the amount set forth below to the named payee(s). The amount shown is due and payable under a purchase order or contract (or has been paid by and not previously reimbursed to Lessee). The equipment and costs described below are (i) part or all of the Equipment listed in the Equipment Schedule to that certain Equipment Lease Purchase Agreement dated [Dated Date] (the "Agreement"), between Lessor and Lessee, or (ii) costs incurred in entering into the Agreement:

QUANTITY	DESCRIPTION OF EQUIPMENT OR FINANCING COST	AMOUNT	PAYEE*

Lessee hereby certifies and represents to and agrees with Lessor as follows: (i) the Equipment described above has been delivered and installed at the location(s) set forth in the Equipment Schedule; (ii) a present need exists for such Equipment which need is not temporary or expected to diminish in the near future; (iii) such Equipment is essential to and will be used by Lessee only for the purpose of performing one or more governmental functions of Lessee consistent with the permissible scope of Lessee's authority; (iv) the estimated useful life of such Equipment based upon the manufacturer's representations and Lessee's projected needs is not less than the term of lease with respect to such Equipment; (v) Lessee has conducted such inspection and/or testing of such Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts such Equipment for all purposes as of the date of this Certificate; (vi) such Equipment is covered by insurance in the types and amounts required by the Agreement; (vii) no Event of Default or nonappropriation, as such terms are defined in the Agreement, and no event which with the giving of notice or lapse of time or both, would become an Event of Default or nonappropriation, has occurred and is continuing on the date hereof; and (viii) sufficient funds have been appropriated by Lessee for the payment of all rental payments due under the Agreement during Lessee's current fiscal year.

Based on the foregoing, Lessor is hereby authorized and directed to fund the acquisition of the Equipment set forth in the Agreement by paying, or causing to be paid, the manufacturer(s)/vendor(s), Lessee or other payee(s) the amounts set forth on the attached invoices from the Escrow Fund held under the Escrow Agreement in accordance with its terms.

The following documents are attached hereto and made a part hereof: (a) Original Invoice(s); and/or (b) Copies of Certificate(s) of Origin, when applicable, designating Lessor as lienholder if any part of the Equipment consists of motor vehicles, and evidence of filing.

IF REQUEST IS FOR REIMBURSEMENT, CHECK HERE ☐. Lessee paid an invoice prior to the commencement date identified in the Equipment Schedule and is requesting reimbursement for such payment. A copy of evidence of such payment together with a copy of Lessee's Declaration of Official Intent and other evidence that Lessee has satisfied the requirements for reimbursement set forth in Treas. Reg. 1.150-2 is hereby attached.

* If required, a current IRS Form W-9 for the payee is attached or an IRS Form W-9 has been previously submitted to the Escrow Agent.

IF REQUEST IS FINAL REQUEST, CHECK HERE ☐. Lessee hereby certifies that the items of Equipment described above, together with the items of Equipment described in and accepted by Certificates of Acceptance and Payment Requests previously filed by Lessee with Lessor constitutes all of the Equipment subject to the Equipment Schedule.

Date: _____, 20__.

Approved for Payment:

CAPITAL ONE PUBLIC FUNDING, LLC, AS LESSOR

By: _____

Name: _____

Title: _____

CITY OF EL CERRITO, CALIFORNIA, AS LESSEE

By: _____

Name: _____

Title: _____

LESSEE'S CLOSING CERTIFICATE

Re: Equipment Lease Purchase Agreement dated as of [Dated Date], between the City of El Cerrito, California, as lessee ("Lessee"), and Capital One Public Funding, LLC, as lessor ("Lessor") (the "Agreement")

I, the undersigned, the duly appointed, qualified and acting _____ **(Clerk or Secretary)** of the above-captioned Lessee do hereby certify as of [Dated Date], as follows:

(1) Lessee did, at a _____ **(regular or special)** meeting of the governing body of Lessee held _____, 2017, by motion duly made, seconded and carried, in accordance with all requirements of law, approve and authorize the execution and delivery of the above-referenced Agreement and the related escrow agreement, on its behalf by the following named representative of Lessee:

_____

Printed Name Title Signature

[This signature line to be signed by person who executed the Agreement and the related escrow agreement on behalf of Lessee.]

(2) The above-named representative of Lessee held at the time of such authorization and holds at the present time the office designated above and the signature set forth opposite his or her name is the true and correct specimen of his or her genuine signature.

(3) At the meeting described in (1) above, the representative of Lessee named in (1) above and the officers or employees of Lessee from time to time holding the offices or titles set forth below were designated as authorized representatives of Lessee for the Agreement and the escrow agreement (any of them acting alone), and each of the persons listed below is the current holder of the office or title indicated and the signature set forth opposite name of each of them is the true and correct specimen of his or her genuine signature:

Title	Printed Name	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____

(4) The meeting of the governing body of Lessee at which the Agreement was approved and authorized to be executed was duly called, regularly convened and attended throughout by the requisite majority of the members thereof or by other appropriate official approval and that the action approving the Agreement and authorizing the execution thereof has not been altered or rescinded. Attached hereto as **Exhibit A** is a true and correct copy of the resolution or other documents constituting such official action.

(5) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof.

(6) All insurance required in accordance with the Agreement is currently maintained by Lessee.

(7) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the

Original Term and to meet its other obligations for the Original Term (as such terms are defined in the Agreement), and such funds have not been expended for other purposes.

(8) There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Agreement or the interest of Lessor or its assigns, as the case may be, in the Equipment.

(9) The Equipment has not been the subject of a referendum that failed to receive the approval of the voters of Lessee within the preceding four years.

(10) Since June 30, 2016 (date of Lessee's last audited financial statements), Lessee has not entered into any direct or contingent bond debt, lease, installment purchase or loan obligation, other than those listed on **Exhibit B** attached hereto.

(11) [Lessee initial here if the following provision IS applicable: _____]

[Lessee initial here if the following provision IS NOT applicable: _____]

Lessee hereby designates the Agreement as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code. The aggregate face amount of all tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by Lessee and all subordinate entities thereof during the current calendar year is not reasonably expected to exceed $10,000,000. Lessee and all subordinate entities thereof will not issue in excess of $10,000,000 of qualified tax-exempt obligations (including the Agreement but excluding private activity bonds other than qualified 501(c)(3) bonds) during the current calendar year without first obtaining an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to Lessor that the designation of the Agreement as a "qualified tax-exempt obligation" will not be adversely affected.

(12) The correct billing address for Rental Payments is as follows:

City of El Cerrito, California
10890 San Pablo Ave.
El Cerrito, CA 94530
Attention: _____

IN WITNESS WHEREOF, I hereunto set my hand and the seal of the governing body of Lessee the day and year first above written.

By: _____
Name: _____
Title: _____

Subscribed and affirmed before me this ____ day of _____, 2017.

Signed: _____

My commission expires: _____

(NOTARY SEAL)

EXHIBIT A TO
LESSEE'S CLOSING CERTIFICATE

COPY OF AUTHORIZATION DOCUMENT
(per Section 4)

[Please attach copy of Lessee's authorizing resolution.]

EXHIBIT B TO
LESSEE'S CLOSING CERTIFICATE

LIST OF OUTSTANDING OBLIGATIONS SINCE JUNE 30, 2016
(DATE OF LESSEE'S LAST AUDITED FINANCIAL STATEMENTS)
(per Section 10)

Please list all direct or contingent bond debt, lease, installment purchase or loan obligations (including estimated outstanding principal amount) that Lessee has entered into since June 30, 2016. If this statement is not applicable, please state "None."

_____

_____

_____

ESSENTIAL USE CERTIFICATE

[Dated Date]

Capital One Public Funding, LLC
275 Broadhollow Road, 4th Floor
Melville, NY 11747

Re: Equipment Lease Purchase Agreement dated as of [Dated Date], between the City of El Cerrito, California, as lessee ("Lessee"), and Capital One Public Funding, LLC, as lessor ("Lessor") (the "Agreement")

Ladies and Gentlemen:

I, _____, a duly elected, appointed, or designated representative of the City of El Cerrito, California ("Lessee"), am qualified to answer the questions set forth below regarding the Equipment to be acquired by Lessee in connection with the above-referenced Agreement:

1. *What is the specific use of the Equipment?*

2. *What increased capabilities will the Equipment provide?*

3. *Why is the Equipment essential to your ability to deliver governmental services?*

4. *Does the Equipment replace existing equipment?*
   (If so, please explain why you are replacing the existing equipment)

5. *Why did you choose this specific Equipment?*

6. *For how many years do you expect to utilize the Equipment?*

7. *What revenue source will be utilized to make Rental Payments due under the Agreement?*

Very truly yours,

CITY OF EL CERRITO, CALIFORNIA,

By: _____

Name: _____

Title: _____

[OPINION OF LESSEE COUNSEL—PLEASE FURNISH ON ATTORNEY'S LETTERHEAD]

[Dated Date]

Capital One Public Funding, LLC
275 Broadhollow Road, 4th Floor
Melville, NY 11747

Re: Equipment Lease Purchase Agreement dated as of [Dated Date], between the City of El Cerrito, California, as lessee ("Lessee"), and Capital One Public Funding, LLC, as lessor ("Lessor") (the "Agreement")

Ladies and Gentlemen:

As legal counsel to Lessee, I have examined (a) an executed counterpart of the Agreement, which, among other things, provides for the lease by Lessee from Lessor of the Equipment, (b) an executed counterpart of the Escrow Agreement, dated as of [Dated Date] (the "Escrow Agreement"), among Lessor, Lessee and BOKF, N.A., as Escrow Agent, (c) an executed copy of the resolution of Lessee which, among other things, authorizes Lessee to execute the Agreement and the Escrow Agreement and (d) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions.

Based on the foregoing, I am of the following opinions:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State of California, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power.

2. Lessee has the requisite power and authority to purchase the Equipment and to execute and deliver the Agreement and the Escrow Agreement and to perform its obligations under the Agreement and the Escrow Agreement.

3. The Agreement and the Escrow Agreement and the other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of Lessee, and the Agreement and the Escrow Agreement are valid and binding obligations of Lessee enforceable in accordance with their respective terms.

4. The authorization, approval and execution of the Agreement and the Escrow Agreement and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state and federal laws.

5. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Agreement and the Escrow Agreement or the security interest of Lessor or its assigns, as the case may be, in the Equipment.

6. The Equipment to be leased pursuant to the Agreement constitutes personal property and when subjected to use by Lessee will not be or become a fixture under applicable law.

7. The authorization, execution, delivery and performance of the Agreement and the Escrow Agreement by Lessee do not require submission to, approval of, or other action by any governmental authority or agency which action has not been taken and is final and non-appealable.

All capitalized terms herein will have the same meanings as in the Agreement. Lessor, its successors and assigns and any counsel rendering an opinion on the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation are entitled to rely on this opinion.

Very truly yours,

8038-G QUESTIONNAIRE FOR COMPLETION BY LESSEE

(Lessor Counsel will prepare and file IRS Form 8038-G Post-Closing)

Name of Lessee: City of El Cerrito, California
Address of Lessee: 10890 San Pablo Ave., El Cerrito, CA 94530
Contact Person: _____
Telephone number: (___) _____
Email address: _____
Lessee's FEIN: _____

GENERAL

The Form 8038-G (the form used by Lessees to report the issuance of a tax-exempt obligation) asks specific questions about written procedures to: (1) monitor private use of assets financed with proceeds of a tax-exempt obligation and, as necessary, to take remedial actions to correct any violations of federal tax restrictions on the use of financed assets; and (2) monitor the yield on the investment of gross proceeds of tax-exempt obligations and, as necessary, make payments of arbitrage rebate earned to the United States. In addition, the Form 8038-G asks Lessees to report whether any proceeds will be used to reimburse the Lessee for an expenditure paid prior to issuance. This questionnaire is designed to obtain the information necessary to complete Form 8038-G upon execution and delivery of the Lease.

At this time, the consequences of not having adopted written procedures to monitor private use of financed assets and yield on the investment of gross proceeds of tax-exempt obligations are unknown. Further information is available at http://www.gilmorebell.com under the "Continuing Compliance" header. If you have any questions, please consult your regular bond or legal counsel.

Part 1 – Written Tax Compliance Procedures

Note: If either of these questions is not answered, we will assume the Lessee has not adopted the described procedures.

1. Has the Lessee established written procedures designed to monitor compliance with federal tax restrictions for the term of the lease? Among other matters, the written procedures should identify a particular individual within Lessee's organization to monitor compliance with the federal tax requirements related to use of the financed assets and describe actions to be taken in the event failure to comply with federal tax restrictions is contemplated or discovered.
   Yes ___ No ___ If Yes, please attach a copy.

2. Has the Lessee established written procedures to monitor the yield on the investment of proceeds of the Lease on deposit in an escrow account or similar fund prior to being spent and to ensure that any positive arbitrage rebate earned is paid to the United States?
   Yes ___ No ___ If Yes, please attach a copy.

Part 2 – Reimbursement of Prior Expenditures

1. As of the funding date, were any of the proceeds of the Lease used to reimburse Lessee for expenditures paid to acquire the financed assets prior to the funding date of the Lease? **Yes ___ No ___** *If yes, please attach a spreadsheet listing the expenditure(s) together with the date paid, vendor paid and purpose of the expenditure or other proof of the expenditure(s) containing this information (i.e. invoices, receipts, cancelled checks).*

   Items 2 and 3 need to be completed ONLY if the answer to item 1 above is YES.

2. Please attach a copy of Lessee's resolution of intent to finance the financed assets, which includes date of adoption.

3. What is the amount of proceeds of the Lease reimbursed to Lessee? $_____

CITY OF EL CERRITO, CALIFORNIA

BY: _____
NAME: _____
TITLE: _____
DATE: _____

- INSURANCE CERTIFICATES (PROPERTY AND LIABILITY) RESPECTING THE EQUIPMENT WITH THE FOLLOWING PARTY SHOWN AS LOSS PAYEE AND ADDITIONAL INSURED:

  Capital One Public Funding, LLC and its successors and assigns
  275 Broadhollow Road, 4th Floor
  Melville, NY 11747

- APPLICATION FOR TITLE RESPECTING THE EQUIPMENT WITH THE FOLLOWING PARTY SHOWN AS LIENHOLDER:

  Capital One Public Funding, LLC and its successors and assigns
  275 Broadhollow Road, 4th Floor
  Melville, NY 11747

[To be provided by Lessee before money is withdrawn from the Escrow Fund]

UCC-1 FINANCING STATEMENT

[To be prepared and filed by Lessor Counsel.]

LENDER CERTIFICATE

[To Come.]

LESSEE'S FORM W-9

[For completion and signature by Lessee.]

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only **one** of the following seven boxes:

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____

Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

Print or type
See Specific Instructions on page 2.

5 Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

6 City, state, and ZIP code

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number

			–			–				

or

Employer identification number

		–						

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here Signature of U.S. person ▶ Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

DISTRIBUTION LIST

[To be prepared by Lessor Counsel.]

Agenda Item No. 4(D)
Attachment 5

McNeilus Truck and Manufacturing Inc.
Stockton, CA 95215
2099314282

Quote Number: 0OE201706252124 **Rev: 2**

Catalog: 17.2.17A
Printed: 11/08/2017

Model 2848: ZR Zero Radius ASL 28 yard mounted on Peterbilt 520 chassis

Quoted/Sold To:

City of El Cerrito
10890 San Pablo Ave
El Cerrito, CA94530
USA

Delivery Point:

City of El Cerrito
7501 Schmidt Lane
El Cerrito, CA 94530
USA

Total Configured Price	$247,520
Surcharge	0
Specials	0
FET	Exempt
Freight	4,096
Extended Warranties	Not included
Miscellaneous	0
Estimated Sales Tax @ 9.75%	24,133
Total Unit Price	$275,749
Quantity	**2**
Extended Price	$551,498
Required Down Payment	None, City Council Resolution

Quantity Discount
Pricing includes all applicable discounts for quantity quoted. Change of quantity ordered may result in revision of price.

Freight Charges
Freight charge is estimated based upon fuel cost at the time of quotation. The charge is subject to change at the time of delivery. Shipping arrangements (when applicable) are made for the convenience of the customer. Seller assumes no responsibility for the equipment in transport.

Taxes
No state or local taxes are included in the prices quoted herein. Any applicable state and local taxes must be added to these prices and paid directly by the purchaser.

Specifications
All specifications are subject to change without notice. Several factors beyond the control of the chassis OEM or McNeilus may result in the substitution of components of equal or greater quality.

Special Options
Special options are subject to engineering application approval.

Terms & Conditions
This quotation assumes and is subject to the standard terms and conditions of London Machinery, Inc, McNeilus Truck and Manufacturing Co. and Oshkosh Corporation, including limitations of warranty.

This quotation is subject to change after 12/25/2017.
Any order is contingent upon acceptance by McNeilus Truck and Manufacturing Company.

Estimated Delivery 240 days after receipt of order

Payment Terms
Due upon receipt

Quotation Currency
All prices are in US Dollars (USD)

Acceptance
By signing and returning this document, you are indicating that you have read and approved the above specification and are authorizing the purchase.

Please return this signed quotation to your McNeilus representative.

If you have any questions, please feel free to contact us.

_____

Authorized Signature **Date**

Corporation Classification: Restricted

McNeilus Truck and Manufacturing Inc.
Stockton, CA 95215
2099314282

Quote Number: 0OE201706252124
Rev: 1

Catalog: 17.2.17A
Printed: 11/08/2017

Chassis Type: McNeilus furnished
Chassis Specification: Peterbilt 520

MODEL
- 2018 Peterbilt 520 LH and RH Steering Chassis
  See cab configuration options

GVW RATING
- 60,000 lbs

ENGINE
- Paccar PX-9 350 HP@2000 RPM 1150 lb-ft. @ 1400 RPM

TRANSMISSION & EQUIPMENT
- TRANSMISSION: Allison 3000 RDS-P 6-Speed Automatic

FRONT AXLE
- FRONT AXLE, Dana Spicer D2000F 20,000 lb Capacity
- FRONT SUSPENSION, 20,000 lb. Taperleaf Springs

REAR AXLE
- REAR AXLE: Meritor MT40-14X 40,000 lb. Capacity.
- Rear Axle Ratio: 6.14
- REAR SUSPENSION, Hendrickson Haulmaax HMX400 – 40,000 lb. Capacity

FRONT TIRES
- 315/80R22.5 Bridgestone M860A
- 22.5 x 9 Alcoa aluminum wheels

REAR DRIVE TIRES
- 315/80R22.5 Bridgestone M860A
- 22.5 x 9 Alcoa aluminum wheels

FRAME
- FRAME: 10-3/4in Steel Rails
  Central point air drain valves

FUEL
- 80 Gal. Aluminum 26in.
- DEF Tank

CAB INTERIOR
- AIR CONDITIONING, Integral with Heater
- RADIO: AM/FM/CD w/ Bluetooth
- Heated and Motorized Mirrors

See attached detailed Peterbilt chassis specifications.

Left and Right side sit down steering

McNeilus model 2848 ， 28 yd ZR automated side loader mounted on Peterbilt chassis model 520

NOTICE OF AWARD TO MCNEILUS TRUCK AND MANUFACTURING
Request for Proposal #112014
MOBILE REFUSE COLLECTION VEHICLES WITH RELATED EQUIPMENT, ACCESSORIES AND SERVICES

NJPA Contract number 112014 - MCN

Corporation Classification: Restricted

McNeilus Truck and Manufacturing Inc.
Stockton, CA 95215
2099314282

Quote Number: 0OE201706252124
Rev: 1

Catalog: 17.2.17A
Printed: 11/08/2017

Other Chassis Features:

Chassis

AERO	Mirrors	Aero Style

Configuration

DSL	Fuel Type	Diesel
1425606	Layout	Chassis Layout: 1425606
CS	Steering	Curb Side Seated Steering

Summary

[]	Axle, Rear	Tandem rear drive axle
N	Camera Cables	Camera Cables **Installed by McNeilus**
GT300	Engine	Engine Paccar PX-9 350 HP
DC	Mount Location	Dodge Center
REMCONCV	PTO Type	Remote Constant Mesh with CV Driveshaft Street Side
HHM	Rear Suspension	Hendrickson Haulmaax HMX 400
5	Safety	Fire Extinguisher , 5 lb.
Y	Safety	Safety Triangle Kit in Cab
ELECT	Throttle	Electronic
Y	Transmission	Transmission / PTO Guard
A3		
	Transmission	Allison 3000 RDS

McNeilus Body Features:

Arm

Y	Alarm	Alarm, Arm Not Stowed
N	Miscellaneous	No Arm Swing
S	Miscellaneous	Can Counter, in Digital Display
STD	Miscellaneous	Fingers: Standard
S	Miscellaneous	Grabber Lock (when arm raised)
ZR96	Model	ZR96 Zero Radius Arm, **12 ft. Reach**
Y	Paint	Automated Arm: WM Yellow

Body

28L	Capacity	**28 yd ZR**
HD	Floor	Heavy Duty Body Floor (3/16)
DS	Miscellaneous	Cleanout Door Spill Trays Both Sides
Y	Miscellaneous	Hinged Cover for Packer Follower

Corporation Classification: Restricted

McNeilus Truck and Manufacturing Inc.
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Y	Miscellaneous	XWear Overlay on Packer Shoes and Track
	Model	Model 2848: ZR Zero Radius ASL 28 yard

Cameras

RC	Backup	Backup Camera, Center of Tailgate
32GB	DVR	SSP DVR: 32GB SD Card
CA	Hopper	Hopper Camera, Street Side Rear
CHS	Monitor	Monitor Mount Center Overhead, Swivel
TG	Monitor	Backup Camera Displayed in Reverse
	System Info	SSV Extreme 9" color monitor, 5 port, 5 cameras

Controls

RJD	Inside	Rocker Switches, Curbside Door plus CS Joystick
COMP	Inside	ZR Composite Control Box

Hopper

3/16	Floor with liner	**3/16" AR400 Hopper Floor with 3/16" hopper floor liner**
HC	Miscellaneous	Hopper Cover Panel

Hydraulics

SCHR	Filtration	Hydraulic Filter, Schroeder, in Reservoir
SC	Miscellaneous	Schroeder LF-7611 Hyd Sample Port
Y	Other	Hydraulic Service Lift
Y	Other	Hyd Temp Sensor In Res
N	Other	Hydraulic Warm-up System
Y	Other	Hydraulic Cooler
MAIL	Other	Hydraulic Cylinders, Mailhot
X	Other	Required Hydraulic Hose Wrap Only
Y	Other	Warning Light, Low Hydraulic Oil
FRAME	Other	50 Gal Steel Frm Mounted Reservoir
PISTON	Pump	Hydraulic Pump, Piston Type

Lighting

1L	Arm	Arm Work Light: Fender Mounted, LED
L	Fender	Fender Lights, Rear Facing, LED
TGP	Flashing Lights	Smart Lights, Four 4" amber flashing LED lights on TG corners

Corporation Classification: Restricted

McNeilus Truck and Manufacturing Inc.
Stockton, CA 95215
2099314282

Quote Number: 0OE201706252124
Rev: 1

Catalog: 17.2.17A
Printed: 11/08/2017

1L	Hopper	Hopper Work Lights: 1 LED
L	Tailgate	Assist Lights, Backup Camera, LED
ECON	Tailgate	Center Stop Light
LEDE	Type, General	LED, McNeilus Standard (where applicable)

Miscellaneous

MTM	Other	Mudflaps, Rear: Black w/McNeilus Logo
DASH	Other	Dash RAM mounted IFM Display
Y	Other	Guard, Hopper Light/Camera
CSBM	Safety	Extinguisher Bracket, Body Mounted, Curbside
ECCO	Safety	Ecco Dual Tone Back-up Alarm
ECCO	Safety	Driveshaft Motion Detector, ECCO
5 GAL	Safety	Spill Kit on Body, 5 Gallon
CS	Safety	Spill Kit Mounted on Curbside of Body

Paint

TEMP	Category	Standard template
1	Colors	One color
1M	Configuration	Paint Body: One Color
Y	DOT Tape	Yes
ES	Miscellaneous	English / Spanish Decals and Markings

Tailgate

N	Bumper	Tailgate Bumper Width: 72"
HARD	Options	Hard Rubber Seal
10AR200	Side	Tailgate Side Panel, 10 ga. AR200

Paint Instructions:

Paint Type: Standard template
Layout #:
# of Colors: 1 Blue per City Specs
Color 1:
Color 2:
Color 3:
Color 4:

Cab/Hood Paint: No
Color 1:
Color 2:
Frame Paint: No Frame Paint
Wheel Paint: No
Color 1:
Bumper Paint: No Bumper Paint
Body Clearcoat:

Corporation Classification: Restricted

McNeilus Truck and Manufacturing Inc.
Stockton, CA 95215
2099314282

Quote Number: 0OE201706252124
Rev: 1

Catalog: 17.2.17A
Printed: 11/08/2017

Special Features and Options:

- Shovel and broom holders on curbside of body
- 32” x 96” sign frames on sides of body
- “Frequent stops” warning graphics at back of body

Extended Warranties:

Body	1 Year Body Warranty, See attached extended warranty options

Options Available at Additional Cost (not included in quoted price):

Cylinder Extended Warranty	
Three years	$2,339.00
Four years	$3,565.00
Five years	$5,904.00

Body Warranty	
6 Month Warranty	0
1 Year Body Warranty	2110
1 Year Body Warranty (Muni)	0
2 Year Body Warranty	6753
3 Year Body Warranty	10332

Cylinder warranty is included with body warranty of 2 or 3 yrs.

Additional Notes:

McNeilus Truck and Manufacturing Inc.
HIGHWAY 34 EAST
POST OFFICE BOX 70
DODGE CENTER, MINNESOTA 55927
507-374-6321

Terms and Conditions of Sale Including Limitations of Warranty

Order Placement. All goods and services furnished by McNeilus are governed by these Terms and Conditions of Sale. Placement of order by Buyer shall be in accordance with then current McNeilus procedure. Acceptance by McNeilus of order from Buyer is expressly conditioned upon Buyer acceptance of these Terms and Conditions, including those on the face of the order acceptance, and any provisions of Buyer order or other communication in conflict with these Terms and Conditions are expressly rejected. Stenographic and clerical errors are subject to correction. No additions or modifications shall be valid unless confirmed in writing by McNeilus. McNeilus may supplement or alter these Terms and Conditions of Sale, issue product and/or sale policy announcements, or the like, but no such publication shall supersede any of these Terms and Conditions of Sale. McNEILUS IS NOT BOUND TO FURNISH ITS GOODS OR SERVICES EXCEPT IN ACCORDANCE WITH THE TERMS OF ITS ORDER ACCEPTANCE FORM.

Cancellation. Buyer may cancel the order, in whole or in part, by written notice any time, provided the Buyer pays: a) the cost, including installation and removal costs, of any equipment purchased by McNeilus prior to cancellation for the purpose of filling Buyer order and not usable by McNeilus for making other goods it then manufactures; b) the quoted price for all goods finished and ready to ship; and c) other reasonable costs (including but not limited to the cost of raw materials and goods still in the process of manufacture but unfinished at the time of cancellation) which McNeilus may have incurred in the performance of the order. Notice of cancellation is not effective until received by McNeilus at its corporate address (Highway 34 East, P.O. Box 70, Dodge Center, MN, 55927, U.S.A., ATTN: VP-Finance). If Buyer elects to cancel the order in part, McNeilus may, at its option, within a reasonable time thereafter, cancel the entire order by written notice. If Buyer elects, upon payment of costs of equipment, quoted prices of goods finished and ready to ship and/or costs of raw materials, it may take delivery of the same as provided below.

Price/Delivery. Unless otherwise provided by our quotation or agreed by us in writing, price and delivery terms shall be: a) Trucks and Truck Chassis - ex factory shipping point: and b) Parts - FOB shipping point. All applicable taxes shall be for the account of Buyer. Unless otherwise agreed in writing, we will select the route and manner of shipment, reserve the right to make delivery in installments when necessary, to invoice each installment separately and to expect payment for each installment within our selling terms. All risk of loss shall pass to the Buyer at the point and time of delivery set forth in this paragraph. Prices for goods shall be those in effect on the date of invoice unless otherwise provided by our quotation or agreed to in writing by McNeilus. If McNeilus shall fail to make delivery, or Buyer to accept delivery, according to the agreed upon delivery schedule, the other party may cancel the then remaining balance of the order unless the delay is an excusable delay. Prices are good for only quantities indicated. If shipment or any other act or condition affecting payment for the goods or any part of them shall be delayed on account of Buyer, payment shall be due as if shipment had been made. A reasonable storage charge may be made and such storage shall be at the risk of Buyer.

Payment/Credit/Security. All payments shall be made in US dollars. Payment shall be due upon delivery or as otherwise provided by our quotation, order acceptance, invoice or other writing. We reserve and by its order Buyer grants a security interest in all goods wherever located until payment has been received, and Buyer will promptly execute and deliver documents provided by Seller to perfect such security interest. All orders received are subject to credit approval. Buyer agrees to submit to McNeilus those items reasonably requested in order to establish Buyer credit. McNeilus shall be entitled to charge interest for payments made not in accordance with the stated or agreed upon terms of payment at the stated rate or the highest rate permitted by law, whichever is lower. Whenever McNeilus in good faith deems itself insecure, it may: Cancel any outstanding orders with Buyer and/or hold production/shipment of any unfilled orders; modify or revoke its extension or credit to Buyer; reduce any unpaid debt by enforcing its security interest (and proceeds therefrom); and take any other steps permitted by law and necessary or desirable to secure McNeilus with respect to Buyer payment of goods and services furnished or to be furnished. Buyer will pay McNeilus actual costs of collection incurred, including reasonable attorney fees if McNeilus is required to commence any suit or proceeding for collection of any delinquency. Certificates of Origin for a Vehicle shall be released to Buyer only upon receipt of payment in full by McNeilus unless otherwise agreed upon in writing. Buyer shall permit McNeilus at any reasonable time to make audits of its collateral, including records of shipments, sales, and payment. McNeilus may demand immediate payment for trucks; chassis or parts shipped from Buyer location for which payment has not been received in accordance with agreed payment terms. Buyer shall have no right of offset against amounts owed to McNeilus.

Acceptance. Goods furnished or services performed by McNeilus in all events will be deemed to have been accepted within thirty (30) days after receipt by Buyer, unless rightfully rejected within such period by written notice to McNeilus, by Certified Mail, Return Receipt requested, setting forth all of the defects upon which the rejection is claimed. Claims for factory damage or shortages shall not be considered unless made in writing within ten (10) days after receipt of the goods and accompanied by reference to our bill of lading and invoice numbers. Claims for damage or shortage in transit must be filed by Buyer against carrier unless shipping costs are prepaid. Defective goods shall be held for McNeilus inspection or disposition.

Limited Warranty: Disclaimer. McNeilus warrants that all new and unused goods furnished by McNeilus are free from defect in workmanship and material as of the time and place of delivery by McNeilus in accordance with its Standard Limited Warranty in effect at the date of contract formation. Our obligation under this Limited Warranty is subject to the following qualifications: a) McNeilus or its authorized Dealer shall have been notified of such claimed defect within thirty (30) days of is discovery or such later date as is specified in the Standard Limited Warranty; b) the vehicle shall have been subject only to proper use normal for similar vehicles; and c) it shall have been regularly maintained and serviced in accordance with the Manufacturer Service Manual. No defective part may be returned to the factory without our prior written consent, or that of our authorized representative. Any return must be with transportation prepaid, which may be refunded at the discretion of McNeilus. The Standard Limited Warranty for the goods is incorporated herein by reference. It is the exclusive warranty given by McNeilus. McNEILUS HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANY OF MERCHANTABILITY, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, notwithstanding any knowledge of McNeilus regarding the use or uses intended to be made of goods, proposed changes or additions to goods, or any assistance or suggestions that may have been made by McNeilus personnel.

Buyer Remedies. At its option, McNeilus will repair or replace nonconforming goods, or allow a credit for the replacement price of parts.

Exclusions of Incidental and Consequential Damages. In no event shall McNeilus be liable for any incidental, special, indirect, or consequential damages, whether resulting from non-delivery or from negligence of McNeilus or other tort. This exclusion applies regardless of whether such damages are sought for breach of warranty, breach of contract, negligence, or strict liability in tort or under any other legal theory.

McNeilus Truck and Manufacturing Inc.
HIGHWAY 34 EAST
POST OFFICE BOX 70
DODGE CENTER, MINNESOTA 55927
507-374-6321

Terms and Conditions of Sale Including Limitations of Warranty (Continued)

Excusable Delay. We shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond our control and not occasioned by our fault or negligence and which make our performance impracticable, but not limited to civil wars, insurrections, strikes, riots, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, any act of government, delays in transportation, inability to obtain necessary labor supplies or manufacturing facilities, allocation regulations or orders affecting materials, equipment, facilities or completed products, failure to obtain any required license or certificates, acts of God or the public enemy, failure of transportation, epidemics, quarantine restrictions, failure of vendors (due to causes similar to those within the scope of this clause) to perform their contracts or labor troubles causing cessation, slowdown, or interruption of work provided such cause is beyond our reasonable control.

Indemnification. Buyer shall indemnify and hold McNeilus harmless from any and all damages or injury of any kind or nature whatsoever (including, but without limitation, personal injury and death) to all property and persons caused by, resulting from, arising out of or occurring in connection with Buyer sale, installation or use of goods sold or supplied by McNeilus and not caused by the negligence of McNeilus, its employees or agents, or arising out of defects in any such goods.

No Waiver. The failure of McNeilus upon knowledge of any default or violation by Buyer of any of the Terms and Conditions of this agreement to enforce its rights or remedies shall not be construed as a waiver of such default or violation, or of any provision hereof, or of any of its rights or remedies.

Equal Opportunity Employment. We are an Equal Opportunity Employer and have an Affirmative Action Plan on file. We comply with Executive Order No. 11246 dated September 24, 1965 and the Federal Occupational Safety and Health Act of 1970 along with all subsequent amendments. We comply with all other applicable federal, state, and local laws, regulations and ordinances and agree upon request to furnish Buyer a certificate to such effect in such form as is acceptable to both parties.

Entire Agreement and Governing Law. Except as otherwise agreed in writing, this constitutes the entire agreement between us, superseding all prior quotations and understandings, oral or written. Any questions concerning the validity, interpretation or effects of this Agreement are governed by the laws of the State of Minnesota. The rights and obligations of the parties hereunder shall not be governed by the provisions of the 1980 United Nations Convention on Contracts for the International Sales of Goods.

Export Laws. If applicable, performance is subject to U.S. export laws and regulations. Our failure to perform due to such laws and regulations shall not constitute a breach of this agreement.

Municipality Warranty Policy Terms

Component	Warranty Period	Additional Information	Standard Replacement Part Warranty
Chassis	Follow Chassis Suppliers Warranty Schedule	All claims must be submitted to your local chassis dealer	N/A
Initial Adjustments & Startup Coverage	90 Days	Coverage includes, but is not limited to: adjustment of switches, hydraulics settings, loose fittings and hardware	N/A
Standard Body Warranty	180 Days	Coverage includes body structure and components installed and manufactured by McNeilus Companies.	180 Days
Structural Warranty	1 Year	Coverage includes, body shell, arms, tailgate, ejector panel, and frame.	180 Days
Electrical Warranty	1 year	Coverage includes, but not limited to; prox switches, circuit boards , switches, electric over hydraulic air valves and joysticks	180 Days
CNG	2 Year	McNeilus branded CNG only.	180 Days
Paint Warranty	1 Year	Buyer to provide pictures and estimates to McNeilus Warranty for pre- approval.	N/A
Labor Warranty	1 Year	Labor Reimbursement for approved warranty on new unit McNeilus product.	N/A
Labor Reimbursement Rate	$50/Hr	Labor reimbursement for approved warranty on new unit McNeilus product	N/A
Major Hydraulic Component Warranty	2 Years	Warranty coverage is specific to hydraulic components as defined in the policy to be: hydraulic pumps, motors, cylinders, and actuators	1 Year
Hydraulic Filter Assembly	180 Days	Hydraulic Filter Assembly (does not include filter element)	180 days
Hydraulic Warranty	1 Year	Non major component, hydraulic tubes and hoses	180 days

Options / Accessories, Non McNeilus Brand	1 Year	Coverage for defects due to McNeilus installation. Non McNeilus brand product the warranty is through the OEM. All warranty transactions are between the Buyer and OEM	NA
Options / Accessories, McNeilus Brand	2 Years	McNeilus brand only. Buyer warranty for Non McNeilus brand is direct to Manufacture	1 Year
Misc. / Wear components	180 days	Arm/fork stop pads, tailgate seal, pins and bushings	NA

Appendix

McNeilus obligation under the limited Standard warranty is expressly limited to the conditions as stated in the policy. No employee or representative of McNeilus is authorized to change the warranty in any way or grant any other warranty unless such changes is made in writing and signed by appropriate officers of McNeilus.

All exceptions or changes from the Standard Body warranty policy and approved by McNeilus will be described within the Warranty policy Appendix.

AGENDA BILL

Agenda Item No. 4(E)

Date: December 19, 2017

To: El Cerrito City Council

From: Mark R. Rasiah, Finance Director/City Treasurer

Subject: Annual Review of Investment Policy

ACTION REQUESTED

Adopt a resolution approving the City's Investment Policy.

BACKGROUND

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

It has been the practice of city staff to bring the Investment Policy to the City Council for review and approval annually. Each year the policies are reviewed by city staff and the Financial Advisory Board (FAB). Any recommended changes to these policies are brought to the City Council for review and approval. The Investment Policy was reviewed and discussed by the FAB at their November 14, 2017 meeting; FAB passed a motion to approve the policy without any changes.

The policies were last reviewed by the City Council at its November 15, 2016 council meeting.

ANALYSIS

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

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

There is no fiscal impact of adopting these policies.

STRATEGIC PLAN CONSIDERATIONS

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

FINANCIAL CONSIDERATIONS

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

LEGAL CONSIDERATIONS

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

Reviewed by:

Scott Hanin
City Manager

Attachments:

1. City Resolution
   Exhibit A – Investment Policy

Agenda Item No. 4(E)
Attachment 1

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING THE COMPREHENSIVE INVESTMENT POLICY AND RESCINDING RESOLUTION NO. 2016-88

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

WHEREAS, the Investment Policy was last reviewed in November 2016 as a part of the annual review; and

WHEREAS, the Investment Policy has been reviewed by the Financial Advisory Board on November 14, 2017 without any changes being made.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito, that it hereby approves the City of El Cerrito Investment Policy effective December 19, 2017 incorporated by reference and attached hereto as Exhibit A and rescinds Resolution No. 2016-88.

I CERTIFY that at a regular meeting on December 19, 2017 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2017.

_____
Cheryl Morse, City Clerk

APPROVED:

_____
Janet Abelson, Mayor

EXHIBIT A

City of El Cerrito
Investment Policy

Approved:

Resolution:

POLICY

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

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

1.0 SCOPE

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

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

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

2.0 PRUDENCE

All persons authorized to make investment decisions for the City of El Cerrito are trustees and therefore fiduciaries subject to the prudent person rule.

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

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

3.0 OBJECTIVE

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

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

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

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

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

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

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

4.0 DELEGATION OF AUTHORITY

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

5.0 INVESTMENT PROCEDURES

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

6.0 ETHICS AND CONFLICT OF INTEREST

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

7.0 AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

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

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

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

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

8.0 AUTHORIZED INVESTMENTS

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

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

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

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

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

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

Negotiable Certificates of Deposit issued by a nationally or state-chartered bank or a state or federal savings institution or credit union. Securities eligible for purchase in this category shall be rated "A" or better by Moody's, Standard and Poor's or Fitch. Purchases of Negotiable Certificates of Deposit shall not exceed 30 percent of the cost value of the portfolio nor exceed a five-year term.

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

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

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

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

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

Derivative Securities are those securities that derive their value from another asset or index. Investments in derivative securities will be made using the Prudent Investor Rule and will be limited to federal agency callable issues. Purchases in this category will not exceed 10% of the cost value of the portfolio.

Prohibited Investments. Investments not described herein are ineligible investments. The City shall not invest any funds in inverse floaters, range notes, or

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

9.0 INVESTMENT POOLS/MUTUAL FUNDS

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

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

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

10.0 COLLATERALIZATION

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

11.0 SAFEKEEPING AND CUSTODY

All securities held by the City of El Cerrito shall be held in safekeeping by a third-party bank trust department acting as agent for the City under the terms of the custody agreement executed by the bank and the City, and shall be evidenced by safekeeping receipts. All securities will be received and delivered using standard delivery-versus-payment (DVP) procedures. Investments in the State Pool or money market mutual funds are undeliverable and are not subject to delivery or third-party safekeeping.

12.0 DIVERSIFICATION

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

13.0 INTERNAL CONTROLS

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

14.0 REPORTING

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

15.0 INVESTMENT POLICY REVIEW AND ADOPTION

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

16.0 GLOSSARY

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

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

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

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Time certificates of deposit are collateralized in

accordance with the State code. Large-denomination CD's are typically negotiable and non-collateralized.

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

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

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

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

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

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

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

FEDERAL HOME LOAN BANKS (FHLB): Government sponsored wholesale banks (currently 12 regional banks) which lend funds and provide correspondent banking services to member commercial banks, thrift institutions, credit unions and insurance companies. The mission of the FHLB is to liquefy the housing related assets of its members who must purchase stock in their district Bank.

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

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

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

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

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

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

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

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

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

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

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

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

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

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

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

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

SEC RULE 15c301: See Uniform Net Capital Rule.

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

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

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

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

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

THE CITY OF
EL CERRITO

AGENDA BILL

Agenda Item No. 4(F)

Date: December 19, 2017

To: El Cerrito City Council

From: Karen Pinkos, Assistant City Manager

Subject: Designating Primary and Alternate Board Members to the Municipal Pooling Authority of Northern California (MPA)

ACTION REQUESTED

Adopt a resolution designating the Assistant City Manager as Primary Board Member and the Senior Human Resources Analyst/Human Resources Manager as Alternate Board Member to the Municipal Pooling Authority of Northern California (MPA).

BACKGROUND/ANALYSIS

The City of El Cerrito is a member of the Municipal Pooling Authority of Northern California. The Municipal Pooling Authority (MPA) is a Joint Powers Authority established in 1978 for the purpose of providing liability insurance to municipal agencies in Contra Costa County. The governing documents of the MPA require that the City Council of each member city appoint one Board member and one alternate Board member to the Board of Directors of the Authority. MPA governing documents also require the City to appoint its City Manager or the department head or staff person responsible for the City's risk management function as the primary Board member, and that the alternate Board member have the same qualifications as the primary Board member.

It has been the responsibility of the Human Resources Division to perform the risk management functions for the City, including serving as the Primary Board Member to MPA. The Assistant City Manager is designated as the primary Board Member to the MPA, and currently the Finance Director is designated as the alternate. However, it would provide more continuity in the Division for Human Resources staff to sit as the alternate. This resolution will allow the Assistant City Manager to serve as the Primary Board Member going forward, and further designates the Senior Human Resources Analyst/Human Resources Manager as the Alternate Board Member.

Reviewed by:

Scott Hanin, City Manager

Attachment: Resolution

Agenda Item No. 4(F)
Attachment 1

RESOLUTION NO. 2017–XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO DESIGNATING A PRIMARY AND ALTERNATE BOARD MEMBER TO THE MUNICIPAL POOLING AUTHORITY OF NORTHERN CALIFORNIA

WHEREAS, the City of El Cerrito is a member of the Municipal Pooling Authority of Northern California; and

WHEREAS, the governing documents of the Municipal Pooling Authority of Northern California require the City Council of each member city to appoint one Board member and to appoint one alternative Board member to the Board of Directors of the Authority; and

WHEREAS, the governing documents of the Municipal Pooling Authority of Northern California require that the City shall appoint its City Manager or the department director or staff person responsible for the City's risk management function as the primary Board member, and that the alternate Board member shall have the same qualifications as the primary Board member.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby designates the Assistant City Manager as the City's Board member to the Municipal Pooling Authority of Northern California.

BE IT FURTHER RESOLVED, that the Senior Human Resources Analyst/Human Resources Manager is hereby appointed as the City's alternate Board member to the Municipal Pooling Authority of Northern California.

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

I CERTIFY that at an adjourned regular meeting on December 19, 2017, the El Cerrito City Council passed this resolution by the following vote:

AYES: COUNCILMEMBER:
NOES: COUNCILMEMBER:
ABSENT: COUNCILMEMBER:
ABSTAINED: COUNCILMEMBER:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December X, 2017.

_____
Cheryl Morse, City Clerk

APPROVED

_____
Janet Abelson, Mayor

AGENDA BILL

Agenda Item No. 4(G)

Date: December 19, 2017

To: El Cerrito City Council

From: Karen Pinkos, Assistant City Manager

Subject: Recognition of the El Cerrito Centennial Celebration Task Force

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ACTION REQUESTED

Adopt a resolution thanking the Centennial Celebration Planning Task Force, acknowledging that the Task Force has fulfilled its duties in planning and carrying out the City's Centennial celebration, and dissolving the Task Force.

BACKGROUND

As an ad-hoc task force to convene for a limited period of time to work on a specific objective, the Centennial Celebration Planning Task Force has fulfilled their duties to make recommendations to the City Council regarding the type of activities for the City's Centennial events, and has successfully carried out those activities.

ANALYSIS

In February 2016, the El Cerrito City Council established the Centennial Celebration Planning Task Force, an advisory body charged with making a recommendation to the City Council regarding events and activities to carry out in 2017 to celebrate El Cerrito's 100-year history as an incorporated city.

The Task Force is comprised of members:

- Joann Steck-Bayat, Chair
- Donna Houser, Vice-Chair
- Richard Brooks
- Joan Carpenter
- Ruth Cazden
- Lisa Martinengo
- Patricia Shaw
- Bruce Yow

Task Force Accomplishments

Calendar of Events: Community groups as well as City departments and advisory bodies were encouraged to host an event with a centennial theme or element. Over 70 events were listed online at www.elcerrito100.org and promoted through a poster-sized calendar of events.

Passports: A passport activity was created and over 1,000 passports were distributed. Event attendees were encouraged to collect a stamp in their passport at each centennial event they attended. "Tally sheets" from the passport were submitted to City Hall by December 12 to be entered into a drawing to win a prize. A special drawing for the people with the most stamps will occur on December 19 with prizes to be announced on the same date.

Time Capsule: On August 23, 2017, a time capsule was dedicated inside City Hall. The capsule includes 57 items and is intended to be opened on the occasion of the City's bicentennial in 2117 (see attachment 2 for a list of items in the time capsule). The stainless-steel capsule sits on a custom-made pedestal made from reclaimed urban trees donated by West Coast Arborists.

Promotional Items: The Task Force offered the following items for sale to commemorate the centennial:

- Silver square keychain
- Black/White coffee mug
- Wine glass
- T-shirt
- Cap

A limited number of items are still available for purchase at City Hall and the Community Center office.

Celebration Weekend: The Task Force decided to concentrate their efforts on a "big bash" weekend series of events (see attachment 3 for publicity poster related to the weekend). The elements of the weekend included:

- Centennial Celebration at the Cerrito Theater
  Thursday, September 14 at Rialto Cinemas Cerrito
  This event was hosted by Friends of the Cerrito Theater and the El Cerrito Historical Society and kicked-off the celebration weekend with free live music outside the theater and a display of 2 vintage cars. The ticketed 7pm program included a brief history of the Cerrito Theater and a screening of the 1937 comedy "The Awful Truth." The event sold out (132 seats) and many attendees came dressed in vintage clothing!

- Family Night at Cerrito Vista Park, Friday, September 15
  The Task Force hosted a free screening of Pixar's "Toy Story", followed by the 1917 Charlie Chaplin silent film, "The Immigrant". "Toy Story" was the featured film because Pixar animators used neighborhoods in El Cerrito and Berkeley as inspiration when creating Andy's neighborhood for the film! El Cerrito resident Steve Segal worked on the film and gave a brief statement at the event. Families were encouraged to bring a picnic dinner and Soroptimist International of El Cerrito sold snacks. AC Transit provided glow-in-the-dark fidget spinners for children. Over 250 people attended the movie.

- El Cerrito Showcase Parade, Saturday, September 16
  The Task Force hosted coordinated one of El Cerrito's largest parades featuring almost 900 participants in over 50 units! The parade featured outstanding citizens, businesses, clubs, organizations, schools, City representatives, pioneer families and more! See attachment 4 for list of parade units.

The parade started in the Safeway parking lot at the north end of town, traveled via Richmond Street and ended at Cerrito Vista Park. After the parade, there was entertainment in the park. There was also a reception for former and current elected officials on Saturday afternoon.

Park activities included:
- Free sandwiches and cupcakes for the first 1,000 people
- Food trucks: Plaza Girabaldi, Fillmore West Vineyards, Kiane's Shaved Ice
- Bounce houses
- Chalk art activity
- Display of portraits of former El Cerrito Mayors

Performances by:
- El Cerrito Poet Laureate, Maw Shein Win
- Magical Nathaniel
- ECHS Dance Program
- "Threat Level Orange"
- Sakura Kai Hula Group
- ECHS Jazz Ensemble
- "Gaucho Revival Band"

The City was joined by a number of community groups that hosted informational tables in the park:
- Task Force (selling Centennial Promo items)
- City of El Cerrito (general information)
- City CERT Program
- City Police Dept.
- Fairmont Elementary
- Wildcat 4-H
- Boy Scouts
- Soroptimist International of El Cerrito
- El Cerrito Royale
- El Cerrito Garden Club
- Baha'i's of El Cerrito
- El Cerrito Historical Society
- El Cerrito Trail Trekkers
- Contra Costa Civic Theatre
- El Cerrito Rotary
- ECHS Archiving Committee
- St. Peter CME
- City Operations & Environmental Services Division
- City Environmental Quality Committee
- City Arts and Culture Commission
- City Recreation Dept.
- Contra Costa College

- El Cerrito's Youth Dance the Night Away, Saturday, September 16

The Task Force hosted an all-schools mixer for middle school students (grades 6–8) at the Community Center with a DJ, dancing, games and prizes. 100 teens attended the dance. The AC Transit fidget spinners were also handed out at this event.

- Centennial Gala Dinner, Sunday, September 17 at the Berkeley Country Club
  Two hundred guests filled the former Mira Vista Golf and Country Club. The evening included music by the JCT Trio, a welcome by Mayor Abelson, keynote speaker Tony Thompson (NYU law professor and El Cerrito High School graduate.) and music by the Generation Gap Big Band.

Volunteers and Sponsors
In addition to the Task Force's allocation from the Council, many Departments contributed time and resources to the various centennial events. However, the extent of the celebration would not have been possible without the financial or in-kind donations from:

- Berkeley Country Club
- El Cerrito Royale
- East Bay Sanitary Company
- West Coast Arborists
- Kaiser Permanente
- Lucky
- El Cerrito Florist
- Music Works
- Dream World Floral and Gifts
- Honda of El Cerrito
- Four Fools Winery
- The Mexican Bus
- MCE Clean Energy
- Abbey Pet Hospital
- Fillmore West Vineyards
- Olivero Plumbing
- The Glenn Custom Framing
- The Glen Price Group
- Law Offices of Delfina Lin-Sau Fung
- KCRT
- AC Transit
- Papi's Pizza Roma

The City would also like to thank BART, Safeway, PetFood Express and TRC Property Management for the use of their parking lots for the parade. There were also many volunteers who helped with planning as well as carrying-out the various events and activities.

STRATEGIC PLAN CONSIDERATIONS

In the City's Strategic Plan (adopted in 2013 and updated in 2015), the City Council identified the objective to "Develop plans for the City's 100th year anniversary" as a strategy to help achieve the City's goal to "Deepen a sense of place and community identity." The feedback from the events indicate that this was achieved. In particular,

the parade and park celebration were a true "home town" parade that evoked civic pride in both current and former residents!

FINANCIAL CONSIDERATIONS

On November 15, 2016 the El Cerrito City Council adopted Resolution 2016-07 accepting the recommendations of the task force; directing the task force to carry out their proposal; and appropriating a total of $33,000 to carry out events and activities to celebrate El Cerrito's 100-year history as an incorporated city. Staff and in-kind expenses were incurred by various departments. Attachment 1 shows an overview of expenses and revenue for the Centennial.

Reviewed by:

Scott Hanin
City Manager

Attachments:

1. Resolution
2. Overview of expenses and revenue
3. Time Capsule Index
4. Celebration Weekend poster
5. Parade Units

Agenda Item No. 4(G)
Attachment 1

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO RECOGNIZING THE CONTRIBUTIONS OF THE CENTENNIAL CELEBRATION PLANNING TASK FORCE AND DISSOLVING THE TASK FORCE AT THE CONCLUSION OF CENTENNIAL EVENTS

WHEREAS, in 1917, residents in the area of El Cerrito voted to incorporate and during the past one hundred years, our rich history has contributed to the City's identity and quality of life, and given El Cerritans much to be proud of; and

WHEREAS, in the City's Strategic Plan the City Council identified the objective to develop plans for the City's 100th year anniversary as a strategy to help achieve the City's goal to deepen a sense of place and community identity; and

WHEREAS, on February 2, 2016, the El Cerrito City Council adopted Resolution No. 2016-07 creating a Centennial Celebration Planning Task Force; and

WHEREAS, residents Joann Steck-Bayat, Donna Houser, Richard Brooks, Joan Carpenter, Ruth Cazden, Lisa Martinengo, Patricia Shaw and Bruce Yow served on the Task Force; and

WHEREAS, the Task Force diligently sought community input and made recommendations to the City Council regarding the scope of events and activities to celebrate El Cerrito's 100th birthday; and

WHEREAS, the Task Force successfully created a calendar of events, passport activity and time capsule, hosted a well-attended weekend-long celebration and supported events hosted by community groups throughout the year.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that the members of the Task Force are thanked for their service and hard work, and it is acknowledged that the Task Force has fulfilled its duties to plan and carry out the City's Centennial celebration.

BE IT FURTHER RESOLVED that the Task Force shall be dissolved as of December 19, 2017.

I CERTIFY that at a regular meeting on December X, 2017 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December X, 2017.

_____
Cheryl Morse, City Clerk

APPROVED:

_____
Janet Abelson, Mayor

Agenda Item No. 4(G)
Attachment 2

Overview of Centennial Celebration Expenses and Revenue

CELEBRATION WEEKEND (Sept 15-17, 2017)	**Expenses ***
Friday night movie in the park	$ 2,000
Parade (including staging area logistics, snacks at check-in table, flowers for pioneers, traffic control, event medics, mayors portrait signs, etc) and Park activities (including lunch/cupcake giveaway, food trucks, bounce houses, chalk art activity and entertainment) plus post-parade reception for current and former elected officials	$22,000
Police Department Overtime for Parade logistics and support	$ 8,000
Gala dinner at Country Club (including catering, band, decorations, keepsake wine glass, etc.)	$ 6,200
Photographer (at parade and Gala)	$ 1,000
TIME CAPSULE	
Time capsule at City Hall	$ 3,700
PUBLICITY/PROMOTION	
Website domain name, advertising and promotion, printing flyers, passports, programs, etc.	$ 5,200
Promotional items	$ 7,000
Passport prizes	$ 1,000
Teen Dance	$ 1,100
TOTAL	**$57,200**

*Less City staff time, postage, incidental office supplies/printing, etc. and discounts or in-kind donations from vendors and businesses. Also excludes Centennial Street Banners.

CENTENNIAL REVENUE	
Sponsorship Donations	$ 8,700
Revenue from Gala Ticket Sales	$ 6,050
Revenue from Promo Item Sales *(as of 10/5/17)*	$ 3,785
TOTAL	**$18,535**

City of El Cerrito
Centennial Time Capsule
Dedicated on August 23, 2017

List of Contents by Shelf

Shelf One (Top)

Ceremonial gavel (Unit # 7)
Wood with brass inscription plate, "El Cerrito City Council 1917-2017."

El Cerrito Historical Society Items (Unit # 29)
The El Cerrito Historical Society is a non-political, non-profit organization and has only one agenda: to locate and preserve local history, primarily focused on the history of El Cerrito. Included are a copy of "El Cerrito Historical Evolution" by Edward Staniford (published in 1976; 116 pages), and "Images of America: El Cerrito" by the El Cerrito Historical Society (published in 2005; 128 pages). Also included are a 2017 timeline of El Cerrito's history, and flyers about their centennial events and speakers bureau.

Stege Sanitary District 100th Anniversary History Book (Unit # 43)
Stege Sanitary District plans and operates a safe, efficient, and economical wastewater collection and transfer system for the present and future customers of El Cerrito, Kensington and the Richmond Annex. The book, "Stege Sanitary District 100th Anniversary History," relates the history of the District, which was incorporated in 1913, four years before El Cerrito. Also included is a cover letter from General Manager Rex Delizo.

Street Map, currency and stamps (Unit # 51)
El Cerrito Street Map (published 2008), and miscellaneous coins, bills and 4 "forever" postage stamps in circulation in 2017.

Fidget spinner (Unit # 49)
Fidget spinners became popular toys in mid-2017, although similar devices had been invented decades before. A fidget spinner consists of a ball-bearing in the center of a multi-lobed flat structure made from metal or plastic, designed to spin along its axis with little effort. A person holds the center pad while the toy spins. It can also be balanced on top of fingers, thrown and caught, spun on a flat surface, etc. The popularity of the toy among children and teenagers has led some schools to ban use of the spinners in class for being a distraction, while other schools have allowed the toy to be used discreetly. Some people believe it helps people who have trouble focusing or fidgeting by relieving nervous energy.

Shelf Two

State and National Flags (Unit # 4)
Cloth USA flag (with certificate) that was flown over the U.S. Capitol in Washington, DC, at the request of the Honorable Dianne Feinstein, US Senator; cloth California flag (with certificate) that was flown over the State Capitol in Sacramento at the request of the Honorable Nancy Skinner, California State Legislature, 9th District.

City Garments (Unit # 2)
Fire Battalion 71 staff baseball cap, Centennial baseball cap (grey, promotional item sold to the public), Swim Center staff visor, volunteer shirt (white), 2017 summer camp attendee shirt (green).

Fire Department Uniform Patches and Trading Cards (Unit # 12)
1 cloth Fire Department logo (centennial version worn in 2017), 1 shoulder patch and El Cerrito-Kensington Fire Department "trading cards" (12 individual cards, each features a photo and information about a firefighter along with a safety message).

2017 "Bike to Work Day" canvas tote bag (Unit # 19)
Popular give-away item from the annual regional "Bike to Work Day" event.

Fashionable jeans (Unit # 50)
Pair of torn jeans purchased at a local clothing store.

El Cerrito Library Commemorative Plate (Unit # 34)
Commemorative plate from the 2013 celebration of 100 years of the library service in Rust and El Cerrito. Plate donated by the Friends of the El Cerrito Library.

Shelf Three

Centennial celebration publicity items (Unit # 1)
2017 centennial events calendar, passport activity booklet, and Celebration Weekend poster.

City keychains, pins and Centennial celebration promotional items (Unit # 3)
1 black ceramic mug, 1 square silver centennial keychain, 1 round keychain from City Hall dedication in 2008, 1 standard City lapel pin, 1 centennial lapel pin, 1 "ECCRU" button (promoting the new El Cerrito Creative Re-Use Artist in Residence program).

Police Department Badges, Patches and Coins (Unit # 5)
Letter from Police Chief Paul Keith to the future Police Chief; Number 100 police badge and hat badge (in green box); 1 cloth badge (star shape), 1 shoulder patch; 1 Chief of Police Challenge Coin (recognition award given to employees or community members); Bike Patrol Unit Challenge Coin (the Bike Patrol Unit has been in existence since 1998 and is still active today); SWAT Unit cloth patches (grey and black with Velcro backing); Mutual Aid Mobile Field Force (MAMFF) cloth patches (grey and black) and a poker chip commemorating the 2003 MAMFF (the Police Department is part of the Contra Costa County MAMFF, a multi-jurisdictional coalition that may be deployed in the event of a natural disaster, civil unrest, or other major incidents).

Portraits of the Current City Council (Unit # 6)
Printed individual portraits of the 2017 City Council, plus a candid group photo taken at the August 15, 2017 Council meeting with Wall of Fame Inductees. The 2017 City Council members are Mayor Janet Abelson, Mayor Pro Tem Gabriel Quinto, Paul Fadelli, Greg Lyman, and Rochelle Pardue-Okimoto.

Handbook for Appointed Boards, Commissions, and Committees (2007) and 2017 rosters (Unit # 9)
More than 80 citizens are appointed by the City Council to these advisory bodies and make a tremendously valuable contribution to the effective provision of responsive services to the community.

Arts and Culture Commission Items (Unit # 17)
2017 Commission brochure, handout about the City Hall Gallery Space, flyer about new El Cerrito Creative ReUse (ECCRU) Artist Residency (a program funded by the City's Art in Public Places), flyer for Centennial-themed Arts Day event to be held in October 2017, and photo and statement of Nga Trinh's "In the Dinosaur's Forest" (the origami piece was donated by the artist to the City in 2017 as a centennial gift).

City Planning Documents (Unit # 11)
Digital files on compact disc for the following documents: City of El Cerrito Urban Greening Plan, adopted December 15, 2015; City of El Cerrito San Pablo Avenue Specific Plan, adopted December 2014; and City of El Cerrito General Plan, adopted August 30, 1999; printouts of cover and table of contents of each document.

Biennial Budget for Fiscal Years 2016-2017 & 2017-2018 & Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2016 (Unit # 8)
The operating budget is the City's service and financial plan for the next fiscal year; it is a legally required planning tool that matches the services desired by the community, as interpreted by the City Council, to the estimated resources available to provide those services. At the end of the fiscal year, the City prepares a Comprehensive Annual Financial Report (CAFR), which includes information on the expenses and revenue for all aspects of the City and its component units.

Recreation Activity Guides (Unit # 14)
2017 seasonal Recreation Activity Guides, or "rECguides" (3 issues), and a copy of the August 2017 "50+ Bulletin," the newsletter of the Senior Services Division.

Community Journals (Unit # 55)
These 3 books feature notes that were specifically written to be included in the time capsule by community members. See names of people who wrote in the journals on the last page of this document.

City Employees (Unit # 15)
Photos of some city employees: 2 group photos of some of the employees who work at City Hall (taken August 2017 in front of City Hall), group photo of (mostly) Public Works Department employees (taken in May 2017 in front of the Recycling & Environmental Resource Center Administrative Office), and biographies of City Manager Scott Hanin and Assistant City Manager Karen Pinkos.

Economic Development Committee Items (Unit # 16)
Information on the City's Economic Development Committee, and "A Day In the Life" commentary by committee member Rosa Esquivel, reflecting on living in El Cerrito in 2017.

"Snapshot of El Cerrito" by Maw Shien Win (Unit # 37)
As the first poet laureate of El Cerrito, Maw Shien Win wrote this poem in 2017 as a tribute to our city and its citizens. Also included is Win's biography.

USB Flash Drives (Unit # 54)
Bag with 4 USB flash drives (one each from Shadi Display Committee, El Cerrito High School Archiving Project, Soroptimist International of El Cerrito and worldOne Radio) and a USB to USB-C adapter.

Shelf Four

"News & Views" Newsletters (Unit # 10)
Collection of issues of the City's "News & Views" newsletters from 2006 through 2017.

2015 Police Department Annual Report (Unit # 13)
Police Department Annual Report from 2015, copy of centennial presentation about the Police Department, and group photo of City employees, elected officials and Crime Prevention Committee members taken on National Night Out, August 1, 2017 in front of Fire Station 71.

2017 Bringing Back the Natives Garden Tour Book (Unit # 20)
Guidebook from the thirteenth annual Bringing Back the Natives Garden Tour. The City supports this annual event, which highlights local gardens in Alameda and Contra Costa counties that are pesticide-free, water-conserving, provide habitat for wildlife, and contain 60% or more native plants.

Three Popular Books (Unit # 32)
Paperback copies of the most popular books borrowed from the El Cerrito Library in 2016: "I Will Surprise My Friend," by Mo Willems (kids); "Miss Peregrine's Home for Peculiar Children," by Ransom Riggs (teens); "The Girl on the Train," by Paula Hawkins (adults).

Friends of El Cerrito Library Items (Unit # 33)
The Friends of the El Cerrito Library (FECL) was formed in 1913 and serves the literacy and cultural needs of El Cerrito. FECL provides the library with books, magazines and compact discs as well as matching grants for special collections, and helps support the library's cultural and educational programs for the city's children and adults. FECL held its first board meeting in July of 1968. In addition to minutes from the first board meeting and a meeting in 2017, included are items related to the library's 100th birthday, which was celebrated four years ago.

Contra Costa Civic Theatre Items (Unit # 21)
El Cerrito's Louis and Bettianne Flynn founded Contra Costa Civic Theatre in 1959, initially by repurposing the Vista Movie Theatre at the corner of Blake Street and San Pablo Avenue to provide affordable, high quality entertainment to residents throughout the East Bay and to provide training in live performing arts for children and adults. In partnership with the City, Contra Costa Civic Theatre moved to its current location at 951 Pomona Avenue in 1971. Included are a cover letter from Managing Director Georgina Edwards along with promotional materials about the Theatre's current season, a summer drama camp program and a St. Ignatius Medal, which the theatre periodically awards to exceptional volunteers and other long-time contributors.

Boy/Cub Scouts Pack 104 Items (Unit # 22)
Boy/Cub Scouts Pack 104 has been serving the El Cerrito Community for over 55 years. Included are a cover letter from Cub Master RJ Lane, a list of 2017 leadership, a list of Pack 104 members, some event flyers and "shrinky dink" craft project highlighting each boy's favorite part of scouting.

El Cerrito Branch of the NAACP Items (Unit # 23)
The El Cerrito branch of the National Association for the Advancement of Colored People (NAACP) was founded in 1967 and is part of the national organization established in 1909. The mission of the NAACP is to ensure the political, educational, social and economic equality of rights of all persons and to eliminate race-based discrimination. Items include organizational brochures, membership form, brief history, Branch Elections Manual, recent meeting minutes, flyers from past Martin Luther King Jr. Day Celebrations, and the Fall 2014 issue of "Crisis" magazine.

El Cerrito Chamber of Commerce Byline newsletters, membership directory and 50th Anniversary coin (Unit # 24)
The El Cerrito Chamber of Commerce has been supporting local businesses since 1936. Their newsletter, The Byline, (6 issues included) shows a slice of life in the El Cerrito business community. Also included is the current list of members and a coin from El Cerrito's 50th Anniversary celebration in 1967.

El Cerrito Democratic Club newsletter and materials related to the November 2016 election (Unit # 25)
These El Cerrito Democratic Club documents represent the vibrant political life within El Cerrito for one of the oldest political clubs in the Bay Area. The items highlight the club's diversity, inclusion, respect and caring about the needs of every resident, and its continuous striving to create a better environment for all. Also included are two documents (blue endorsements page and door hanger) that were walked and dropped to nearly every house in El Cerrito by local volunteers prior to the November 2016 election. The club submitted these items to be included in the time capsule to illustrate our community's vital and tangible participation in its democracy, at the grassroots level.

El Cerrito Garden Club Items (Unit # 26)
The El Cerrito Garden Club's mission is to preserve and protect nature. Included are a brief history of the club, a 4-page list of East Bay native plant species, The Thymes newsletter (which gives a history of the club and demonstrates its contributions to El Cerrito and to the education of El Cerrito High School students), as well as information on recent garden contest winners.

El Cerrito High School Archiving Project Items (Unit # 27)
El Cerrito High School Archiving Project contributed items to illustrate the daily life at the school from 1946 to the present day. Included are: DVD "Green & White: the Gaucho Story" about the school's history; 6 color photos of new buildings; USB flash drive with 3 video files (Green & White, the Gaucho Story in mp4; Green & White: the Gaucho Story special features in mp4; older version of same video in Adobe Premiere Elements format) and multiple photographs as image files; photograph of the school (rolled); compact disc with powerpoint about athletics; black plastic car license plate decorative frame: "ECHS Gauchos"; "ECHS archiving project" pencil; "ECHS 1941-2005" lapel pin.

El Cerrito Royale marketing folder (Unit # 30)
Information on the senior residential facility located at 6510 Gladys Avenue, El Cerrito.

Friends of Five Creeks Volunteers (Unit # 35)
Friends of Five Creeks, an all-volunteer organization, has worked in El Cerrito for 21 years, chiefly on Cerrito Creek and in the Hillside Natural Area. They hold frequent volunteer events. These photos represent both the organization's work and El Cerrito citizens' long history of volunteering.

Friends of the Cerrito Theater Items (Unit # 36)
The Cerrito Theater, known in 2017 as Rialto Cinemas Cerrito, is an Art Deco theater that opened in 1937 at 10700 San Pablo Avenue. In the beautiful building with its glorious murals, the theater successfully creates a community space and encourages residents to attend showings of movie classics, blockbuster films, and family-oriented movies. Included are a brief history of the organization, a copy of Cerrito Theater Open House invitation (2002) and flyers from recent Cerrito Theater Classics Series events. These items from the Friends of the Cerrito Theater give the history of the theater, the story of the efforts of the Friends of the Cerrito Theater to renovate and re-open the theater, and information about recent events that are part of their classic movies series.

Shadi Display Committee Items (Unit # 39)
El Cerrito is known as a multi-cultural city, with residents from a variety of races, religions and cultural backgrounds. One who was part of that was Sundar Shadi, a Sikh who immigrated from India in 1921, graduated from the University of California, Berkeley, worked hard at menial jobs, invested wisely and fulfilled "the American Dream." Mr. Shadi is remembered for the extensive flower displays he created each summer, as well as a scene of Bethlehem he erected each December with buildings, people and animal figures that he handmade from common household items and recycled and salvaged materials. When he died at age 101 in 2002, a group of community members was determined that the display would continue. It has been purchased by Soroptimist International of El Cerrito, and a group of volunteers re-creates the scene each December on some open space along Moeser Lane (at Sea View). Included are a USB flash drive with digital photograph files and a video of the display (drone footage), flyer and postcard about the Shadi Display Committee and their annual re-creation of Sundar Shadi's holiday display.

St. John the Baptist Church Book (Unit # 41)
The book is a historical account of how the location and site of the St. John the Baptist Church was selected, as well as the lifestyle of El Cerritans at that time. Also included are two recent church bulletins that show the parish's schedule of events and worship schedule. The book was generously donated by parishioners Ruth and Peter Vietti.

St. Peter Christian Methodist Episcopal Church Items (Unit # 42)
St. Peter Christian Methodist Episcopal Church submitted various items to reflect the activities and history of the Church. The materials reflect their values that whatever is of interest and concern to the people (social, economic, and political) is the concern of the Church in its present time. Included are a brief history of the church, some photos, and a postcard about a centennial event celebrating the legacy of African-Americans in El Cerrito.

Soroptimist International of El Cerrito Items (Unit # 40)
Cover letter from SIEC President Barbara Lanier along with a USB flash drive containing digital photo files, and a lapel pin.

Tehiyah Day School Yearbook (Unit # 44)
Yearbook from Tehiyah Day School 2016-2017. Tehiyah Day School is a Jewish community day school located at 2603 Tassajara Avenue, El Cerrito, that provides kindergarten through 8th grade education.

TEPCO Cigarette ashtray and smokefree postcard (Unit # 45)
The Technical Porcelain and Chinaware Company (TEPCO) operated in El Cerrito from 1931 to 1968. This ashtray represents a bygone era as TEPCO no longer exists, and in 2015, El Cerrito banned smoking in public places, commercial areas and multi-family housing. The ashtray is an ovoid-shaped, vitrified china, advertising bowl-type cigarette ashtray with a raised section positioned across the bowl with four slots on top for resting

cigarettes. White base color with magenta speckles all over. The company name "TEPCO" appears on both sides of the raised center section and also on the bottom of the piece along with the addresses of the company's three business locations. Also included is an information postcard from the City regarding the smoke-free regulations. The ashtray was donated by Lynn Maack and Sandi Genser-Maack.

"Song for El Cerrito" by Tess Taylor (Unit # 46)
Poem, "Song for El Cerrito," by El Cerrito resident Tess Taylor, from her 2013 book "The Forage House."

School photographs (Unit # 48)
Photos provided by West Contra Costa Unified School District of: El Cerrito High School, Fairmont School, Harding Elementary School, Kensington Hilltop School, Korematsu Middle School, Madera School, and Mira Vista School.

El Cerrito Trail Trekkers Items (Unit # 31)
El Cerrito Trail Trekkers is a nonprofit group dedicated to preserving, improving and extending the city's network of public pathways, stairs, trails and greenways for pedestrian and bicycle use. The Trekkers advocate for increased public open space, and sponsor activities that involve trails and open space, including hikes, festivals, and other educational events. Included are a postcard and map from the 2017 Hillside Festival, photos from recent hikes, information about the signs being developed for the Hillside Natural Area, a compact disc with four photos from Trekker hikes, list of 2017 Accomplishments and Goals for Trekkers, flyer from August 2017 dedication of the steps at Motorcycle Hill and a portion of the yellow ribbon used in the dedication ceremony.

worldOneradio + festival Items (Unit # 47)
worldOneradio + festival presents a broad cultural palette of eclectic and earthnic musics, dance, ideation, and dialogue in various venues: KeCg (its radio station FCC-licensed to El Cerrito High School), classrooms, and community festivals. The compact disc and USB flash drive have examples of KeCg broadcasts and music performances. The disc also includes image files. The poster and postcard are publicity from the 2017 July 4 Festival, which is produced by the City of El Cerrito and worldOneradio.

El Cerrito Rotary Club Items (Unit # 38)
El Cerrito Rotary Club rosters from 2016-2017 and 2017-2018, literature on the organization, Rotary token (metal), and a cloth pennant.

Christ Lutheran Senior Center (Unit # 52)
Statement about Christ Lutheran Senior Center and example of programs and classes offered.

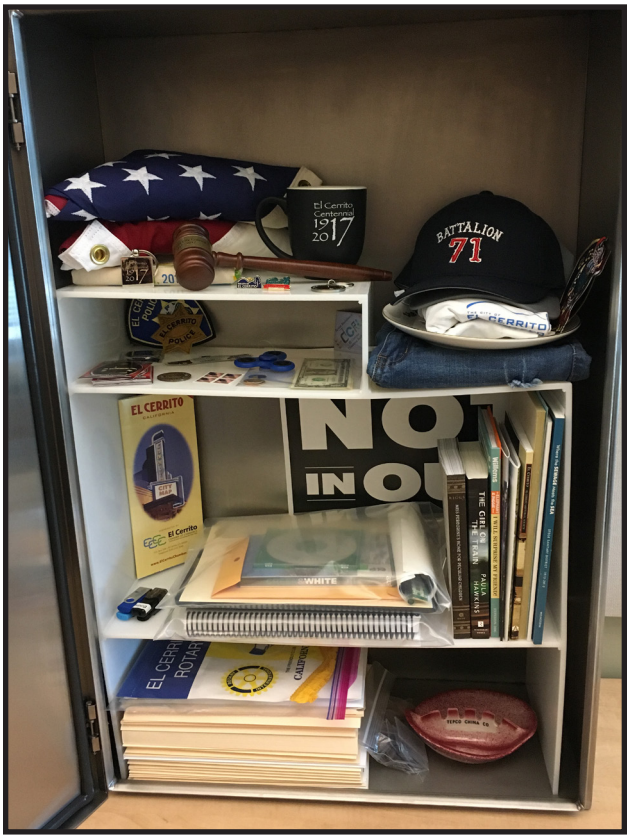
California, the Golden State (Unit # 53)
Book about the State of California (published in 2010).

Back Wall (behind shelves)

"Not In Our Town" window sign & Human Relations Commission brochure (Unit # 18)
In response to a hate crime in 2016, the City's Human Relations Commission developed a campaign against hate, including distribution of the included sign for residents and businesses to display, which says "Stop Hate. Together. Not In Our Town." Included is one paper window sign and a handout about the commission.

ECHS athletics Hall of Fame inductees (Unit # 28)
Hall of Fame Athletes 1944-1979; Hall of Fame Inaugural Year 2009, Athletes 1947-1969.

List of People Who Wrote in Community Journals (Unit # 55)
Claire Donovan-Suguitan, Grace Birnam, Kaliah Taylor, Leila Jadoon, Robin Miranda Mitchell, Sydney Duckor, Kayla Grien, Marin Stuart, Lanaiyah Taviani, Hope Rodas, Alice Johnson, Abraham Kobina Tieku, Casey, Samman Iqbal, Abia Syed, Emma Rusin, Cassandra McHugh, Lucy Lorraine Tabor, Lina Wong, Kiara, Vonne, Mia Syren, Marlene Keller, Mollie Hazen, Miles Hacker, Blanca Montano, Lina Huang, Shannon Collins, Andrea Arriaga, Yoko Nunokawa, Mychael Alexander Jamison, Michelle Fadelli, Robin Hansen, Mary Lyman, Marty Takimoto, Kathy & Jose Umali, Chris & Ursula Samu, Michael Balmaude, Hilary Crosby, Margaret Kavanaugh-Lynch, Sean Moss, Jennifer Peat, Mark Soltes, Laurenteen Brazil, Noa Kornbluh, Precilla Mandujano, Yvetteh Ortiz, Ruth Cazden, Patricia Shaw, Karen Pinkos, Lance Maples, Scott Hanin, Cheryl Mosby, Cheryl Morse, Mark Rasiah, Eli Hanin



El Cerrito Centennial Celebration

WEEKEND

Join us in celebrating 100 years of cityhood. Details at www.elcerrito100.org.

Thursday, September 14
Centennial Celebration
at the Movies

6:30 Music by "Leftover Dreams" & vintage cars outside the theater

7:00 pm Brief historical presentation followed by a screening of the 1937 comedy **'The Awful Truth'.** Feel free to come in vintage clothing!

See website for tickets to the 7pm program and film. This event is likely to sell out!

Rialto Cinemas Cerrito (10070 San Pablo Ave)
Hosted by Friends of the Cerrito Theater and the El Cerrito Historical Society.

Friday, September 15
Family Fun Night

See Pixar's **"Toy Story"** followed by the 1917 short **"The Immigrant"** starring Charlie Chaplin.

Free – no tickets required. BYO blankets or low-back chairs. Snacks will be offered for sale. Movie starts at dusk.

Cerrito Vista Park (950 Pomona Ave)
Co-sponsored by Soroptimist International of El Cerrito

Saturday, September 16
El Cerrito Showcase Parade

Great viewing opportunities for what is sure to be one of El Cerrito's largest parades along Richmond Avenue or in Cerrito Vista Park.

Parade starts at the Safeway/PetFood Express parking lot at 10am, travels along
Hill Street → Elm Street → Richmond Ave → Moeser Ln and into Cerrito Vista Park.

Followed by free lunch for the first 1,000 people (including birthday cupcakes!), live music, and chalk art

Saturday, September 16
Youth Dance the Night Away

Middle school students (grades 6–8) are invited to an all-school mixer at the Community Center for games and dancing from 6 to 9 p.m. Free admission.
Pre-registration required.

Sunday, September 17
Gala Dinner

Enjoy an elegant dinner at the Berkeley Country Club (formerly Mira Vista Golf and Country Club, one of the oldest businesses in El Cerrito!)

Take in the views and reminisce with friends while enjoying a delicious meal, followed by dancing.

Keynote speaker: NYU law professor
Tony Thompson

Tickets are $50 per person or $500 for a table. Spaces are limited for this event.

4 p.m. Social Hour
5:30 p.m. Dinner and Program
followed by dancing

1917 - 2017 100 YEARS EL CERRITO CENTENNIAL

El Cerrito Centennial 1917 2017

For event details and volunteer opportunities, call 215-4318 or visit www.elcerrito100.org

Agenda Item No. 4(G)
Attachment 5

EL CERRITO SHOWCASE PARADE UNITS

September 16, 2017

- El Cerrito Police Department
- DeAnza High School's Air Force Junior Reserve Officer Training Corps
- American Legion (Lewis Hagen Post 340)
- Wells Fargo Stage Coach
- El Cerrito Pioneers
- ECHS Gaucho Band
- City Council
- City Administration
- Former Mayors
- EQC
- Recreation Department
- El Cerrito Arts & Culture Commission
- Dallas McMurray
- Authors Patty Enrado & Gail Tsukiyama
- Magical Nathaniel
- Peter Albin
- Maw Shein Win
- ECHS Dance Company
- Contra Costa Civic Theatre
- Friends of the Cerrito Theater
- Rotary Club of El Cerrito
- Tree Committee
- Dr. Steven Schroeder & representative for Dr. Randy Schekman
- El Cerrito Youth Baseball with notable athletes and coaches
- El Cerrito Democratic Club
- Contra Costa Japanese American Citizens League
- El Cerrito Lions Club
- Shadi Holiday Display
- Congressman Mark DeSaulnier
- Hon. Fiona Ma
- Sup. John Gioia
- BART Director Lateefah Simon
- EBMUD
- AC Transit
- Faith Groups: Bahia's of El Cerrito & St Peter Christian Methodist Episcopal Church
- WCCUSD School Board, students, alum, PTAs, El Cerrito High School Archive Project and spelling bee winners
- Wildcat 4-H
- El Cerrito Pre-School Coop
- Prospect Sierra School
- Contra Costa Community College
- Stege Sanitary District
- East Bay Sanitary Company
- ArtCar Fest
- Tibetan Association of Northern Californina
- Friends of the El Cerrito Library
- Abbey Pet Hospital
- Martin Realty
- El Cerrito Garden Club
- El Cerrito Scouts
- Soroptimist International El Cerrito
- Victor Castro Descendants
- The Mexican Bus (Parade Support Vehicle)
- Community Emergency Response Team (CERT)
- El Cerrito Fire Department

AGENDA BILL

Agenda Item No. 4(H)

Date: December 19, 2017

To: El Cerrito City Council

From: Will Provost, Environmental Analyst
Maria Sanders, Operations + Environmental Services Manager
Yvetteh Ortiz, Public Works Director/City Engineer

Subject: Environmental Quality Committee Appointment

ACTION REQUESTED

Approve an Environmental Quality Committee recommendation to appoint Allison Kittleson to the Environmental Quality Committee, effective December 19, 2017.

BACKGROUND AND ANALYSIS

An application to serve on the Environmental Quality Committee (EQC) was received from Allison Kittleson. Ms. Kittleson attended three regular meetings of the EQC, including meetings on July 11, October 10, and November 14. The EQC made arrangements to form an Ad Hoc Subcommittee at its November 14 meeting in order to interview Ms. Kittleson as they considered her for membership. During the EQC's regular meeting on December 12, 2017, the EQC received a report from the Ad Hoc Subcommittee Meeting and voted to recommend to the City Council that Ms. Kittleson be appointed to the Environmental Quality Committee.

Ms. Kittleson is a resident of El Cerrito with a B.S. in Environmental Science and a professional background in environmental consulting. She is looking forward to getting involved with the Committee and making an impact in the community. She has an interest in working on policy issues and helping to organize educational events, lectures, and film screenings. She is also interested in contributing to the overall work and impact of the EQC.

If the Council approves this recommendation, the number of Committee members will be 14 out of a possible membership total of 15, as established by Resolution 2008-13.

STRATEGIC PLAN CONSIDERATIONS

The work of the members on the EQC is instrumental in helping the City achieve Goal F of the El Cerrito Strategic Plan, which is to "Foster environmental sustainability citywide." The EQC initiates and supports a variety of activities that advance all the strategies under Goal F:

- Be a leader in setting policies and providing innovative programs that promote environmental sustainability;
- Promote environmental education to facilitate behavioral changes;

- Implement policies to promote waste diversion;
- Encourage alternative modes of transportation; and
- Implement the Climate Action Plan.

Reviewed by:

Scott Hanin
City Manager

Attachments:

1. Kittleson Application for Boards, Commissions, and Committees

THE CITY OF
EL CERRITO
OFFICE OF THE CITY CLERK

December 19, 2017
Regular City Council Meeting

Agenda Item No. 4(H)
Environmental Quality Committee Appointment

Attachment 1 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

AGENDA BILL

Agenda Item No. 4(I)

Date: December 19, 2017

To: El Cerrito City Council

From: Councilmember Rochelle Pardue-Okimoto

Subject: Support the City of Berkeley and the Alta Bates Regional Task Force in the Preparation of a Health Impact Assessment of the Proposed Closure of Alta Bates Hospital

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ACTION REQUESTED

Adopt a resolution contributing $5,000 toward the cost of the preparation of a Health Impact Assessment (HIA) by the University of California at Berkeley, incorporating the proposed scope approved by the Alta Bates Task Force.

BACKGROUND

Alta Bates Summit Medical Center has been providing "full service" acute care hospital services in Berkeley, serving the East Bay I-80 corridor at the Herrick Campus since 1904, and at the Alta Bates Campus since 1905, including the hospital's merger in 1984. Alta Bates' Berkeley facility is crucial for providing timely health care services for residents of Berkeley and neighboring communities. In spite of this, Sutter Health Corporation has announced its intention to close Alta Bates' Berkeley facility. Sutter has also closed the Cardiac Catheterization Unit and the Pulmonary Sub-Acute Unit at Alta Bates, requiring cardiac and stroke cases to be rerouted to other locations.

Many hospital departments are often at capacity, and all of the local Emergency Departments reportedly have long delays in service. These delays will only be exacerbated by the merging of the two full-service Acute Care Hospitals, Alta Bates and Summit, to one Oakland location, increasing even further wait and admission times. The increased travel time to a more distant location raises questions about the potential for negative health outcomes, particularly for cardiac, stroke, and pulmonary patients.

Further, when first responders are mandated to travel to Summit Campus in Oakland, they may take longer to respond to subsequent emergencies, raising questions about the impact that the closure of Alta Bates may have on public safety.

An HIA is an analysis and community education tool for the East Bay I-80 corridor to learn about the health impacts and participate in actions affecting public health and equity if Alta Bates Hospital were to close. The cost of the HIA has been estimated at $50,000. The City of Berkeley will be contributing 50% of the cost and is asking other affected jurisdictions to contribute $5,000 to support this effort.

ENVIRONMENTAL CONSIDERATIONS

Approval of this action promotes sustained health services across the East Bay Region.

FINANCIAL CONSIDERATIONS

Authorize the City Manager to expend $5,000 from the current fiscal year General Fund Budget. No additional appropriations are requested.

Attachment:

1. Resolution

Agenda Item No. 4(I)
Attachment 1

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO SUPPORTING A HEALTH IMPACT ASSESSMENT OF THE PROPOSED CLOSURE OF ALTA BATES HOSPITAL

WHEREAS, multiple jurisdictions along the I-80 corridor have been participating in the Alta Bates Regional Task Force and meeting monthly to discuss options related to the eminent closure of Alta Bates/Sutter Medical Center; and

WHEREAS, the closure of Alta Bates Medical Center is expected to have serious impacts on the health of El Cerrito and East Bay residents; and

WHEREAS, the health impacts likely include delay of care for emergency medicine events, impacting patient health outcomes for cardiac and stroke, pulmonary, obstetrics, psychiatric, alcohol and drug poisoning, and trauma emergencies; and

WHEREAS, the health impacts likely include impacts to safe hospital operations, including hospital acquired infections, inpatient bed capacity; and

WHEREAS, the health impacts likely include impacts to community access to primary and specialty care, reduction in services for safety-net and special needs populations; and

WHEREAS, the health impacts likely include impacts to first responder operations and heightened risk in a disaster event; and

WHEREAS, a Health Impact Assessment (HIA) is an analysis and community education tool for the community to learn about the health impacts and participate in actions affecting public health; and

WHEREAS, faculty has been identified at the U.C. Berkeley School of Public Health to conduct a Health Impact Assessment; and

WHEREAS, the City of Berkeley Community Health Commission has proposed a scope for a Health Impact Assessment of the proposed closure of Alta Bates Medical Center which was reviewed and approved by the Alta Bates Task Force; and

WHEREAS, the City of Berkeley has committed to contributing 50% toward the cost of the HIA and has asked other jurisdictions participating in the Alta Bates Regional Task Force to each contribute $5,000 toward the cost of the HIA.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby recognizes a Health Impact Assessment (HIA) should be conducted regarding the proposed closure of the Alta Bates Medical Center, including the scope recommended by the City of Berkeley Community Health Commission and approved by the Alta Bates Regional Task Force.

BE IT FURTHER RESOLVED that the City of El Cerrito shall contribute $5,000 toward the cost of the HIA.

Agenda Item No. 4(l)
Attachment 1

I CERTIFY that at a regular meeting on December 19, 2017 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December 19, 2017.

_____
Cheryl Morse, City Clerk

APPROVED:

_____
Janet Abelson, Mayor

AGENDA BILL

Agenda Item No. 7(A)

Date: December 19, 2017

To: El Cerrito City Council

From: Sean Moss, Senior Planner
Margaret Kavanaugh-Lynch, Development Services Manager
Melanie Mintz, Community Development Director
Paul Keith, Chief of Police
Sky Woodruff, City Attorney

Subject: Urgency Ordinance to Repeal and Replace Chapter 6.80 of the El Cerrito Municipal Code to Adopt Local Regulations of Commercial Cannabis Uses as an Interim Measure until Ordinance No. 2017-07 Becomes Effective

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ACTION REQUESTED

Adopt an urgency ordinance repealing and replacing Chapter 6.80 of the El Cerrito Municipal Code to adopt local regulations of commercial cannabis uses as an interim measure until Ordinance No. 2017-07 becomes effective. A four-fifths vote of the City Council is necessary for approval.

BACKGROUND

In 1996, California voters passed Proposition 215, also known as the Compassionate Use Act, legalizing the use of cannabis for medicinal purposes within the State of California. Cannabis use and cultivation remains illegal under federal law. SB 420, also known as the Medical Marijuana Program Act, was adopted in 2003 and further defined the scope of Proposition 215. SB 420 established possession limits for medical marijuana, established a voluntary medical marijuana ID card program at the county level, and recognized the right of patients to cultivate marijuana collectively. The regulatory framework established by SB 420 led to the establishment of medical marijuana dispensaries throughout the state. After the passage of SB 420, many local jurisdictions chose to regulate medical marijuana dispensaries through land use and other regulations. In 2006, the El Cerrito City Council adopted Ordinance 2006-06, prohibiting medical marijuana dispensaries "in all zones throughout the City of El Cerrito."

In an effort to further clarify and establish statewide regulations regarding the use and cultivation of medical marijuana, the California Legislature adopted the Medical Cannabis Regulation and Safety Act (MCRSA) in September 2015. The Act consists of three separate pieces of State legislation. AB 226 established the Bureau of Medical Cannabis Regulation under the Department of Consumer Affairs and established a system requiring both a state license and local permit for cannabis businesses. AB 266 also establishes basic procedural requirements for deliveries of medical marijuana to customers and states that "deliveries…can only be made by a dispensary and in a city…that does not explicitly prohibit it by local ordinance." AB 243 established a system for licensing of

medical marijuana cultivation under the Department of Food and Agriculture and requires both a State license and a local permit for medical marijuana cultivation. AB 643 regulated physician recommendations for medical marijuana and requires the Department of Food and Agriculture to implement a 'track and trace' program that enables marijuana plants to be traced to licensed cultivation sites. Governor Brown signed these three pieces of legislation into law in October 2015 and the Act went into effect on January 1, 2016.

On December 15, 2015, taking into account these forthcoming changes in State law, the City Council held a public hearing and adopted an ordinance which amended the City's existing prohibition on medical marijuana dispensaries to expand its applicability to cultivation and delivery of cannabis as a way to maintain the existing status quo in the City.

On May 17, 2016, the City Council received a presentation from the "El Cerrito Wellness Center," a group who wished to establish a medical marijuana dispensary in El Cerrito. After receiving this presentation, the Council directed staff to prepare a proposed timeline, schedule, and budget for development of an ordinance regulating marijuana-related businesses and allowing for adequate due diligence, analysis, and public outreach on the topic.

On June 14, 2016, staff returned with a proposed timeline, schedule and budget and the City Council directed staff to move forward with the process to develop regulations for marijuana-related businesses.

On September 12, 2016, the City hosted a community meeting to gather public input regarding regulations for marijuana businesses. The meeting was well-attended and a wide variety of viewpoints were shared. A summary of the input from the meeting is available on the City's webpage at www.el-cerrito.org/989/Cannabis-Business-Regulations.

On November 8, 2016, California voters, including over 70% of El Cerrito voters, passed Proposition 64, the Adult Use of Marijuana Act (AUMA), which legalized the recreational use of marijuana for adults, at least 21 years of age, at the State level. The AUMA created a regulatory structure for licensing cannabis businesses. The act authorized the State to begin issuing licenses for cannabis businesses beginning in January 2018. Also on November 8, 2016, Councilmembers Fadelli and Pardue-Okimoto were elected to two open seats on the City Council.

Given the change in the regulatory environment created by the passage of Proposition 64 and the seating of two councilmembers in the midst of an ongoing public process related to regulation of cannabis businesses, City staff brought an update of the current process as well as a conceptual regulatory framework to the City Council and sought additional direction on April 18, 2017. After hearing the presentation and discussing the issue, the Council passed two motions. The first motion passed unanimously and directed staff to proceed with a process to remove the City's existing prohibition on medical cannabis dispensaries and to develop regulations to regulate such businesses.

The second motion passed on a 4-1 vote (Lyman opposed) and directed staff to proceed with a process to develop regulations for retail sale of recreational cannabis in El Cerrito.

In June 2017, the California legislature passed Trailer Bill SB 94, the Medicinal and Adult-Use Cannabis Regulatory and Safety Act (MAUCRSA). This legislation essentially merged MCRSA and AUMA, creating a single regulatory system for medicinal and recreational cannabis.

On September 13, 2017, the City hosted a second community meeting to further gather public input regarding cannabis regulations, based upon Council direction in April. The meeting was attended by over 40 individuals. Discussion at the meeting included topics ranging from whether to allow cannabis businesses in El Cerrito at all, to regulations for cannabis deliveries, to the number of cannabis businesses permitted and buffers from sensitive land uses. An informal survey of those in attendance at the meeting showed that approximately 2/3 of individuals present supported permitting and regulating cannabis businesses. The remaining 1/3 of the individuals present were in favor of leaving in place the existing ban on cannabis businesses.

On October 3, 2017, the City Council conducted a study session on a draft ordinance regulating commercial cannabis which was developed based on the City Council's previous input, the public input from the two community meetings, input from the Police Department, and a review of practices and regulations in other jurisdictions. The Council heard public input on the draft ordinance and gave comments on the draft. City staff have revised the ordinance based on the Council's direction. The final draft ordinance for the City Council's consideration is Attachment 1 to this report.

At its November 21, 2017, regular meeting, the City Council held a public hearing and, after considering all information and testimony provided, waived the first reading beyond the title and introduced Ordinance No. 2017-07, which would create a regulatory program to issue operating permits for up to two cannabis retail businesses and associated deliveries. It would prohibit all other commercial cannabis uses in the City. The City Council will consider adoption of Ordinance No. 2017-07 at the same meeting as this urgency ordinance, on December 19, 2017.

As the City Council is aware, the State anticipates beginning to issue licenses for commercial cannabis uses as early as January 1, 2018. Because Ordinance No. 2017-07 will not become effective until 30 days after adoption—January 18, 2018—staff recommends adoption of the attached urgency ordinance as an interim measure to ensure that there is no confusion about the applicable regulations in El Cerrito once the State begins issuing licenses for and it becomes possible to operate commercial cannabis uses.

ANALYSIS

The general regulatory structure in the proposed urgency ordinance is exactly the same at the one presented to and approved by the City Council in Ordinance No. 2017-07. Please refer to the staff report for the November 21, 2017, meeting for the full details of the regulatory structure of the ordinance. This ordinance would add the same provisions

to the El Cerrito Municipal Code as an interim measure to ensure that they are in effect when the State begins issuing licenses for commercial cannabis uses until Ordinance No. 2017-07 becomes effective.

In the absence of this urgency ordinance, staff is concerned that there might be confusion on the part of the State licensing authorities or individuals or businesses interested in initiating a commercial cannabis use in the period until Ordinance No. 2017-07 becomes effective. That confusion could result in the issuance of a State license or the initiation of type of commercial cannabis use not permitted by the ordinance and without complying with the ordinance's requirements.

Commercial cannabis uses represent a new form of business in California and relatively new form of business generally. The indirect effects, potential problems, and correct mix of commercial cannabis uses in El Cerrito remain uncertain. By the adoption of Ordinance No. 2017-07, the City Council determined that, during the early days of commercial cannabis uses, the approved regulatory framework was necessary to ensure the preservation of the public peace, health, and safety. It would therefore threaten the public peace, health, and safety if commercial cannabis uses not allowed under the City's regulatory framework opened for business or allowed commercial cannabis uses initiated operations without the controls imposed by the regulations.

The proposed urgency ordinance, by immediately amending the Municipal Code to add the same regulations as in Ordinance No. 2017-07 is necessary to ensure that State licensing authorities and potential commercial cannabis use operators understand exactly what is permitted in El Cerrito, until Ordinance No. 2017-07 goes into effect. It thereby preserves the public peace, health, and safety from the threat of unpermitted commercial cannabis uses or from commercial cannabis uses that have not complied with the City's regulatory requirements.

Staff recommends adoption of the attached urgency ordinance. A four-fifths vote of the City Council is necessary to adopt an urgency ordinance.

STRATEGIC PLAN CONSIDERATIONS

The Cannabis Business Ordinance forwards several of the goals of the Strategic Plan. It supports both Goal A: Deliver exemplary government services and Goal E: Ensure the public's health and safety by providing a path that balances the intent of the City Council and a majority of El Cerrito voters to allow the strictly controlled retail sale of cannabis with the core value for protecting the public's health and safety. The public benefits proposed through the Operating Permit process and collection of sales tax could also benefit Goal B: Achieve Long-Term Financial Sustainability.

ENVIRONMENTAL CONSIDERATIONS

City staff has determined that this action is exempt from CEQA pursuant to CEQA Guidelines sections 15061 (b)(3) (general rule), 15183 (projects consistent with a community plan, general plan, or zoning), 15301 (existing facilities), 15308 (actions by regulatory agencies for protection of the environment) and 15309 (inspections), each of

which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

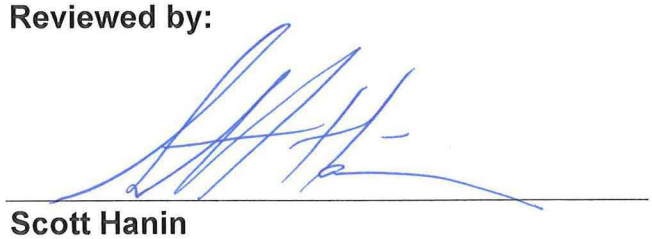
FINANCIAL CONSIDERATIONS

The fee collected for the Operating Permit applications will compensate the City for the staff time necessary process the application. Further, through the provision of public benefits, applicants for Operating Permits could voluntarily propose financial contributions to the City. All public benefits would be evaluated as part of the permit process. Local taxes on cannabis businesses, such as a business license tax, would require voter approval. Standard sales tax would be collected on recreational cannabis sales.

LEGAL CONSIDERATIONS

The City Attorney has reviewed this report and the attached ordinance.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Commercial Cannabis Urgency Ordinance

Agenda Item No. 7(A)
Attachment

ORDINANCE NO. 2017-XX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL CERRITO REPEALING AND REPLACING CHAPTER 6.80 “COMMERCIAL CANNABIS” TO THE EL CERRITO MUNICIPAL CODE

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare, of their citizens; and

WHEREAS, California voters enacted the Compassionate Use Act (“CUA”) in 1996, legalizing medical cannabis; and

WHEREAS, in 2003, the California Legislature adopted the Medical Marijuana Program Act (“MMPA”) allowing for collective, cooperative cultivation projects, commonly known as “dispensaries”; and

WHEREAS, in 2006, the City of El Cerrito banned medical marijuana dispensaries (Ordinance No. 2006-06); and

WHEREAS, in 2015, the Legislature enacted the Medical Cannabis Regulation and Safety Act (“MCRSA”), creating a comprehensive licensing and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis; and

WHEREAS, in 2016, the City of El Cerrito banned cultivation and delivery of marijuana (Ordinance No. 2016-01); and

WHEREAS, in November 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), legalizing recreational cannabis use for adults 21 years of age and older with certain restrictions; and

WHEREAS, the AUMA creates a comprehensive regulatory and licensing structure for commercial nonmedical cannabis businesses, including cultivation, manufacturing and retail; and

WHEREAS, the Legislature adopted SB 94 in June 2017 to consolidate the medical and recreational regulatory schemes to create one single comprehensive regulatory system to regulate all commercial cannabis uses; and

WHEREAS, the new comprehensive regulatory system created by SB 94, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, state licenses for all cannabis businesses are expected to be ready for issuance in January 2018; and

WHEREAS**,** the CUA, MMPA, and MAUCRSA do not prevent a city from using its constitutional authority to enact nuisance, health, and safety, and land use regulations regarding commercial cannabis uses and a city retains the authority to prohibit, limit or regulate commercial cannabis uses within its jurisdiction; and

WHEREAS**,** the City Council desires to regulate all commercial cannabis uses operating in the City in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City's General Plan and the San Pablo Avenue Specific Plan; and

WHEREAS, on December 19, 2017, the City Council adopted Ordinance No. 2017-07, which repealed and replaced Chapter 6.80 of the El Cerrito Municipal Code to create a regulatory program for the issuance of a limited number of operating permits for cannabis retail businesses and associated deliveries. That ordinance will not become effective until January 18, 2018. The State of California is anticipated to begin issuing state licenses for cannabis businesses prior to Ordinance No. 2017-07 becoming effective; and

WHEREAS, an applicant for a state commercial cannabis license must first obtain local approval prior to receiving state approval and cannot submit an application for a state license if the proposed cannabis business violates a local ordinance. Therefore, interim regulations between January 1, 2018 and the effective date of Ordinance No. 2017-07 are necessary to ensure that the State has clear direction regarding what commercial cannabis businesses are permitted in El Cerrito; and

WHEREAS**,** no commercial cannabis business shall be permitted within the City unless it complies with the licensure and regulatory requirements contained in the El Cerrito Municipal Code Chapter 6.80.

THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. Amendment of Municipal Code. Chapter 6.80 of the El Cerrito Municipal Code is stricken in its entirety and replaced with the following:

6.80 – COMMERCIAL CANNABIS

6.80.010 Purpose and Intent.

The purpose of this chapter is to impose regulatory requirements on various commercial cannabis uses authorized and licensed by the State of California pursuant to state law. This chapter imposes licensing and regulatory requirements on cannabis businesses in addition to any other business license and regulatory requirements imposed on cannabis businesses by applicable state law. If a commercial cannabis use is not specifically permitted in this chapter, it is not allowed to operate within the City.

6.80.020 Definitions.

A. "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or be discovered, or developed, that has psychoactive or medical properties, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26001(f), as both may be amended from time to time. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products, unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. Cannabis does not include the mature stalks of the plant; fiber produced from the stalks; any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom); fiber, or the sterilized seed of the plant which is incapable of germination.

B. "Cannabis business" means a person, partnership, corporation, company, association, collective, or cooperative which engages in commercial cannabis use(s).

C. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into concentrate, including, but not limited to concentrated cannabis, or an edible or topical product containing cannabis and other ingredients.

D. "Cannabis retail" or "cannabis retail business" means a cannabis business that distributes, dispenses, stores, exchanges, packages, re-packages, labels, sells,

makes available, transmits, or gives away cannabis or cannabis products for either medical or recreational use and is operated in accordance with state and local laws and regulations. Cannabis retail includes, but is not limed to, selling and/or delivering cannabis or cannabis products as part of a sale, pursuant to a Type 10 cannabis license, or a cannabis license subsequently established.

E. "Cannabis storefront business" means a cannabis business with a physical, permanent location in the City of El Cerrito. A cannabis retail business with a physical, permanent location in El Cerrito may be referred to as a "cannabis storefront retail business."
F. "Chief of Police" means the Chief of the El Cerrito Police Department or his or her designee.
G. "City Manager" means the city manager of the City of El Cerrito, or his/her designee.
H. "Commercial cannabis use" means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including but not limited to cultivation, possession, distribution, transportation, laboratory testing, labeling, retail, delivery, sale, processing, storing, packaging or manufacturing of cannabis or cannabis products for medical or recreational use. Commercial cannabis use includes cannabis retail.
I. "Cannabis delivery" means a commercial transfer of cannabis or cannabis products from a fixed location to a destination specified by a customer.
J. "Medical cannabis" means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.7 *et seq.*), the Medical Marijuana Program Act (Health and Safety Code section 11362.7 *et seq.*) and the Medical Cannabis Regulation and Safety Act (Business and Professions Code section 19300 *et seq.*).
K. "MAUCRSA" refers to the California State law entitled Medicinal and Adult-Use Cannabis Regulation and Safety Act and regulations promulgated thereunder.
L. "Operating Permit" shall mean a permit issued by the City pursuant to this chapter for the operation of a cannabis business within the City.
M. "Specific Plan" shall mean the San Pablo Avenue Specific Plan, as it may be amended.

6.80.030 Applicability.

Commercial cannabis uses shall be permitted only in compliance with the requirements of this chapter, state law and all applicable requirements of the El Cerrito Municipal Code and an operating permit issued pursuant to this chapter. Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to commercially cultivate, distribute, process, manufacture, sell, deliver, or test cannabis, in amounts that exceed personal use allowances under California law, within the City without a valid permit issued pursuant to the provisions of this chapter. Cultivation of

cannabis for noncommercial use shall only be permitted inside a private residence or inside an enclosed structure upon the grounds of a private residence, and pursuant to the provisions of the MAUCRSA. Possession of other types of State or City permits or licenses does not exempt an operator from the requirement of obtaining a permit under this chapter.

6.80.040 Limitations on Use.

Commercial cannabis uses shall only be allowed in compliance with this chapter and all applicable codes set forth in the El Cerrito Municipal Code, including but not limited to: building, plumbing, electrical, fire, hazardous materials, and public health and safety. The operator shall comply with all laws and regulations applicable to the type of use, and shall comply with all permit, license, approval, inspection, reporting and operational requirements of other local, state or other agencies having jurisdiction over the type of operation. Commercial cannabis uses shall only be permitted in areas of the City in which such uses are permitted or conditionally permitted by the Zoning Ordinance of this Municipal Code. Cannabis retail is considered to be a category of retail within the meaning of and as that term is used in the Zoning Ordinance of this Municipal Code. The operator shall provide copies of other agency and department permits, licenses, or certificates to the City to serve as verification for such compliance. No other type of cannabis uses are permitted within the city.

6.80.050 Operating Permits.

An operating permit shall be required for all cannabis businesses operating within El Cerrito. The form and content of the application for an operating permit shall be specified by the City and shall include the following minimum information, which will be evaluated as part of the consideration of whether to approve an operating permit:

A. Identifying information for ownership and management. The name and address of each cannabis business owner and an explanation of the legal form of business ownership.
B. Description of the proposed site. The site address, description of the premises, name and address of the property owner(s) where the cannabis business will be located, and a site plan and floor plan(s) of the proposed cannabis business.
C. Conceptual elevations of the building proposed to contain the cannabis business and any other necessary information that demonstrates the proposed means of compliance with the standards of the San Pablo Avenue Specific Plan.
D. Additional identifying information for owners and key employees. Each cannabis business owner, as well as each employee shall submit specific personal information including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor or partner information, and electronic fingerprint images and related information as required

by the Chief of Police for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests.

E. Description of proposed operations. A description of the nature of the proposed commercial cannabis use, product types, average or expected sales amounts by product type, average or expected amount of cannabis storage, and sources of cannabis.

F. Proof of State license compliance. A description of the specific State cannabis license(s) or permits that the applicant has obtained or plans to obtain. The applicant shall describe how the business will meet the State licensing requirements.

G. Information regarding other local licenses. A description of the specific cannabis licenses or permits that the applicant(s) has obtained or plans to obtain from other local jurisdictions.

H. Disclosure of litigation and legal proceedings. A description of any litigation in which the applicant(s) has been involved within the ten years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the ten years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the ten years immediately preceding the date of the application.

I. Security Plan. A description and documentation of how the applicant will secure the premises at all times. The security plan shall include, but is not limited to, the following:

    1. A site security plan shall be required at the time of permit application and shall be subject to review and approval by the Chief of Police and the City Manager. All site security plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Such plans shall include, at a minimum, information regarding the implementation of the requirements of this section. The Chief of Police may require additional information, including but not limited to, if required, identification of on-site security personnel and proper certification of personnel, be included in the site security plan.
    2. Measures for preventing individuals from remaining on the premises if they are not engaged in authorized activity.
    3. Measures to prevent smoking of cannabis and cannabis products and any other consumption or use of cannabis or cannabis products on the premises.
    4. Measures for disposing of expired, contaminated, adulterated, deteriorated, or excess cannabis products.
    5. Measures for preventing off-site impacts to adjacent businesses or properties.

6. Measures for limiting the amount of cash held on the premises.

J. Certificate of insurance. Certificate of insurance demonstrating ability to comply with the insurance requirements contained under Performance Standards in this chapter.

K. Community benefits of the proposed cannabis business. A description of the benefits that the cannabis business would provide to the local community, such as employment for residents of the City, community contributions, improvements to the property where the cannabis business is proposed to be operated and adjoining properties, or economic incentives to the City.

L. Signature of applicant(s) and property owner(s). The application shall be signed by all applicants, certifying, under penalty of perjury, that all information submitted as part of the application process is, to the best of the applicant's knowledge, true, accurate, and complete. The application shall be signed by all property owners of the location where the cannabis business will be located, certifying, that the property owner(s) has/have reviewed the application and approves the use of the property for the purposes stated in the application.

M. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a completed building occupancy classification form, identifying all hazardous materials proposed for storage, use or handling on the premises, including compressed and cryogenic gases such as carbon dioxide, nitrogen, and others. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.

N. Pro forma. Three years of pro forma estimates for operations, including a discussion of the business assumptions used to develop the estimates. Example assumptions include revenue, customer volume, visits, and product costs, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs.

O. Fees. An application fee established by the City Council. The applicant shall also be responsible for reimbursing the City for the cost of any staff time and City resources, in excess of the application fee, expended on the application process.

6.80.060 - Application Process.

A. The City shall issue no more than two (2) valid operating permits for cannabis businesses in the City. The following activities shall be permitted:
   1. Cannabis retail by a cannabis storefront business.
   2. Cannabis delivery to locations within El Cerrito by cannabis storefront businesses possessing an operating permit in El Cerrito.

B. The City reserves the right to reject any or all applications. Prior to permit issuance, the City may also modify, postpone, or cancel any request for applications at any time without liability, obligation, or commitment to any party, firm, or organization. Applicants for permits assume the risk that the City may elect to terminate or not issue permits for any commercial cannabis uses at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application.

C. Review of application. The City Manager shall consider applications for operating permits and shall have the authority to approve or disapprove operating permits. In approving or disapproving such permit, the City Manager shall give particular consideration to the capacity, capitalization, and history of the applicant, the community benefit provided by the business and any other factors that the City, in its discretion, deems necessary to maintain health, safety, and general welfare of the public.

D. Public notice.
   1. At least 21 days prior to approval of an operating permit, the City Manager shall provide notice by First Class mail to all property owners of record, residents and businesses within a 300-foot radius of the proposed cannabis business and any person or group that has specifically requested in writing notice regarding applications for cannabis businesses. The notice shall contain the following information:
      a. A general description of the proposed cannabis business, the content of the application, and the property included in the application, as well as the proposed conditions of approval;
      b. The name(s) of the applicant(s);
      c. The location and times at which the complete application may be viewed by the public;
      d. A statement describing how and the deadline to submit written comments.
   2. In lieu of providing notice 21 days prior to approval, the City Manager may hold a public hearing and provide notification of the hearing pursuant to Section 19.32.050.
   3. The City Manager may consider any written comments received regarding a proposed cannabis business application and modify proposed conditions of approval or take any other action with regard to the application authorized by this chapter.

E. Conditions. The City Manager shall have the authority to impose conditions on operating permits deemed necessary to maintain the health, safety, and general welfare of the public.

F. Disqualification. The following items may disqualify an application from consideration:

1. The cannabis business owner has knowingly made a false statement in the application or any other information furnished to the City.
2. The cannabis business owner or any employee has been convicted of an offense that is substantially related to the qualifications, functions, or duties, of the cannabis business for which the application is made. However, prior marijuana or cannabis conviction shall not be an automatic bar to approval for an operating permit.

G. Confidentiality. The security plan and operations plan required by Section 6.80.50 shall be confidential and shall not be subject to public inspection or disclosure except as may be required by Federal, State or local law.

H. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application for the operating permit, and shall include affidavits agreeing to abide by and conform to the conditions of the permit and all provisions of the El Cerrito Municipal Code pertaining to the establishment and operation of the cannabis business, including, but not limited to, the provisions of this Section. The affidavit(s) shall acknowledge that the approval of the cannabis permit shall, in no way, permit any activity contrary to the El Cerrito Municipal Code, or any activity which is in violation of any applicable local or state laws and regulations.

I. The City will review and evaluate all necessary information related to the proposed commercial cannabis use and its proposed operators, including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor or partner information, and APN number of the parcel upon which the commercial cannabis use will be located. Certain private information will be exempt from disclosure to the public, pursuant to applicable law, to protect an individual's privacy interests and public health and safety.

J. The City will evaluate the Security Plan required by Section 6.80.50 in determining whether to approve an operating permit.

K. Permit Term. The City Manager, or designee, may approve operating permits for a maximum term of three (3) years.

L. Indemnification. By accepting an operating permit, the permittee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law, the City, its officers, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with the permittee's operations, except such liability caused by the active negligence, sole negligence or willful misconduct of the City, its officers, agents, and employees. An applicant's agreement to indemnify, defend, and hold harmless the City shall be

a condition of approval of an operating permit and a provision of the affidavit required by paragraph (G) of this section.

6.80.070 - Performance Standards.

The following standards shall apply to all cannabis businesses. Failure to comply with the following standards shall be grounds for suspension or revocation of an operating permit.

A. Hours of operation. Cannabis businesses shall not be open to the public and shall not conduct retail sales or deliveries before 8:00 a.m. or after 10:00 p.m. on any day of the week.
B. Odor control. Odors shall be contained on the property on which the cannabis business is located.
C. Alarm and video surveillance. Cannabis businesses must have security cameras installed, which shall be motion-sensored and capable of recording activity on the premises, including entry points to the property, and within all buildings and structures on the premises, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area. Security cameras shall record 24 hours per day, 7 days per week. The premises shall be equipped with, and at all times be monitored by, a secure web-based surveillance system. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual committing a crime on the premises and the ability to capture license plates entering and exiting the premises. The operator shall provide the Chief of Police remote access of any on-site web-based video surveillance to monitor remotely at any time. The City of El Cerrito will only monitor video surveillance for law enforcement purposes related to in-progress or past crimes committed on the premises of a cannabis business. Additionally:
    1. Areas where cannabis is stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.
    2. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, manufacturing or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation, processing, manufacturing or labeling activities.
    3. At least one camera must be dedicated to record the access points to the secured surveillance recording area.
    4. At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.

5. Surveillance video shall be kept for a minimum of sixty (60) days in a format that can be easily accessed for viewing. Operators shall be required to cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request. Motion-sensor lighting and alarms shall be required and shall be professionally installed and monitored to insure the safety of persons and to protect the premises from theft. Alarm and surveillance systems shall be equipped with a failure notification system that provides prompt notification to the operator of any prolonged surveillance interruption or failure of the system. All surveillance equipment, records and recordings must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system or alarm system.
6. An operator shall maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of any alarm installation company, and the name of any monitoring company. All monitoring companies shall be licensed by the Bureau of Security and Investigative Services to monitor motion-sensor lighting and alarms. Off-site monitoring and video recording storage of the premises by the operator or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.
7. All security measures installed on the premises shall have the capability to remain fully operational during a power outage.
8. Weapons and firearms are prohibited on the premises, unless authorized by the Chief of Police. This provision shall not apply to public officials engaged in official duty.
9. Security measures shall be designed to ensure emergency access in compliance with fire safety standards.
10. All structures used for commercial cannabis use shall have locking doors, with commercial-grade non-residential locks, to prevent free access.
11. Security measures shall prevent individuals from remaining on the premises of the cannabis business if they are not engaging in activities expressly related to the operations of the cannabis business.
12. Security measures shall include a transportation plan that details the procedures established for the safe and secure transport of cannabis, cannabis products, and currency to and from the cannabis business premises, including the transfer of currency for remitting City tax payments
13. Except for limited amounts of cannabis used for display purposes, samples, immediate sales, and other authorized uses, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault that

meets approval of the Chief of Police. To the fullest extent possible, all cannabis and cannabis products shall be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.

14. Panic buttons shall be installed in all cannabis business premises with easy access by employees and all employees shall be properly trained on its use.
15. Any security bars installed on the windows or the doors of the cannabis business shall be installed only on the interior of the building in compliance with all applicable codes.
16. Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable provisions in this Code.
17. Each cannabis business shall identify a liaison and provide contact information to the Chief of Police who shall be available at all times to meet with the Chief of Police regarding security measures and operational issues.
18. Minimum lighting level of one-foot candle shall be provided at building entrances and in parking lot areas. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. Exterior lighting on the premises shall be balanced to complement the security/surveillance systems to ensure all areas of the premises are visible, and shall provide increased lighting at all entrances to the premises. The lighting required shall be turned on from dusk to dawn. The site security plan shall include a photometric plan meeting these requirements and fixture details if new or upgraded lighting is required.

D. Insurance coverage. Cannabis businesses shall maintain at all times commercial general liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one(1) or more persons, property damage and personal injury with limits of not less than one million dollars ($1,000,000.00) per occurrence and comprehensive automobile liability (owns, nonowned, hired) providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one(1) or more persons, property damage and personal injury with limits of not less than one million dollars ($1,000,000.00). The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall name the City, its officers, and employees and additional insured.

E. Ledger. Cannabis businesses shall maintain, for a minimum of three (3) years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including any in-kind contributions) as well as records of all operational expenditures and costs incurred by the permittee in accordance with generally accepted accounting practices and standards typically applicable to business records. Such ledger shall be made available to the City for inspection during business hours upon reasonable notice by the Chief of Police.

F. Inspections. To the extent permissible by law, the City shall have the right to enter and inspect any cannabis business for the purpose of ensuring compliance with the regulations of this chapter, provided that any such entry and inspection shall be conducted in a reasonable manner. The City shall also have the right to inspect any delivery vehicle for the purpose of ensuring compliance with the regulations of this chapter, provided that any such entry and inspection shall be conducted in a reasonable manner. Peace officers, whether in plain clothes or uniform, have the right to visit and inspect any cannabis business or delivery vehicle at any time during business hours without a search warrant, upon presentation of appropriate credentials. This includes inspection of all areas of the business premise or vehicle, including, but not limited to sales areas, back-of-house areas, store rooms, offices, closed or locked cabinets, safes, kitchens, and appurtenant buildings.

G. Notification. Within twenty-four hours after discovering any of the following, a cannabis business shall notify the Police Department:
   1. Diversion, theft, loss, or any criminal activity involving cannabis or cannabis products or any agent or employee or permittee.
   2. The loss or unauthorized alteration of records related to cannabis or cannabis products, customers, employees or agents.
   3. Significant discrepancies identified between inventory records and inventory.
   4. Any other material breach of security.

H. Onsite consumption. Cannabis shall not be consumed on the premises of a cannabis business.

I. A cannabis business shall notify the Chief of Police within three (3) days of receiving any notices of violation or other corrective action ordered by a State agency or other local licensing authority, and shall provide copies of relevant documents.

J. A cannabis business shall notify the Chief of Police within three (3) days of any staffing changes. New employees shall be subject to the same requirements of the initial application process.

K. Deliveries. Deliveries within El Cerrito shall only be permitted by cannabis storefront businesses which have been granted an operating permit by the City. Deliveries shall be subject to the following standards:

1. Any person who delivers cannabis shall have in possession a copy of all licenses and permits required by the State of California and the City.
2. A licensed cannabis business which is authorized to conduct deliveries in El Cerrito shall provide to the Chief of Police a list of all vehicles to be used for delivery of cannabis and cannabis products, including the vehicle's make, model, year, license plate number and vehicle identification number. The cannabis business shall update the list prior to any vehicle being added to or removed from service.
3. Cash shall be prohibited as a form of payment for cannabis delivery transactions at the delivery location. Payments shall be made via credit card, check, or other means of cashless payment or a cash payment shall be made in advance at the business location.
4. Delivery vehicles shall not be marked or otherwise identified with advertisements, the name of the cannabis business, or any other distinctive marking associated with cannabis.
5. Delivery of cannabis shall be directly to the residence or business address of the designated recipient; deliveries to any other location are prohibited.
6. Deliveries shall occur only between the hours of 8:00 a.m. and 8:00 p.m.

L. Commercial Cannabis use conducted within buildings. No processing, manufacturing, distribution, storage, advertising, or display of cannabis or cannabis products shall be visible from the exterior of a building where a cannabis business is located.

M. Cannabis businesses shall make all reasonable efforts to ensure that advertising and marketing of cannabis and cannabis products are not targeted to individuals less than 21 years of age.

N. Regular meetings. The applicant shall schedule and be available for an in-person meeting with the City Manager and Chief of Police not less than once every 180 days. These meetings shall be used to discuss ongoing operation of the cannabis business and any modifications to the operating permit necessary to maintain peace, order, and welfare of the public. The City Manager may waive these meetings at his/her discretion.

O. Operator Qualifications. Commercial cannabis operators must meet the following qualifications:
   1. Operators must be 21 years of age or older.
   2. Operators shall be subject to a background investigation by the Chief of Police at the time of application for a permit.

6.80.080 Location Requirements –Cannabis Storefront Retail Businesses.

Cannabis storefront retail businesses shall only be permitted in the San Pablo Avenue Specific Plan Area and only on the San Pablo Avenue Commercial and San Pablo Avenue

Community street types, as defined in the Specific Plan. Within the Theater District designation of the Specific Plan, Cannabis storefront retail businesses shall only be permitted in upper floor locations with access to an elevator or other means of accessibility approved by the Building Official.

A. Land use buffers. No operating permit shall be issued for a cannabis storefront retail business within six hundred (600) feet of public and private schools and areas with youth populations, including:
   1. A public or private kindergarten, elementary, middle, junior high, or high school.
   2. A library open to the public.
   3. A publicly owned park (excluding the Ohlone Greenway and pocket parks as defined in the San Pablo Avenue Specific Plan) or recreation facility including, but not limited to, a clubhouse, community center, or public pool.
B. No operating permit shall be granted for a cannabis storefront retail business within one thousand (1,000) feet of another licensed cannabis business.
C. Distances. The distances set forth in this section shall be measured as a straight line, without regard to intervening structures or objects. Distances between cannabis storefront retail businesses and public and private schools and areas with youth populations shall be measured from the property line of the property containing the school or areas with youth populations to the outside wall of the tenant space of or, for single-occupancy structures, the outside wall of the structure containing the cannabis storefront retail business. Distances between cannabis storefront retail businesses shall be measured between the outside walls of the tenant spaces of or, for single-occupancy structures, the outside wall of the structure containing the cannabis storefront retail businesses.
D. Nonconforming locations. Cannabis storefront retail businesses which become nonconforming after the issuance of an operating permit due to the establishment of any of the land uses listed in this section, may continue to operate as long as the business's operating permit remains valid.

6.80.090 – Renewal, nonrenewal, suspension, revocation, transfer, modification, or appeal.

A. Permit renewal. A permit renewal application and any applicable fees shall be submitted at least sixty (60) days prior to the expiration of the operating permit. The City Manager shall have the authority to expire any operating permits for which a permit renewal application has not been submitted in accordance with this section. Thereafter, the City may open applications for the operating permit, and a cannabis business that previously held an operating permit shall have to file a new application. Permit renewal shall be subject to the laws and regulations in place at the time of renewal, and may require submittal of additional information

to ensure applicable laws are regulations are met. No person or entity shall have any entitlement or vested right to receive an operating permit under this chapter.

B. Violation and Noncompliance. The City Manager may refuse to renew an operating permit or may revoke or suspend an existing permit on the grounds that the cannabis business has failed to comply with the permit conditions or requirements of this chapter, or its State license has been revoked. The City Manager may additionally suspend or revoke an operating permit for any of the following causes:
    1. Failure to comply with the operating permit conditions.
    2. Failure to comply with the plans and materials included with an approved operating permit.
    3. Conviction of the business owner or an employee who makes operational or management decisions that directly impact the business of an offence that is substantially related to the qualifications, functions, or duties of the cannabis business after an operation permit has been granted.
    4. Revocation of a State cannabis license or permit or any cause that would allow the State to deny or revoke a license under MAUCRSA.
    5. Failure to pay any applicable City taxes or fees after a reasonable period following notice of delinquency.
    6. Violation of any provisions of MAUCRSA or any provisions of this chapter.
    7. Violation of any other City statutes necessary to maintain the health, safety, and general welfare of the public.
C. Transfer of Permit. Operating permits shall not be transferable to another location. However, operating permits may be transferred to another owner subject to the following requirements:
    1. A request for change in permit ownership shall be submitted to the City at least 60 days prior to the anticipated change in business ownership.
    2. A new owner(s) shall meet all requirements for applicants of an initial permit and shall submit all information required for initial permits.
    3. All conditions of the operating permit shall apply to the new owner.
D. Modifications to Permits. Any holder of an operating permit may request modifications to any aspect or condition of an operating permit at least thirty (30) days prior to the anticipated change. The City Manager, or designee, may approve such modifications at his/her discretion.
E. Notice of Proposed Denial, Suspension, Revocation, or Refusal to Renew an Operating Permit. When the City Manager concludes that grounds for denial, suspension, revocation or refusal to renew or approve the transfer or modification of an operating permit exist, he/she shall serve the permit holder, either personally, by certified U.S. mail or overnight delivery service that provides tracking, addressed to the business or residence address of the permit holder,

with a notice of his or her decision pursuant to this section. This notice shall state the reasons for the proposed action, the effective date of the decision, the right of the applicant or permit holder to appeal the decision and that the decision will be final if no appeal is filed within the time permitted.

F. Appeal. The right to appeal a decision of the City Manager pursuant to this section shall terminate upon the expiration of fifteen business days from deposit of the notice with the U.S. Mail, or deposit with an overnight delivery. All requests for appeals shall be submitted in writing to the City Manager and set for the reasons why the decision was improper.
    1. A nonrenewal, revocation, or suspension shall be effective upon deposit of the notice in the U.S. mail or overnight delivery service.
    2. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council.
    3. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
    4. The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing. The operator shall not operate the cannabis business while awaiting appeal.
    5. At the hearing, the appellant may present any information the appellant deems relevant to the decision appealed.
    6. At the conclusion of the hearing the City Council may affirm, reverse or modify the decision of the City Manager. The decision of the City Council shall be final.

6.80.100 Enforcement.

A. Violations.
    1. Any activity performed contrary to the provisions of this chapter is hereby declared to be a public nuisance.
    2. Any violation of a term, condition, or the approved plans and specifications of any permit issued pursuant to this chapter shall constitute a violation.
B. Remedies. In addition to the nonrenewal, suspension, and revocation provisions in Section 6.80.90 and any and all available remedies under the law, the following remedies shall be available to the City or other enforcement agency regarding violations of this chapter:
    1. Administrative enforcement pursuant to Chapters 1.08 and 1.14 of the Municipal Code.
    2. Civil enforcement.
    3. Criminal enforcement.

C. In any enforcement action brought pursuant to this section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful cannabis use shall be liable for all costs incurred by the City, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this section. In any action by the agency having jurisdiction to abate unlawful cannabis uses under this section, whether by administrative or judicial proceedings, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this section shall be limited to those actions or proceedings in which the City elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding.

SECTION 3. Urgency Findings and Declaration. The City Council finds and declares that this Ordinance must be adopted as an urgency matter because it is necessary for the immediate preservation of the public peace, health, and safety. The following facts and circumstances support such necessity: Beginning January 1, 2018, the State of California has stated that it is prepared to begin issuing licenses for commercial cannabis uses. The City Council has adopted an ordinance creating a regulatory program for the issuance of a limited number of operating permits for retail cannabis businesses and associated deliveries in El Cerrito. No other commercial cannabis uses will be permitted in El Cerrito. The ordinance adopted by City Council will not go into effect until January 18, 2018. It is in the public interest to ensure that there is no gap between the between the time when the State will begin to issue commercial cannabis licenses and the time that the City Council's regulations of commercial cannabis uses goes into effect. Such a gap would potentially create uncertainty among State regulators and individuals and businesses interested in commercial cannabis uses about local regulations of commercial cannabis uses. Such confusion could lead to the inadvertent issuance of a license for a type of commercial cannabis use not permitted in the City or the initiation of such a business. By the adoption of Ordinance No. 2017-07, the City Council has determined that only a limited number and type of commercial cannabis uses may operate safely in El Cerrito, and only under the conditions established in the ordinance. Without the enactment of this Ordinance, the licensing or initiation of commercial cannabis uses not permitted under Ordinance No. 2017-07 could occur, creating an immediate threat to the public peace, health, and safety.

Based on the foregoing findings, facts and circumstances, the City Council finds that this Ordinance should be adopted as an urgency ordinance for the immediate preservation of

the public peace, health and safety, and that it is necessary that this Ordinance should go into effect as described below.

SECTION 4. Compliance with the California Environmental Quality Act. Approval of the amendments is exempt from environmental review in accordance with Business and Professions Code section 26055(h), the exemption for the adoption of an ordinance that requires discretionary review of permits. Additionally, approval of the amendments is exempt from further 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. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 6. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in a newspaper of general circulation printed and published in Alameda County and circulated in the City of El Cerrito, in accordance with California Government Code Section 36933.

Following adoption by at least a four-fifths vote of the City Council, this Ordinance shall take effect and be enforced immediately and shall remain in effect only until Ordinance No. 2017-07 becomes effective. It shall thereafter terminate without any further action by the City Council.

THE FOREGOING ORDINANCE was introduced, adopted, and ordered published at a regular meeting of the City Council on December 19, 2017 and passed by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

_____
Janet Abelson, Mayor

ATTEST:

_____
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. 2017-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 19th day of December 2017; and that said ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this ___ day of December, 2017.

_____
Cheryl Morse, City Clerk
2900714.1

THE CITY OF
EL CERRITO

Agenda Item No. 7(B)

ELECTION OF CITY COUNCIL OFFICERS[1]

Adopted: November 19, 1990 *Revised: July 7, 1997*

In order to fairly rotate the offices of Mayor and Mayor Pro Tem of the City Council among the five members of the Council, this policy is established.

CITY COUNCIL

A newly elected council member, who is not an incumbent, will serve a minimum of one year on the Council before qualifying to serve as Mayor.

Mayor Pro Tem will replace the outgoing Mayor.

Mayor Pro Tem will be the council member who has received the highest number of votes, compared to the other council members elected at the same time. This process continues until all council members elected in the same year have served as mayor.

An appointed council member shall join the rotation only after first being elected.

Newly elected and re-elected council members are added onto the existing order of rotation in the order of the number of votes received, from the highest number of votes to the lowest.

A council member may decline to serve as Mayor Pro Tem. This will drop the council member back one position in the rotation.

This format will be followed except in unusual or exceptional cases. The Council has the ultimate discretion to elect or not elect any council member for any office.

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[1] All references to election of Redevelopment Agency Officers have been deleted due to dissolution of the Redevelopment Agency by the State of California.