



AGENDA

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

ROLL CALL

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – *Mayor Janet Abelson.*

2. COUNCIL / STAFF COMMUNICATIONS *(Reports of Closed Session, commission appointments and informational reports on matters of general interest which are announced by the City Council & City Staff.)*

3. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

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

A. Approval of Minutes

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

C. Homeless Awareness Month Proclamation

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

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.*

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.*

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.*

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.

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.

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.

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.

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.

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.

8. CITY COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENTS

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

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, December 19, 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 7, 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 7:00 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE was led by Mayor Pro Tem Gabriel Quinto.

2. COUNCIL / STAFF COMMUNICATIONS

Councilmember Lyman reported that the Fire Department is teaming up with U.S. Marine Corp Reserve on this year's Toys for Tots program and encouraged all to participate. He also noted the remarkable work of Sundar Shadi and thanked the City and volunteers for allowing the display to continue. The display will be up from December 10 to December 27 this year.

Councilmember Fadelli reported that he and Mayor Abelson attended the Centennial Tree planting on October 22. It's located on Ashbury. Councilmember Fadelli also reported that Restaurant Week was a success this year and that he also attended the annual Free Folk Festival.

Councilmember Fadelli recognized local Boy Scout Troop 104 for assisting George Akai, an 86 year-old senior, with property clean up and for helping clean up Baxter Creek.

Councilmember Pardue-Okimoto announced that she attended a rally and stroller brigade on November 5 in front of the Alta Bates Hospital to draw attention to the Hospital's proposed closure. The rally was very well attended. The community will keep pushing to keep the hospital open so it will continue to serve the City of El Cerrito and beyond.

Mayor Pro Tem Quinto reported that he and Councilmember Fadelli attended the October Contra Costa Mayors Conference in Lafayette. At the conference, East Bay Park Director, Robert Doyle, spoke about the benefits of Measure CC funds. On October 7, he attended hydrogen fuel cell opening station at the Toyota office in Bishop Ranch, San Ramon. On October 11, the councilmembers attended Los Moles' Grand Opening. On October 26, Mayor Abelson and Mayor Pro Tem Quinto attended the League of California Cities East Bay Division meeting in which Police Chief Keith was a speaker. Police Chiefs from San Leandro and Brentwood also attended. On October 29, Mayor Abelson, Contra Costa County Supervisor John Gioia, and Mayor Pro Tem Quinto attended the Junction Avenue Block Party. On November 3, Mayor Pro Tem Quinto also attended the League of California Cities East Bay Division Executive Board meeting to work on future programming. He also attended the Save Alta Bates Hospital Rally and noted the importance of keeping Alta Bates Hospital open. He and Councilmember Pardue-Okimoto are members of the Alta Bates Task Force along with other local elected officials along the I-80 corridor and are doing what they can to keep Alta Bates Hospital open.

Mayor Abelson reported that during the October 3, 2017 Closed Session, the City Council discussed 6500 Stockton Avenue and 10848 San Pablo Avenue regarding senior services. The City Council gave direction to staff regarding the Senior Center. The city will vacate the Senior Center's current location by June 30, 2018 as required by the West Contra Costa Unified School District. The City is exploring other sites for the services.

Mayor Abelson also reported on her attendance at a League of California Cities informational briefing regarding recent housing legislation with Councilmember Fadelli and Councilmember Pardue-Okimoto. She hopes the legislation will help provide more housing opportunities for El Cerrito in the future. She also took the opportunity to look at the Lafayette Library and Learning Center where the legislative briefing took place. The Centennial Tree was planted on Ashbury at the south end of town and may live more than 500 years.

On October 18, Mayor Abelson attended the Fair Chance Employer Summit presented by the Contra Costa Workforce Development Board at the Community Center. Topics included how to provide employment opportunities for people released from prison, development of job skills, re-entry into society after incarceration and the prevention of recidivism.

The October 21 El Cerrito Arts Day was a really interesting event. The event provided a great opportunity to see the great work that the Arts and Culture Commission is doing. The ceremony opened with an Ohlone prayer and included a series of performances that took participants through different periods of California history. In October, the Committee on Aging and many other community groups organized a Senior Resource Fair Day held at the Community Center. The event was completely full. Mayor Abelson and Mayor Pro Tem Quinto attended the November Contra Costa Mayors Conference in Moraga where they received a presentation regarding retention of talented government employees.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

John Del Arroz, El Cerrito, stated that the use of police worn body cameras is an important public policy issue and asked that the issue be scheduled discussion at a future City Council meeting.

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

Moved, seconded (Lyman/Quinto) and carried unanimously to approve Consent Calendar Item Nos. 4(A) through 4(C) as indicated below.

A. Approval of Minutes

Approve the October 3, 2017 Regular City Council meeting and October 3, 2017 Special City Council Closed Session meeting minutes.

Action: Approved minutes.

B. Support Prohibition of Industrial Clearcutting in California Forests

At the request of Councilmember Quinto, adopt a resolution calling on the state legislature and Governor Brown to prohibit the practice of industrial clearcutting in the forests of California and require forest management methods that maximize carbon sequestration and forest health.

Action: Adopted Resolution No. 2017-72.

C. Crime Prevention Committee Appointment

Approve a Crime Prevention Committee recommendation to appoint Jim Dolgonas to the Crime Prevention Committee, effective November 7, 2017.

Action: Approved recommendation.

5. PRESENTATION

Presentation regarding El Cerrito's emergency mutual aid assistance in and response to recent Northern California wildfire incidents – *Presentation by Michael Pigoni, Battalion Chief.*

Speaker: Denise Sangster, El Cerrito, stated that she learned two things from the wildfire incidents that she would like the City Council to address: 1) Clearly defined Red Flag Day rules for High Fire Severity Zones that would prohibit people from conducting activities such as cutting trees or metal pipes with a chainsaw; 2) Implement one unified evacuation notification system that also has a backup system.

Action: Received presentation.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS

A. Service Employees Union Local 1021 Memorandum of Understanding

Adopt a resolution approving an agreement between the City of El Cerrito and the Service Employees International Union (SEIU), Local 1021 modifying salaries and creating a new Memorandum of Understanding.

Presenter: Kristen Cunningham, Senior Human Resources Analyst.

Speaker: Denise Sangster, El Cerrito, asked whether the Financial Advisory Board had reviewed the Memorandum of Understanding and expressed concerns about cashouts associated with accruals on unused vacation and the potential liability to taxpayers. Ms. Sangster said the process needs to be more transparent to disclose what the costs are.

Action: Moved, seconded (Pardue-Okimoto/Quinto) and carried unanimously to adopt Resolution No. 2017-73.

B. Charter City Discussion and Possible Direction

Adopt a resolution creating the El Cerrito Charter Committee to prepare a recommended charter for the City of El Cerrito and directing the City Manager and City Attorney to work with the Charter Review Committee.

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

Speakers: Michael Fischer, El Cerrito, expressed his support for the concept of a city charter, noted that the City Council ultimately decides what charter to put on the ballot and urged the City Council to take the next step.

Denise Sangster, El Cerrito, stated that she agrees with Mr. Fischer and that the charter is about taking more taxes from residents. Ms. Sangster said that everything should be on the table for discussion; however, she agrees with Mayor Pro Tem Quinto about protecting wages and personnel rights. She stated that she found conflicting information on the web about Proposition 13 and charter cities. Ms. Sangster queried whether new things can be layered around Proposition 13 to capture additional revenue.

Action: Moved, seconded (Lyman/Quinto; Ayes – Councilmembers Lyman, Pardue-Okimoto, Quinto and Mayor Abelson; Noes – None; Abstain – Councilmember Fadelli; Absent - None) and carried to adopt Resolution No. 2017–74.

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

Introduce by title and waive any further reading, an ordinance 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.

Presenter: Cheryl Morse, City Clerk.

Action: Moved, seconded (Lyman/Pardue-Okimoto) and carried to adopt Ordinance No. 2017–06, an ordinance 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. *Second reading scheduled for consideration on November 21, 2017.*

8. CITY COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENTS

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

Councilmember Pardue-Okimoto reported that the City of Berkeley was trying to get a bond to build a bathroom on the Gilman Fields; unfortunately, Berkeley was not able to get it so the project is currently on hold. The Gilman Fields Joint Powers Authority is trying to figure out how to apportion fees among each member city. More information will be presented at the next Gilman Fields JPA meeting.

Mayor Abelson announced that many attempts have been made to start an improvement project on the Ohlone Greenway between the two BART stations in El Cerrito. The bids were always too high. This time Yvetteh Ortiz, Public Works Director/City Engineer, was successful in getting a good price. The project will include making other improvements in the area in addition to fixing the irregular surface of the Greenway. Mayor Abelson said she and others are all looking forward to starting this nice project.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 9:34 p.m.

SUPPLEMENTAL REPORTS

Item No. 7(B) Charter City Discussion and Possible Direction

1. Revised land-use powerpoint slide – *Submitted by Sky Woodruff, City Attorney.*

ORDINANCE NO. 2017-06

AN ORDINANCE OF THE CITY OF EL CERRITO REPEALING EL CERRITO MUNICIPAL CODE CHAPTER 2.32 – CAMPAIGN LITERATURE DISCLOSURE FOR LOCAL CANDIDACIES AND MEASURES

WHEREAS, Ordinance No. 92-2, adopted on March 2, 1992, established in part, regulations, including penalties, for the disclosure and distribution of campaign literature for candidacies and measures in municipal elections in the City of El Cerrito, codified as Chapter 2.32 of the El Cerrito Municipal Code; and

WHEREAS, campaign disclosure and mass mailing regulations are also comprehensively governed by State Law and Fair Political Practices Commission regulations; and

WHEREAS, after discussion, careful review, deliberation and further consideration, the City Council deems it in the best interests of its residents, municipal candidates and proponents and opponents of municipal measures, to eliminate confusion between state and local law regarding campaign literature disclosure requirements.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN as follows:

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

Section 2: Repeal of Chapter 2.32 of the El Cerrito Municipal Code. Chapter 2.32 of the El Cerrito Municipal Code, “Campaign Literature Disclosure for Local Candidacies and Measures” is hereby repealed in its entirety.

Section 3: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional.

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

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on November 7, 2017 and passed by the following vote:

Agenda Item No. 4(B)

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

ADOPTED AND ORDERED published at a regular meeting of the City Council held on November X, 2017 and passed by the following vote:

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

APPROVED:

Janet Abelson, Mayor

ATTEST:

Cheryl Morse, City Clerk

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

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. 2017-06 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 X day of November 2017; and that said ordinance has been published and/or posted in the manner required by law.

Agenda Item No. 4(B)

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

Cheryl Morse, City Clerk

***EL CERRITO CITY COUNCIL PROCLAMATION
Designating November as Homelessness Awareness Month***

WHEREAS, the month of November is recognized as Homelessness Awareness Month in the United States; and

WHEREAS, there are many reasons people are homeless including mental illness, substance addictions and the shortage of affordable housing in Contra Costa County; and

WHEREAS, there are many organizations committed to sheltering, providing supportive services and basic resources to people experiencing homelessness including Bay Area Rescue Mission, Catholic Charities, Contra Costa Health Services, Contra Costa Interfaith Housing, Contra Costa Crisis Center, Department of Veterans Affairs, Housing Authority of Contra Costa, Greater Richmond Interfaith Program, Northern California Family Center, Resources for Community Development; and

WHEREAS, 6,105 persons, including 640 families and 746 minors, in Contra Costa County accessed homeless services in Contra Costa County in Fiscal Year 16-17; and

WHEREAS, 86% of homeless veterans in Contra Costa County have been homeless for 12 months or more; and

WHEREAS, Contra Costa County has the shelter capacity to meet only 41% of the need for single adults; and

WHEREAS, at least 19 residents of El Cerrito lost their housing in the past year, 53% of whom are experiencing chronic homelessness, and 26% of whom were newly identified as such; and

WHEREAS, the City of El Cerrito adopted an Affordable Housing Strategy in August 2017 and endeavors to increase the supply of affordable housing and partner with Contra Costa County to address issues facing homeless individuals and families.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby proclaim November to be Homelessness Awareness Month.

Dated: November 21, 2017

Janet Abelson, Mayor



AGENDA BILL

Agenda Item No. 4(D)

Date: November 21, 2017
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer
Subject: Reject Bids and Authorize Contract Negotiation for the El Cerrito Swim Center Locker Rooms / Pool Equipment Room Upgrades and Renovations, City Project No. C3050.4

ACTION REQUESTED

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 (FY) 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 to approve change orders in an amount not to exceed \$60,000 for construction of the Project.

BACKGROUND

The scope of work for the El Cerrito Swim Center Locker Rooms / Pool Equipment Room Upgrades and Renovations Project in general consists of mandated health and safety upgrades and renovations in and around the locker rooms and pool equipment room at the El Cerrito Swim Center. This work includes the following items:

Locker Rooms

- Replace existing entrance doors (stainless steel to plastic)
- Regrade the floor with new epoxy flooring to comply with Americans with Disabilities Act (ADA) requirements
- Replace trench drains
- Replace some locker units with ADA compliant lockers
- Replace and relocate some benches with ADA compliant benches and clearances
- Replace and relocate some lavatory fixtures with ADA compliant fixtures and clearances

- Renovate changing stalls for ADA compliance
- Replace shower towers
- Repair water damage in exterior and interior shower areas including new tile walls

Pool Equipment Room

- Replace roll up doors, door frames and hardware
- Resolve ventilation and compartmentalization that is likely leading to excessive corrosion
- Replace structural and electrical elements where needed

The additive alternate for the project includes covering the existing trellis to provide shade and rain cover for users and visitors of the facility.

The project design was developed over the last year by the City's on-call consultant team of BKF Engineers and Lionakis Architecture. City staff and the consultant team presented the design concept at a Park and Recreation Commission meeting in May 2017. Comments from Commissioners and the public were incorporated into the final design.

The project was advertised for bid in the West County Times on October 12 and 18, 2017. Additionally, the Notice Inviting Bids was sent to contractor plan rooms and posted on the City's website. A mandatory pre-bid meeting was held on October 24, 2017 and eight contractors attended.

ANALYSIS

One bid was received on November 7, 2017, the advertised bid opening date, from Mar Con Builders, Inc. (Oakland, CA). The bid did not include a signed copy of the Non-Collusion Affidavit and information required was missing from the Subcontractor List form, specifically the bid amounts. City staff found these omissions to be material and recommend rejection of the bid as non-responsive.

The amount of the bid submitted is as follows:

Name and Location of Bidder	Base Bid	Add Alternative 1
Mar Con Builders, Inc., Oakland	\$620,000	\$65,310
Construction Cost Estimate	\$367,600	\$30,900

The base bid amount is approximately 69 percent above the Construction Cost Estimate, while Additive Alternative 1 is approximately 111 percent over.

City staff requests that the City Council reject the sole bid submitted for the project as non-responsive. However, based on discussion with our consultant team, re-advertising the project would unlikely improve the bid results, as receiving few bids is consistent with current trends on lack of available bidders, including subcontractors, and high bid prices

for public projects. In addition, time is of the essence. The Swim Center cannot be legally open without access to the locker room facilities nor while work is done in the pool equipment room because the work will require the chemical systems to be shut down. The estimated time to complete the full scope of the project is two months. As such, City staff has been targeting for the work to be done over the winter to minimize disruptions to Swim Center operations. Because of the uncertainty in the bidding climate and limited time window for construction to minimize disruptions, it is in the City's best interest to negotiate directly with the only contractor who bid on the Project to perform the work using available funding. City staff is requesting that the City Council authorize the City Manager to negotiate with Mar Con Builders, Inc., the sole bidder. Despite being deemed non-responsive, Mar Con has since submitted the Non-Collusion Affidavit on November 8, 2017 and subcontractor bid amounts on November 13, 2017 in the event the Council authorizes the City Manager to proceed with negotiations.

STRATEGIC PLAN CONSIDERATIONS

The project is consistent with El Cerrito Strategic Plan Goal D – *Develop and rehabilitate public facilities as community focal points.*

ENVIRONMENTAL CONSIDERATIONS

The project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) because the project is a repair to an existing facility involving negligible or no expansion of use beyond that presently existing. More specifically, restoration or rehabilitation of deteriorated or damaged facilities to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as an earthquake, landslide, or flood, is exempt from CEQA.

FINANCIAL CONSIDERATIONS

The construction of the El Cerrito Swim Center Locker Rooms / Pool Equipment Room Upgrades and Renovations Project is funded by Measure A Swim Center revenues. The funding is included in the Fiscal Year (FY) 2017-18 Adopted Budget and Capital Improvement Project in the amount of \$430,000. Based on the sole bid, City staff is proposing a revised budget for construction of the project to increase it by \$220,000 to \$650,000 as summarized below.

Construction Contract	\$560,000
Construction Contract Contingency	\$60,000
Construction Management and Testing	\$25,000
Miscellaneous	\$5,000
Total	\$650,000

City staff requests that City Council amend the FY 2017-18 Adopted Budget and Capital Improvement Program to appropriate the additional \$220,000 in the Measure A Swim Center Fund (Fund 206) from the existing fund balance.

LEGAL CONSIDERATIONS

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

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING PLANS AND SPECIFICATIONS FOR THE EL CERRITO SWIM CENTER LOCKER ROOMS / POOL EQUIPMENT ROOM UPGRADES AND RENOVATIONS, CITY PROJECT NO. C3050.4; REJECTING THE SOLE BID SUBMITTED BY MAR CON BUILDERS, INC. FOR THE PROJECT AS NON-RESPONSIVE; 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 FOR THE PROJECT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT, CONTINGENT ON SUCCESSFUL NEGOTIATIONS WITH MAR CON BUILDERS, INC. FOR CONSTRUCTION OF THE PROJECT

WHEREAS, the El Cerrito Swim Center Locker Rooms / Pool Equipment Room Upgrades and Renovations Project, City Project No. C3050.4 (Project) addresses mandated, health and safety upgrades and renovations in and around the locker rooms and pool equipment room at the El Cerrito Swim Center; and

WHEREAS, the work generally consists of replacing exterior doors, replacing locker room floors and drains, and replacing and relocating lockers, benches and other fixtures, and miscellaneous electrical, structural and mechanical work; and

WHEREAS, a Notice Inviting Bids for the project was advertised in the West County Times on October 12 and 18, 2017, sent to contractor plan rooms, and posted on the City's website; and

WHEREAS, one bid was received on the advertised bid opening date of November 7, 2017, and the bid received from Mar Con Builders, Inc. had omissions making the bid non-responsive; and

WHEREAS, the Mar Con Builders, Inc. Base Bid amount of \$620,000 is approximately 69 percent above the Construction Cost Estimate and Additive Alternate 1 is approximately 111 percent over; and

WHEREAS, because of the uncertainty in the bidding climate including lack of bidders and limited time window for construction to minimize disruptions to the Swim Center operations, it is in the City's best interest to negotiate with Mar Con Builders, Inc., the only contractor who bid on the Project to perform the work using available funding; and

WHEREAS, the Project is included in the Fiscal Year (FY) 2017-18 Adopted Budget and Capital Improvement Program with funding in the amount out \$430,000 from the Measure A Swim Center Fund; and

WHEREAS, based on the sole bid, additional funding is needed for construction of the project and there is an existing fund balance in the Measure A Swim Center Fund; and

Agenda Item No. 4(D)

Attachment 1

WHEREAS, the project is categorically exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) because the project is a repair to an existing facility involving negligible or no expansion of use beyond that presently existing. More specifically, restoration or rehabilitation of deteriorated or damaged facilities to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as an earthquake, landslide, or flood, is exempt from CEQA; and

WHEREAS, the City has the authority to authorize the City Manager to award the contract for this project pursuant to the established common-law doctrine articulated in the case of Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal.App.3d 631.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby:

- 1) Approves plans and specifications for El Cerrito Swim Center Locker Rooms / Pool Equipment Room Upgrades and Renovations Project, City Project No. C3050.4 (Project);
- 2) Rejects the sole bid submitted by Mar Con Builders, Inc. for the Project as non-responsive;
- 3) Amends the Fiscal Year 2017-18 Adopted Budget and Capital Improvement Program to appropriate an additional \$220,000 in the Measure A Swim Center Fund for the Project; and
- 4) Authorizes the City Manager to execute a contract, contingent on successful negotiations with Mar Con Builders, Inc. for construction of the Project.

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

I CERTIFY that at a regular meeting on November 21, 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 November XX, 2017.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor



AGENDA BILL

Agenda Item No. 4(E)

Date: November 21, 2017
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer
Subject: Ohlone Greenway BART Station Area Access, Safety and Placemaking Improvements Project

ACTION REQUESTED

City staff requests that the City Council adopt a resolution taking the following action:

- 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.

BACKGROUND

Project Description

The Ohlone Greenway BART Station Area Access, Safety and Placemaking Improvements (Ohlone ASP) Project will improve the Ohlone Greenway at the El Cerrito del Norte and El Cerrito Plaza BART Stations. Currently, in the two BART Station areas, the Ohlone Greenway becomes narrower than other segments of the Greenway and has an irregular alignment at street crossings. At the same time, it has higher pedestrian, bicycle, automobile and bus traffic that contribute to increased conflicts between all modes of travel. The Ohlone ASP Project will improve and widen the mixed-use path; upgrade and expand existing crosswalks on adjacent streets to create high visibility pedestrian zones with new striping, special pavement, improved signage, curb bulb-outs, upgraded curb ramps and flashing lights; enhance landscaping, lighting, seating, and other amenities. The goals of the project are to improve bicycle and pedestrian routes leading to transit, commercial nodes and housing; bring new vibrancy to the areas around the BART Stations to encourage housing development specifically within a regionally-designated Priority Development Area; increase safety and accessibility for BART riders and Greenway users; and improve the integration of the BART Stations with the surrounding community.

Project Funding

In June 2013, the City Council adopted Resolution 2013-29 applying for approximately \$3.47 million in federal grant funds through the Contra Costa County Portion of the Metropolitan Transportation Commission's (MTC) One Bay Area Grant (OBAG) Program for design and construction of the project, committing the necessary non-federal match, and assuring the project would be completed per federal requirements. The Metropolitan Transportation Commission (MTC) formally approved the award in September 2013. The OBAG Program requires a minimum 11.47% percent local match in non-federal funding for each phase of the project. The local matching funds include \$300,000 from the BART Measure J Project No. 10002-01, "Transit Oriented Development (TOD) and Access Improvements at El Cerrito Plaza & del Norte BART Stations" Project and \$149,387 in funds contributed by Safeway for Ohlone Greenway Improvements as part of development of their del Norte Store.

In July 2016, the City Council adopted Resolution 2016-54 authorizing the City Manager to execute a Subregional Transportation Mitigation Program (STMP) Cooperative Funding Agreement between West Contra Costa County Transportation Advisory Committee (WCCTAC) and the City of El Cerrito. At that time, City staff had requested STMP funding in the amount of \$300,000 from WCCTAC to cover additional estimated costs for the construction phase including construction contract, contingency, construction management and engineering, inspection and material testing.

Original Bidding

The project construction was originally advertised for bid in late 2016, and the City received three bids. However, the lowest bid came in significantly above the project budget. As such, in January 2017, the City Council adopted Resolution 2017-06 which rejected all bids submitted for the project and authorized City staff to proceed with value-engineering measures and re-bid the project.

2nd Bidding

City staff worked with the City consultant team to value-engineer and restructure the project during the first quarter of 2017. This included the following elements:

- Eliminate most of the original additive alternatives including elements such as pedestrian light columns matching BART's proposed fixtures (but keeping the base pedestrian light fixtures), decorative bike wall stencil, and concrete mowband; reduce the number of landscape boulders; and replace flagstone paving with decomposed granite paving;
- Reduce the amount of colored and stamped asphalt crosswalk treatments;
- Reduce the amount of enhanced concrete sidewalk treatments;
- Reduce the limit of work to decrease the amount of pavement resurfacing needed to implement crosswalk improvements;
- Simplify and reduce the amount of concrete wall structures at gateway areas;
- Simplify and reduce the amount and types of benches;
- Simplify the construction phasing and allow the contractor to propose alternate construction phasing plans, and clarify coordination required with the BART Station Modernization project; and

- Updated the Engineer's Estimate to reflect recent bid prices on similar projects.

Staff sought additional funding available through WCCTAC and was successful in obtaining a WCCTAC Board recommendation of \$500,000 in West County Sub-Regional Transportation Needs category funds (Measure J Program 28b). At its April 18, 2017 meeting, the City Council adopted Resolution 2017-25 authorizing the City Manager to execute Cooperative Agreement No. 28W.03 between the Contra Costa Transportation Authority (CCTA), the Measure J administering agency, and the City of El Cerrito for distribution of these funds.

The project construction was advertised for bid in Spring 2017, and two bids were received, one of which was determined to be non-responsive. The sole responsive bid was almost double the Engineer's Estimate. As such, in June 2017, City Council adopted Resolution 2017-45 which rejected all bids and authorized City staff to amend the project scope and re-bid the project.

Current Bidding

In its report to the City Council back in June, City staff indicated that they would discuss submitted bids with contractors to better understand the high bid prices, despite value-engineering efforts, and reconsider amending the project scope, which would likely include eliminating the upgrade and expansion of the camera surveillance system, an additive alternative on the second bid effort. This ended up being necessary and City staff worked with our funding agencies to obtain formal approval for the removal of the surveillance system element from the scope of the project. Because this element of the project is technology based, City staff believes it is best to pursue completion of this work as part of a separate process. Other sources of funding are currently being considered to complete this work including some of the Ohlone Greenway funds contributed by Safeway and to be contributed by Creekside Walk as well as additional State funding resulting from the passage of the Road Repair and Accountability Act of 2017 (Senate Bill 1 Beall).

City staff consulted with its construction management firm, Ghirardelli Associates Inc., to determine the best time to rebid given their work with the CCTA to generate interest in bidding on the I-80/Central Avenue Interchange Project. To obtain the most interest in the Ohlone ASP project, City staff rebid the project in September and provided a longer bidding period.

The project was advertised for bid in the West County Times on September 18 and 25, 2017. Additionally, the Notice Inviting Bids was sent to contractor plan rooms and posted on the City's website. A mandatory pre-bid meeting was held on October 11, 2017 and five contractors attended.

ANALYSIS

Four bids were received on the advertised bid opening date of October 24, 2017. The bid from Bay Construction included several irregularities and, most significantly, did not include all the required information in the Subcontractor List form, specifically the bid

amounts. City staff found these omissions to be material and recommend rejection of the bid as non-responsive.

The results of the remaining three bids are as follows:

Name and Location of Bidder	Total Bid
FBD Vanguard Construction, Livermore	\$3,287,480.95
Gordon N. Ball, Alamo	\$3,366,020.00
Sposeto Engineering, Livermore	\$3,658,249.10
Engineer's Estimate	\$2,800,000

The low bid in the amount of \$3,287,480.95 is from FBD Vanguard Construction, Inc. It is approximately 16 percent over the Engineer's Estimate of \$2.8 million. Staff has reviewed both the low bid from FBD Vanguard Construction, Inc. and the Engineer's Estimate and believes the bid is representative of the current construction market and reasonable for the scope of this project.

Since the project is largely funded by a federal grant from the OBAG Program, the low bidder is required to make a good faith effort to incorporate the services of Disadvantaged Business Enterprises (DBEs) in their bid for completing the project. The City determined a DBE goal of 10.0% of the total construction cost for this project was obtainable. The low bid exceeded the City's DBE goal by including a commitment of 11.9% of work to be performed by DBEs.

Staff recommends that the City Council award a construction contract in the amount of \$3,287,480.95 to FBD Vanguard Construction, Inc. as the lowest responsible and responsive bidder.

STRATEGIC PLAN CONSIDERATIONS

The Ohlone ASP Project is consistent with El Cerrito Strategic Plan Goal D – *Develop and rehabilitate public facilities as community focal points*; Goal C – *Deepen a sense of place and community identity by promoting strong neighborhoods*; and Goal F – *Foster environmental sustainability citywide by encouraging alternative modes of transportation to the single occupancy vehicle*. Consistent with the federal grant goals, the project will improve connectivity, enhance sense of place, bring new vibrancy and support the higher-density transit-oriented neighborhoods adjacent to BART as a place where developers want to build, and people want to live, work and visit.

ENVIRONMENTAL CONSIDERATIONS

In 2009, the City completed an Initial Study and Negative Declaration per California Environmental Quality Act (CEQA) Guidelines, Section 15063, to evaluate the cumulative impacts of the improvements identified for the Greenway in the Ohlone Greenway Master

Plan. The project is consistent with the Master Plan and will not have a significant effect on the environment.

In addition, because the project is federally-funded, the project design consultant and City staff completed preliminary environmental studies and various technical studies in compliance with the National Environmental Policy Act (NEPA). Caltrans reviewed the studies and determined that the project has no significant impacts on the environment as defined by NEPA and therefore the project is categorically excluded from the requirements of preparing an environmental assessment or environmental impact statement.

FINANCIAL CONSIDERATIONS

The design and construction of the Ohlone ASP Project is currently funded by five sources, as described above, including a federal OBAG grant, Measure J BART project and Program 28b funds, STMP funds and City Park In-Lieu funds for Ohlone Greenway. The total funding amount is approximately \$4.7 million as summarized below.

Fund Source	Environmental/ Design	Construction	Total
Federal OBAG	\$442,650	\$3,025,350	\$3,468,000
Measure J BART project	\$34,462	\$265,538	\$300,000
WCCTAC STMP		\$300,000	\$300,000
City Park In-Lieu Funds	\$36,141	\$113,246	\$149,387
Measure J Program 28b		\$500,000	\$500,000
Total	\$513,253	\$4,204,134	\$4,717,387

The currently estimated construction costs for the project is \$4,202,867 as summarized below.

Construction Contract + Contingency	\$ 3,616,231
Project & Construction Management (including Materials Testing Services)*	\$496,636
Additional Project & Construction Management	\$60,000
City Administration & Miscellaneous	\$30,000
Total	\$4,202,867

*Encumbered prior fiscal year

Of the Project & Construction Management amount, \$496,636 was encumbered last fiscal year as part of agreements with various consultants as previously approved by the City Council. The remaining amount of \$60,000 is needed for additional project management services, given the additional effort required to rebid the project, and design support services during construction. The amount for these additional professional service agreements are anticipated to be within the City Manager's purchasing authority. In total, the construction costs for the current fiscal year are estimated to be \$3,706,231.

Funding appropriation for these costs is included in the Fiscal Year 2017-18 Adopted Budget and Capital Improvement Project in the amount of \$3,750,000.

LEGAL CONSIDERATIONS

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

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO 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); REJECTING THE BID SUBMITTED BY BAY CONSTRUCTION AS NON-RESPONSIVE AND ACCEPTING THE OTHER THREE SUBMITTED BIDS; AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT IN THE AMOUNT OF \$3,287,480.95 WITH FBD VANGUARD CONSTRUCTION, INC. AND TO APPROVE CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED \$328,750 FOR THE CONSTRUCTION OF THE PROJECT

WHEREAS, the Ohlone Greenway BART Station Area Access, Safety and Placemaking Improvements Project is intended to improve bicycle and pedestrian routes leading to transit, commercial nodes and housing; bring new vibrancy to the areas around the BART Stations to encourage housing development specifically within a regionally-designated Priority Development Area; increase safety and accessibility for BART riders and Greenway users; and improve the integration of the BART Stations with the surrounding community; and

WHEREAS, the work generally consists of improving and widening the mixed-use path; upgrading and expanding existing crosswalks on adjacent streets to create high visibility pedestrian zones with new striping, special pavement, improved signage, curb bulb-outs, upgraded curb ramps and flashing lights; enhancing landscaping, lighting, seating, and other amenities; and

WHEREAS, the overall project budget of \$4,717,387 consists of funding from five sources including a One Bay Area Grant (OBAG) Program federal grant, BART Measure J Project No. 10002-01 funds, West Contra Costa County Transportation Advisory Committee Subregional Transportation Mitigation Program funds, City Park In-Lieu funds for the Ohlone Greenway, and Measure J Program 28b funds; and

WHEREAS, a Notice Inviting Bids for the project was advertised in the West County Times on September 18 and 25, 2017, sent to contractor plan rooms, and posted on the City's website;

WHEREAS, four bids were received on the advertised bid opening date of October 24, 2017, and the bid received from Bay Construction had omissions making the bid non-responsive; and

WHEREAS, FBD Vanguard Construction, Inc. submitted the lowest responsible and responsive bid of \$3,287,480.95, which although approximately 16 percent above the Engineer's Estimate is within the project budget; and

WHEREAS, the Ohlone Greenway BART Station Area Access, Safety and Placemaking Improvements Project, City Project No. C3076A is included in the Fiscal Year 2017-18 Adopted Budget and Capital Improvement Program; and

WHEREAS, the City completed an Initial Study and Negative Declaration in 2009 per California Environmental Quality Act (CEQA) Guidelines, Section 15063, to evaluate the

cumulative impacts of the improvements identified for the Greenway in the Ohlone Greenway Master Plan, and the project is consistent with the Master Plan and will not have a significant effect on the environment; and

WHEREAS, Caltrans reviewed preliminary environmental and various technical studies completed by the City and determined that the project has no significant impacts on the environment as defined by National Environmental Policy Act (NEPA) and therefore the project is categorically excluded from the requirements of preparing an environmental assessment or environmental impact statement.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby:

- 1) Approves plans and specifications for the Ohlone Greenway BART Stations Area Access, Safety and Placemaking Improvements, City Project No. C3076A, Federal Aid Project No. CML-5239(025) (Project); and
- 2) Rejects bid submitted by Bay Constructions as non-responsive and accepts the other three submitted bids for the Project; and
- 3) Authorizes the City Manager to execute a contract in the amount of \$3,287,480.95 with FBD Vanguard Construction, Inc. and to approve change orders in an amount not to exceed \$328,750 for the construction of the Project.

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

I CERTIFY that at a regular meeting on November 21, 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 November XX, 2017.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor



AGENDA BILL

Agenda Item No. 4(F)

Date: November 21, 2017
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer
Subject: I-80/Central Avenue Interchange Improvement Project, Phase 1

ACTION REQUESTED

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).

BACKGROUND

The City of El Cerrito has continually supported the evaluation and implementation of transportation improvements that would reduce congestion along Central Avenue – a major route of access from I-80 and I-580 to key commercial areas and residential neighborhoods in both the cities of El Cerrito and Richmond. Central Avenue also serves as a primary commuter connection between these freeways and the El Cerrito Plaza BART Station and is therefore an important regional route. Central Avenue, between San Pablo Avenue and Rydin Road, experiences heavy congestion and poor traffic operations, especially during weekend peak hours. Closely spaced signalized intersections near the I-80/Central Avenue interchange, as well as heavy left-turn volumes and insufficient turn lanes are key contributors to the problem.

As authorized by Resolution No. 2006-48 in June 2006, the City of El Cerrito entered into Cooperative Agreement 07W.02 with the Contra Costa Transportation Authority (CCTA) and the City of Richmond to identify improvements that could be implemented at the I-80/Central Avenue interchange. The agreement identified the CCTA as the agency responsible for developing the Project Study Report (PSR) and the Environmental Document (ED). At that time, the CCTA initiated work to analyze improvements. Sixteen alternatives were examined as part of the PSR effort; however, these were removed from consideration due to public input, limited benefits, significant community impacts, and high cost. As such, it became apparent that developing a Feasibility Study was more appropriate than a PSR, which is a Caltrans-required document for larger projects.

The Feasibility Study found that less capital demanding alternatives would provide better traffic flow and congestion relief, and identified a set of phased improvements. Phase 1 (Operational Improvements) will improve operations during weekend peak traffic hours, which was found to be the most congested period throughout the week. Using multiple electronic message signs, westbound traffic on Central Avenue heading to I-80 westbound will be redirected to use the I-580 eastbound on-ramp at Rydin Road. In

addition, the all-way STOP signs at the I-580 ramps will be replaced with traffic signals. Phase 2 (Local Roads Realignment) of the project will improve signalized intersection spacing on Central Avenue by connecting Pierce Street and San Mateo Street, converting Pierce Street access at Central Avenue to “right-in, right-out”, and by relocating the traffic signal at Pierce Street/Central Avenue to the San Mateo Street/Central Avenue intersection.

As authorized by the City Council under Resolution No. 2014-69 in November 2014, Amendment No. 1 to the Cooperative Agreement identified the CCTA as the agency responsible for completing the Plans, Specifications and Estimate (final design), a “before and after” traffic study to determine the project effectiveness, and provide design services during construction (DSDC) for the Operational Improvements project. Amendment No. 2, authorized under Resolution No. 2016-52 in July 2016, assigned the CCTA the responsibility to advertise, award and administer the construction contract for Phase 1 of the project. At that time, CCTA estimated a cost of \$1,100,000 for these services with adequate funds programmed in the 2016 Measure J Strategic Plan.

Final design of Phase 1 was completed in February 2017 and Caltrans issued an Encroachment Permit to allow the advertisement of the project for construction in May 2017. The CCTA awarded the construction contract in July 2017, and construction began in September 2017.

ANALYSIS

After start of construction, Bike East Bay, other bike advocates and the City of Richmond requested that a dedicated bike path and “safe harbors” be provided through the Central Avenue and Rydin Road intersection, and connecting the San Francisco Bay Trail. Though there will be impacts to the construction activities, budget and schedule, they are expected to be minor and additional construction costs will be funded from the construction contingency.

CCTA is requesting Amendment No. 3 to Cooperative Agreement No. 07W.02 to increase funding by \$50,000 for associated consultant costs for final design services, traffic study and DSDC bringing the total amount of funding to \$1,150,000. The additional funding is needed for the revised design plans to incorporate the bike facilities.

CCTA staff has confirmed that adequate funds are programmed in the 2016 Measure J Strategic Plan, as amended, and is not requesting the cities of Richmond and El Cerrito provide additional funding. If additional funding is required at a future date, the CCTA will notify and seek approval of the cities to expend additional funds.

El Cerrito staff will continue to work with CCTA, Caltrans, and Richmond staff on implementation of Phase 1 improvements as well as initiation of the environmental document for Phase 2 improvements.

STRATEGIC PLAN CONSIDERATIONS

Approval of the proposed amendment is consistent with El Cerrito Strategic Plan Goal A – *Deliver exemplary government services*, and Goal F – *Foster environmental*

sustainability citywide. Specifically, approval of the proposed amendment will support the “develop and strengthen relationships with public partners” strategy listed in Goal A, and the “be a leader in setting policies and providing innovative programs that promote environmental sustainability” strategy in Goal F. The multi-agency project to develop and implement the I-80/Central Avenue Interchange Improvement Project, Phase 1 demonstrates the City’s aim to work collaboratively with neighboring and regional agencies to reduce congestion along a key transportation route. In addition, the I-80/Central Avenue Interchange Improvement Project, Phase 1 is an important regional transportation project that will improve air quality by reducing congestion.

ENVIRONMENTAL CONSIDERATIONS

After comprehensive environmental studies, Caltrans has determined that the Phase 1 Operational Improvements Project is Categorically Exempt (Class I) as outlined in the California Environmental Quality Act (CEQA) and Categorically Excluded in the National Environmental Protection Act (NEPA), and has filed a Categorical Exemption/Categorical Exclusion Environmental Clearance (CE/CE) for the project.

FINANCIAL CONSIDERATIONS

Execution of the proposed amendment will result in no fiscal impact to the City.

LEGAL CONSIDERATIONS

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

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution
2. Amendment No. 3 to Cooperative Agreement No. 07W.02

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 3 TO COOPERATIVE AGREEMENT NO. 07W.02 BETWEEN THE CONTRA COSTA TRANSPORTATION AUTHORITY, 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)

WHEREAS, the City of El Cerrito has continually supported the evaluation and implementation of transportation improvements that would reduce congestion along Central Avenue – a major route of access from I-80 and I-580 to key commercial areas, residential neighborhoods, and the El Cerrito Plaza BART Station and connecting the cities of El Cerrito and Richmond; and

WHEREAS, Central Avenue between San Pablo Avenue and Rydin Road experiences heavy congestion and poor traffic operations, especially during weekend peak hours and closely spaced signalized intersections in the vicinity of the I-80/Central Avenue interchange, as well as, heavy left-turn volumes and insufficient turn lanes have been found to be key contributors to the problem; and

WHEREAS, the I-80/Central Avenue Interchange Improvements Project is meant to address these problems and is eligible to receive funding from Measure J, the Contra Costa County sales tax; and

WHEREAS, as authorized by the City Council under Resolution No. 2006-48 in June 2006, the City of El Cerrito entered into Cooperative Agreement 07W.02 with the Contra Costa Transportation Authority (CCTA) and the City of Richmond that identified the CCTA as the lead agency responsible for developing the Project Study Report (PSR) and the Environmental Document (ED) to evaluate what could be implemented at the I-80/Central Avenue interchange; and

WHEREAS, sixteen alternatives were examined as part of the PSR effort; however, these were removed from consideration due to public input, limited benefits, significant community impacts and high cost and instead a Feasibility Study was prepared that found less capital demanding alternatives that would provide better traffic flow and congestion relief; and

WHEREAS, operational improvements will be made through the use of electronic variable message signs directing I-80 westbound on-ramp traffic during peak hours to I-580 (Phase 1), and by connecting Pierce Street and San Mateo Street, converting Pierce Street access at Central Avenue to “right-in, right-out” and relocating the traffic signal at Pierce Street/Central Avenue to the San Mateo Street/Central Avenue intersection (Phase 2); and

WHEREAS, Amendment No. 1 to the Agreement, authorized by the City Council under Resolution No. 2014-69 in November 2014, and Amendment No. 2, authorized under Resolution No. 2016-52 in July 2016, assigned the CCTA the responsibility to retain a consultant to develop and perform the final design services, traffic study and design services during construction (DSDC) for Phase 1, and to advertise, award and administer the construction contract for Phase 1; and

WHEREAS, Caltrans determined that the identified improvements as part of the I-80/Central Avenue project are not eligible for reimbursement by a previously secured federal earmark because the improvements do not match the earmark description; and

WHEREAS, subsequent to the start of Phase 1 construction, bike advocates and the City of Richmond requested that dedicated bike facilities be provided through the Central Avenue and Rydin Road intersection, and connect with the San Francisco Bay Trail; and

WHEREAS, CCTA is requesting that funding be increased by \$50,000 for associated consultant costs for final design services, traffic study and DSDC bringing the total amount of funding to \$1,150,000 and has confirmed that adequate funds are programmed in the 2016 Measure J Strategic Plan, as amended, and is not requesting that the cities of Richmond and El Cerrito provide additional funding; and

WHEREAS, after comprehensive environmental studies, Caltrans has determined that the Phase 1 Operational Modifications Project is Categorically Exempt (Class I) as outlined in the California Environmental Quality Act (CEQA) and Categorically Excluded in the National Environmental Protection Act (NEPA), and has filed a Categorical Exemption/Categorical Exclusion Environmental Clearance (CE/CE) for the project; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes 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 the I-80/Central Avenue Interchange Improvement Project, Phase 1.

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

I CERTIFY that at a regular meeting on November 21, 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 November XX, 2017.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor



**Cooperative Agreement No. 07W.02
With
CITY OF RICHMOND AND the CITY OF EL CERRITO
For
I-80/Central Avenue Interchange Improvement Project**

AMENDMENT No. 3

This Amendment No. 3 to Cooperative Agreement No. 07W.02 is entered into this 15th day of November, 2017, by and among the Contra Costa Transportation Authority ("AUTHORITY") and the City of Richmond and the City of El Cerrito (collectively the "CITIES"). AUTHORITY and CITIES may be collectively referred to as the "Parties."

WHEREAS, the AUTHORITY and CITIES entered into Cooperative Agreement No. 07W.02 on July 25, 2006 ("Agreement"); and

WHEREAS, the Project Study Report found that major modifications to the I-80 Central Avenue are cost-prohibitive and geometrically unattainable without significant impacts to the residences and businesses in the area; and

WHEREAS, the Project Study Report found that better traffic flow can be achieved by making operational improvements and local street realignments; and

WHEREAS, operational improvements will be made through the use of electronic variable message signs directing I-80 westbound on-ramp traffic during peak hours to I-580 ("Phase 1"), and by connecting Pierce Street and San Mateo Street, converting Pierce Street access at Central Avenue to "right-in, right-out" and relocating the traffic signal at Pierce Street/Central Avenue to the San Mateo/Central Avenue intersection ("Phase 2"); and

WHEREAS, Amendment No.1 to Cooperative Agreement 07W.02 identified the Authority as the agency responsible for completing the Plans, Specifications, and Estimates (PS&E), a "before and after" Traffic Study, and provide Design Services During Construction (DSDC) for Phase 1 project; and

WHEREAS, Amendment No. 2 to Cooperative Agreement No. 07W.02 identified the Authority as the agency responsible for the Advertisement, Award, and Administration (AAA) of the construction contract and appropriated \$1,100,000 in Measure J funds for the Final Design Services, Traffic Study and DSDC services for Phase 1 project; and

WHEREAS, the final design of the Project was completed, Encroachment permit was issued by Caltrans, and the construction contract was awarded by the Authority in July 2017; and

WHEREAS, the Authority and Cities wish to modify the design plans to add bike paths along the Bay Trail at Central Avenue and Rydin Road Intersection; and

WHEREAS, the Parties wish to amend the budget for Phase 1; and

WHEREAS, the Phase 1 Budget is detailed in Exhibit B;

NOW, THEREFORE, the Parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

(1) **Article 1(b) of Section III** of the Agreement is amended to read in full as follows:

That the cost to complete the Environmental Documentation for the **PROJECT** shall not exceed \$1,500,000 and that the cost to complete Final Design Services, Traffic Study and DSDC for Phase 1 shall not exceed \$1,150,000. If **AUTHORITY** determines that these amounts will be exceeded, it will notify and seek approval of the **CITIES** to expend additional funds.

(2) Except as amended by this Amendment No. 3, all provisions of the Agreement shall remain in full force and effect and shall govern the actions of the Parties as if fully set forth herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 3 to Cooperative Agreement No. 07W.02 effective as of the 15th day of November 2017.

CITY OF RICHMOND

**CONTRA COSTA TRANSPORTATION
AUTHORITY**

William Lindsay
City Manager

Tom Butt, Chair

CITY OF EL CERRITO

Tarienne Grover,
Clerk of the Board

Scott Hanin, City Manager

Malathy Subramanian, Authority Council

COOPERATIVE AGREEMENT NO. 07W.02

between

the Contra Costa Transportation Authority

and

Cities of Richmond and El Cerrito

EXHIBIT B

I-80 Central Avenue Budget (Phase 1)

Description	Baseline Estimate
Project Management	\$395,000
Studies Prior to Environmental	\$0
Environmental Clearance	\$1,224,250
Design and DSDC	\$1,121,812
Right of Way (Capital)	\$0
Right of Way (Services)	\$0
Utilities	\$0
Construction (advertise - CCA)	\$3,955,184
Construction Services	\$450,000
Total - All Phases	\$7,146,246

* Funded by Measure J.

\$11.7 M currently programmed in 2016 Strategic Plan



AGENDA BILL

Agenda Item No. 4(G)

Date: November 21, 2017
To: El Cerrito City Council
From: Mark R. Rasiah, Finance Director/City Treasurer
Subject: Cash & Investments Report for Quarter Ending September 30, 2017

ACTION REQUESTED

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

BACKGROUND

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

ANALYSIS

The Quarterly Investment Report for July 1, 2017 to September 30, 2017 shows that the City's investments had a par value of \$3,075,205 as of September 30, 2017. The City continues to have minimal investments that are not required for debt service reserves and to have limited, if any, interest earnings on restricted funds. Of the total amount invested, \$2,526,776 is invested in the pooled funds with the State Treasurer's Local Agency Investment Funds (LAIF) and \$548,429 is held in money market funds. Cash with Mechanics Bank was \$1,084,709. Total cash and investments were \$4,159,914. Of this amount, \$3,611,485 together with anticipated property tax revenues of \$5,000,000 in mid-December together with sales tax revenues of \$3,000,000 and other budgeted revenues of \$2,000,000 in the months of November through March 2018, will enable the City to meet operating expenses for the next six months.

STRATEGIC PLAN CONSIDERATIONS

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

FINANCIAL CONSIDERATIONS

During the quarter interest of approximately \$8,830 was earned and debt service payments for the Recycle Center, City Hall, Master Lease and Swim Center Payment were made totaling \$694,350.

LEGAL CONSIDERATIONS

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

Reviewed by:



Scott Hanin
City Manager

Attachment:

1. Cash & Investment Report for the Quarter ending September 30, 2017.

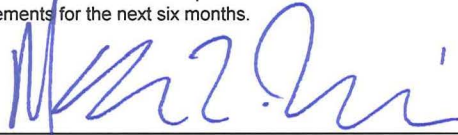
Agenda Item No. 4(G)
Attachment 1

Attachment 1

City of El Cerrito
Quarterly Cash & Investment Report
For the Period Ending Sep 30, 2017

FUND	INVESTMENT TYPE	INVESTMENT	TRUSTEE/ BROKER	PAR VALUE	COST	INTEREST OR YIELD	MATURITY DATE	COST/ 100	*MARKET VALUE
Pooled Investments	Pooled Fund	LAIF	CA State Treasurer	\$2,526,776	\$2,526,776	1.11%	N/A	100.00	\$2,526,776
Solar Project Financing	Fidelity Institutional Fund	Prime Money Market	Deutsche Bank	\$10,205	\$10,205	0.01%	N/A	100.00	\$10,205
Swim Center Fund	Blackrock Institutional Money Market	Union Bank/Blackrock Liquidity	Union Bank of CA	\$538,224	\$538,224	0.01%	N/A	100.00	\$538,224
				\$3,075,205	\$3,075,205				
Cash with Bank (General Checking)	Mechanics Bank	N/A	N/A	\$1,084,709	\$1,084,709	N/A	N/A	N/A	\$1,084,709
Total Cash and Investments				\$4,159,914	\$4,159,914	\$4,159,914			

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



Mark Rasiah, Finance Director/City Treasurer

EL CERRITO CITY COUNCIL PROCLAMATION
Honoring Brett Guest for his Commendable Actions

WHEREAS, Brett Guest was home on August 22, 2017, at 6:42 in the morning; and

WHEREAS, Mr. Guest heard a neighbor screaming for help from his driveway and went to the window to investigate; and

WHEREAS, a man was assaulting a woman in the driveway of Mr. Guest's home; and

WHEREAS, Mr. Guest decided to take action, asked a fellow resident to call the police, and ran to the woman's aid; and

WHEREAS, Mr. Guest shouted at the man, causing the man to run away; and

WHEREAS, Mr. Guest chased the man away from the woman and onto a nearby street; and

WHEREAS, Mr. Guess provided valuable information to the El Cerrito Police Department that aided in the capture of the suspect in this incident.

NOW THEREFORE, the City Council of the City of El Cerrito commends 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.

Dated: November 21, 2017

Janet Abelson, Mayor



AGENDA BILL

Agenda Item No. 5(B)

Date: November 21, 2017
To: El Cerrito City Council
From: Karen Pinkos, Assistant City Manager and Arts and Culture Commission staff liaison
Subject: Presentation of the Arts and Culture Commission's Annual Work Plan

ACTION REQUESTED

Receive presentation by Arts and Culture Commission Chair, Chris Sterba.

BACKGROUND

As an advisory body to the City Council, the Arts and Culture Commission works to support and promote the arts locally. Each year, the Commission develops a work plan to identify their priorities. The 2017-2018 Work Plan highlights the activities the Commission desires to carry out over the next twelve months. Items noted as "high priority" are core activities, while items noted as medium and low priority are still important to the Commission, but may not receive as much time and effort during the plan period. Ranking also takes into account time-sensitivity of objective/activities.

ANALYSIS

The 2017-2018 Work Plan highlights the activities the Commission desires to carry out over the next twelve months. Items noted as "high priority" are core activities, while items noted as medium and low priority are still important to the Commission, but may not receive as much time and effort during the plan period. Ranking also takes into account time-sensitivity of objective/activities.

STRATEGIC PLAN CONSIDERATIONS

The Commission's activities support the City's Strategic Plan Goal to "Deepen a sense of place and community identity" (goal C). The Work Plan also aligns with the Commission's Arts and Culture Master Plan (adopted in 2013).

ENVIRONMENTAL CONSIDERATIONS

None at this time

FINANCIAL CONSIDERATIONS

Presentation only - None at this time

LEGAL CONSIDERATIONS

None at this time.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. 2017-2018 Work Plan Slides

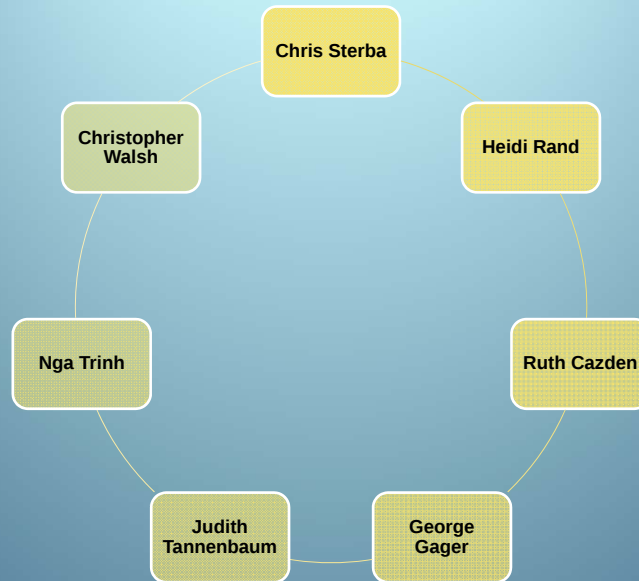
City Of El Cerrito Arts & Culture Commission *2017-2018 Work Plan*



MISSION

- *Advise the City Council of the needs of the artistic and cultural community;*
- *Encourage and promote arts programs and events that engage community members and local businesses to build a flourishing and vibrant arts and cultural environment;*
- *Provide advice to artists and arts/cultural organizations by sponsoring forums, programs, and events;*
- *Carry out the Arts in Public Places program, and upon request, advise the City with respect to possible sources of funding.*

Members of the Commission



ACC Work Plan Objectives Through 2018

1. Launch ECCRU Artist Residency Program
2. Host Arts Event to Celebrate National Arts & Humanities Month
3. Support and/or Promote Music Performances in El Cerrito
4. Develop Resources & Support for Local Artists, Arts & Entertainment Businesses
5. Consider Exploring Ways to Promote the Literary Arts
6. Promote Active Participation in the Arts

ACC Work Plan On-going Projects:

1. Administer the Poet Laureate Program (On going)
2. Administer the 1% for Public Art program (On going)
3. As requested, assist BART Artist Kyungmi Shin (Underway)
4. Provide advice on art elements within City projects/plans
5. Consider BART pylon mural idea (with Crime Prevention Committee)
6. Consider Fairmont Park Mural idea
7. Jury the City Hall Gallery Space (On going)
8. Participate in City Events (On going)

ECCRU Artist in Residency Program

- ❖ Issued RFQ Spring 2017
- ❖ Selected artist Sandy Drobny
 - Term will be Oct 2017 through April 2018
- ❖ Created storage/sorting bin at Recycling Center



Celebrating our History Through Music!

Centennial-Themed Program

October 21, 2017 – 2-5pm
El Cerrito Community Center

2017
ARTS MONTH



Partnership with El Cerrito Library

- 100 books distributed
- Group discussion **October 10**
- Reading, book signing, and discussion **October 24**

2017
ONE CITY ONE BOOK



El Cerrito Free Folk Festival



ACC Accomplishments

Spring 2016 to Fall 2017

POET LAUREATE



Created Poet Laureate position and selected Maw Shein Win as El Cerrito's first poet laureate.



Maw has **hosted community poetry events** at Rialto Cinemas Cerrito, the library, and the Arlington Clubhouse

Created "Poetry & Place," a readings & open mic series, which featured former U.S. Poet Laureate Robert Hass on 7/30/17

Hosted former **NEA Director Dana Gioia's** reading on 4/20/17

Taught at the Open House Senior Center and is working with EC High School's 2017 "Poetry Out Loud" program

Read at Arts Month Kickoff on 10/1/16, and wrote and presented a new work at the Centennial Parade event on 9/16/17.

2016 Arts Month

October 1, 2016 at Community Center

Arts Month Kick-Off Celebration





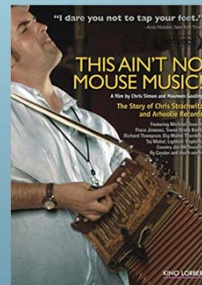
MUSIC

El Cerrito Free Folk Festival – October 2016 & 2017

ECJS Jazz Festival – February 2016 & 2017

July 4 Festival – July 2016 & 2017

Showing of “This Ain’t No Mouse Music” – April 2017



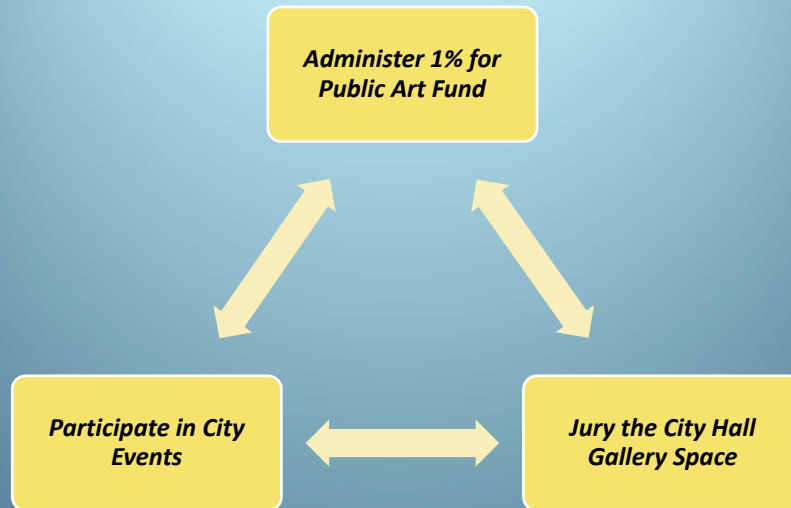
JULY 4 FESTIVAL SPONSOR



Stipend for Kupaoa & a Local Dance Group
Performance on July 3, 2017



Ongoing ACC Projects



Participation in City Events

***Origami & Button-making at
Earth Day Celebration 2017***



City Hall Gallery Space





AGENDA BILL

Agenda Item No. 6(A)

Date: November 21, 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
Subject: Commercial Cannabis Ordinance

ACTION REQUESTED

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

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.

Agenda Item No. 6(A)

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.

ANALYSIS

Overview

The general regulatory structure in the proposed ordinance remains the same as the draft ordinance that the City Council reviewed on October 3, 2017. At this meeting, the Council supported the regulatory framework of the ordinance, and gave comments to City staff regarding specific subject areas, with the direction to make revisions and return with a final draft of the ordinance in November. The discussion below describes the regulatory framework of the ordinance and also includes detailed discussion of the changes that have been made based on the City Council's direction.

One of the primary principles which guided the creation of the draft ordinance was initial caution due to the unknown nature of recreational cannabis commerce. Medicinal cannabis has been legal in California since 1996, and the existing medical cannabis industry provides various models for the expanded recreational cannabis industry. However, at this time, it remains unclear what impacts the recreational cannabis industry will have once the AUMA is fully implemented. Given the uncertainties of the industry, City staff, including the Police Chief, determined that it would be in the public interest to develop a conservative regulatory structure that could be evaluated for effectiveness once it has been operating for a critical period of time.

Operating Permit Framework

The ordinance would allow for up to two cannabis retail business to operate in El Cerrito, subject to obtaining an Operating Permit, further described below. The Operating Permit would not be a land use permit, but would allow the City to evaluate potential operators and proposed operations of cannabis businesses through the permit process. Any required land use permits would be obtained through the standard land use application process. Only storefront retail businesses would be permitted, and only licensed storefront retail businesses would be initially permitted to deliver cannabis to locations in El Cerrito.

The draft ordinance establishes the minimum requirements for submittal of an Operating Permit. As part of the submittal, all business owners and employees would submit to the 'live-scan' process through which the Police Department would conduct background checks. In addition, applicants would be required to submit an operations plan, a description of how the business will comply with State licensing requirements, and a security plan, among other materials, further detailed in the proposed Ordinance. The security plan must contain provisions to limit loitering, prohibit smoking and other use of cannabis on the business premises, measures for disposing of cannabis waste products, measures for secure cannabis storage, and measures for limiting and securing cash held on the premises.

Additionally, each applicant would be required to provide a description of the public benefits that would be provided by the proposed business. This would be an opportunity for applicants to include elements as part of the business that would benefit the residents of El Cerrito. Public benefits could include monetary or other contributions to city services or facilities, or other elements that would help the City achieve the goals specified in City Council adopted policy documents such as the Strategic Plan, San Pablo Avenue Specific Plan, General Plan, Active Transportation Plan, Affordable Housing Strategy, etc.

Staff anticipates that a set period for accepting applications would be established for initial permit issuance and each time a permit becomes available. After the close of the application period, City staff from all relevant departments and disciplines would review the applications. All applications would be compared to one another and evaluated collectively. Operating permits would be awarded based on criteria such as the applicant's history, capitalization, the provision of public benefits and other factors necessary to maintain the public welfare. The City Manager would be free to impose any conditions on the permit necessary to maintain the public welfare.

Applicants would be disqualified from consideration if they knowingly make false statements in the application or if any business owners or key employees have been convicted of a crime substantially related to the function of the cannabis business. Prior convictions for cannabis-related offences would not disqualify an applicant from consideration.

The City Manager would be authorized to approve Operating Permits for a term of up to three years. Permits would be renewable. The renewal process would allow staff an opportunity to review applications and the operations of each business and make adjustments to the permit conditions as necessary to ensure public welfare. Additionally, Operating Permits would be transferable to new business owners, subject to the original permit requirements and review by the City. Operating Permits would not be transferable to other locations. Operating Permits would also be subject to revocation at any time if performance standards specified below, or any other terms of the permit, are violated.

Location Requirements

Cannabis businesses would be limited to the San Pablo Avenue Specific Plan Area, and, more specifically, to locations on San Pablo Avenue. Due to the more auto-oriented nature of existing medical cannabis businesses in other jurisdictions, permitted locations in the Theater District would be limited to upper floors (see discussion of accessibility, below.)

Consistent with the buffer requirements in the MAUCRSA, cannabis retail businesses would not be permitted closer than 600 feet from parks, schools and other youth centers. Cannabis businesses would also be required to locate at least 1,000 feet from each other.

Deliveries

Deliveries to locations in El Cerrito would be permitted only by cannabis storefront businesses with an El Cerrito Operating Permit. Because these businesses would have a physical presence in the City and will have gone through a rigorous permitting process, the Police Department feels they will be easier to monitor. The relationship created between the City and the businesses through the operating permit process and regular renewal of operating permits will be a helpful tool in assisting the Police Department to address any issues that arise with deliveries. This approach will be evaluated as permits are awarded.

Cash transactions at the delivery site would be prohibited as a way to limit the attractiveness of delivery vehicles as a target for crime. Additional performance standards for deliveries are detailed below.

Performance Standards

The ordinance also contains a number of stringent performance standards that would apply to the cannabis businesses.

- Limiting hours of operation from 8:00 a.m. to 8:00 p.m.
- Limiting odors to the business premises.
- Requiring a burglar alarm and video surveillance system approved by the Police Department.
- Requiring minimum insurance coverage.
- Requiring that cannabis businesses maintain a ledger that would be available to the City for inspection.
- Allowing inspections of the business as needed.
- Notifying the Police Department if a security breach or other criminal activity is discovered.
- Notifying the Police Chief of any notices of permit violation.
- Notifying the Police Chief of staffing changes that require 'live-scan'.
- Prohibiting display of merchandise or other retail activities from occurring in areas visible from outside the building.
- Requiring semi-annual meetings with the City Manager and Police Chief to discuss ongoing business operations.

In addition to these standards, the ordinance also contains the following standards for deliveries:

- Limiting hours of operation from 8:00 a.m. to 8:00 p.m.
- Requiring businesses to provide the Police Chief with a list of all delivery vehicles.
- Requiring delivery vehicles to maintain copies of all valid licenses.
- Prohibiting identifying markings on delivery vehicles.
- Limiting deliveries to the residence or place of business of the customer.
- Prohibiting cash on delivery as a form of payment.
- Limiting deliveries to retail businesses which hold Operating Permits.

Revisions to the draft Ordinance presented to Council in April

- Deliveries

The rationale for limiting deliveries to licensed storefront businesses is discussed above in this report. At the October 3, 2017 meeting, the Council asked questions regarding the language in the ordinance and expressed a desire to clarify language in the ordinance allowing only licenses cannabis storefront businesses to deliver cannabis in El Cerrito. As a result, clarifying language has been added to Sections 6.80.060.A.2 and 6.80.070.K.

- Public Process

At the October 3, 2017 study session, the City Council expressed a desire to include an opportunity for citizens to comment on operating permit applications prior to issuance.

Section 6.80.060.D has been added to address this. Pursuant to this section, the City Manager would mail a written notice to all property owners and residents within 300 feet of the subject property at least 21 days prior to the planned issuance of the Operating Permit. The notice would contain the location, a general description of the proposal, the name(s) of the applicant(s), and information about how to review the application and submit comments. The City Manager, or designee, would review these comments prior to issuance of the permit and would have the ability to address comments through the conditions imposed on the Operating Permit.

Alternatively, if warranted, the City Manager, or designee, could hold a public hearing to consider the Operating Permit and could receive public comments prior to and at the hearing.

The proposed Commercial Cannabis ordinance goes to great lengths to anticipate issues that are typically associated with cannabis sales and delivery. The performance standards, land use buffers, and permit process are intended to

address typical impacts. Naturally, individual sites and proposals may have impacts related to specific site and operating characteristics. The proposed public process is intended to allow an opportunity comments on site-specific issues and issues related to the unique aspects of individual proposals, while acknowledging that the ordinance contains a wide variety of standards intended to address generally applicable impacts.

- **Theater District Requirements**

As discussed above, based on the desire to focus land uses in the Theater District which encourage pedestrian activity, staff has proposed limiting cannabis business to upper floors in the Theater District.

The October 3, 2017 study session, Mayor Abelson raised concerns about the accessibility of upper floor locations. As a result, language has been added to Section 6.80.080 to clarify that cannabis businesses in the Theater District are only permitted in locations that are accessible.

- **Restrictions on Advertising and Marketing to Minors**

Similar to tobacco, it is a violation of State law to distribute cannabis to minors (the age threshold for tobacco is 18; for cannabis it is 21). In addition, El Cerrito's Tobacco Retailer License Ordinance contains provisions to limit the marketing of products to minors. The proposed commercial cannabis ordinance has similar provisions, such as preventing cannabis, and cannabis products from being displayed outside of a permitted cannabis business. At the October 3, 2017 meeting, the City Council expressed a desire for greater consistency between the Tobacco Retailer License Ordinance and the Commercial Cannabis Ordinance vis-à-vis marketing to minors. Staff has added language to the ordinance to clarify the requirements and to bring the spirit of the ordinance in line with the restrictions on tobacco retailers.

Language has been added to Section 6.80.070.L to clarify that advertising is not permitted to be visible outside of a cannabis business. In addition, Section 6.80.070.M has also been added to prevent marketing of cannabis and cannabis products to minors.

- **Video Surveillance**

At the October 3, 2017 meeting, public concerns were raised about privacy issues related to the video surveillance systems which would be required for cannabis retailers and the Police Department's ability to access surveillance cameras remotely. The City Council asked staff to clarify the Police Department's access to surveillance cameras.

Language has been added to Section 6.80.070.C to clarify that the information will only be accessed in relation to in-progress or past crimes committed on the premises of a cannabis business.

- **Air Quality and Greenhouse Gas**

Given that the ordinance does not permit commercial cultivation of cannabis or other industrial uses related to cannabis, at the October 3, 2017 meeting, Councilmember Lyman questioned the applicability of requesting information related to air quality and greenhouse gas emissions.

Given that that the proposed ordinance permits only storefront retail businesses with incidental delivery services, these requirements have been removed.

- **Personal Cultivation**

The MAUCRSA permits personal cultivation of up to six plants per property. At the April 18, 2017 study session, the City Council supported restricting personal cultivation to indoor areas, based on the Police Department's input that most complaints about cultivation are related to outdoor cultivation.

Language has been added to Section 6.80.030 to clarify that non-commercial cultivation consistent with the MAUCRSA is only permitted indoors.

Ordinance Process

Staff is recommending that the City Council waive the first reading of the Commercial Cannabis Ordinance and introduce it at the November 21, 2017 Council meeting. If introduced, the ordinance would then return to the Council for the required second reading and adoption on December 19, 2017. Pursuant to State law, the ordinance would be effective 30 days after the second reading. Based on this schedule, the ordinance would become effective on January 18, 2018.

Consistent with the AUMA, the California Bureau of Cannabis Control is preparing to begin issuing state licenses to operate cannabis businesses on January 1, 2018. In order to ensure that the proposed regulations are in effect on that date, staff recommends that the City Council adopt an urgency ordinance on December 19, 2017, to put the new commercial cannabis regulations in place temporarily until the Commercial Cannabis Ordinance takes effect on January 18, 2018. The urgency ordinance would become effective immediately, and would ensure that there is no gap during which a state license could be issued without City approval of an operating permit. Staff will prepare a draft of the urgency ordinance for the City Council's consideration at the December 19, 2017 meeting.

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. Draft Commercial Cannabis Ordinance
2. Maps of land use buffers for cannabis businesses

ORDINANCE NO. 2017-XX

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, 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 limited 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. "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."

- E. "Chief of Police" means the Chief of the El Cerrito Police Department or his or her designee.
- F. "City Manager" means the city manager of the City of El Cerrito, or his/her designee.
- G. "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, or manufacturing of cannabis or cannabis products for medical or recreational use. Commercial cannabis use includes cannabis retail.
- H. "Cannabis delivery" means a commercial transfer of cannabis or cannabis products from a fixed location to a destination specified by a customer.
- I. "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.*).
- J. "MAUCRSA" refers to the California State law entitled Medicinal and Adult-Use Cannabis Regulation and Safety Act and regulations promulgated thereunder.
- K. "Operating Permit" shall mean a permit issued by the City pursuant to this chapter for the operation of a cannabis business within the City.
- L. "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, 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 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 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, or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation, processing, 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 conducted within buildings. No production, 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 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 and 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 offense 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.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of El Cerrito at a regular meeting held on November 21, 2017, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS

APPROVED:

Mayor

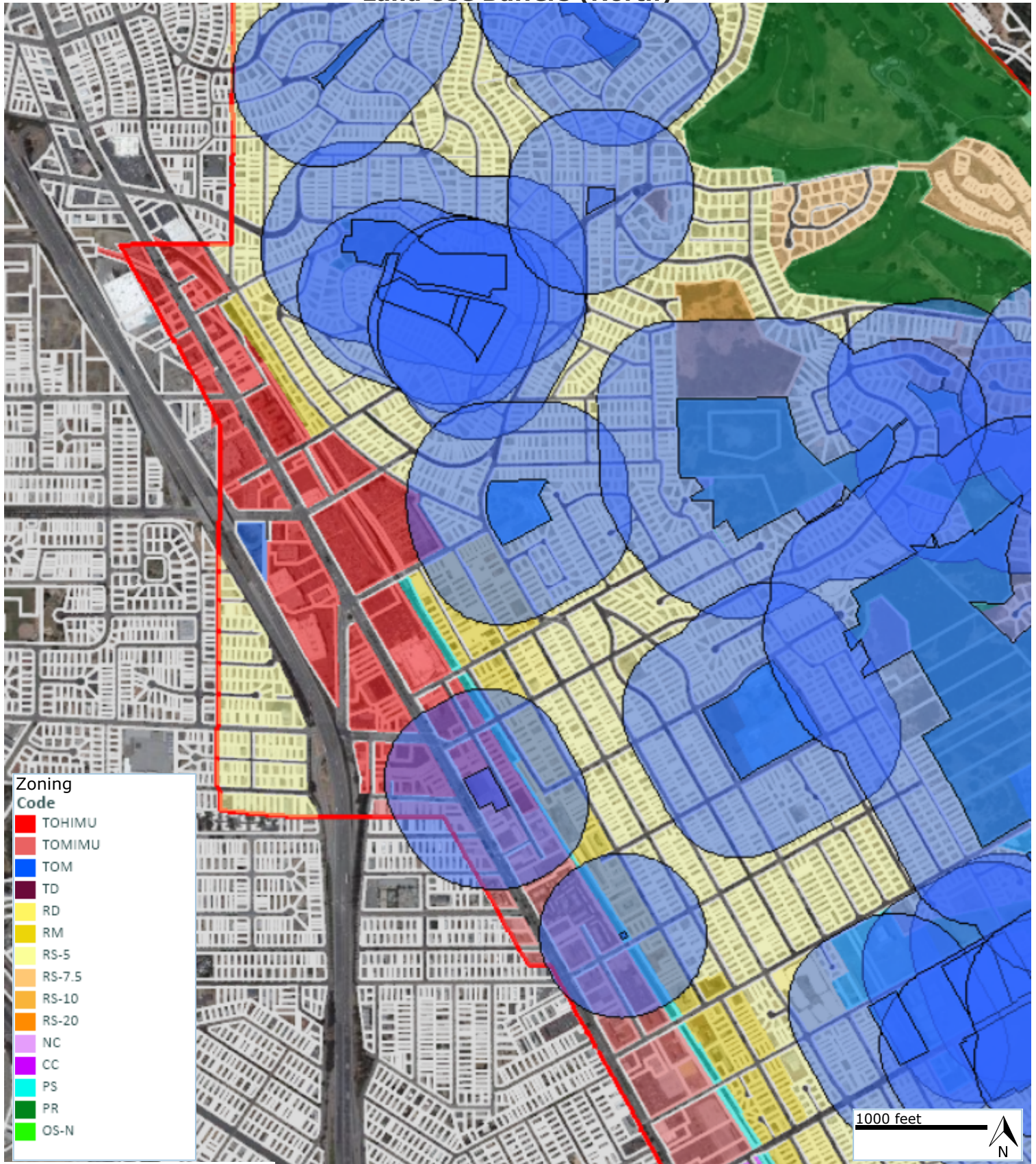
ATTEST:

APPROVED AS TO FORM:

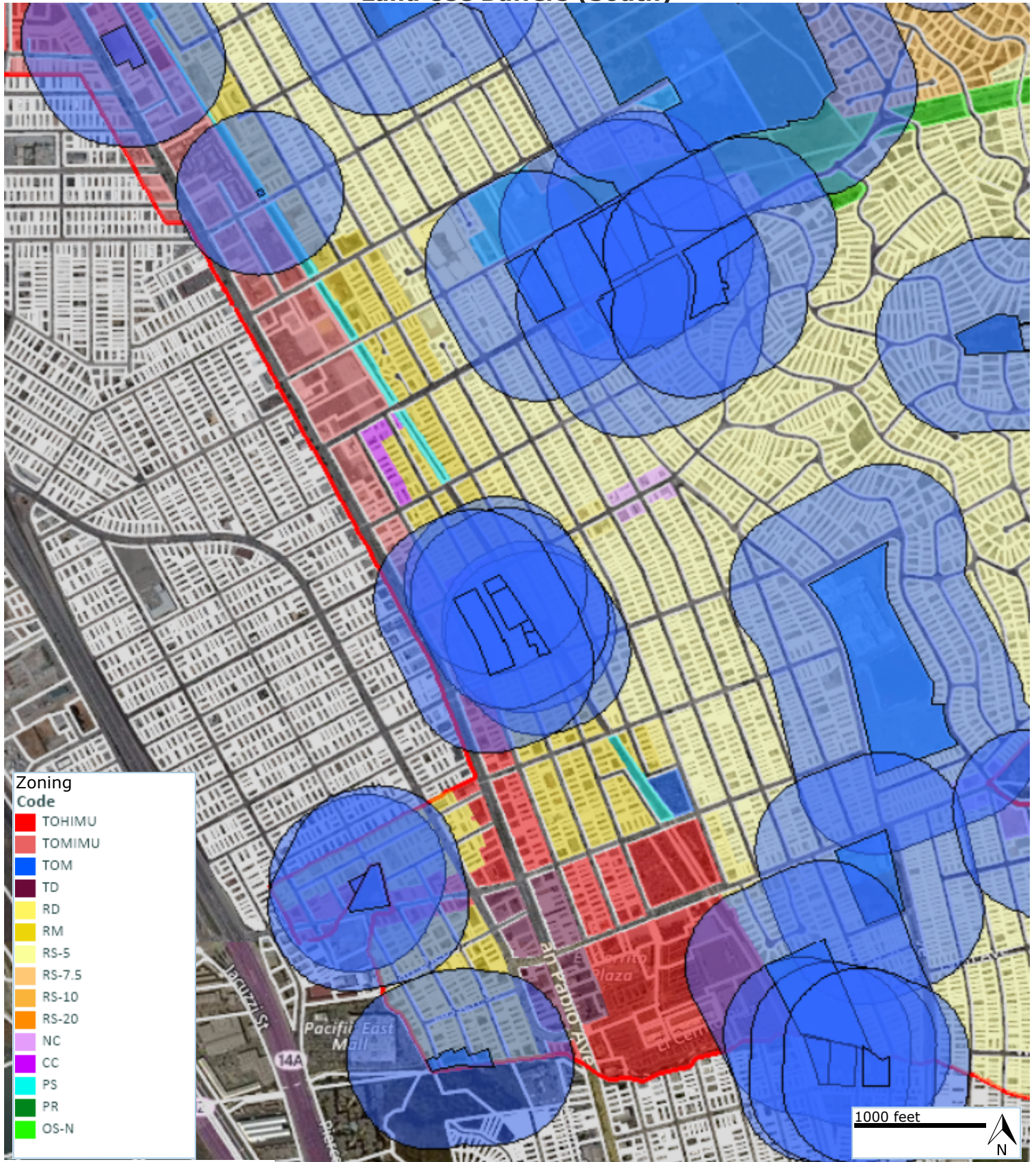
City Clerk

Sky Woodruff, City Attorney

Commercial Cannabis Land Use Buffers (North)



Commercial Cannabis Land Use Buffers (South)





AGENDA BILL

Agenda Item No. 6(B)

Date: November 21, 2017
To: El Cerrito City Council
From: Maria Sanders, Operations + Environmental Services Manager
Yvetteh Ortiz, Public Works Director/City Engineer
Subject: Proposed Integrated Waste Management Fees and East Bay Sanitary
Garbage & Green Waste Collection and Processing Rates -- Effective
January 1, 2018

ACTION REQUESTED

City 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.

BACKGROUND AND ANALYSIS

Integrated Waste Management Fee

In 1990, the City of El Cerrito established IWM Fees to cover integrated waste management services. These services include curbside collection of recyclable materials, operations of the El Cerrito Recycling + Environmental Resource Center (RERC), and other waste collection, reduction, recycling and environmental programs currently operated by the Department of Public Works, Operations + Environmental Services Division (OESD). The City's franchised waste hauler, East Bay Sanitary Company, collects IWM Fee revenues as a component of the monthly charges for solid waste collection, processing and disposal services via EBS's regular billing cycle. After collection, these revenues are transferred to the City of El Cerrito's IWM Fund.

As part of the City's Biennial Budget for Fiscal Years 2016-17 and 2017-18, the City Council approved a forecast for the IWM Fund that included increasing IWM Fee revenue by 5%, from \$2,216,805 in calendar year 2017 to \$2,327,646 in calendar year 2018. However, several factors have contributed to the IWM Fund having a slightly larger revenue requirement of \$2,346,128 in calendar year 2018, or an increase of 5.8%. As reported last year, this increase is primarily needed to support replacement of two recycling trucks, increased personnel costs, and a projected decrease in revenue from the sale of recyclable materials.

First, the City's recycling trucks are nearing the end of their useful lives. Staff is currently finalizing agreements to purchase two new recycling trucks and finance them through a lease-purchase agreement over seven years. Debt service is estimated to be approximately \$88,000 per year. We anticipate bringing these agreements to City Council for consideration within the next couple months. The other major factor contributing to the change in revenue requirement is increased personnel costs, including cost-of-living adjustments, merit increases, and funding the OESD Management Analyst position for a full fiscal year. Finally, revenue from the sale of recyclable materials is projected to decline. International recycling markets continue to be in flux, causing uncertainty in projecting performance of that revenue stream. In particular, the Chinese government has announced that it is placing restrictions on the amount and type of recycled material Chinese manufacturers can accept. Thus, staff is projecting conservative estimates for this revenue stream into 2018 and 2019.

The proposed 2017 IWM Fees necessary to generate \$2,346,128 in IWM Fee revenues are included in Attachment 1.

East Bay Sanitary Garbage and Green Waste Collection Rates

In contrast to IWM Fees (which the City sets and EBS collects), EBS sets and charges the rates for garbage and green waste collection based upon maximum rates authorized by the Council, pursuant to El Cerrito Municipal Code Chapter 8.12. In 2012, the City and EBS completed a Rate and Operations Review that culminated in the City Council adopting a Fifth Amendment to the East Bay Sanitary Franchise Agreement (Resolution 2012-89, November 20, 2012). Among other changes, the Amendment resulted in the development of an annual adjustment to EBS's annual rates via a Refuse Rate Index (RRI).

The Fifth Amendment also established a Revenue Balancing Account, which provides for adjustments in the revenue requirement to account for any difference between the projected rate revenues and the actual rate revenues received in prior calendar years. The Revenue Balancing Account ensures that any over- or under-collection of revenues is captured in future years' rates, meaning that EBS is fairly compensated when revenues are lower than required by the agreement. Conversely, when revenues are higher than required, any over-collection of revenues is used to offset future rate adjustments. Since 2016, the balancing account has shown a surplus and is thus being used to offset rates, including for this current rate setting, though the effect of the balancing account is less than in previous years (as shown in *Table 1, 2018 Revenue Requirements*).

EBS has calculated and proposed a 2018 RRI revenue adjustment of 3.63% from their 2017 revenue requirement, which results in a 2018 revenue requirement of \$4,535,182 for collection operations, an increase of \$158,860, which is offset by \$27,523 in the balancing account. This increase in the revenue requirement is due primarily to rising fuel costs and the addition of a new refuse collection truck to the depreciation schedule. With the assistance of R3 Consulting Group, a consulting firm that specializes in solid waste management, City staff has reviewed the RRI adjustment figure and the proposed 2018 collection revenue requirement for accuracy, consistency, and reasonableness.

The proposed 2018 EBS collection rates necessary to meet the revenue requirement are included in Attachment 1.

East Bay Sanitary Post-Collection Rates: Processing and Disposal

The City Council also sets the maximum allowable Post-Collection Rates (Resolution 2013-64) to cover expenses for processing and disposal of waste. Effective January 1, 2014, the City Council approved a Post-Collection Agreement between the City and Republic Services for processing and disposal services (Resolution 2013-54) through the services and facilities of the Golden Bear Transfer Station, Keller Canyon Landfill, West Contra Costa Sanitary Landfill, and West County Resource Recovery.

Per the methodology set forth in the terms of the Post-Collection Agreement, Republic Services has calculated and proposed a 2018 Blended Rate of \$99.07 per ton of garbage, green waste, construction and demolition debris and commercial dry waste delivered by EBS to Republic's facilities, or a 2.69% increase over last year's rate. This per ton rate also covers costs to provide Household Hazardous Waste (HHW) disposal services for El Cerrito residents both through the RERC and through the regional HHW Facility in Richmond. With the assistance of R3 Consulting Group and RecycleMore, the regional agency which oversees the HHW budget, City staff has reviewed the proposed 2018 Blended Rate for accuracy, consistency, and reasonableness.

These disposal, processing, and HHW costs are paid by EBS to Republic Services and are included in the rates that EBS collects. The proposed 2018 EBS Post-Collection rates necessary to meet the revenue requirement are included in Attachment 1.

Overall Changes to the Rates

Overall, the revenue requirement for the entire suite of solid waste services will increase by 5.13%, as shown in Table 1. However, the solid waste rates for customers in all sectors will increase by less, at an average 3.66%, as the rate increases are being tempered by improved economies of scale, as described below.

Table 1: 2018 Revenue Requirements					
	2017	2018	\$ Change	% Change (Each)	% Change (Overall)
EBS Revenue Requirement	\$ 4,376,321	\$ 4,535,182	\$ 158,860	3.63%	2.07%
EBS Balancing Account	\$ (47,256)	\$ (27,523)	\$ 19,733	-41.76%	0.26%
IWM Collection & RERC	\$ 2,216,805	\$ 2,346,128	\$ 129,323	5.83%	1.68%
Disposal, Composting, HHW	\$ 1,138,693	\$ 1,224,668	\$ 85,975	7.55%	1.12%
Total Revenue Requirement	\$ 7,684,563	\$ 8,078,454	\$ 393,891		5.13%
Trends affecting rates	<i>Overall decrease in rates due to increase in solid waste tons, accounts, and a leveling of migration to 20-gallon can accounts</i>				(1.46)%
Total Rate Increase					3.66%

El Cerrito is seeing slight growth in solid waste tons processed by Republic (including construction/demolition and green waste that is subsequently diverted), the addition of more solid waste accounts, more garbage containers serviced per account, and a leveling off of the historic trend for customers switching to smaller garbage cans. This means that the fixed costs of providing solid waste and recycling services are being spread out over more solid waste tons and over a greater number of containers.

Adoption of the combined fees will result in total monthly cost increases of \$1.26 for 20-gallon customers (41% of cart subscriptions), \$1.70 for 35-gallon customers (52% of cart subscriptions), and \$3.38 for 64-gallon customers (7% of cart subscriptions). Bulk commercial collection rates will increase by an average of 3.61%. The proposed IWM Fees and EBS Collection and Post-Collection Rates are included in Attachment 1 (2018 Garbage, Green Waste and Recycling Rates).

STRATEGIC PLAN CONSIDERATIONS

Adoption of the combined IWM Fees and EBS Rates help fulfill the following City of El Cerrito Strategic Plan goals and objectives:

- Goal A: Deliver Exemplary Government Services by maintaining an emphasis on providing excellent customer service.
- Goal F: Foster Environmental Sustainability Citywide (Implement the City's Climate Action Plan, including reducing the amount of waste generated in El Cerrito). Specifically, the proposed rates and fees will support high waste diversion rates.

ENVIRONMENTAL CONSIDERATIONS

Reliable and proper disposal, processing, and diversion of solid waste is necessary to protect the health and welfare of the community and environment. The services being funded by the proposed 2018 IWM Fees and EBS Collection Rates and Post-Collection Rates not only ensure reliable solid waste collection, they will enable El Cerrito to reduce its environmental impact through strong solid waste diversion and HHW programs. Specifically, the proposed rates and fees will enable the City and EBS to maintain and improve the range of diversion services for solid waste customers.

FINANCIAL CONSIDERATIONS

Adopting the combined IWM Fees and EBS Rates as proposed supports the revenue requirements of the entities that provide solid waste services in El Cerrito. Adoption of the proposed IWM Fees is consistent with the adopted Biennial Budget for Fiscal Years 2016-17 and 2017-18.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed actions and found that legal considerations have been addressed. The Notices of Public Hearing for the IWM and EBS fees were publicly posted on November 9, 2017 and published in the November 10 and November 16, 2017 editions of the West County Times.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. 2018 Garbage, Green Waste and Recycling Rates
2. Resolution Fixing and Setting the IWM Fees
3. Resolution Establishing Maximum Allowable Rates for Collection of Garbage and Green Waste
4. Presentation



The City of El Cerrito

2018 Solid Waste Collection, Processing and Disposal Rates

Residential Rates | Single Family Homes and Multi-family Dwellings up to 4 units

Residential Solid Waste Services include weekly collection of recycling (grey), green waste (green), garbage (blue); limited free on-call collection of larger quantities from your home; free access to the regional Household Hazardous Waste (HHW) Facility, and free access to most services at the El Cerrito Recycling + Environmental Resource Center. Additional recycling carts are available at no extra cost.

Weekly Collection of Recycling, Green Waste, and Garbage						
<i>Monthly Cost based on garbage container size</i>						
Container Size	Collection	Post-Collection	IWM Fee	2018 Total Monthly Cost	2017 Total Monthly Cost	\$ Change in Monthly Cost
20 Gallon Cart	\$ 19.29	\$ 4.30	\$ 11.95	\$ 35.54	\$ 34.28	\$ 1.26
35 Gallon Cart	\$ 26.55	\$ 7.53	\$ 13.06	\$ 47.14	\$ 45.44	\$ 1.70
64 Gallon Cart	\$ 53.95	\$ 15.06	\$ 25.60	\$ 94.61	\$ 91.23	\$ 3.38
Weekly Collection of Additional Green Waste Containers (one 64 gallon container serviced weekly included in above rates)						
<i>Monthly Cost based on size of additional green waste container(s)</i>						
Container Size	Collection	Post-Collection	IWM Fee	2018 Total Monthly Cost	2017 Total Monthly Cost	\$ Change in Monthly Cost
35 Gallon Cart	\$ 28.00	Included	\$ -	\$ 28.00	\$ 27.51	\$ 0.49
64 Gallon Cart	\$ 53.20	Included	\$ -	\$ 54.00	\$ 53.20	0.80

Integrated Waste Management (IWM) Fee: The IWM Fee covers curbside recycling collection for El Cerrito residents and businesses and supports the daily operations of the El Cerrito Recycling Center. The Fee is set and assessed on each trash container collected by East Bay Sanitary Company, based on trash container size.

Attachment 1
The City of El Cerrito



2018 Solid Waste Collection, Processing and Disposal Rates

Commercial Rates | Businesses and Multi-family Dwellings over 4 units

Commercial Solid Waste Services include collection of recycling (grey), green waste (green), garbage (blue) and most services at the El Cerrito Recycling + Environmental Resource Center. Additional recycling carts are available at no extra cost.

Once Weekly Collection of Garbage						
<i>Monthly Cost based on garbage container size</i>						
Container Size	Collection	Post-Collection	IWM Fee	2018 Total Monthly Cost	2017 Total Monthly Cost	\$ Change in Monthly Cost
20 Gallon Cart	\$ 19.29	\$ 4.30	\$ 11.95	\$ 35.54	\$ 34.28	\$ 1.26
35 Gallon Cart	\$ 26.55	\$ 7.53	\$ 13.06	\$ 47.14	\$ 45.44	\$ 1.70
64 Gallon Cart	\$ 53.95	\$ 15.06	\$ 25.60	\$ 94.61	\$ 91.23	\$ 3.38
One Cubic Yard	\$ 183.61	\$ 43.55	\$ 91.91	\$ 319.07	\$ 308.10	\$ 10.97
Two Cubic Yards	\$ 350.99	\$ 87.10	\$ 183.82	\$ 621.91	\$ 599.98	\$ 21.93
Multiple Weekly Collections of Garbage						
<i>Monthly Cost based on garbage container size and number of pickups per week</i>						
Container Size	Pickups per week					
	1	2	3	4	5	6
20 Gallon Cart	\$ 35.54	\$ 71.08	\$ 106.61	\$ 142.15	\$ 177.69	\$ 213.23
35 Gallon Cart	\$ 47.14	\$ 94.27	\$ 141.41	\$ 188.54	\$ 235.68	\$ 282.81
64 Gallon Cart	\$ 94.61	\$ 189.22	\$ 283.83	\$ 378.44	\$ 473.05	\$ 567.66
One Cubic Yard	\$ 319.07	\$ 606.02	\$ 892.97	\$ 1,179.93	\$ 1,466.88	\$ 1,753.83
Two Cubic Yards	\$ 621.91	\$ 1,195.81	\$ 1,769.72	\$ 2,343.63	\$ 2,917.53	\$ 3,491.44
Green Waste Collection						
<i>Monthly Cost based on green waste container size and number of pickups per week</i>						
Container Size	Pickups per week					
	1	2	3	4	5	
35 Gallon Cart	\$ 28.00	\$ 56.00	\$ 84.00	\$ 112.00	\$ 140.00	
64 Gallon Cart	\$ 54.00	\$ 108.00	\$ 162.00	\$ 216.00	\$ 270.00	
On-Call Bulk Collection (Debris Boxes and Compactors)						
<i>Rates listed are per pickup, and are not inclusive of all charges for these services. Please call East Bay Sanitary for complete rates and fees at 510-237-4321.</i>						
Container Type	Collection	Post-Collection	IWM Fee	Total		
Compacted Rates (per yard)	\$ 69.92	\$ 20.10	\$ 21.21	\$ 111.23		
Roll-off (Debris Box)	Market Rate (per load)	Market Rate (per ton)	\$78.75 (per load)	Varies - Call East Bay Sanitary at 510-237-4321 for price quote.		

Integrated Waste Management (IWM) Fee: The IWM Fee covers curbside recycling collection for El Cerrito residents and businesses and supports the daily operations of the El Cerrito Recycling Center. The Fee is set and assessed on each trash container collected by East Bay Sanitary Company, based on trash container size.

RESOLUTION NO. 2017-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO FIXING AND
SETTING THE INTEGRATED WASTE MANAGEMENT FEES EFFECTIVE JANUARY 1, 2018**

WHEREAS, the City of El Cerrito has established Integrated Waste Management Fees (IWM Fees) for Integrated Waste Management Services provided by the Department of Public Works, Operations + Environmental Services Division (OESD), including operation of the El Cerrito Recycling + Environmental Resource Center, curbside collection of recyclable materials, and other waste collection, reduction, recycling and related environmental programs; and

WHEREAS, the City Council sets and charges the IWM Fees, and the Fees are collected by East Bay Sanitary Company as part of the garbage bills and transferred in whole to the City of El Cerrito's Integrated Waste Management fund; and

WHEREAS, the City has reviewed and considered financial information as a part of the regular budget process to determine whether increases to IWM Fee revenues are warranted and justified; and

WHEREAS, the City Council intends to adopt IWM Fees to be effective January 1, 2018, thus keeping the OESD's Integrated Waste Management functions as an on-going concern.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of El Cerrito that the rates for each IWM service shall be as follows, effective January 1, 2018:

Garbage Container Size	IWM Fee
20 Gallon Cart (per mo.)	\$ 11.95
35 Gallon Cart (per mo.)	13.06
64 Gallon Cart (per mo.)	25.60
One Cubic Yard (per mo.)	91.91
Two Cubic Yards (per mo.)	183.82
35 Gallon Green Waste (per mo.)	0.00
64 Gallon Green Waste (per mo.)	0.00
Compacted (per yard)	21.21
Roll-off (per load)	78.75

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

I CERTIFY that at a regular meeting on November 21, 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 November xx, 2017.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor

RESOLUTION NO. 2017-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ESTABLISHING
MAXIMUM ALLOWABLE RATES FOR THE COLLECTION OF GARBAGE AND GREEN
WASTE EFFECTIVE JANUARY 1, 2018**

WHEREAS, the City of El Cerrito and East Bay Sanitary Company (“the Company”) have entered into that certain Franchise Agreement dated September 2, 1997 (as amended, the “Franchise Agreement”); and

WHEREAS, the Company has submitted a request for rate increases to be effective January 1, 2018, and that such increases were calculated pursuant to the methodology established in the Fifth Amendment to the Franchise Agreement, dated December 14, 2012; and

WHEREAS, the rate adjustments submitted to the City have been reviewed for accuracy, consistency with the adjustment methodology, and reasonableness.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that the maximum monthly rates, unless otherwise noted, that East Bay Sanitary Company may charge, effective January 1, 2018, are as follows:

Garbage Container Size	EBS Collection Rate (\$)	Post-Collection Rate (\$)
20 Gallon Cart	19.29	4.30
35 Gallon Cart	26.55	7.53
64 Gallon Cart	53.95	15.06
One Cubic Yard	183.61	43.55
Two Cubic Yards	350.99	87.10
35 Gallon Green Waste	28.00	0.00
64 Gallon Green Waste	54.00	0.00
Compacted Rates (per yard)	69.92	20.10
Roll-off (per ton)	NA – Market Rate	NA – Market Rate

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

I CERTIFY that at a regular meeting on November 21, 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 November xx, 2017.

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor

Public Hearings on Proposed 2018 IWM Fees & EBS Rates

Presentation to the El Cerrito City Council

November 21, 2017

Maria Sanders

Operations + Environmental Services Manager

El Cerrito's Solid Waste Services

- ▶ **Garbage and Green Waste Collection**
 - ▶ Operated by East Bay Sanitary – franchised waste hauler
- ▶ **Recycling Services**
 - ▶ City's Integrated Waste Management Fund (IWM)
 - ▶ Curbside recycling services
 - ▶ Recycling & Environmental Resource Center
- ▶ **Post-Collection Services**
 - ▶ Processing and disposal of waste
 - ▶ Golden Bear Transfer Station, Keller Canyon Landfill
 - ▶ Household Hazardous Waste Services
 - ▶ Green Waste Processing

Integrated Waste Management Fees

- ▶ Council sets IWM Fees, charged on EBS bills
- ▶ Proposed 5.8% increase in IWM Fee revenue for calendar year 2018
 - ▶ Vehicle replacement
 - ▶ Lease purchase of 2 out of 4 recycling trucks
 - ▶ Personnel costs
 - ▶ Continued uncertainty in market for recycled materials

East Bay Sanitary Rates

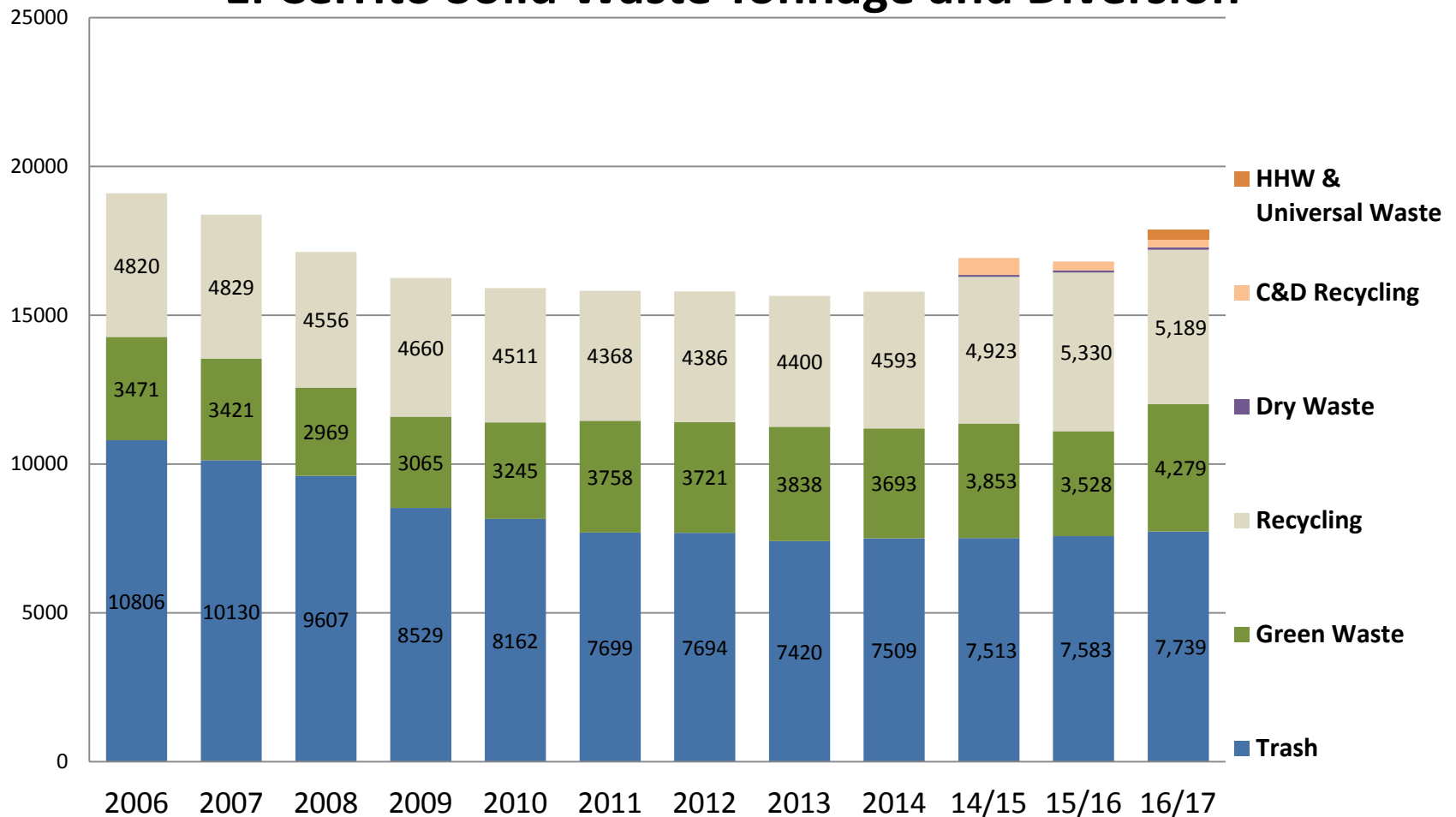
- ▶ Maximum Rates set by Council, charged by EBS
 - ▶ Collection of garbage and green waste
 - ▶ Disposal and processing waste, green waste, C&D waste, and HHW through Republic Services
- ▶ Collection revenue requirement increase of 3.63% in 2018 per Franchise Agreement
- ▶ Disposal and processing based on per ton rate of \$99.07 submitted by Republic, a 2.69% increase
- ▶ Balancing account effects

Proposed 2018 Total Rates

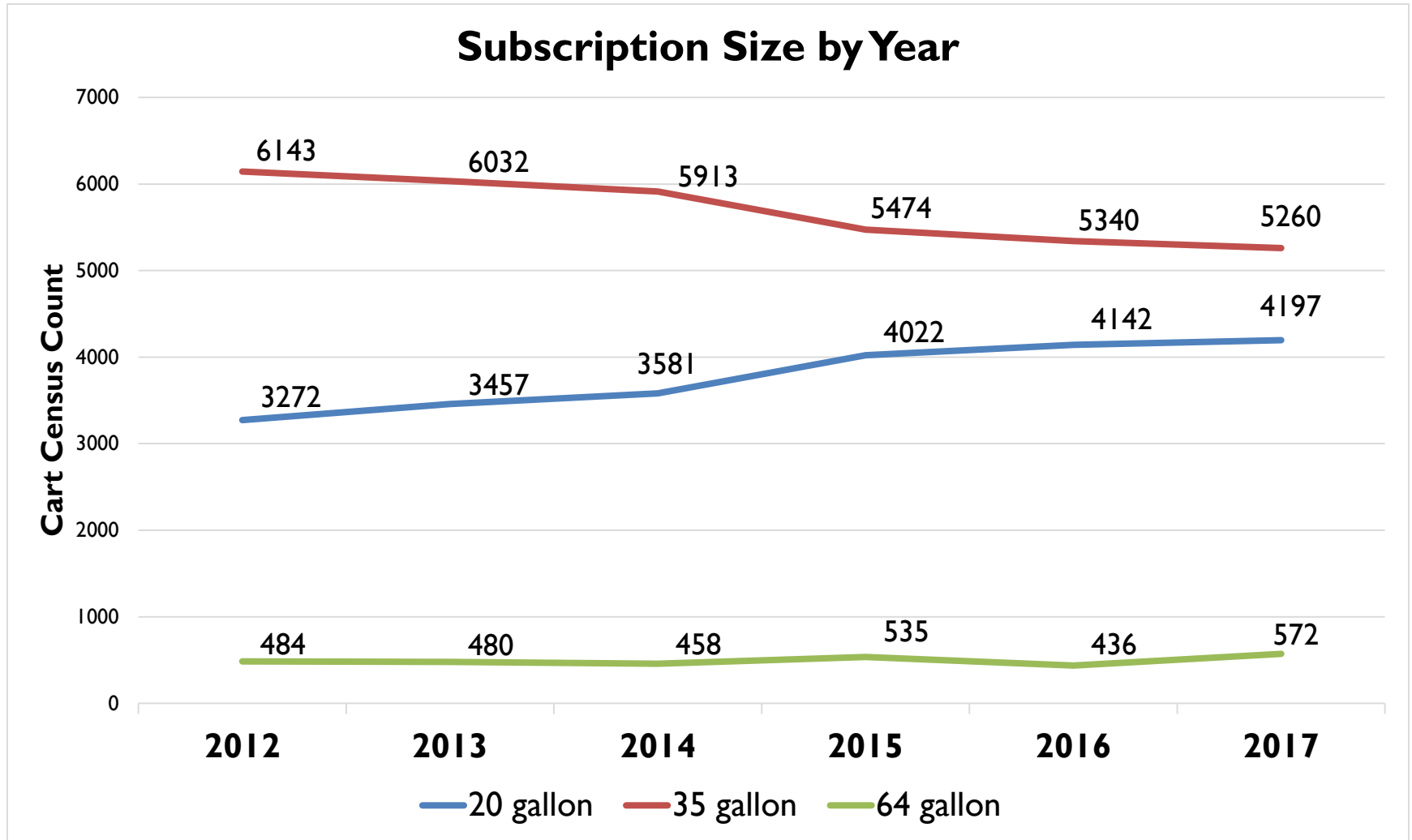
Container Size	EBS Collection	Post-Collection	IWM Fee	2018 Total Monthly Cost	2017 Total Monthly Cost	\$ Change in Monthly Cost
20 Gallon "Mini-can"	\$19.29	\$4.30	\$11.95	\$35.54	\$34.28	\$1.26
35 Gallon Cart	26.55	7.53	13.06	47.14	45.44	1.70
64 Gallon Cart	53.95	15.06	25.60	94.61	91.23	3.38
One Cubic Yard	183.61	43.55	91.91	319.07	308.10	10.97
Two Cubic Yards	350.99	87.10	183.82	621.91	599.98	21.93
Extra Green Waste 35	28.00	Included	NA	28.00	27.51	0.00
Extra Green Waste 64	54.00	Included	NA	54.00	53.20	0.00

Increases in Diversion Continue

El Cerrito Solid Waste Tonnage and Diversion



Subscription Migration by Year



Conclusions and Questions

- ▶ The proposed 2018 IWM Fees and EBS Rates:
 - ▶ Maintain high-levels of recycling and waste diversion services
 - ▶ Provide technical assistance to residents and businesses
- ▶ For more information and to ask questions:

Maria Sanders, Manager
Operations + Environmental Services Division
City of El Cerrito | Public Works Department
510-559-7684 | msanders@ci.el-cerrito.ca.us
- ▶ Conduct Public Hearing for IWM Fee



AGENDA BILL

Agenda Item No. 7

Date: November 21, 2017
To: El Cerrito City Council
From: Mayor Janet Abelson and Councilmember Paul Fadelli
Subject: Revisions to El Cerrito Wall of Fame Policy and Guidelines

ACTION REQUESTED

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.

BACKGROUND/ANALYSIS

The El Cerrito Wall of Fame program was initiated by the City Council in 1989. Sundar Shadi received the first Wall of Fame appointment in 1990. Twenty-one distinguished residents have been appointed to the Wall of Fame to date. The policy and guidelines were modified by the City Council in 2008. On April 4, 2017 the City Council voted unanimously to confirm the appointment of Mayor Abelson and Councilmember Fadelli to a Wall of Fame Council Subcommittee for the purpose of reviewing Wall of Fame guidelines and procedures. The Council Subcommittee met several times to review and discuss program criteria and recommends updating program guidelines to increase transparency and visibility of honored recipients, promote volunteerism, and accommodate future growth of the program. Key amendments proposed by the Council Subcommittee to the existing policy include:

- Promoting volunteerism and enhancing visibility of Wall of Fame recipients by posting their photographs and recognition resolutions on the City's website and installing a portal in the City Hall Vestibule. Families, friends and the public will no longer have to come to City Hall during office hours to view the Wall of Fame. They will also be able to access the City's Wall of Fame website from the comfort of their home or mobile device on a 24/7 basis. An El Cerrito Wall of Fame subweb has been created and published to the City's website at <http://www.el-cerrito.org/123/Wall-of-Fame>.
- Change the application deadline from March 1 to July 1 of each year.
- If the Council Subcommittee selects a candidate, limit the final recommendation to one candidate rather than multiple candidates per year.
- Additional information from nominators would be required. Nomination forms and documentation must be accompanied by at least two letters of recommendation

from community members or community organizations knowledgeable about the person's contributions, activities, accomplishments and achievements.

- Clarification of desired eligibility requirements and extending the requirement for ongoing activities from ten to fifteen years.

STRATEGIC PLAN CONSIDERATIONS

Updating the El Cerrito Wall of Fame policy and guidelines is in alignment with El Cerrito Strategic Plan Goal C: Deepening a Sense of Place and Community Identity. This update also embraces the City's Organizational Values of Ethics and Integrity, Innovation and Creativity, Inclusiveness and Respect for Diversity, Professional Excellence, Responsiveness and Transparency and Open Communication.

FINANCIAL CONSIDERATIONS

No significant financial impact.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the attached resolution. There are no legal issues associated with the passage of the resolution.

Attachment:

1. Proposed Resolution
2. Resolution No. 2008–77
3. Revised Application Form

RESOLUTION NO. 2017–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING
RESOLUTION NO. 2008-17 TO REVISE THE POLICY FOR NOMINATION AND SELECTION
OF WALL OF FAME INDUCTEES

WHEREAS, on September 19, 2008 the Wall of Fame City Council Subcommittee met and prepared recommendations for Council consideration regarding the process for nomination and selection of appointments to the Wall of Fame; an Annual Wall of Fame Event; Guidelines for Nomination and Selection of Inductees into the Wall of Fame; and

WHEREAS, the City Council considered, discussed and adopted the City Council Wall of Fame Subcommittee recommendations by Resolution No. 2008–77 at its November 3, 2008 meeting; and

WHEREAS, at its meeting of April 4, 2017 the City Council appointed a Wall of Fame Subcommittee to perform a review Wall of Fame guidelines and procedures; and

WHEREAS, the Wall of Fame City Council Subcommittee represented by Mayor Abelson and Councilmember Fadelli met to review and discuss program criteria and recommend enhancing the display of Wall of Fame Inductees at City Hall and on the City's website by transitioning to an archived virtual Wall of Fame to promote volunteerism and accommodate future growth of the program and also recommends revisions to the Wall of Fame nomination and selection criteria.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby amends Resolution No. 2008-77 to revise Wall of Fame nomination and selection criteria to read as follows:

Section 1: **PROCESS FOR NOMINATION AND SELECTION OF APPOINTMENTS TO
THE WALL OF FAME**

A. Wall of Fame City Council Subcommittees shall consist of two members of the City Council who will be appointed on an ad-hoc basis by the Mayor for the purpose of reviewing nomination(s) for the Wall of Fame and may make a recommendation regarding an appointment to the City Council.

B. An application deadline of July 1st of every year is established for nominations to the Wall of Fame.

C. After July 1st of each year, the City Clerk will provide copies of all nomination packages, if any, received by the application deadline to the Wall of Fame Subcommittee.

D. Only complete applications will be passed on to the City Council Wall of Fame Subcommittee for review. The City Clerk will determine when an application is complete.

E. The City Council Wall of Fame Subcommittee shall review the nomination documents, interview candidates, determine whether to proceed with a recommendation and provide a written recommendation to the City Council regarding its selection, if any. No more than one candidate will be recommended for induction into the Wall of Fame each year.

F. If the City Council Wall of Fame Subcommittee identifies an individual for the City Council's consideration, the individual shall be notified of the City Council Wall of Fame Subcommittee's recommendation prior to the City Council's consideration of the Subcommittee's recommendation and will be informed of the date and time the City Council will consider the recommendation.

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G. If a selection is made, formal induction into the El Cerrito Wall of Fame will occur at a regularly scheduled City Council meeting which is mutually agreeable to the honoree.

Section 2: WALL OF FAME RECOGNITION

A. Every year, the City Newsletter will feature an article showcasing the El Cerrito Wall of Fame which will highlight the most recent person inducted into the El Cerrito Wall of Fame, describe the person's achievements and contributions and provide a complete list of all persons on the Wall of Fame and briefly describe why each was inducted in to the Wall of Fame. The City's website shall also showcase El Cerrito Wall of Fame honorees.

B. Any new inductee to the Wall of Fame shall be invited to and recognized at a Volunteer Recognition Dinner.

C. The Wall of Fame gallery will transition to a virtual Wall of Fame by publishing the archive of inductee photos and resolutions highlighting inductee community contributions and achievements on the City's website and a dedicated monitor located in the City Hall Chambers Vestibule to further promote volunteerism, visibility and recognition.

Section 3: GUIDELINES/POLICY FOR NOMINATION AND SELECTION OF INDUCTEES TO WALL OF FAME

The purpose and policy for nomination and selection of inductees shall remain as follows:

- A. **PURPOSE:** To reaffirm the City Council's commitment to recognizing residents of El Cerrito who have made a significant and/or lifetime contribution to El Cerrito for outstanding community service and civic contributions by portrayal on the "Wall of Fame" and to advise employees and the public of the guidelines for nomination and City Council selection.
- B. **POLICY:** It is the policy of the City of El Cerrito to recognize residents of El Cerrito who have made substantial civic contributions to the community over a long period of time through their work on special projects in the community and to honor their lifetime achievement and volunteer service. Any person selected by the City Council shall have their photograph, preferably in the setting of the activity for which they are most recognized, placed on the Wall of Fame located at City Hall and on the City's Wall of Fame website. The guidelines for selection are:
 - 1. The Honoree must be a resident of the City of El Cerrito.
 - 2. Nominators must identify themselves, their relationship to the nominee, and how long they have known the nominee. They must explain how they personally know about the nominee's community service, civic contributions and accomplishments.
 - 3. Nomination forms and documentation must be accompanied by at least two letters of recommendation from community members or community organizations knowledgeable about the person's contributions, activities, accomplishments and achievements.
 - 4. Individuals eligible for nomination to the El Cerrito Wall of Fame shall have performed outstanding volunteer service of enduring value to the residents of El Cerrito. The civic contributions and community service for which an individual is recognized must be an ongoing activity in El

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Cerrito for at least fifteen years. Civic contributions may be in the founding, developing, supporting or sustaining of one or (usually) more organizations or community services leading to further honor, development or recognition.

5. The event(s) or activity(ies) must potentially be of benefit to all El Cerritans.
6. The event(s), contribution(s) or activity(ies) must be non-profit in nature.
7. City board, commission or committee service shall not be the sole criteria for selection.
8. Recipients of this honor should have been recognized for their efforts by a citizen group or an organization in El Cerrito, West County, regionally, statewide or nationally.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Cheryl Morse, City Clerk

APPROVED:

Janet Abelson, Mayor

RESOLUTION 2008-77

RESOLUTION OF THE EL CERRITO CITY COUNCIL CONFIRMING THE GUIDELINES AND POLICY FOR NOMINATION AND SELECTION OF WALL OF FAME INDUCTEES, ESTABLISHING A PROCESS FOR NOMINATION AND SELECTION OF APPOINTMENTS TO THE WALL OF FAME AND ESTABLISHING AN ANNUAL WALL OF FAME EVENT

WHEREAS, at its meeting of September 15, 2008 the City Council appointed Councilmembers Letitia Moore and Jan Bridges to an El Cerrito Wall of Fame City Council Subcommittee; and

WHEREAS, on September 19, 2008 the Wall of Fame City Council Subcommittee met and prepared recommendations for Council consideration regarding the process for nomination and selection of appointments to the Wall of Fame; an Annual Wall of Fame Event; Guidelines for Nomination and Selection of Inductees to the Wall of Fame; and consideration of Miriam Wilkins; and

WHEREAS, the City Council considered and discussed the Wall of Fame Subcommittee recommendation at its meeting of October 20, 2008; and

WHEREAS, the City Council adopted the Wall of Fame Subcommittee's recommendations by unanimous vote with the provision that future Wall of Fame Subcommittees be appointed by the Mayor on an ad-hoc basis.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby establishes the following components of the Wall of Fame Program:

Section 1: PROCESS FOR NOMINATION AND SELECTION OF APPOINTMENTS TO THE WALL OF FAME

A. Future Wall of Fame City Council Subcommittees (Wall of Fame Subcommittee) shall consist of two members of the City Council who will be appointed on an ad-hoc basis by the Mayor for the purpose of reviewing nomination(s) for the Wall of Fame and will make recommendations regarding appointment to the City Council.

B. An annual application deadline of March 15th is established for nominations to the Wall of Fame.

C. Each year, once the application deadline passes, the City Clerk will provide copies of all nomination packages, if any, received that year by the application deadline to the Wall of Fame Subcommittee.

D. The City Clerk will determine when an application is complete. Only complete applications will be passed on to the Wall of Fame Subcommittee for review.

E. Each year, and ad-hoc Wall of Fame Subcommittee shall review the nominations, if any, and provide a written recommendation concerning each nomination to the City Council for consideration on or before May 15th.

F. All persons identified in the nomination papers shall be notified prior to the City Council Meeting of the Subcommittee recommendation(s) and the date and time of the City Council Meeting to consider the recommendation(s).

G. Each year in July, at the City Council meeting scheduled on the third Monday in July, the City Council shall consider the recommendation(s), if any, of the Wall of Fame Subcommittee and induct nominee(s), if any, to the Wall of Fame.

Section 2: ANNUAL WALL OF FAME EVENT

A. Each year the City Newsletter will feature an article showcasing the El Cerrito Wall of Fame which will highlight one of the people inducted into the El Cerrito Wall of Fame and provide a complete list of all persons on the Wall of Fame (living and deceased) and briefly describe why each was inducted in to the Wall of Fame, and announce any new inductee(s) to the Wall of Fame who were appointed at the July City Council Meeting and provide a brief description of that persons achievements and contributions.

B. New inductees to the Wall of Fame shall be invited to and recognized at the Annual Volunteer Recognition Dinner.

Section 3: GUIDELINES/POLICY FOR NOMINATION AND SELECTION OF INDUCTEES TO WALL OF FAME

The purpose and policy for nomination and selection of inductees shall remain as follows:

A. PURPOSE: To reaffirm the City Council's commitment to recognizing citizens of El Cerrito for outstanding community contributions by portrayal on the "Wall of Fame" and to advise employees and the public of the guidelines for Council selection.

B. POLICY: It is the policy of the City of El Cerrito to recognize citizens of El Cerrito who have made substantial contributions to the community over a long period of time through their work on special projects. The persons selected by the City Council shall have their photograph, preferably in the setting of the activity for which they are being recognized, placed on the Wall of Fame located at City Hall. The guidelines for selection are:

1. The Honoree must be a resident of the City of El Cerrito.
2. The work for which an individual is recognized must be an ongoing activity in El Cerrito for at least ten (10) consecutive years, but may be an annual event.
3. The event or activity must be available to potentially benefit all El Cerrito residents.
4. The event or activity must be non-profit in nature.
5. City board, commission or committee service is not in itself grounds for selection. Members may, however, qualify for this award if they have been active in an ongoing activity for the benefit of El Cerrito in addition to serving on a board, commission or committee.
6. Recipients of this honor should have been recognized for their efforts by a citizen group or an organization in El Cerrito, West County, regionally, statewide or nationally.

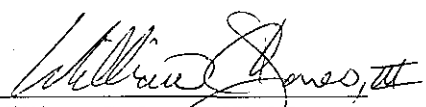
I CERTIFY that at a regular meeting on November 3, 2008 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES: Councilmembers Abelson, Bridges, Moore, Potter and Mayor Jones
NOES: None
ABSENT: None
ABSTAIN: None

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on November 5, 2008.


Cheryl Morse, City Clerk

APPROVED:


William C. Jones, III, Mayor



WALL OF FAME NOMINATION APPLICATION

Name, Address, Phone and Email of Nominee:

Date:

Note: The nominee must be a resident of the City of El Cerrito.

Describe why the nominee deserves this honor. What (non-profit) activities did the nominee participate in that warrants acclamation. Indicate whether each activity is non-profit if it is not inherently obvious.

How long has the nominee been actively engaged in carrying out the above described activities?

How have these activities benefited or potentially benefited residents of El Cerrito?

Please list the names and addresses of any groups or organizations that have recognized the nominated person's activities on behalf of this community. Please state how recognition was given and when. *(Attach supporting documentation as necessary)*

Submitted by: _____
Signature



REFERENCES and SUPPLEMENTAL INFORMATION

Nominator Name (please print): _____
Phone & email: _____
Relationship to Nominee: _____
How long have you known the nominee: _____

Name of individual(s) or organization(s): _____
Address: _____

Phone number: _____

Name of individual(s) or organization(s): _____
Address: _____

Phone number: _____

Name of individual(s) or organization(s): _____
Address: _____

Phone number: _____

Please attach at least two letters of recommendation from community members or community organizations knowledgeable about the person's contributions, activities, accomplishments and achievements along with any other supporting documentation you wish to provide.

If you have any questions or require additional information please contact Cheryl Morse, City Clerk, at 215-4305 or cmorse@ci.el-cerrito.ca.us.