



AGENDA

SPECIAL CITY COUNCIL – CLOSED SESSION

Tuesday, April 5, 2016 – 6:30 p.m.

Hillside Conference Room

REGULAR CITY COUNCIL MEETING

Tuesday, April 5, 2016 – 7:00 p.m.

City Council Chambers

SPECIAL CITY COUNCIL – CLOSED SESSION

Tuesday, April 5, 2016 – Immediately Following the Regular City Council Meeting

Hillside Conference Room

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Jan Bridges

Councilmember Mark Friedman
Councilmember Gabriel Quinto

ROLL CALL

6:30 p.m.

CONVENE CITY COUNCIL CLOSED SESSION

ANNOUNCEMENT OF CLOSED SESSION

CONFERENCE WITH REAL PROPERTY NEGOTIATORS (*Pursuant to Government Code Section 54956.8*)

Property: Former Portola Middle School site, 1021 Navellier Street, El Cerrito, California

Agency Negotiators: Scott Hanin, City Manager

Under Negotiation: Price and terms of payment

ORAL COMMUNICATIONS FROM THE PUBLIC (*Comments are limited to 3 minutes and to items listed on this special Closed Session agenda only*)

RECESS INTO CLOSED SESSION

ADJOURN CITY COUNCIL CLOSED SESSION

ROLL CALL

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – Councilmember Gabriel Quinto.

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

3. ORAL COMMUNICATIONS FROM THE PUBLIC

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

4. PRESENTATIONS – None

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5D

A. Approval of Minutes

Approve the March 15, 2016 Regular City Council meeting minutes.

B. Earth Day Proclamation

Approve a proclamation declaring April 16, 2016 as Earth Day in the City of El Cerrito and encouraging all residents and businesses to help make El Cerrito a greener, healthier, more sustainable place for all.

C. Amend Moore Iacofano Goltsman (MIG) Agreement

Adopt a resolution authorizing the City Manager to amend the existing professional services agreement in an amount not to exceed \$21,805 with Moore Iacofano Goltsman (MIG) to provide environmental planning services for a proposed development project located at 11615 and 11645 San Pablo Avenue.

D. Authorize Annual Report for Landscape and Lighting Assessment District for Fiscal Year 2016-17

Adopt a resolution directing NBS Local Government Solutions (NBS) to prepare and file the annual Landscape and Lighting Assessment District No. 1988–1 report for Fiscal Year 2016-17.

6. PUBLIC HEARINGS

Active Transportation Plan

Continue the public hearing from October 6, 2015 and upon conclusion, adopt a resolution approving the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and adopting the City of El Cerrito Active Transportation Plan.

7. POLICY MATTERS

Annual Parcel Assessment for the National Pollutant Discharge Elimination System (NPDES) Program and Drainage Maintenance

Adopt a resolution establishing the annual parcel assessment for the National Pollutant Discharge Elimination System (NPDES) Program and Drainage Maintenance at the current rate of \$38.00 per Equivalent Runoff Unit (ERU), and authorizing the Contra Costa County Flood Control and Water Conservation District to adopt Stormwater Utility Area levies based on said amount.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

Mayor and City Council communications regarding local and regional liaison assignments

and committee reports.

9. CONVENE CITY COUNCIL CLOSED SESSION

ANNOUNCEMENT OF CLOSED SESSION

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (*Pursuant to Government Code Section 54957*)

Title: City Manager

RECESS INTO CLOSED SESSION

RECONVENE IN OPEN SESSION AND POSSIBLE REPORT OUT OF CLOSED SESSION

The Mayor will announce if any reportable action was taken during closed session.

10. ADJOURN REGULAR CITY COUNCIL MEETING

The next regular City Council meeting is Tuesday, April 19, 2016 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/ind-ex.aspx?NID=114>. 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

CITY COUNCIL MEETING
Tuesday, March 15, 2016 – 7:00 p.m.
City Council Chambers

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

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Jan Bridges

Councilmember Mark Friedman
Councilmember Gabriel Quinto

ROLL CALL

Councilmembers Abelson, Bridges, Friedman, Quinto and Mayor Lyman all present.

7:00 p.m.

CONVENE CITY COUNCIL MEETING

Mayor Lyman 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 Lyman.

2. COUNCIL / STAFF COMMUNICATIONS

Councilmember Quinto stated that he is a former student of Fairmount Elementary School and encouraged all to attend the Fairmount School Parent Teacher Association (PTA) Red Carpet Silent Auction Fundraiser on March 26 at the El Cerrito Community Center.

Mayor Pro Tem Abelson announced that the City will be celebrating Earth Day on April 16, 2016 and invited all community members interested in participating to look on the City's website at www.el-cerrito.org and complete a registration form. The format of the event will be similar to prior years with work parties in the morning and a free lunch.

Mayor Lyman announced that he recently learned that the Stege Sanitary District won the Collection System of the Year Award and conveyed his best wishes. On March 19 Supervisor Gioia and Mayor Lyman will be convening a Town Hall meeting at Taste of Ethiopia restaurant in El Cerrito. Mayor Lyman thanked the Environmental Quality Committee for hosting the eco-film "This Changes Everything." It was a very inspiring film. Mayor Lyman also thanked the Human Relations Commission for hosting a public meeting to speak against hate crime in El Cerrito.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler, Richmond, said his neighbors continue to have an issue with El Cerrito Police coming into his neighborhood and that he supports the City's new minimum wage law but in speaking with some of the business owners he learned that some were concerned about the new regulations and noted that there are several business properties that are vacant.

Al Miller, El Cerrito, acknowledged Stege Sanitary District received its award from the Clean Water Association. The award is for best small district in the Bay Area for the collection system. Mr. Miller said Stege is proud of the recognition and will now compete for an award at the State level. Mr. Miller also invited all to an upcoming meet and greet forum for California Senate District 9 candidates that will be hosted by the El Cerrito Branch of the NAACP on April 2 at St. Peter's CME Church.

Amalia Cunningham, El Cerrito, invited all to attend the annual Fairmont Elementary School PTA fundraising auction on March 26.

Makalia Aga, El Cerrito, expressed concerns about rent increases in El Cerrito which for her recently amounted to a 20 percent increase. Ms. Aga encouraged the City Council to pass an ordinance that would control rents in El Cerrito. If rents continue to increase in this manner the City will not be diverse or inclusive because the vast majority affected are minorities.

Joel Kuechle, El Cerrito, expressed similar concerns to those expressed by Ms. Aga and asked the City Council to look into ways of regulating rent increases. Mr. Kuechle said his rent went up 20 percent which amounts to a \$150 per month increase for him personally or \$330 over 12-18 months. Mr. Kuechle said that although there is a realtor survey on rents, and he is a little under the survey amount, it does not make the increase fair or reasonable. Mr. Kuechle suggested that a cap of some kind be placed on rent increases or rent levels in the City to keep it diverse.

4. PRESENTATIONS – *None*

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5E

Moved, seconded (Bridges/Abelson) and carried unanimously to approve Consent Calendar Item Nos. 5B as amended, 5C and 5E in one motion as indicated below. Consent Calendar Item Nos. 5A and 5D were removed from the Consent Calendar and voted on separately as indicated below.

CITY COUNCIL ITEMS

A. Approval of Minutes

Approve the March 1, 2016 Regular City Council meeting minutes.

Action: Removed from the Consent Calendar. Moved, seconded (Bridges/Friedman; Ayes – Councilmembers Bridges, Friedman and Mayor Lyman; Noes – None; Abstain – Councilmembers Abelson and Quinto; Absent – None) and carried to approve the minutes as submitted.

B. Proclaim March as Prescription Drug Abuse Awareness Month

At the request of Councilmember Abelson, approve a proclamation declaring March 2016 as Prescription Drug Abuse Awareness Month in the City of El Cerrito and encouraging the community to pledge, "Spread the Word...One Pill Can Kill."

Action: Approved the proclamation as amended to correct an inadvertent clerical error.

C. Stop Signs at Various Locations

Adopt two separate resolutions authorizing the Public Works Director/City Engineer to install stop signs on: 1) Lawrence Street at Gladys Avenue; and 2) Gayle Court at Donal Avenue. *Exempt from CEQA.*

Action: Adopted Resolution No. 2016-15 and Resolution No. 2016-16.

D. Opposition to Shipment of Coal through the Marine Terminal under Development at the Former Oakland Army Base

At the request of Councilmember Abelson, adopt a resolution opposing the shipment of coal through the Oakland Bulk and Oversized Terminal under development at the former Oakland Army Base, and resolving to transmit copies of the resolution to Governor Jerry Brown, Mayor and City Council of the City of Oakland, Senator Loni Hancock, Assemblymember Tony Thurmond, Alameda County Transportation Commission, Bay Area Air Quality Management District and the California Transportation Commission.

Speaker: Isabel Cortes, Office of Senator Hancock, provided background on the proposed resolution, particularly environmental concerns presented by the project.

Action: Removed from the consent calendar at the request of Councilmember Abelson for the purpose of allowing Ms. Cortes to address the City Council. Moved, seconded (Friedman/Quinto and Abelson) and carried unanimously to adopt Resolution No. 2016-17.

CITY COUNCIL ACTING AS HOUSING SUCCESSOR TO FORMER REDEVELOPMENT AGENCY

E. Contra Costa County to Act as Bond Issuer for Bonds to be Used to Fund the Hana Gardens Apartments

Staff recommends that the City Council acting as Housing Successor to the former Redevelopment Agency adopt a resolution acknowledging that the County of Contra Costa will assist in the financing of Hana Gardens Apartments to be located at 10860 and 10848 San Pablo Avenue.

Action: Adopted Resolution No. 2016-18.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS

CITY COUNCIL ITEMS

A. Mid-Year Budget Update

Receive an update on city revenues and expenditures for the first 6 months of the fiscal year through December 31, 2015 and adopt a resolution authorizing amendments to the FY 2015-16 budget and approving new spending limits.

Presenters: Lisa Malek-Zadeh, Finance Director and Stacey Johnson, Administrative Analyst.

Speaker: Cordell Hinder, Richmond, thanked staff for the presentation.

Action: Moved, seconded (Friedman/Quinto) and carried unanimously to adopt Resolution No. 2016-19.

B. 2016 Economic Development Action Plan Update

Adopt a resolution approving the 2016 Economic Development Action Plan as an update to the 2006 Economic Development Action Plan.

Presenter: Melanie Mintz, Community Development Director, Katherine Ahlquist, Administrative Analyst.

Action: Moved, seconded (Abelson/Quinto) and carried unanimously to adopt Resolution No. 2016-20.

CITY COUNCIL ACTING AS REDEVELOPMENT SUCCESSOR AGENCY

C. Approval to Refinance Successor Agency Tax Allocation Bonds

Adopt a Successor Agency resolution approving: 1) Issuance of refunding bonds, execution and delivery of an indenture and escrow instructions and authorizing actions related thereto; 2) Approving contracts with NHA Advisors (\$65,000 for a public offering or \$50,000 for a private placement) and Fraser and Associates (\$26,000) for related work to be paid out of bond proceeds; and 3) Requesting Oversight Board approval of the issuance of refunding bonds and certain determinations relating thereto.

Presenter: Lisa Malek-Zadeh, Finance Director.

Action: Moved, seconded (Abelson/Bridges) and carried unanimously to adopt Successor Agency Resolution No. 2016-02.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

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

Mayor Lyman reported that he attended the March 3 Contra Costa Mayors Conference. The Mayors received a presentation regarding a possible merger of the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC). The presentation resulted in a lively discussion, particularly regarding issues of local control. The Mayors also elected their representative to the Delta Commission. On March 17, Mayor Lyman attended a Marin Clean Energy (MCE) Technical Committee meeting which included a report on greenhouse gasses. The report showed that MCE greenhouse gas reduction for its overall product is greater when compared to Pacific Gas & Electric (PG&E). Mayor Lyman also reported that all five Napa County cities have requested to join MCE and that some cities in Contra Costa County are also considering bringing it forward. The West County Integrated Waste Management Authority (WCIWMA) Board continues to discuss the purpose of the Waste Management Joint Powers Authority (JPA), the JPA's current powers and which powers to carry forward. The right of eminent domain is an example of a current power that is being evaluated. Another power that the JPA has but has never exercised is flow control over solid waste and recyclables. Discussion will continue at the Board's May meeting. Mayor Lyman also reported that the last WCIWMA Board meeting was adjourned in memory of a long time former Public Works Director from the City of Pinole who passed away recently of heart failure.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 8:50 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 7(B) 2016 Economic Development Action Plan Update

1. Powerpoint presentation – *Submitted by Melanie Mintz, Community Development Director.*

Other:

2. April 2, 2016 El Cerrito Branch of the NAACP Flyer for California Senate District 9 candidate forum – *Submitted by Al Miller, El Cerrito.*

3. March 26, 2016 Fairmont PTA Red Carpet Silent Auction Flyer – *Submitted by Amalia Cunningham, Fairmont School PTA.*

4. March 19, 2016 Community Breakfast with County Supervisor John Gioia and Mayor Lyman flyer – *Submitted by Mayor Lyman.*

EL CERRITO CITY COUNCIL PROCLAMATION
Designating April 16, 2016, as Earth Day in the City of El Cerrito

WHEREAS, the first Earth Day was proclaimed in 1970 in order to foster public awareness of the need to protect the environment and conserve resources; and

WHEREAS, since 1979 the City of El Cerrito has celebrated Earth Day every year in keeping with this spirit of the initial Earth Day; and

WHEREAS, the annual celebration of Earth Day in the City of El Cerrito seeks to involve all of its citizens in improving their local environment and becoming more aware of their global environment; and

WHEREAS, in furtherance of this objective, the City is planning a variety of activities in which residents and businesses will have an opportunity to donate their time and money including: cleaning up and restoring habitats in City parks, facilities, greenways, creeks, and schools; picking up litter along streets and in commercial areas; taking steps to reduce water and energy use in public spaces and at home; and sharing a community lunch and celebrating becoming more “green.”

NOW THEREFORE, the City Council of the City of El Cerrito hereby proclaims April 16, 2016, as Earth Day in the City of El Cerrito and encourages all residents and businesses to help make El Cerrito a greener, healthier, more sustainable place for all.

Dated: April 5, 2016

Gregory B. Lyman, Mayor



AGENDA BILL

Agenda Item No. 5(C)

Date: April 5, 2016
To: El Cerrito City Council
From: Margaret Kavanaugh-Lynch, Development Services Manager
Subject: Authorize Approval of Professional Services Agreement between City of El Cerrito and Moore Iacofano Goltsman (MIG)

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to approve a Professional Services Agreement with Moore Iacofano Goltsman (MIG) to provide environmental planning services for a proposed development project located at 11615 and 11645 San Pablo Avenue. This Agreement shall not exceed the amount of \$21,805.00 and shall expire on August 1, 2016.

BACKGROUND

According to City policy, the aggregate value of contracts with one firm or vendor cannot exceed \$25,000 in one fiscal year without City Council approval. The currently proposed contract with MIG, although itself not over \$25,000, requires City Council approval because the City has contracted with MIG previously during this fiscal year, and taken together, the value of all the contracts would exceed the \$25,000 policy threshold.

MIG has also worked for the City in prior years on related matters. In September of 2014, the El Cerrito City Council certified a Programmatic Environmental Impact Report (EIR) (prepared by MIG) and approved the San Pablo Avenue Specific Plan (Plan). The Programmatic EIR assessed all foreseeable potential environmental impacts resulting from implementation of the Plan. The Plan established new land use, development, and urban design regulations for the Plan area for a 20-year planning period. When a new development project located in the Planning Area is submitted to the City, an appropriate level of environmental review must be completed to analyze whether any new environmental effects not identified in the Programmatic EIR might be created by the construction and operation of the project.

Staff is requesting that the City Council authorize the City Manager to approve a Professional Services Agreement between the City and MIG to assist in the preparation of appropriate documentation for the proposed development project located at 11615 and 11645 San Pablo Avenue. This is the first Tier II project that has been submitted to the City for review under the San Pablo Specific Plan and much efficiency is gained for the City by utilizing the same author of the Programmatic EIR as the author that prepares the first Initial Study Checklist.

Concurrently, staff has issued a Request for Proposals (RFP) to establish a stable of consultants that will be pre-qualified to assist the City with the preparation of the necessary environmental documentation for all private developments in the Plan area. It is the goal of staff to have at least

three environmental consulting firms that are qualified and ready to assist the City with the environmental review of private development projects. Staff anticipates that it will present the results of the RFP to the City Council for consideration in late spring/early summer.

STRATEGIC PLAN CONSIDERATIONS

Completing all necessary review and analysis of proposed private development projects is consistent with the Strategic Plan Goal of Delivering exemplary government services.

ENVIRONMENTAL CONSIDERATIONS

This proposed amendment will result in the completion of the necessary environmental review required for this project by California Environmental Quality Act, (CEQA).

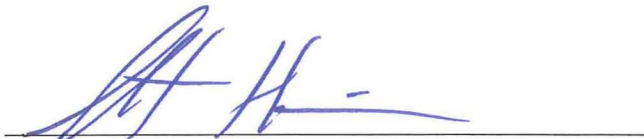
FINANCIAL CONSIDERATIONS

The proposed amendment does not have any impact on the General Fund. The cost of the proposed amendment will be covered through fees paid for by the project applicant.

LEGAL CONSIDERATIONS

The City Attorney has reviewed this staff report and associated resolution as part of the packet. In addition, the City Attorney has approved the Professional Services Agreement.

Reviewed by:



Scott Hanin
City Manager

Attachment:

1. Resolution

RESOLUTION NO. 2016–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH MOORE IACOFANO GOLTSMAN (MIG) TO PROVIDE ENVIRONMENTAL PLANNING SERVICES RELATED TO A PROPOSED DEVELOPMENT PROJECT LOCATED AT 11615 AND 11645 SAN PABLO AVENUE

WHEREAS, the City requires the services of a consultant firm to perform environmental planning services; and

WHEREAS, in September of 2014, the El Cerrito City Council certified a Programmatic Environmental Impact Report (EIR) that was prepared by MIG, and approved the San Pablo Avenue Specific Plan (Plan); and

WHEREAS, each development project shall be required to complete some level of environmental documentation to ensure consistency with the California Environmental Quality Act; and

WHEREAS, El Cerrito's Administrative Policy and Procedure for Procurement Including Professional Services Contracts (III 1 July 2011) stipulates that purchases over \$25,000.00 from a single vendor in one fiscal year must be approved by the City Council; and

WHEREAS, MIG has previously performed work for the City this fiscal year that, combined with this agreement, would exceed the \$25,000 amount identified in the policy; and

WHEREAS, the proposal for the environmental planning services for the proposed development projects located at 11615 and 11645 San Pablo Avenue is for \$21,805.

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

1. Finds that City staff has determined that much efficiency is gained for the City by utilizing the same author that prepared the San Pablo Avenue Specific Plan Programmatic EIR to complete the first Specific Plan Initial Study Checklist;

2. Authorizes the execution of this Professional Services Agreement with MIG in an amount not to exceed \$21,805.00; and

3. Finds that a stable of consultants is being created by staff to ensure that this type of work will be completed by a number of qualified environmental consultants, going forward.

Agenda Item No. 5(C)

I CERTIFY that at a regular meeting on April 5, 2016, the City Council 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 April XX, 2016.

Cheryl Morse, City Clerk

Approved:

Gregory B. Lyman, Mayor



AGENDA BILL

Agenda Item No. 5(D)

Date: April 5, 2016

To: El Cerrito City Council

From: Stacey Johnson, Administrative Analyst
Lisa Malek-Zadeh, Finance Director/City Treasurer

Subject: Authorize Annual Report for Landscape and Lighting Assessment
District for Fiscal Year 2016-17

ACTION REQUESTED

Adopt a resolution directing NBS Local Government Solutions (NBS) to prepare and file the annual Landscape and Lighting Assessment District No. 1988-1 report for fiscal year 2016-17.

BACKGROUND/ANALYSIS

In 1988, the City Council established Assessment District No. 1988-1 pursuant to the Landscape and Lighting Act of 1972. This act requires the preparation and filing of an annual report of the assessment district activities.

In November 1996, the voters of El Cerrito approved by a two-thirds majority the continuation of the Landscape and Lighting Assessment. Since the voters approved the assessment prior to the passage of Proposition 218, this assessment is exempt from Proposition 218's additional voter requirements. Therefore, the City follows the same annual approval process as in previous years.

California Street and Highways Code §22622 requires the City Council to authorize by resolution the filing of the annual report of the Landscaping and Lighting Assessment District. The annual report includes the various components required to develop the tax roll related to the assessment district. The Council must adopt this report prior to the time that a decision is made about whether or not the assessment will continue in the next fiscal year.

It is expected that NBS, the designated Engineer of Work, will submit the annual report at the May 3, 2016 City Council meeting. At that meeting, the time and place of the public hearing regarding continuation of the assessment district will be set.

FINANCIAL CONSIDERATIONS

Without the adoption of the annual report and authorization of the assessment, the City would lose approximately \$771,000 in FY 2016-17 that would be used for landscaping and lighting purposes.

Agenda Item No. 5(D)

NBS was selected in February 2009 through a Request for Proposal process and the agreement was extended for NBS to continue to prepare and file the report this year. The cost to prepare and file report is \$ \$8,855 and is included in the budget for the Landscape and Lighting Assessment District fund.

Reviewed by:



Scott Hanin
City Manager

Attachment:

1. Resolution

RESOLUTION NO. 2016-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO DESIGNATING NBS LOCAL GOVERNMENT SOLUTIONS AS THE ENGINEER OF WORK FOR THE LANDSCAPING AND LIGHTING ASSESSMENT DISTRICT NO. 1988-1 AND DIRECTING NBS TO PREPARE AND FILE THE ANNUAL REPORT FOR FISCAL YEAR 2016-17

WHEREAS, the City of El Cerrito, by Resolution No. 88-53, dated June 6, 1988 adopted Assessment District No. 1988-1 pursuant to the Landscape and Lighting Act of 1972; and

WHEREAS, said Landscape and Lighting Act requires the preparation and filing of an annual report defining the charges to the assessment district for fiscal year 2016-17; and

WHEREAS, California Street and Highways Code §22622 requires that the filing of the annual report be authorized by resolution of the City Council; and

WHEREAS, the cost to prepare and file the report is included in the budget for the Lighting and Assessment District fund.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby directs NBS Local Government Solutions, the firm designated by this Council as the Engineer of Work for Assessment District No. 1988-1, to file an annual report in accordance with the provisions of the Landscape and Lighting Act of 1972.

BE IT FURTHER RESOLVED this resolution is adopted pursuant to California Street and Highways Code §22622.

I CERTIFY that at the regular meeting on April 5, 2016, the El Cerrito City Council passed this resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on April __, 2016.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor



AGENDA BILL

Agenda Item No. 6

Date: April 5, 2016
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director
Subject: Adopt City of El Cerrito Active Transportation Plan and Approve Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program

ACTION REQUESTED

Continue the public hearing from October 6, 2015 and upon conclusion, adopt a resolution approving the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and adopting the City of El Cerrito Active Transportation Plan.

DISCUSSION

On October 6, 2015, the City Council opened a public hearing to consider the City of El Cerrito Active Transportation Plan ("Plan") and associated Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. City staff and our transportation consultant presented the background, goals, and key elements of the Plan; its development process including public engagement and public comments; consistency with the General Plan and other City planning documents; environmental evaluation and documentation; and the Planning Commission's recommendation for City Council adoption of the Plan with some changes to Policy 3-1. As this item was continued from October 6, 2015, please refer to the Agenda Bill (<http://www.el-cerrito.org/DocumentCenter/View/5121>) from that meeting for more information on the Plan.

After hearing the presentation, receiving public testimony, and asking questions of City staff, the City Council then passed a motion to appoint Councilmember Abelson and Mayor Lyman to a Council subcommittee to review the Plan with City staff addressing any concerns they may have and to continue the public hearing to a future meeting of the City Council. Over the last several months, the Council subcommittee and City staff communicated both in writing and in person to discuss various concerns regarding the Plan, specifically the draft final version dated August 2015.

The current version of the Plan dated February 2016, which is before the Council tonight, reflects public comments to date, the Planning Commission revisions, and comments from the City Council subcommittee.

The changes are summarized below:

- Enhanced accessibility elements by adding two policies (Policy 2-7 and 2-8), highlighting accessibility in several recommended actions, changing Plan terminology away from focus area, medium and low priority projects to detailed projects and additional projects, adding prioritization criteria related to accessibility, and identifying accessibility improvements that are part of the detailed projects; and
- Restructured Chapters 2, 4 and 5 of the Plan to make the discussion regarding policies, programs, practices, recommendations, and projects more cohesive throughout the Plan;
- Clarified terminology and reformatted some tables and figures to improve overall readability of the Plan; and
- Made various minor edits and corrections throughout the Plan.

Included in the Council's packet are the draft City Council Resolution (Attachment 1) including the Plan dated February 2016 (Attachment 1, Exhibit A) and Environmental Documents (Attachment 2) – including the Initial Study/Mitigated Negative Declaration (Attachment 2, Exhibit A), Response to Comments (Attachment 2, Exhibit B) and the Mitigation Monitoring & Reporting Program (Attachment 2, Exhibit C).

STRATEGIC PLAN CONSIDERATIONS

The City's Strategic Plan articulates the mission of the City to serve, lead, and support our diverse and transit-rich community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety, and creating an economically and environmentally sustainable future. The Plan directly implements several of the goals and strategies, and is consistent with the overall Strategic Plan. The primary goals and strategies furthered by the Plan include:

- *Goal E: Ensure the public's health and safety*
 - Continue to work with local partners (i.e. BART, the school district, other communities, East Bay Regional Park District) on a coordinated approach to public safety.
 - Explore innovative and best practices for promoting public health (e.g., smoking ordinances, nutrition, obesity prevention, living wage, and strategies to promote walking/biking).
- *Goal F: Foster environmental sustainability citywide*
 - Encourage alternative modes of transportation to the single occupancy vehicle
 - Implement the City's Climate Action Plan by reducing vehicle miles traveled (by creating a well connected pedestrian, bicycle and transit-oriented urban form that will make it easier for residents and visitors to leave their car behind).

ENVIRONMENTAL CONSIDERATIONS

California Environmental Quality Act (“CEQA”) Guidelines require preparation of an Initial Study to identify whether a plan or project will have a significant effect on the environment. For projects with potentially significant impacts, proposed mitigations may be included as part of the environmental review process to ensure that such impacts are mitigated to a less than significant level where possible. The City prepared an Initial Study/Mitigated Negative Declaration (IS/MND) for the Plan to evaluate the impacts of the proposed programs and projects to facilitate streamlined implementation in the future. The Plan did not require an Environmental Impact Report as no impacts were identified which could not be mitigated to a less than significant level as part of the project.

The Draft IS/MND was made available for public and agency review and comment from June 26 through July 27, 2015. The City received one comment from the Department of Transportation (Caltrans). This comment and the City’s response have been included in this packet (Attachment 2, Exhibit B). The City then prepared a Mitigation Monitoring & Reporting Program (Attachment 2, Exhibit C) to summarize the mitigations required during implementation of this Plan.

On August 19, 2015, the Planning Commission voted affirmatively to recommend adoption of the MND to the City Council. The CEQA actions before the City Council tonight include approving the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program.

FINANCIAL CONSIDERATIONS

There are no direct or immediate costs associated with the action requested tonight. Implementation of the Plan will require funding over many years as the total cost of improvements identified is estimated to be approximately \$37 million including about \$13 million for the detailed projects. The City will need to utilize a combination of federal, state and local funds, as well as, work with developers to contribute to improvements associated with their projects. Some project costs may be integrated into other project costs, such as bike lane striping during a paving project, installation of bike racks during construction or improvement of a facility, or the inclusion of pedestrian improvements during a streetscape beautification project.

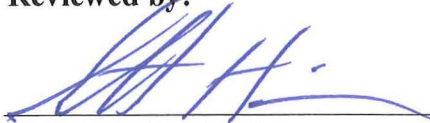
Specific cost estimates were developed for the nine detailed projects to assist in grant applications and external funding requests. These are planning-level estimates that will need to be refined as projects are further developed and exclude additional environmental costs and any potential right-of-way acquisitions. Subsequent City Council actions would be needed to appropriate funding to any of the proposed projects, as well as, include them in the City’s Capital Improvement Program.

Adoption of the Plan positions the City to be more competitive for and leverage external funding sources.

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) Draft Resolution approving the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program, and adopting the Active Transportation Plan and Exhibit A: Active Transportation Plan dated February 2016
- 2) Attachment 2 Environmental Documents
 - a. Exhibit A: Initial Study/Mitigated Negative Declaration
 - b. Exhibit B: Response to Comments
 - c. Exhibit C: Mitigation Monitoring and Reporting Program

RESOLUTION NO. 2016-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND MITIGATING MONITORING AND REPORTING PROGRAM AND ADOPTING THE CITY OF EL CERRITO ACTIVE TRANSPORTATION PLAN

WHEREAS, in June 2007, the City Council adopted Resolution No. 2007-56 the City's first Circulation Plan for Bicyclists and Pedestrians ("Circulation Plan") to guide future investments and improvements for bicyclists and pedestrians; and

WHEREAS, as called for in the Circulation Plan, the City has completed a variety of improvements including the first city bike lanes on Carlson Boulevard, numerous city sidewalk and pedestrian safety projects, rehabilitated the Ohlone Greenway, upgraded Ohlone Greenway crossings and provided bicycle routes with sharrows on several streets; and

WHEREAS, in 2012, the City successfully applied for funding from the Metropolitan Transportation Commission's (MTC) Transportation Development Act funds (MTC-TDA Article 3) to update the Circulation Plan to the Active Transportation Plan ("Plan"); and

WHEREAS, the Plan is intended to provide a blueprint for continuing the City's investment in improving safety and providing facilities and infrastructure for bicyclists and pedestrians, based on the changing demands and standards as well as the current goals of the City; and

WHEREAS, the planning process began in 2013 and included substantial public engagement including a community workshop in July 2013 to evaluate existing and proposed conditions, a bike audit in August 2013 to ride some of the proposed bicycle facilities, a walking audit in August 2013 to tour a series of facilities, a second community workshop in October 2013 to present conceptual designs for focus area projects, and a final community workshop in July 2015 to present the draft plan for public comment; and

WHEREAS, the Plan was developed to incorporate community input and common best practices, to meet the city's Climate Action Plan goals, be consistent with various plans including the San Pablo Avenue Specific Plan, Urban Greening Plan, Ohlone Greenway Master Plan, and ADA Transition Plan; and

WHEREAS, the Plan is in compliance with the California Transportation Commission's adopted Active Transportation Program Guidelines; and

WHEREAS, the draft Plan was released for public review in June 2015 and was revised based on public comments and presented to the Planning Commission as a final draft (August 2015); and

Agenda Item No. 6

Attachment 1

WHEREAS, the Planning Commission heard public comment on the final draft Plan and unanimously voted to recommend City Council adoption of the final draft Plan with some changes to Policy 3-1; and

WHEREAS, on June 26, 2015, the City released for a 30-day public review period a Draft Initial Study/Mitigated Negative Declaration, which identified and evaluated the potential environmental impacts of the proposed Plan; and

WHEREAS, the City received one comment on the draft Initial Study from the Department of Transportation and prepared a Response to Comments and Mitigation Monitoring and Reporting Program available for review on August 13, 2015; and

WHEREAS, on October 6, 2015, the City Council opened a public hearing to consider the Plan and associated Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program;

WHEREAS, at the October 6, 2015 meeting after receiving public testimony and asking questions of City staff, the City Council then passed a motion to appoint a Council subcommittee to review the Plan with City staff and to continue the public hearing to a future meeting of the City Council; and

WHEREAS, the Plan dated February 2016, reflects public comments to date, the Planning Commission revisions, and comments from the City Council subcommittee.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito, based on its review and consideration of the Active Transportation Plan and associated Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and all public testimony:

1. Finds that the Active Transportation Plan is in the public interest and will advance the health, safety, and general welfare of the City of El Cerrito.
2. Finds that the Active Transportation Plan is consistent with the El Cerrito General Plan.
3. Hereby approves the Initial Study/Mitigated Negative Declaration and Mitigating Monitoring and Reporting Program, and adopts the Active Transportation Plan, attached hereto as Exhibit A; and

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

Agenda Item No. 6

Attachment 1

I CERTIFY that at a regular meeting on April 5, 2016, 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 April __, 2016.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor



**April 5, 2016
City Council Meeting**

**Agenda Item 6 Active Transportation Plan
Attachment 1**

The Active Transportation Plan, dated February 2016, including appendices is available for review at <http://el-cerrito.org/atp>.

Below are direct links to the document, which has been divided for easier downloading:

- February 2016 Plan : <http://el-cerrito.org/DocumentCenter/View/5669>
- Appendix A: Crosswalk Policy at <http://el-cerrito.org/DocumentCenter/View/5670>
- Appendix B: Relationship to Other Plans at <http://el-cerrito.org/DocumentCenter/View/5671>
- Appendix C: Conformance with ATP Guidelines at <http://el-cerrito.org/DocumentCenter/View/5672>
- Appendix D: Active Transportation & Transit at <http://el-cerrito.org/DocumentCenter/View/5673>
- Appendix E: Grant Funding Sources at <http://el-cerrito.org/DocumentCenter/View/5674>
- Appendix F: Additional Fact Sheet at <http://el-cerrito.org/DocumentCenter/View/5675>
- Appendix G: Comments Received at Public Workshops at <http://el-cerrito.org/DocumentCenter/View/5676>
- Appendix H: Prioritized Projects at <http://el-cerrito.org/DocumentCenter/View/5677>

Hardcopies are also available for review at:

The Office of the City Clerk, 10890 San Pablo Avenue, El Cerrito
and
The El Cerrito Library, 6510 Stockton Avenue, El Cerrito



**April 5, 2016
City Council Meeting**

**Agenda Item 6 Active Transportation Plan
Attachment 2**

The Environment Documents for Active Transportation Plan are available for review at <http://el-cerrito.org/atp>.

Below are direct links to the documents:

- Initial Study and Mitigated Negative Declaration (IS/MND): <http://el-cerrito.org/DocumentCenter/View/5105>
- Response to Comments Memo: <http://ca-elcerrito.civicplus.com/DocumentCenter/View/5106>
- Mitigation Monitoring & Reporting Program: <http://ca-elcerrito.civicplus.com/DocumentCenter/View/5107>

Hardcopies are also available for review at:

The Office of the City Clerk, 10890 San Pablo Avenue, El Cerrito
and
The El Cerrito Library, 6510 Stockton Avenue, El Cerrito



AGENDA BILL

Agenda Item No. 7

Date: April 5, 2016

To: El Cerrito City Council

From: Stephen Prée, Environmental Programs Manager / City Arborist
Maria Sanders, Operations + Environmental Services Division Manager
Yvetteh Ortiz, Public Works Director / City Engineer

Subject: Annual Parcel Assessment for the National Pollutant Discharge Elimination System (NPDES) Program and Drainage Maintenance

ACTION REQUESTED

Adopt a resolution establishing the annual parcel assessment for the National Pollutant Discharge Elimination System (NPDES) Program and Drainage Maintenance at the current rate of \$38.00 per Equivalent Runoff Unit (ERU), and authorizing the Contra Costa County Flood Control & Water Conservation District to adopt Stormwater Utility Area levies based on said amount.

BACKGROUND

Under the 1987 amendments to the Federal Water Pollution Control Act (Clean Water Act), all jurisdictions in the United States are responsible for ensuring compliance with the National Pollutant Discharge Elimination System (NPDES) program. The State Water Resources Control Board grants regulatory responsibilities for water quality to the Regional Water Quality Control Boards in nine regions: (1) North Coast, (2) San Francisco Bay, (3) Central Coast, (4) Los Angeles, (5) Santa Ana, (6) San Diego, (7) Central Valley, (8) Lahontan, and (9) Colorado River Basin. The San Francisco Regional Water Quality Control Board (Water Board) regulates the discharge of stormwater runoff from the municipal separate storm sewer systems (MS4) draining into San Francisco Bay through a Municipal Regional Permit (MRP). The MRP covers Alameda, Contra Costa, Santa Clara and San Mateo counties as well as the cities of Fairfield, Suisun and Vallejo. In Contra Costa County, the Contra Costa Clean Water Program (CWP) coordinates compliance and collaborates on programmatic components of the MRP. The CWP is comprised of Contra Costa County, its 19 incorporated cities and towns, and the County Flood Control and Water Conservation District. Working with the member jurisdictions, the CWP provides services designed to protect water quality by keeping trash and other pollutants from entering drainage systems that ultimately make their way into local creeks, reservoirs, lakes, and the Bay. An important function of the CWP is to assist its members in maintaining compliance with the MRP.

Municipal Regional Permit

Municipal Regional Permit Order No. R2-2015-0049 (MRP 2.0) was adopted November 15, 2015 and became effective January 1, 2016, superseding and rescinding the previous MRP (2009). The new MRP continues the previous MRP requirements for conducting comprehensive stormwater monitoring, and taking specific stormwater management actions to control trash litter, 303(d) listed pollutants, other pollutants of concern (POCs), and Total Maximum Daily Load (TMDL) limits.

The new MRP also contains four provisions with significantly expanded compliance conditions:

- Provision C.3 (New Development and Redevelopment) requires the City to provide a work plan for a Green Infrastructure (GI) Plan by June 2016. A Green Infrastructure Plan is intended to meet future load reduction milestones through the incorporation of Low Impact Design (LID) systems, such as rain gardens, on public and private streets, parking lots, and building roofs. The provision also requires the local government to adopt policies, ordinances or other legal mechanisms to ensure implementation of the Green Infrastructure Plan by June 30, 2019.
- Provision C.10 (Trash Load Reductions) mandates a 70% trash load reduction entering the storm drain system by July 1, 2017 and an 80% reduction by July 1, 2019. The provision requires more trash load assessments and reporting in order to demonstrate that these goals are being met. C.10 also gives increased trash load reduction credit to the installation and maintenance of Full Trash Capture Devices in the storm drain system. Finally, it requires mapping and managing trash litter on private lands greater than 10,000 square feet by July 2018.
- Provision C.11 (Mercury Controls) and C.12 (Polychlorinated Biphenyls Controls – PCBs Controls) require numeric weight reductions and tracking of Mercury and PCBs through the management of building demolition activities, installation of Green Infrastructure (C.3) and the identification of properties that contain high and moderate Mercury and PCBs removal opportunities.

Funding Efforts

In 2012, to keep up with the increased compliance costs, the CWP attempted to raise new funds through a property-owner mail-in ballot election. Although the countywide initiative failed, support in El Cerrito was 54 percent, demonstrating support for the clean water activities. Communities throughout California continue to be concerned by the rising costs of complying with the NPDES program and the lack of funding sources available to pay for these increasing costs. In December 2015, a coalition consisting of the California State Association of Counties, the League of Cities, and the Association of California Water Agencies filed Constitutional Amendment language with the Attorney General's office as a potential statewide initiative measure for the November 2016 election that would provide local governments with an additional funding mechanism for local water supplies, clean water, water conservation and flood water protection. If the measure passes, each local government would then have the option to go through a public process to establish a "stormwater utility" and adopt a stormwater

fee. The initiative language is available on the Attorney General's website ([https://oag.ca.gov/system/files/initiatives/pdfs/15-0116%20\(Water%20and%20Sewer%20Fees\)_0.pdf](https://oag.ca.gov/system/files/initiatives/pdfs/15-0116%20(Water%20and%20Sewer%20Fees)_0.pdf)) and is entitled "The California Water Conservation, Flood Control and Stormwater Management Act of 2016." City staff will track the status of this measure and provide updates to the City Council.

DISCUSSION

The countywide Stormwater Utility Area (SUA) assessment, which is levied in each of the participating CWP jurisdictions, provides funds for the clean water activities in each of the member jurisdictions as well as activities at the countywide level. Specific SUA assessments are calculated through determining Equivalent Runoff Units (ERUs). An ERU is a value that reflects the amount of impervious (paved) surface of a given parcel. Impervious surfaces result in stormwater runoff to the storm drain system, which potentially carry pollutants to the Bay and into the ground water. Parcels that contain large areas of paved surfaces are assigned a greater number of ERUs. Residential lots in El Cerrito between 5,000 to 20,000 square feet are assigned one ERU. Industrial or commercial parcels with paved parking or other impervious surfaces are assigned two or more ERUs depending on their size.

In 1993, when the County SUA was established, El Cerrito's assessment was \$14 per ERU. The City's current rate of \$38.00 per ERU was approved by the City Council in Fiscal Year (FY) 2004-2005, an increase from the previous rate of \$30.00 (in FY 2003-2004). Per the County Ordinance adopting the SUA (93-47, attached), \$38 is the maximum rate that can be assessed in El Cerrito. The total amount generated countywide by the SUA in FY 2015-2016 is projected to be slightly less than \$14.1 million.

In FY 2015-16, the County projects that El Cerrito's rate of \$38.00 will generate approximately \$398,000 for NPDES compliance. During this fiscal year, 85.7% of these revenues will be returned to El Cerrito to fund local compliance activities. However, with increased costs associated with regional activities required by MRP 2.0, the amount coming back to El Cerrito is projected to gradually decrease each year to 83% by FY 2020-2021.

At the regional level, the funds are used by the CWP to assist local jurisdictions in complying with the MRP by providing guidance and staff training and by implementing some public outreach, water-quality monitoring, and other compliance measures that are more cost-effective performed at the countywide level. The CWP also pays dues, on behalf of the local jurisdictions, to the Bay Area Stormwater Management Agencies Association, to the San Francisco Bay Regional Monitoring Program for Trace Substances, and to the California Stormwater Quality Association. These groups provide monitoring and research activities that are mandated under the MRP, and provide representation, guidance and staff training at the regional and state levels.

Each year the per parcel rate for the SUA must be re-established by the County Board of Supervisors, which acts as the governing body for the Flood Control and Water Conservation District and, thus, the CWP. Each local jurisdiction must first adopt a

resolution determining the appropriate assessment for its jurisdiction and then forward that instructing resolution to the Contra Costa County Flood Control and Water Conservation District. The resolution must be adopted by the City no later than April 15 in order for the County to have sufficient time to place the assessment on the property tax roles for FY 2016-2017.

El Cerrito's Clean Water Program

The SUA funds that are returned to El Cerrito also fund a portion of the City's clean water activities. El Cerrito's Clean Water Program includes meeting multiple MRP provisions through activities that can be grouped into five general areas. Below is a brief description of each program area. Specific annual accomplishments are detailed in an Annual Report prepared each summer for submittal to the Water Board. The activities are coordinated and carried out primarily by the Public Works Department, with assistance from the Building Division, Code Enforcement, and the Fire Department as needed.

- 1) New Development and Construction Control Activities prevent pollutants from entering storm drains during new development, construction activities, and for the life of each project. Measures to achieve this include integrating and inspecting temporary and permanent stormwater pollution prevention measures during construction of public and private projects. Permanent stormwater pollution prevention measures, such as bioswales, are commonly referred to as "C.3" provisions.
- 2) Public Education and Industrial Outreach Activities (PEIO) educate residents, businesses, and school-age children about the causes and effects of stormwater pollution, the difference between the sanitary sewer and the storm drain system, and the effect of pollutants on our local watersheds. The City aims to encourage these audiences to participate in ongoing creek protection and restoration efforts and to adopt less-polluting practices.
- 3) Municipal Maintenance Performance Activities include optimizing pollutant removal during routine maintenance activities such as street sweeping and storm drain facility maintenance, and using Best Management Practices to prevent or minimize discharges to storm drains and watercourses from the maintenance of roads, parks, and other publicly owned facilities.
- 4) Industrial and Commercial Inspection Activities aim to reduce or eliminate discharges to the storm drain system from industrial and commercial facilities. On November 19, 2013, the City Council adopted Resolution No. 2013-61 which designated the West County Wastewater District to perform the City's commercial and industrial inspections, via a contract coordinated by the Clean Water Program. This program inspects 40 El Cerrito businesses annually for compliance with best management practices for stormwater pollution prevention.

- 5) Illicit Discharge Control Activities prevents pollution from entering storm drains and creeks. Public Works maintenance staff conducts regular inspections of all open creek segments, trash racks, and headwalls on public property as part of routine procedure.

STRATEGIC PLAN CONSIDERATIONS

Maintaining existing funding for the City's Clean Water Program activities fulfills Strategic Plan Goal E to "Ensure the public health and safety." Both Federal and State regulations mandate these activities to ensure implementation of the federal Clean Water Act. Non-compliance with the MRP exposes jurisdictions to penalties, fines, and other enforcement actions. In addition, maintaining funding for these activities fulfills Goal F to "Foster environmental sustainability citywide," as discussed below.

ENVIRONMENTAL CONSIDERATIONS

Implementation of the Clean Water Program protects the health and sustainability of the City's waterways and ecology. Continued funding of the ERU rate at the maximum allowable level will help to fund current activities, including managing the City's clean water program, municipal maintenance activities, as well as regional CWP activities such as water quality monitoring and illicit discharge detection and elimination.

FINANCIAL CONSIDERATIONS

Staff is proposing adoption of the maximum rate of \$38.00 per ERU for FY 2016-2017, which is projected by the County to generate approximately \$398,000 (the same as FY 2015/2016), of which 85.7% percent will be returned to the City in FY 2016-2017. Following adoption by City Council, the Contra Costa County Board of Supervisors will adopt the annual property assessments for the FY 2016-2017 tax rolls.

In past fiscal years, expenses in the NPDES Fund (202) have exceeded revenues creating an operating deficit in the fund. To address the fund deficit in the current FY 2015-2016 budget, some expenses were moved to the General Fund. Transferring these expenses restored some of the General Fund support to Public Works services, which had been reduced over the last several years when eligible expenses were shifted to several Special Funds including NPDES as a short-term solution. In addition to transferring expenses to the General Fund in the current year, last year's budget included a one-time loan of \$57,000 to the NPDES Fund from the Storm Drain Fund (205) to be repaid by FY 2016-2017. This was needed to fully address the operating shortfall in the NPDES Fund. However, at the end of FY 2014-2015, it was determined that the transfer could not be made and the NPDES fund ended the year with a deficit totaling \$24,028. Even with the fund starting the year with an unplanned fund deficit, moving expenses to the General Fund in FY 2015-16 will now free up sufficient resources to eliminate the deficit in the current year. However, as a result of the rising cost associated with regulatory compliance, personnel and other expenses along with a fixed ERU rate that does not keep pace with increasing costs, additional funding sources will need to be identified starting in FY 2016-2017 in order to meet regulatory requirements.

LEGAL CONSIDERATIONS

The proposed actions are consistent with established processes for City adoption of the annual ERU rate; no legal concerns have been identified.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution
2. Contra Costa County Chief Engineers Report on Formation of Stormwater Utility Areas and Adoption of Annual Assessments, June 22 1993

RESOLUTION NO. 2016-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ESTABLISHING THE ANNUAL PARCEL ASSESSMENT FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PROGRAM AND DRAINAGE MAINTENANCE AT THE CURRENT RATE OF \$38.00 PER EQUIVALENT RUNOFF UNIT (ERU), AND AUTHORIZING THE CONTRA COSTA COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT TO ADOPT STORMWATER UTILITY AREA LEVIES BASED ON SAID AMOUNT

WHEREAS, under the Federal Water Pollution Control Act, prescribed discharges of storm water require a permit from the appropriate California Regional Water Quality Board under the National Pollutant Discharge Elimination System (NPDES) program; and

WHEREAS, Order No. R2-2015-0049, NPDES Permit No. CAS12008, issuing waste discharge requirements under the San Francisco Bay Municipal Regional Stormwater Permit (MRP) to the Cities, Flood Control Districts and County agencies located in Alameda, Contra Costa, Santa Clara, San Mateo Counties, as well as the cities of Fairfield, Suisun and Vallejo, includes the implementation of selected Best Management Practices to minimize or eliminate pollutants from entering storm waters; and

WHEREAS, it is the intent of the City of El Cerrito to utilize funds received from its Stormwater Utility Area (SUA) for implementation of the NPDES program and drainage maintenance activities; and

WHEREAS, at the request of the City of El Cerrito, the Contra Costa County Flood Control and Water Conservation District (DISTRICT) has completed the process for formation of a SUA, including the adoption of the Stormwater Utility Assessment Drainage Ordinance No. 93-47; and

WHEREAS, the SUA and Program Group Costs Payment Agreement between the City of El Cerrito and the DISTRICT requires that the City of El Cerrito annually, by April 15th, determine the rate to be assessed to a single Equivalent Runoff Unit (ERU) for the forthcoming fiscal year.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of El Cerrito does hereby determine that the rate to be assigned to a single ERU for Fiscal Year 2016-2017 shall be set at \$38.00.

BE IT FURTHER RESOLVED that the City Council of the City of El Cerrito does hereby request the DISTRICT to adopt SUA levies based on said amount.

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

Agenda Item No. 6
Attachment 1

I CERTIFY that at a regular meeting on April 5, 2016 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 April ____, 2016.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

H. 1
(2)

TO: BOARD OF SUPERVISORS, AS THE GOVERNING BODY OF CONTRA COSTA
COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

FROM: J. MICHAEL WALFORD, CHIEF ENGINEER

DATE: June 22, 1993

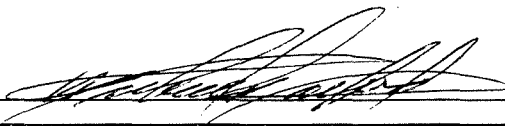
SUBJECT: CHIEF ENGINEER'S REPORT ON FORMATION OF STORMWATER UTILITY AREAS AND
ADOPTION OF ANNUAL ASSESSMENTS

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

I. **Recommended Action:**

1. ACCEPT Chief Engineer's report on the tabulation of the protests against the proposed Stormwater Utility Assessments;
2. FIND that the number of protests received for each Stormwater Utility Area represent less than fifty (50) percent of the area;
3. DETERMINE the formation of the Stormwater Utility Areas is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) Article 5, CEQA Guidelines. DIRECT the Community Development Director to file a notice of Exemption.
4. APPROVE the resolutions establishing the seventeen (17) Stormwater Utility Areas; and
5. ADOPT the Ordinance establishing Stormwater Utility Assessments in the seventeen (17) Stormwater Utility Areas with the stipulation that the Equivalent Runoff Unit (ERU) rate for the unincorporated County area shall be \$16.20 for Fiscal Year 1993-94 (a ten percent reduction from the proposed rate of \$18/ERU.)

Continued on Attachment: X

SIGNATURE: 

☐ RECOMMENDATION OF COUNTY ADMINISTRATOR
☐ RECOMMENDATION OF BOARD COMMITTEE
☐ APPROVE ☐ OTHER

SIGNATURE(S):

ACTION OF BOARD ON JUN 22 1993 APPROVED AS RECOMMENDED X OTHER ☐

VOTE OF SUPERVISORS

X UNANIMOUS (ABSENT ☐)
AYES: ☐ NOES: ☐
ABSENT: ☐ ABSTAIN: ☐

MFK:lv:fp:sj
c:NPDES\22.16

Orig. Div: Public Works (FC)
Contact: Milton Kubicek, 313-2203
cc: County Administrator
County Auditor
County Counsel
PW - Flood Control

I hereby certify that this is a true and correct copy of
an action taken and entered on the minutes of the
Board of Supervisors on the date shown.

ATTESTED: JUN 22 1993
PHIL BATCHELOR, Clerk of the Board
of Supervisors and County Administrator

By Barbara Sidari, Deputy

II. Financial Impact:

The proposed Stormwater Utility Assessments will raise approximately \$8,052,900 to fund the National Pollutant Discharge Elimination System (NPDES) permit activities including drainage system maintenance for the following cities and unincorporated Contra Costa County areas:

Antioch	El Cerrito	Moraga	Pleasant Hill
Clayton	Hercules	Orinda	San Pablo
Concord	Lafayette	Pinole	San Ramon
Danville	Martinez	Pittsburg	Walnut Creek

III. Reasons for Recommendations and Background:

Contra Costa County, its incorporated cities and the Contra Costa County Flood Control and Water Conservation District decided approximately two years ago to collectively apply for a Joint Municipal National Pollutant Discharge Elimination System (NPDES) Permit. This is federally mandated through the Clean Water Act which was amended in 1987 to specifically address stormwater pollution. There are three parts to the Permit. The Part I Application representing reconnaissance level activities by each municipality was submitted to the San Francisco Bay and Central Valley Regional Water Quality Control Boards on May 18, 1992. The Part II Application represented the development of each municipality's Stormwater Management Plan which was submitted to the Regional Boards on May 17, 1993. The Stormwater Management Plan seeks to reduce or radically eliminate pollutants from entering or reaching the storm sewer system. The third phase of the process is the actual promulgation of the Permit.

The Permit is for five years (1993 to 1998) requiring each municipality to implement their approved Stormwater Management Plan. The Regional Boards have indicated the need for a "restricted" funding source to finance implementation costs. Therefore, Contra Costa County proposed legislation providing a financing option for municipalities to use through the Contra Costa County Flood Control and Water Conservation District. The bill, AB 2768 (Campbell), was passed by the legislature and signed by Governor Pete Wilson on August 30, 1992. The legislation specifically allows a municipality to request formation of a Stormwater Utility Area within their incorporated boundaries and establish an assessment to pay for implementation costs.

The Board of Supervisors, acting as the Contra Costa County Flood Control and Water Conservation District, provided public notice to all affected property owners before considering the establishment of the Stormwater Utility Areas and assessments. The Board of Supervisors acting on behalf of Contra Costa County has also taken specific actions establishing the Stormwater Utility Area and assessment for the unincorporated portion of the County. Should there be a fifty percent (50%) protest against the Stormwater Utility Areas formations and assessments, the Board of Supervisors would have to abandon this form of financing. Due to the inability to create any new assessments for the 1993-94 Fiscal Year, the likely alternative funding source would be the General Fund.

Public notices were sent to approximately 238,234 parcel owners. State legislation (SB1977 - Bergeson) requires at least 45 day notice to parcel owners before the governing board considers any new or increased assessments. This requirement was met and informed parcel owners of two public hearings which were held on June 10 and 15, 1993. Approximately 28,170 recorded protests have been received. This represents approximately 11.8% of the total number of parcel owners who received public notices. The recorded protest includes those legally acceptable and those that appear acceptable but presently are questionable. The reason this figure is used is to provide a "worse case" scenario to the Board of Supervisors regarding the amount of protests per stormwater utility area. A copy of all written protests are retained in the office of the Contra Costa County Clerk of the Board located at 651 Pine Street, Martinez, California. A majority protest by the owners of more than 50% in area of the territories to be included in the stormwater utility area would cause the assessment to be abandoned for that particular area. This has not occurred. The following two charts highlight the total "assessable" and "total" area per stormwater utility area:

Tax Rate Area	Area Protested	Total Assessable Area	Percentage*
01 City of Antioch	806	5,542	14.5
02 City of Concord	1,278	8,235	15.5
03 City of El Cerrito	150	1,801	8.3
04 City of Hercules	165	1,380	12.0
05 City of Martinez	703	3,392	20.7
06 City of Pinole	191	1,570	12.2
07 City of Pittsburg	775	3,964	19.5
09 City of Walnut Creek	785	5,979	13.1
11 City of San Pablo	194	1,408	13.8
12 City of Pleasant Hill	419	2,830	14.8
13 City of Clayton	138	1,307	10.5
14 City of Lafayette	587	4,833	12.1
15 Town of Moraga	599	2,386	25.1
16 Town of Danville	501	4,548	11.0
17 City of San Ramon	577	3,677	15.7
18 City of Orinda	361	3,440	10.5
50 Unincorporated County	5,358	31,050	17.2

Tax Rate Area	Area Protested	Total Area	Percentage*
01 City of Antioch	806	18,000	4.4
02 City of Concord	1,278	14,954	8.5
03 City of El Cerrito	150	2,706	5.5
04 City of Hercules	165	4,115	4.0
05 City of Martinez	703	7,196	9.7
06 City of Pinole	191	3,105	6.1
07 City of Pittsburg	775	10,221	7.5
09 City of Walnut Creek	785	14,511	5.4
11 City of San Pablo	194	1,711	11.3
12 City of Pleasant Hill	419	3,708	11.3
13 City of Clayton	138	3,185	4.3
14 City of Lafayette	587	9,583	6.1
15 Town of Moraga	599	9,579	6.2
16 Town of Danville	501	11,037	4.5
17 City of San Ramon	577	9,351	6.1
18 City of Orinda	361	10,521	3.4
50 Unincorporated County	5,358	417,315	1.2

The "total assessable area" provides the worse case scenario for determining if a majority protest exists. Based on these amounts, a majority protest does not exist for any stormwater utility area.

The process used to record protests included a specific database based on the 1992 equalized tax roll indicating parcel ownership, address, notification address, acreage, land use, proposed assessment, etc. Two "hotlines" were established so the general public could have immediate access to information. During the ten weeks between mailing of the public notices and the June 15th public hearing, approximately 500 telephone call were received. Two trained operators were able to handle the majority of the problems. Questions that were encountered were based primarily on the accuracy of the Land Information and the Public Works Automated Mapping Systems. These included problems dealing with parcel ownership, acreage of the parcel and the appropriate land use. Should the Board of Supervisors approve the Stormwater Utility Areas and Assessments than field inspection activities would immediately commence. All known problems will be reviewed and corrections made prior to the promulgation of the assessments for the 1993-94 Fiscal Year. Specific problems pertaining to reclamation districts, the Oakley-Knightsen area and St. Mary's College will be resolved prior to this promulgation.

IV. Consequences of Negative Action:

The Environmental Protection Agency promulgated the National Pollutant Discharge Elimination Discharge System (NPDES) Permit Application Regulations for stormwater discharges on November 16, 1990 (40 CFR Parts 122, 123 and 124). Contra Costa County and the City of Concord were specifically identified in the Federal Register as needing a Municipal NPDES Permit. The legislation also permitted the State of California to make a finding if stormwater discharge was a "... significant contributor of pollutants to the waters of the United States" then these municipalities would also need to obtain a Municipal NPDES Permit. Such a finding was made requiring all municipalities within the San Francisco Bay Regional Water Quality Control Board's jurisdiction in Contra Costa County to obtain Municipal NPDES Permits.

All affected municipalities excluding the City of Richmond have opted to utilize the financing method contained in Assembly Bill 2768 (Campbell). This means each municipality is specifically requesting the formation of a Stormwater Utility Area within their incorporated boundaries, have established an assessment for Fiscal Year 1993-94 and set a maximum rate of assessment. Should the Board of Supervisors acting as the Contra Costa County Flood Control and Water Conservation District fail to proceed with this assessment, then it would create immediate financial chaos. All participating municipalities are expecting the Board of Supervisors to approve the formation of Stormwater Utility Areas and assessments if a majority protest does not materialize. If the AB 2768 financing mechanism is not implemented, then municipalities would need to resort to general revenue financing. This would further exasperate the financial dilemma all municipalities are facing with cut-backs from the State to local governments.

ORDINANCE NO. 93-47

AN ORDINANCE OF THE CONTRA COSTA COUNTY FLOOD CONTROL
AND WATER CONSERVATION DISTRICT
IMPOSING STORM WATER UTILITY ASSESSMENTS FOR
STORMWATER UTILITY AREAS:

1-(Antioch), 2-(Clayton), 3-(Concord), 4-(Danville), 5-(El Cerrito),
6-(Hercules), 7-(Lafayette), 8-(Martinez), 9-(Moraga), 10-(Orinda),
11-(Pinole), 12-(Pittsburg), 13-(Pleasant Hill), 14-(San Pablo),
15-(San Ramon), 16-(Walnut Creek), and 17-(Unincorporated County)

The Board of Supervisors of Contra Costa County, acting as the governing board of the Contra Costa County Flood Control and Water Conservation District, ordains as follows:

ARTICLE I

Section 1. Title.

This Ordinance shall be known as the "Stormwater Utility Assessment Ordinance" of the Contra Costa County Flood Control and Water Conservation District.

Section 2. Purpose.

The United States Environmental Protection Agency (the "EPA") has, consistent with Section 402 of the Federal Clean Water Act, as amended, promulgated the National Pollutant Discharge Elimination System Regulations (the "NPDES Regulations") pursuant to which the EPA, through the appropriate California Regional Water Quality Control Board (the "CRWQCB"), has required the Contra Costa County Flood Control and Water Conservation District (the "District") and other affected public entities to secure a National Pollutant Discharge Elimination System Stormwater Permit (the "NPDES Permit") and to develop, implement and manage identified programs dealing with stormwater runoff. The parcels of land within the respective watersheds within the District's jurisdiction for which a NPDES Permit is required will benefit from these programs. Further, the local drainage facilities falling under the NPDES program requires routine maintenance if they are to continue to serve the developed areas for which they were installed. Collectively, these two activities, NPDES and general drainage maintenance, represent the city's and County's stormwater management Programs. The Board of Supervisors of the District has determined, pursuant to the Contra Costa County Flood Control and Water Conservation Act (the "District Act"), which is Chapter 63, Section 12.8, as amended, of the California Water Code Appendix, to form certain Stormwater Utility Areas in which the

District will annually levy assessments to pay the cost of these programs required by the NPDES Permit. The Board of Supervisors of the District, consistent with Sections 11 and 12.8 of the District Act and Section 54954.6 of the Government Code, held noticed public hearings at which time all testimony, oral and written, was considered. At the conclusion of the public hearings, the Board of Supervisors of the District adopted resolutions forming the Stormwater Utility Areas. The provisions of this Ordinance confirming the formation of the Stormwater Utility Areas and providing for the annual levy of a Utility Assessment are consistent with the District Act and the reports prepared by the Chief Engineer of the District and accepted by the Board of Supervisors of the District.

The Board of Supervisors of the District finds that the Utility Assessment to be annually levied shall be based on the proportional amount of impervious surface on each lot or Parcel within the Stormwater Utility Area. Revenues derived from the Utility Assessments shall be applied exclusively to pay the District's administrative costs in collecting the assessments and the respective city or County stormwater management Program costs for the Stormwater Utility Area in which they are collected.

ARTICLE II

DEFINITIONS

Unless otherwise specifically provided or required by the context, certain terms or expressions used herein have the meanings set forth below:

- a. "Board of Supervisors" means the Board of Supervisors of the Contra Costa County Flood Control and Water Conservation District.
- b. "Chief Engineer" means the Chief Engineer of the Contra Costa County Flood Control and Water Conservation District.
- c. "County" means the County of Contra Costa, State of California.
- d. "CRWQCB" means the California Regional Water Quality Control Board for the region in which the Stormwater Utility Area has been formed.
- e. "District" means the Contra Costa County Flood Control and Water Conservation District.
- f. "District Act" means the Contra Costa County Flood Control and Water Conservation District Act, which is codified in West's California Water Code Appendix, Chapter 63, as amended from time to time.

- g. "EPA" means the United States Environmental Protection Agency, which pursuant to the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, has jurisdiction to establish the National Pollutant Discharge Elimination System (NPDES) and promulgate regulations pursuant thereto.
- h. "NPDES Permit" means the permit, issued by the CRWQCB, dealing with stormwater runoff in association with the National Pollutant Discharge Elimination System (NPDES) and the regulations promulgated by the EPA.
- i. "NPDES Regulations" means the final regulations dated November 16, 1990, and any subsequent amendments thereto promulgated by the EPA governing the National Pollutant Discharge Elimination System (NPDES).
- j. "Ordinance" means this Ordinance No. 93-47 of the Contra Costa County Flood Control and Water Conservation District.
- k. "Parcel" means a parcel of property identified by Assessor parcel number as shown on the equalized tax rolls of the County of Contra Costa, State of California.
- l. "Program" means all the activities required under or in connection with the NPDES Permit, including without limitation drainage system maintenance and Program administration.
- m. "Stormwater Utility Area" means a benefit assessment area formed pursuant to Section 12.8 of the District Act by the Board of Supervisors and identified in Article III of this Ordinance.
- n. "Utility Assessment" means the annual assessment to be levied on each Parcel within a Stormwater Utility Area pursuant to Article V of this Ordinance.

ARTICLE III

FORMATION OF STORMWATER UTILITY AREAS

Section 1. Formation of Stormwater Utility Areas.

Pursuant to Sections 11 and 12.8 of the District Act and Section 54954.6 of the Government Code, the Board of Supervisors noticed public hearings to consider the establishment of individual Stormwater Utility Areas for each of the 16 cities and the unincorporated County area to fund Program costs. At the conclusion of the hearings, the Board of Supervisors adopted Resolutions Nos. 93/352, 93/353, 93/354, 93/355, 93/356, 93/357, 93/358, 93/359, 93/360, 93/361, 93/362, 93/363, 93/364, 93/365, 93/366, 93/367, and 93/368, which formed, respectively, Stormwater Utility Areas 1-(Antioch), 2-

(Clayton), 3-(Concord), 4-(Danville), 5-(El Cerrito), 6-(Hercules), 7-(Lafayette), 8-(Martinez), 9-(Moraga), 10-(Orinda), 11-(Pinole), 12-(Pittsburg), 13-(Pleasant Hill), 14-(San Pablo), 15-(San Ramon), 16-(Walnut Creek), and 17-(Unincorporated County). The legal boundary of each Stormwater Utility Area shall be congruent with the legal boundary of the associated city or County entity as of July 1st of each year in which a Utility Assessment is levied.

Section 2. Additional Stormwater Utility Areas.

The District may form additional Stormwater Utility Areas, if requested by resolution of the governing board of the area to be formed. To form an additional Stormwater Utility Area, the District shall comply with provisions of the District Act then governing the formation of a Stormwater Utility Area.

ARTICLE IV

**REPORT OF CHIEF ENGINEER; HEARING THEREON;
CONFIRMATION OF UTILITY ASSESSMENT BY THE
BOARD OF SUPERVISORS**

Section 1. Report.

The Chief Engineer shall cause to be prepared annually a written report indicating, for each Stormwater Utility Area, the Utility Assessment to be levied, as requested by the city or County governing board having jurisdiction over the area defined by the Stormwater Utility Area and shall file the report with the Clerk of the Board of Supervisors.

Section 2. Content of the Report.

The report shall contain the District's estimate of its administrative costs and the Program costs for the respective city or County agency for each of the Stormwater Utility Areas for the ensuing fiscal year. Said estimate of costs shall be apportioned to each Parcel on the basis of proportionate impervious surface assignable to each Parcel to be assessed. Only Parcels not otherwise exempted by this Ordinance or the NPDES Regulations shall have a Utility Assessment levied on them. The report shall identify all Parcels by Assessor parcel number on which a Utility Assessment is to be levied and the amount of the assessment.

Section 3. Resolution Accepting Report and Noticing Public Hearing.

Upon the report being filed with the Clerk of the Board of Supervisors, the Board of Supervisors is, by resolution, to accept, if appropriate, the report and to set a date, time

and place for a hearing on said report. Notice of the hearing date shall be given as required by applicable law.

Section 4. Hearing.

The Board of Supervisors shall hear the matter on the date and at the time specified in the notice, or as continued for good cause. At the hearing, the Board of Supervisors shall hear and consider all testimony, oral and written, presented, including all written protests. At the conclusion of the hearing, the Board of Supervisors may revise, change, reduce or modify any Utility Assessment and shall determine an appropriate rate for each Stormwater Utility Area identified in the report. Thereafter, by resolution, it shall confirm the assessments. Such confirming resolutions shall be adopted no later than August 10 of each fiscal year in which the Utility Assessment is to be levied and collected.

Section 5. Enrollment.

The District shall provide certified copies of the confirming resolutions and the roll of confirmed Utility Assessments, in an acceptable format, to the Auditor-Controller of the County on or before August 10 of each fiscal year.

ARTICLE V

LEVY OF UTILITY ASSESSMENT

Section 1. Determination of the Amount to Be Assessed.

The District shall estimate, for the fiscal year in which the Utility Assessment is to be levied, the total number of Equivalent Runoff Units and the administrative costs for each Stormwater Utility Area. The administrative costs shall be combined with the costs of implementing the city or County Program for the various Stormwater Utility Areas. This total cost is to be apportioned among the Parcels within each respective Stormwater Utility Area in direct proportion to the number of Equivalent Runoff Units assigned to each Parcel. The Utility Assessment levied and collected within each Stormwater Utility Area may only be applied toward the costs incurred for Program costs for the Stormwater Utility Area. If, at the conclusion of any fiscal year, there remains in the account for a Stormwater Utility Area unexpended funds, the remaining balance shall be applied toward the estimated costs for the next fiscal year. Utility Assessments levied and collected pursuant to this Ordinance may not be applied toward any other costs or expenses of the District or the city or County receiving funds from the Stormwater Utility Area nor may they be applied to the costs of a Stormwater Utility Area other than the Stormwater Utility Area for which they were levied and collected.

Section 2. Determination of Equivalent Runoff Unit and Amount of Utility Assessment to Be Levied.

- a. Equivalent Runoff Unit. The Chief Engineer has submitted a report entitled "Report on Stormwater Utility Assessment" and dated March 1993. The report establishes standard impervious surface amounts for various land uses and Parcel sizes and establishes Equivalent Runoff Units (ERUs) for each type of land use. The report and the standard amounts specified therein are adopted by the Board and are incorporated herein by reference. The standard against which all property is to be measured shall be a single-family residential Parcel of 8,900 square feet in size to which a standard of 3,300 square feet of impervious surface is ascribed and shall be called a Equivalent Runoff Unit (ERU). All other land uses shall be compared to this standard and the number of Equivalent Runoff Units assigned to the Parcel shall be in direct proportion to 3,300 square feet of impervious surface (SFIS). The number of Equivalent Runoff Units per Parcel for each of the classes listed in subsection (b) below are as follows:

Group A	1.0 ERU/unit	Group G	7 ERU/acre
Group B	.7 ERU/unit	Group H	9 ERU/acre
Group C	1.7 ERU/unit	Group I	10 ERU/acre
Group D	.2 ERU/acre	Group J	12 ERU/acre
Group E	1.5 ERU/acre	Group K	1 ERU/3,300 SFIS
Group F	4.5 ERU/acre	Group L	Exempt

- b. Classification of Parcels. All Parcels shall be assigned to one of the following classifications based on land use:

- Group A: Single family residential on a Parcel having an area between 5,000 square feet and 20,000 square feet.
- Group B: Single family residential on a Parcel having an area less than 5,000 square feet and all multiple family residential Parcels.
- Group C: Single family residential on a Parcel having an area greater than 20,000 square feet.
- Group D: Golf courses and cemeteries.
- Group E: Miscellaneous improvements creating less than 25 percent impervious surfaces by Parcel area.
- Group F: Miscellaneous improvements creating between 25 percent and 50 percent impervious surfaces by Parcel area.

Group G: Community centers, churches, schools and cultural facilities.

Group H: Office buildings, medical-dental offices, financial buildings, research and development offices, miscellaneous industrial improvements, convalescent hospitals and rest homes, mortuaries, fraternal and service organization buildings, retirement housing complex.

Group I: Hotels, motels, and mobile home parks.

Group J: Mini warehouses, industrial parks, light industrial parks, heavy industry, utility properties (corporation yards), bowling alleys, theaters, restaurants, car lots, hospitals, convenience markets, supermarkets, shopping centers, drive-in restaurants, parking facilities, service stations and car washes.

Group K: Boat marinas, partially developed properties.

Group L: Vacant land, agricultural land, and government-owned properties used for public purposes.

c. Exempted Land Uses. All land uses expressly exempted by the NPDES Regulations will be exempted from the levy of a Utility Assessment pursuant to this Ordinance. Those land uses exempted are:

- (1) Agricultural uses, including dairies, poultry, livestock, groves, orchards, row crops, field crops, vines or dry farming.
- (2) Vacant, undeveloped Parcels.
- (3) Publicly-owned Parcels which are Parcels owned by a federal, state or local public entity or agency and used for public purposes.

d. Determination of Equivalent Runoff Units Per Parcel. Once a Parcel is classified and its acreage or number of units is determined, the appropriate standard Equivalent Runoff Unit amount for the classification will be multiplied by the acreage or the number of units to determine the total Equivalent Runoff Units for the Parcel.

e. Determination of Utility Assessment to Be Levied Per Equivalent Runoff Unit. The aggregate number of Equivalent Runoff Units within a Stormwater Utility Area will be divided into the estimated Program costs for the Stormwater Utility Area to determine the amount of Utility Assessment to be levied per Equivalent Runoff Unit. The Utility Assessment to be levied on a Parcel is determined by the number of Equivalent Runoff Units ascribed to the Parcel and the assessment value of each unit.

- f. Maximum Utility Assessment to Be Levied Per Equivalent Runoff Unit. The Board hereby adopts the following maximum amounts of annual Utility Assessment per Equivalent Runoff Unit that can be levied without further individual Parcel owner notification for each of the following Stormwater Utility Areas:

1-(Antioch)	\$25.00	10-(Orinda)	\$35.00
2-(Clayton)	\$29.00	11-(Pinole)	\$35.00
3-(Concord)	\$35.00	12-(Pittsburg)	\$30.00
4-(Danville)	\$30.00	13-(Pleasant Hill)	\$30.00
5-(El Cerrito)	\$38.00	14-(San Pablo)	\$45.00
6-(Hercules)	\$35.00	15-(San Ramon)	\$35.00
7-(Lafayette)	\$35.00	16-(Walnut Creek)	\$35.00
8-(Martinez)	\$30.00	17-(Unincorporated	
9-(Moraga)	\$35.00	County)	\$30.00

- g. Utility Assessment to Be Levied for Fiscal Year 1993-94. The Utility Assessment to be levied per Parcel in Fiscal Year 1993-94 in the various Stormwater Utility Areas shall be based on the assigned dollar amount for a single Equivalent Runoff Unit as indicated below:

1-(Antioch)	\$20.00	10-(Orinda)	\$23.00
2-(Clayton)	\$23.00	11-(Pinole)	\$29.40
3-(Concord)	\$26.00	12-(Pittsburg)	\$24.00
4-(Danville)	\$22.00	13-(Pleasant Hill)	\$25.00
5-(El Cerrito)	\$14.00	14-(San Pablo)	\$33.00
6-(Hercules)	\$26.00	15-(San Ramon)	\$23.00
7-(Lafayette)	\$15.00	16-(Walnut Creek)	\$27.50
8-(Martinez)	\$20.00	17-(Unincorporated	
9-(Moraga)	\$25.00	County)	\$16.20

ARTICLE VI

COLLECTION OF UTILITY ASSESSMENT

Section 1. Collection by Treasurer/Tax Collector.

The confirmed Utility Assessment for each Parcel shall appear as a separate item on the tax bill issued by the Treasurer/Tax Collector of the County. The Utility Assessment shall be levied and collected at the same time and in the same manner as the general ad valorem property taxes and shall be subject to the same penalties and the same procedures for sale in case of delinquency. If, for the first year the Utility Assessment is levied, the property on which the Utility Assessment is levied has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for

value has been created and attached thereon, prior to the date on which the first installment of ad valorem property taxes would become delinquent, the Utility Assessment shall not result in a lien against the real property but shall be transferred to the unsecured roll.

Section 2. Applicable Law.

All laws applicable to the levy, collection and enforcement of ad valorem property taxes shall be applicable to Utility Assessments, except as otherwise provided herein.

Section 3. Validity of Utility Assessment Not Affected by Time Limits.

Failure to meet the time limits set forth in this Ordinance for whatever reason shall not invalidate any Utility Assessment levied hereunder.

ARTICLE VII

CORRECTION OR CHANGE TO THE TAX ROLL

Section 1. Initiation of the Correction or Change.

A correction or change to the tax roll with respect to a Utility Assessment may be made by the Chief Engineer, either on his/her own initiative, or on application by a property owner (the "Assessee").

Section 2. Initiation by Flood Control Engineer.

The Chief Engineer may initiate a correction or change to the tax roll at any time within two (2) years of the date of the resolution or ordinance of the Board of Supervisors confirming Utility Assessments placed upon the tax roll.

Section 3. Initiation by the Assessee.

The Assessee may initiate a correction or change to the tax roll by filing a written application with the Chief Engineer within sixty (60) days following his/her receipt of the tax bill reflecting the Utility Assessment. The application shall contain or include the following information, together with such additional information deemed relevant by the Assessee or requested by the Chief Engineer:

- a. Assessor parcel number.
 - b. Gross acreage.
 - c. Use of property as of the preceding March 1.
 - d. Copy of the tax bill containing the benefit assessment.
- 1e in date*

- e. Basis for requested correction or change.

Section 4. Categories of Corrections or Changes.

Upon approval of the Chief Engineer, corrections or changes shall be made with respect to:

- a. Ownership of a Parcel;
- b. Address of an owner of a Parcel;
- c. Subdivision of an existing Parcel;
- d. Land use category of all or part of a Parcel;
- e. Computation of the area of a Parcel;
- f. Erroneous computation of the Utility Assessment.

Corrections to the tax roll shall not be valid unless and until approved by the Board of Supervisors. All corrections or changes must be reported by the Chief Engineer to the Auditor-Controller of the County, who shall (1) refund the amount of the assessment overcharge by check without amendment of the bill if the amount of overcharge is less than one hundred dollars, or (2) prepare an amended billing to correct the overcharge, as the case may be. The Chief Engineer shall give written notice to the Assessee of the action taken on the application.

If the Assessee disagrees with the Chief Engineer's determination, he/she may file an appeal with the Stormwater Utility Assessment Appeal Board within thirty (30) days after receipt of the written notice. The appeal shall be initiated by a written letter submitted to the Stormwater Utility Assessment Appeal Board, c/o the Chief Engineer for refund of all or part of the Stormwater Utility Assessment. The Stormwater Utility Assessment Appeal Board shall contain at least three members and shall be appointed by the Board of Supervisors.

If the Assessee disagrees with the Stormwater Utility Assessment Appeal Board's determination, he/she may file an appeal with the Board of Supervisors within thirty (30) days after receipt of the written notice. The appeal shall be initiated by a written application filed with the Clerk of the Board of Supervisors for refund of all or part of the Utility Assessment. The application shall include payment of a one hundred dollar appeal fee which shall be returned if the Assessee's appeal is upheld by the Board. The decision of the Board of Supervisors shall be final and shall complete the administrative process. Any further action by the Assessee for recovery of any part of the Utility Assessment shall be by complaint for refund filed in the Superior Court.

ARTICLE VIII

EFFECTIVE DATE OF ORDINANCE

This Ordinance shall become effective thirty (30) days after passage, and within fifteen (15) days of passage, shall be published once with the names of the Supervisors voting for and against it in the Contra Costa Times, a newspaper of general circulation published in this County.

PASSED and ADOPTED on June 22, 1993 by the following vote:

AYES:	Supervisors Powers, Smith, Bishop, McPeak and Torlakson
NOES:	None
ABSENT:	None
ABSTAIN:	None

Attest: Phil Batchelor, Clerk of the Board
of Supervisors and County Administrator

By: _____

Barbara Sidasi
Deputy

Tom Torlakson
Board Chair