



AGENDA

REGULAR CITY COUNCIL MEETING

Tuesday, August 18, 2015 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Jan Bridges

Councilmember Janet Abelson
Councilmember Gabriel Quinto

ROLL CALL

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

1. **PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE** – *Mayor Pro Tem Lyman.*

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

A. **Proclamation Honoring Lieutenant Bonini and Sergeant Shawn Maples: 2015 Special Olympics Torch Run Final Leg Participants** – *Presentation by Sylvia Moir, Police Chief.*

Approve a proclamation recognizing Sergeant Shawn Maples and Lieutenant Steve Bonini as

2015 Special Olympics Torch Run Final Leg Participants for Special Olympics of Northern California. Sergeant Maples and Lieutenant Bonini are examples of the strength and selflessness of volunteerism in the highest ideals of service in policing, and serve as examples to members of the Police Department, the profession of law enforcement, and the El Cerrito community.

B. Proclamation Commemorating the 25th Anniversary of the Americans with Disabilities Act – *Presentation by Mallory Nestor-Brush, Manager of Accessible Services, Alameda-Contra Costa Transit District.*

At the request of Councilmember Abelson, approve a proclamation recognizing the significance of the efforts and advocacy of people with disabilities throughout the United States including the Alameda-Contra Costa Transit District, locally, who established an Accessibility Advisory Committee and has recommitted its efforts toward maintaining the District's ADA compliance to secure access, inclusion and independence for people with disabilities. The City will continue to seek the guidance of the disability community in the continued development and provision of fully accessible services and celebrates and recognizes the progress that has been made by reaffirming the principles of equality and inclusion.

C. Renaming of the Competition Pool at the El Cerrito Swim Center to the Emery G. Weed, III Lap Pool

At the request of El Cerrito residents and swim patrons Rudy Donofrio and former Mayor Norman La Force, consider adopting a resolution to rename the Competition Pool at the El Cerrito Swim Center, the Emery G. Weed, III Lap Pool in memory of Emery Weed, Senior Lifeguard and Swim Instructor who worked at the Swim Center for 25 years.

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

A. Minutes for Approval

Approve the July 21, 2015 Special and Regular City Council meeting minutes.

B. Proclamation in Support of Citizens for East Shore State Parks 30 Years of Public Service

Approve a proclamation recognizing the exceptional service to the East Bay provided by Citizens for East Shore Parks and supporting its continuing work toward protecting the East Bay shoreline.

C. Expedited Permitting Procedures for Small Residential Rooftop Solar Energy Systems Ordinance

Adopt Ordinance No. 2015–05 adding Section 16.030.065 to the El Cerrito Municipal Code relating to expedited permitting procedures for small residential rooftop solar energy systems. *First reading July 21, 2015. Vote: Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman. (Exempt from CEQA)*

D. Floodplain Management Ordinance

Adopt Ordinance No. 2015–06 updating Floodplain Management Regulations and repealing El Cerrito Municipal Code Chapter 8.35 – Flood Hazard Areas, and replacing it by adding and adopting El Cerrito Municipal Code Chapter 8.35, Floodplain management. *First reading July 21, 2015. Vote: Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman. (Exempt from CEQA)*

E. Measure A Swim Center Ordinance

Adopt Ordinance No. 2015–07 setting tax rates beginning Fiscal Year 2015-16 for the special tax imposed pursuant to Chapter 4.56 of the El Cerrito Municipal Code. Rates will be set at the maximum authorized rate of \$58.46 per single family residential unit, \$45.00 per multi-family residential unit, and \$410.00 per acre of non-residential property to address

maintenance needs of the Swim Center facility and generate additional funds for future capital projects. *First reading July 21, 2015. Vote: Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman. (Exempt from CEQA).*

F. Storm Drain System Maintenance Services Agreement

Adopt a resolution authorizing the City Manager to execute an agreement with PSC Industrial Outsourcing, LP in an amount not to exceed \$45,000 to provide storm drain maintenance services for Fiscal Year 2015-16.

G. 2015 Slurry Seal and Curb Ramp Program

Adopt a resolution taking the following actions: 1) Approve plans for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16; 2) Accept the two submitted bids; 3) Authorize the City Manager to award a contract, contingent on successful negotiations with Golden Bay Construction, Inc. (the lowest responsible bidder), for a deductive change order after undergoing a value engineering process which is not inconsistent with the revised budget for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16; 4) Amend the Fiscal Year 2015-16 Adopted Budget to appropriate an additional \$141,724 in funding including \$60,000 in the Measure A Street Improvement Fund, \$50,000 in the Measure J Return to Source Fund and \$31,724 in Capital Improvement Fund for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16; and 5) Amend the Capital Improvement Program and Annual Program of Maintenance and Improvement pursuant to Measure A Street Improvement Program per the above items. *Exempt from CEQA.*

H. Agreement with the State Board of Equalization and Other Actions Regarding Implementation of the Local Pre-Paid Mobile Telephony Services Collection Act

Adopt resolutions: 1) Authorizing the City Manager to execute documents by the State Board of Equalization (BOE) to collect a charge on pre-paid wireless service, and authorizing the City Attorney to certify specific information to the BOE, as required by statute; and 2) Authorizing the examination of records related to the collection of the charge on prepaid mobile telephone services.

I. Support for New Sustainable Transportation Funding

Adopt a resolution urging Governor Brown and the State Legislature to provide sufficient and stable funding for local and state transportation infrastructure to ensure the safe and efficient mobility of the travelling public and the economic vitality of California.

J. Quarterly Investment Report

Receive and file the City's Quarterly Investment Report for the period ending June 30, 2015.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS

Study Session Regarding Establishing a Minimum Wage Ordinance

This Study Session is an opportunity for the City Council to hear from a panel of experts, and to discuss and provide feedback regarding development of a local minimum wage ordinance. Should the Council wish to proceed with directing staff to prepare an ordinance for consideration, the Council is expected to provide specific direction regarding the elements it would like to see in a proposed local minimum wage ordinance for El Cerrito.

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

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

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regular City Council meeting is Tuesday, September 15, 2015 at 7:00 p.m. at City Hall, 10890 San Pablo Avenue, El Cerrito, California.

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 PROCLAMATION

HONORING SERGEANT SHAWN MAPLES AND LIEUTENANT STEVE BONINI 2015 Special Olympics Torch Run Final Leg Participants

WHEREAS, Sergeant Shawn Maples and Lieutenant Steve Bonini have volunteered to benefit Special Olympics for a combined three decades and have been recognized as directly helping hundreds of athletes realize their dream of competing in events that transform the lives of the athletes, families and spectators; and

WHEREAS, Shawn Maples serves on the Executive Committee for Special Olympics of Northern California, served on the 2015 Final Leg Support Crew, and has directed policy, coordinated events, raised money, and enhanced the understanding of communities regarding the contributions of those with intellectual disabilities; and

WHEREAS, Steve Bonini was selected by the Special Olympics Northern California Torch Run Committee to be one of the 126 International Final Leg Team members and served as a Guardian of the Flame of Hope in the tour of the Special Olympics Torch throughout the State of California; and

WHEREAS, Steve Bonini and Shawn Maples participated in the Tip-A-Cop program, in which law enforcement officers serve as wait staff in local restaurants to raise money and awareness for Special Olympics; and

WHEREAS, Steve Bonini and Shawn Maples were two of the creators of the Bike the Bridges for Special Olympics bicycling event, an event that has raised over \$400,000 for Special Olympics athletes.

NOW THEREFORE, the City Council of the City of El Cerrito hereby recognizes Sergeant Shawn Maples and Lieutenant Steve Bonini as 2015 Special Olympics Torch Run Final Leg Participants for Special Olympics of Northern California. Sergeant Maples and Lieutenant Bonini are examples of the strength and selflessness of volunteerism in the highest ideals of service in policing, and serve as examples to members of the Police Department, the profession of law enforcement, and the El Cerrito community.

Dated: August 18, 2015

Mark Friedman, Mayor

EL CERRITO CITY COUNCIL PROCLAMATION

COMMEMORATING THE 25TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

WHEREAS, nationwide approximately 57 million people have a disability; and

WHEREAS, on July 26, 1990, the American with Disabilities Act (ADA) was signed into law to ensure the civil rights of people with disabilities and established a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities; and

WHEREAS, the purpose of the ADA, as a civil rights law, is to make sure that people with disabilities have the same rights and opportunities as everyone else; and

WHEREAS, the ADA has expanded opportunities for Americans with disabilities by reducing barriers, changing perceptions, and increasing full participation in community life; and

WHEREAS, the ADA prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, transportation, and all public and private places that are open to the general public; and

WHEREAS, this historic Act was the world's first comprehensive declaration of equality for people with disabilities, and its passage made the United States an international leader on this human rights issue and the City of El Cerrito celebrates and recognizes the progress that has been made by reaffirming the principles of equality and inclusion and recommits its efforts to maintaining the City's ADA compliance; and

WHEREAS, celebrating the abilities and contributions of people with disabilities can only serve to enrich our community and enhance our diversity.

NOW THEREFORE, the City Council of the City of El Cerrito hereby recognizes the significance of the efforts and advocacy of people with disabilities throughout the United States including the Alameda-Contra Costa Transit District locally, who established an Accessibility Advisory Committee and has recommitted its efforts toward maintaining the District's ADA compliance to secure access, inclusion and independence for people with disabilities. The City will continue to seek the guidance of the disability community in the continued development and provision of fully accessible services and celebrates and recognizes the progress that has been made by reaffirming the principles of equality and inclusion.

Dated: August 18, 2015

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 4(C)

Date: August 18, 2015

To: El Cerrito City Council

From: Christopher Jones, Recreation Director

Subject: Renaming of the Competition Pool at the El Cerrito Swim Center to the Emery G. Weed, III Lap Pool

ACTION REQUESTED

At the request of El Cerrito residents and swim patrons Rudy Donofrio and former Mayor Norman La Force, consider adopting a resolution to rename the Competition Pool at the El Cerrito Swim Center, the Emery G. Weed, III Lap Pool in memory of Emery Weed, Senior Lifeguard and Swim Instructor who worked at the Swim Center for 25 years.

BACKGROUND

Emery G. Weed, III began working for the City of El Cerrito Swim Center in 1988 and retired in 2013. He was a Senior Lifeguard, Instructor, and Coach. Unfortunately and unexpectedly, soon after retirement Emery was diagnosed with brain cancer and passed away on September 7, 2014. There is no denying that Emery had a profound impact on patrons and staff alike and he is sorely missed. In addition to the applicants, several members of the community have expressed a desire to rename the Competition Pool at the El Cerrito Swim Center in honor of Emery.

Rudy Donofrio and Norman La Force included the following on their application:

Resided in El Cerrito/Richmond: Senior Lifeguard at the El Cerrito Swim Center. (Quoted from Emery's memorial service) "Born in Weed, CA, a city that was discovered by and named for his Great Uncle Abner Weed. Emery grew up in Ferndale, CA located in Humboldt County. He served honorably in the United States Air Force. In his later years, Emery realized his true passion was helping others and teaching predominately youth. He believed in the healing qualities of water which is why he became a lifeguard. Emery had a special gift for working with children, those with mental and physical disabilities, troubled children, and those who let their fears get the best of them. He was a mentor and father figure to many of his students; and to other employees; and to us swimmers whom he encouraged to push ourselves when swimming. Emery was a teacher, motivator, coach, and a friend to thousands of visitors of the swim

center. His farewell phrase to anyone leaving the pool was always a welcome one, and it became a kind of motivator for the next swim that one didn't necessarily want to perform. "Have a GREAT day," he would proffer. That phrase and Emery's personality brought many people back for a swim when their conscientiousness was not motivating them to do so. How many of us can claim that during our lives we changed the lives of thousands of individuals by the simple act of helping them overcome the fear of water? Who can calculate the effect that accomplishment had on thousands of children and young adults by teaching them not only how to swim but more importantly, how to overcome life's barriers? Emery passed away on September 7, 2014.

In addition to renaming the Competition Pool to the Emery G. Weed, III Lap Pool, the application also requests a plaque be placed near the pool to honor Emery's memory and provide for the recognition of the pool's new name. The plaque is proposed to have a likeness of Emery on it and the suggested language is below.

EMERY G. WEED, III LAP POOL
El Cerrito Swim Center
Dedicated on _____, 2015

This plaque honors 25 years of service by Senior Lifeguard Emery G. Weed, III for his impact on thousands of individuals in the field of Aquatics and Recreation through his teaching, coaching and mentoring. Good Health, Love, Peace, Happiness and Prosperity.

"Keep coming back, it works. Have a GREAT day!"

-Emery G. Weed, III

1941-2014

ANALYSIS

Administrative Policy/Procedure I A 4: Naming or Memorializing of City Facilities or Resources provides the process for the renaming of the Competition Pool to the Emery G. Weed, III Lap Pool. Staff has reviewed the attached application and believes that it conforms with City Policy.

- Item A of the Policy Section states that "A facility, section of facility or City resource might be named in recognition of important services provided by individuals, groups and organizations."
- Item C of the Policy Section states that "Nominations for the naming or memorializing of City facilities or resources may come from any source."

Agenda Item No. 4(C)

- Item E of the Policy Section states that “A facility may be renamed when the current name is deemed inappropriate or when an event of national or great local significance occurs.”

FINANCIAL CONSIDERATIONS

Expenses associated with this name change will be minimal. A few signs will either need to be replaced or altered and would likely cost less than \$300.00. The plaque, as proposed, would likely cost no more than \$1,000 and staff has devised a fund raising opportunity to raise money to purchase the plaque; any short fall could be made up with funds from the Measure A Swim Center Reserve.

Reviewed by:



Scott Hanin
City Manager

Attachment:

1. Resolution
2. Application
3. Administrative Policy

RESOLUTION NO. 2015--XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO
APPROVING THE RENAMING OF THE COMPETITION POOL AT THE EL
CERRITO SWIM CENTER TO THE EMERY G. WEED, III LAP POOL**

WHEREAS, the City of El Cerrito's Administrative Policy/Procedure IA(4): Naming or Memorializing of City Facilities or Resources provides the process for the renaming of City facilities; and

WHEREAS, an Application for Renaming has been submitted to the City and staff has determined that it is complete and satisfies the requirements for the renaming of the Competition Pool at the El Cerrito Swim Center to the Emery G. Weed, III Lap Pool as prescribed in Administrative Policy/Procedure I A 4; and

WHEREAS, Emery G. Weed, III was a Senior Lifeguard, Swim Instructor, and Swim Coach at the El Cerrito Swim Center for 25 years, became sick unexpectedly and passed away on September 7, 2014; and

WHEREAS, Emery G. Weed, III was a friend, mentor, and teacher with a true passion to help others, especially children with mental and physical disabilities, and positively impacted thousands of individuals over the course of his career; and

WHEREAS, in addition to the applicants, several residents and pool patrons have expressed their desire that the Competition Pool at the El Cerrito Swim Center be renamed in his honor; and

WHEREAS, the renaming of the Competition Pool to the Emery G. Weed, III Lap Pool will help extend Emery's legacy and message to the benefit of future generations by promoting the values of "Good Health, Love, Peace, Happiness, and Prosperity".

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito hereby declares that the passing of Emery G. Weed, III was an event of great local significance and authorizes the renaming of the Competition Pool at the El Cerrito Swim Center to the Emery G. Weed, III Lap Pool and the placement of a plaque in memory of Weed at the Swim Center.

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

I CERTIFY that at a regular meeting on August 18, the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCIL MEMBERS
NOES:	COUNCIL MEMBERS
ABSENT:	COUNCIL MEMBERS

Agenda Item No. 4(C)
Attachment 1

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on August XX, 2015. .

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

CITY OF EL CERRITO

**APPLICATION FOR MEMORIALIZING OR NAMING OF CITY FACILITIES,
PROPERTY OR RESOURCES; PLAQUES AND MARKERS**

Date: August 5, 2015

Individual or Organization: Rudy Donofrio and Norman LaForce

Address: [REDACTED], El Cerrito, CA 94530

Phone: [REDACTED]

Proposed Name or Commemoration: Emery G. Weed, III Lap Pool

Location: 7007 Moeser Lane, El Cerrito, CA

Description of Action Sought (naming, dedication, marker, plaque, etc.):

Re-naming/identifying the Competition Pool at the El Cerrito Swim Center as the Emery G. Weed, III Lap Pool, further identified by a plaque with Emery's likeness and a short recognition of his contribution.

Reason for Proposed Name, if proposed: Recognition of Emery's service and mentorship to thousands of individuals throughout his long career in El Cerrito.

Current Name, if any: The Competition Pool

If the name commemorates a person, please provide the full name of the person, date of death, last residence, person's association with the facility and a brief biography:

Resided in El Cerrito/Richmond: Senior Lifeguard at the El Cerrito Swim Center. (Quoted from Emery's memorial service) "Born in Weed, CA, a city that was discovered by and named for his Great Uncle Abner Weed. Emery grew up in Ferndale, CA located in Humboldt County. He served honorably in the United States Air Force. In his later years, Emery realized his true passion was helping others and teaching predominately youth. He believed in the healing qualities of water which is why he became a lifeguard. Emery had a special gift for working with children, those with mental and physical disabilities, troubled children, and those who let their fears get the best of them. He was a mentor and father figure to many of his students; and to other employees; and to us swimmers whom he encouraged to push ourselves when swimming. Emery was a teacher, motivator, coach, and a friend to thousands of visitors of the swim center. His farewell phrase to anyone leaving the pool was always a welcome one, and it became a kind of motivator for the next swim that one didn't necessarily want to perform. "Have a GREAT day," he would proffer. That phrase and Emery's personality brought many people back for a swim when their conscientiousness was not motivating them to do so. How many of us can claim that during our lives we changed the lives of thousands of individuals by the simple act of helping them overcome the fear of water? Who can calculate the effect

that accomplishment had on thousands of children and young adults by teaching them not only how to swim but more importantly, how to overcome life's barriers? Emery passed away on September 7, 2014.

If the name commemorates a group or organization, provide the name, community connection and contribution: N/A

If a plaque or marker is sought for purchase of a park bench, park tree or similar City property, please state the name or dedication as you wish it to appear on the plaque or marker:

Changing the name of the Competition Pool at the El Cerrito Swim Center to The Emery Weed Lap Pool. A bronze plaque with a likeness of Emery with a short paragraph that will read:

EMERY G. WEED, III LAP POOL

El Cerrito Swim Center

Dedicated on _____, 2015

This plaque honors 25 years of service by Senior Lifeguard Emery G. Weed, III for his impact on thousands of individuals in the field of Aquatics and Recreation through his teaching, coaching and mentoring. Good Health, Love, Peace, Happiness and Prosperity.

"Keep coming back, it works. Have a GREAT day!"

-Emery G. Weed, III
1941-2014

CITY OF EL CERRITO

ADMINISTRATIVE POLICY/PROCEDURE

**SUBJECT: NAMING OR MEMORIALIZING OF CITY FACILITIES OR
RESOURCES**

NUMBER: I A 4

DATE: August 2005

AUTHORITY: City Manager

PURPOSE: To specify the City's objectives and procedures in the naming or memorializing of public facilities and/or resources.

POLICY: It is the policy of the City of El Cerrito to encourage the dedication of land or funds for public use in recognition of achievements by community members, to identify areas or facilities according to geographic location and function, to ensure the enhancement of the City's values and heritage or for other reasons that the City Council determines.

- A. Service Recognition – A facility, section of facility or City resource might be named in recognition of important services provided by individuals, groups and organizations. Typically, the contribution would have had a recognized direct, positive impact on the community; been outside the normal profit-making function of the individual or organization; and taken place over a period of years.
- B. Monetary, Capital or Material Contributions – A facility, section of facility or City resource may be named for a person, group or organization if the monetary contribution exceeds 50 percent of the capital cost of the facility or section; the honoree has a record of good citizenship; and the request for the specific name is made at the time of the donation.
- C. Nominations – Nominations for the naming or memorializing of City facilities or resources may come from any source. The City Council may itself propose the naming. Commissions, community groups and individuals may all submit requests for the naming of facilities (see attached "naming" form).

- D. Council Consideration - Nominations and any related stipulations are considered by the City council at a regular meeting. Public testimony is permitted. Approval of a naming request requires a City Council majority.
- E. Name Change – A facility may be renamed when the current name is deemed inappropriate or when an event of national or great local significance occurs. Generally, a change of name shall not occur within two years of the original naming.
- F. Plaques and Markers – Plaques and markers may be used to honor individuals, groups or organizations or to designate historical locations. Plaques and markers will be appropriately designed and placed in a manner serving the best interests of the community.
- G. Rejection of Request – The City reserves the right to reject any request for memorializing a City facility or property or for a plaque or marker.

PROCEDURE:

- A. Individuals, groups or organizations that want the City to approve a specific name for a City facility or property or in some way memorialize a contribution shall complete the attached application unless an alternate procedure has been established.
- B. The City Clerk shall review the application, unless routine action is requested such as a marker or plaque for purchase and placement of a park bench or tree, to ensure that it is complete and generally in line with guidelines specified herein. The City Clerk shall include the nomination in the Council agenda for consideration.
- C. The City Council shall review and approve or deny all requests for dedication of a facility, property or major resource to an individual, group or organization.
- D. The Public Works Department shall select plaques and markers for routine use in dedication of City resources or property, such as park benches and trees. The Public Works Department shall also identify and maintain a list of locations in which park benches and park trees would be most useful.

- E. Individuals, groups or organizations seeking to sponsor the placement of a park bench or park tree should contact the Public Works Department, which will provide them with the appropriate paperwork, a list or map of available locations and designs of benches, types of trees and the like.
- F. Upon receipt of all completed documents and payment for a marker or plaque, Public Works shall order the item and insure its installation.

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

Tuesday, July 21, 2015 – 6:15 p.m.

Hillside Conference Room

REGULAR CITY COUNCIL MEETING

Tuesday, July 21, 2015 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Jan Bridges

Councilmember Janet Abelson
Councilmember Gabriel Quinto

6:15 p.m. ROLL CALL

Present: Councilmembers Abelson, Bridges, Quinto and Mayor Friedman

Absent: Mayor Pro Tem Lyman

CONVENE SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

Mayor Friedman convened the Special City Council meeting – closed session at 6:15 p.m.

ORAL COMMUNICATIONS FROM THE PUBLIC – No speakers.

ANNOUNCEMENT OF CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9 of the California Government Code: One potential case.

RECESSED INTO CLOSED SESSION at 6:16 p.m.

ADJOURNED SPECIAL CITY COUNCIL MEETING – CLOSED SESSION at 6:58 p.m.

ROLL CALL

Present: Councilmembers Abelson, Bridges, Quinto and Mayor Friedman

Absent: Mayor Pro Tem Lyman

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

Mayor Friedman convened the Regular City Council meeting at 7:01 p.m.

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

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Friedman reported that the City Council had met in closed session prior to the regular City Council meeting and provided direction to staff.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler, Richmond, stated that he is still concerned about El Cerrito Police officers driving on his street. Mr. Hindler also stated that he is an outreach coordinator for the City of Richmond who is part of an effort to get high school students together for a youth leadership academy and also noted that he remains concerned about people hanging around businesses in his area. He also stated that the rents in El Cerrito are unacceptable.

Julia Heath, Contra Costa Climate Leaders (CCCL), informed the City Council and public about funding opportunities related to energy efficiency. Ms. Heath also congratulated the City Council for joining the Property Accessed Clean Energy Program (PACE). CCCL has a new PACE agent named “Why Green?” Many cities in Contra Costa County are in the process of approving “Why Green?” Ms. Heath also provided information regarding Pacific Gas and Electric Company’s (PGE) “on-bill” low cost financing program for energy upgrades.

Valerie Snider, El Cerrito, resident and homeowner in the Castro Park neighborhood, expressed concerns with the new Korematsu Middle School and Castro Park. Ms. Snider asked the City to take a role in issues associated with the new middle school including traffic, bus routes and drop-off sites and advocate for the community’s use of the park. The School District, when it sold the idea for a middle school, asserted that the park would not be affected. Ms. Snider asked the Council to work with the community to ensure that the quality of life that attracted people to the neighborhood initially, continues.

Ray Turnipseed, El Cerrito, submitted a petition for the installation of two speed humps on Navellier Street between Gladys Avenue and Potrero Avenue to increase safety and protect and preserve the quality of life in the Castro Park neighborhood. Mr. Turnipseed stated that he was informed that studies would need to be done and funding would have to be allocated prior to the City making a determination about the installation of speed humps. Mr. Turnipseed queried why a speed hump was placed on Norvell Street when none of the residents wanted it. Mr. Turnipseed asked the City Council to ask why he does not receive a response to requests for information when he visits or calls City Hall.

Brigitta Turnipseed, El Cerrito, expressed concerns with changes to Castro Park, particularly the cutting down of trees without notice and construction that is occurring at the park and asked for support for residents’ access to the Park. Ms. Turnipseed also stated that residents have a right to know what is going on when it impacts the neighborhood.

James Tom Bennett, El Cerrito, addressed a proposal for one hour restricted parking in the Castro Park area that would run from Navellier to Manila Street down to Potrero Avenue and Potrero to Everett Street, Everett to Manila and Manila to Navellier and the internal streets inside of this area. The proposal was made to the Planning Department and rejected. The School District has not done anything to address the parking problems that are going to exist for its staff, parents dropping off children, vendors and anyone else coming on to the

premises.

Sidney Manchester-Jones, El Cerrito, stated that he is an eight year resident of the Audiss Recreational Vehicle (RV) trailer park. The RV park is being sold by Mr. Biggs to a developer who will build 27 townhomes on the site. Mr. Manchester-Jones expressed concerns with the notice he received from Mr. Biggs to vacate in two months. Mr. Manchester-Jones went to a Legal Aid attorney and feels that Mr. Biggs is required to prepare a resident impact report for people that may have problems re-locating elsewhere.

Ronnie Polonsky, El Cerrito, spoke in support of a minimum wage in El Cerrito. Ms. Polonsky stated that a UC Berkeley representative found that adopting a minimum wage law has been beneficial to the cities who have done it. Cities have noticed an increase in business revenue because workers have more money to spend.

Nicholas Arzio, El Cerrito, spoke in support of a minimum wage in El Cerrito and announced a list of elected officials, committees, business owners and community members who are supporting the El Cerrito Democratic Club's resolution encouraging the City Council to adopt a local minimum wage ordinance in El Cerrito by January 2016.

Howdy Goudey, El Cerrito, thanked Mayor Friedman for responding to questions related to the 1715 Elm Street development project. Mr. Goudey stated that although he received acknowledgement from the Council he was disappointed that there has not been any engagement regarding the substance of the concerns raised by him, particularly concerns relating to 100 year stormwater and flood standards. Mr. Goudey stated that he hopes Council is working with staff to assure the best outcome for the community.

Jordan Herrmann, El Cerrito, requested that the City Council adopt a noise control ordinance. The State has an Office of Noise Control that can assist cities who wish to adopt an ordinance. Mr. Herrmann said that dumpsters in his neighborhood are being picked up and dumped as early as 4:30 a.m. and it is quite noisy.

Susan Schwartz, Friends of Five Creeks, stated that this volunteer group has worked nineteen years in El Cerrito. Ms. Schwartz thanked the City, particularly Fire Chief Maples and stated that the group just completed a successful grant for broom removal. Ms. Schwartz also stated that there is a clear and ongoing need for written maintenance policies.

Alice Merola, El Cerrito, expressed concerns with changes to Castro Park, impacts to the neighborhood and traffic safety in the area. Ms. Merola stated that the School District had promised her during early planning discussions that Castro Park would be maintained for the community. Ms. Merola asked the City to work with the community.

4. PRESENTATIONS

A. Proclamation Honoring the Rosenberg Family – *Presentation by Chris Jones, Recreation Director.*

Approve a proclamation declaring the City Council's gratitude and appreciation for Marvin, Dorothy, Mary and Barr Rosenberg for their generous gift of open space and park land to the City of El Cerrito, its residents and visitors, for all time and reaffirming its commitment to use this property only according to the terms set forth in the Marvin Rosenberg Trust and Resolution No. 2003-108.

Presenter: Chris Jones, Recreation Director.

Action: Moved, seconded (Bridges/Abelson; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to approve the proclamation. *Mayor Friedman announced that presentation of the proclamation would occur at a future date.*

B. Contra Costa County Sheriff's West County Detention Facility – Presentation by Tom Chalk, Captain, Contra Costa County Sheriff's Office.

Receive a presentation regarding the Contra Costa County Sheriff's proposal to build a new 140,000 square foot, 418 bed facility at the West County Detention Facility located in the City of Richmond. Programming space will comprise 20,000 square feet of the proposed facility.

Action: Received presentation.

C. AC Transit Service Expansion Plan and Planned Outreach – Presentation by Robert Del Rosario, Director of Service Development, AC Transit.

Receive a presentation regarding specific improvements planned for the 72 bus line and other AC transit lines.

Presenters: Robert Del Rosario, Director of Service Development, AC Transit and Stephen Newhouse, Transportation Planner, AC Transit.

Cordell Hindler, Richmond, stated that he would like to see more 72R rapid buses stop at City Hall to serve more travelers, particularly teens and senior citizens.

Tom Panas, El Cerrito, stated that he is excited to hear that the 72R service is going to be expanded with increased frequency. Mr. Panas also expressed his hopes for bus service from El Cerrito Plaza to the Community Center and up and down the hill to the north end of town. This would do a lot to get people out of their cars and would also help pedestrians. Mr. Panas also stated that it was not clear whether the sales tax proposal for Measure J would extend or raise the tax.

Action: Received presentation.

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

Moved, seconded (Bridges/Abelson; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to approve the Consent Calendar in one motion as indicated below.

A. Minutes for Approval

Approve the June 23, 2015 Special City Council meeting minutes.

Action: Approved minutes.

B. Agreement with St. Francis Electric for Street Light and Signal Maintenance Services

Adopt a resolution authorizing the City Manager to execute an agreement with St. Francis Electric for an annual cost not to exceed \$31,800 to provide street light and signal maintenance services for a period of three years, with an option to annually extend three years thereafter, effective August 1, 2015.

Action: Adopted Resolution No. 2015–51.

C. Tree Committee Appointment

Approve a Tree Committee recommendation to appoint Yan Linhart to the Tree Committee, effective August 10, 2015.

Action: Approved recommendation.

D. Crime Prevention Committee Appointment

Approve a Crime Prevention Committee recommendation to appoint Mollie Hazen to the Crime Prevention Committee, effective August 12, 2015.

Action: Approved recommendation.

E. Reauthorize and Increase Funding for the Older Americans Act 2015

At the request of the Committee on Aging, authorize Mayor Friedman to send a letter to the City's federal representatives urging support for the reauthorization and increased funding for the Older Americans Act.

Action: Approved recommendation.

6. PUBLIC HEARINGS

A. Expedited Permitting Procedures for Small Residential Rooftop Solar Energy Systems

Conduct a public hearing and upon conclusion, introduce by title, waive any further reading and approve an ordinance allowing expedited permitting procedures for small residential rooftop solar energy systems. (*Exempt from CEQA*).

Presenter: Margaret Kavanaugh-Lynch, Development Services Manager.

Mayor Friedman opened the public hearing.

Speakers: Howdy Goudey, El Cerrito, stated that he is in favor of streamlining the solar permitting process. Mr. Goudey reported that two solar installers were present at an Environmental Quality Committee sponsored film showing and discussion and commented that El Cerrito was a challenging city to interface with for permitting and that one of the contractors would not take jobs in El Cerrito. Mr. Goudey said he hoped the City could facilitate permitting in the most expedient way possible.

Moved, seconded (Bridges/Abelson; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to close the public hearing.

Action: Moved, seconded (Bridges/Abelson; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to approve Ordinance No. 2015–05. *Second reading scheduled for August 18, 2015.*

B. Floodplain Management Ordinance Update

Conduct a public hearing and upon conclusion, introduce by title, waive any further reading and approve an ordinance updating the Floodplain Management Regulations. (*Exempt from CEQA*).

Presenter: Margaret Kavanaugh-Lynch, Development Services Manager.

Mayor Friedman opened the public hearing.

Speakers: Jordan Hermann, El Cerrito, expressed concerns with the poor condition of Cerrito Creek, the possibility of a one-hundred year storm and potential flooding conditions.

Fernando Mariscal, El Cerrito, stated that he owns property on Belmont Street that flooded in 1969. The property is located three steps from the street and water tapped the last step before going into the house. The bottom units that set level with the street had water inside them.

Tom Panas, El Cerrito, expressed concerns regarding Definition 33 of the ordinance. There were three important resources preserved within the last few years. None of the structures would have been preserved if the incomplete definition of an historic resource stated in the ordinance had been the rule in El Cerrito. The proposed resource omits the provision that protects almost all historic resources. Mr. Panas suggested revised language for the ordinance that would protect historic resources. Mr. Panas also noted that the title of the ordinance had changed from "Flood Hazard Area" to "Floodplain Management Ordinance" and that the ordinance no longer appears to be relevant outside the Federal Emergency Management Agency (FEMA) established zone, particularly in the area along Colusa

Avenue bordering the cemetery. The ordinance should apply to any area in town that is subject to flooding not just the FEMA flood zone west of San Pablo Avenue. Mr. Panas urged the City Council to direct the staff to revise the ordinance so it applies to all areas in town that experience periodic flooding.

Howdy Goudey, El Cerrito, stated that the City needs to be very cognizant of its flood hazards and be attentive to making good decisions to address problems. Mr. Goudey asked why the title was changed and whether it was required by FEMA. Mr. Goudey stated that the City needs to be more inclusive and strengthen the focus and title of the ordinance and broaden the scope if possible.

Moved, seconded (Bridges/Abelson; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to close the public hearing.

Action: Moved, seconded (Abelson/Bridges; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to approve Ordinance No. 2015–06 as amended to modify El Municipal Code Section 8.35.030(33) to add subsection e to state “Determined, by a person who meets the Secretary of the Interior’s standards, to appear to be eligible for listing on a local register of historic resources, the State Register of Historical Resources, or the National Register of Historic Places.” *Second reading scheduled for August 18, 2015.*

C. Fire Hazard Abatement

Staff requests the City Council: 1) Adopt a resolution declaring weeds, rubbish, litter or other flammable material on certain real property as identified in the resolution constitutes a public nuisance; and 2) Conduct a public hearing and upon conclusion, adopt a resolution overriding objections by property owners and ordering the City Manager or his designee to abate certain public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26. (*Exempt from CEQA*).

Presenter: Christopher Renshaw, Fire Captain/Paramedic.

Action: Moved, seconded (Abelson/Bridges; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to adopt Resolution No. 2015–52 declaring weeds, rubbish, litter or other flammable material on certain real property as identified in the resolution, including a revised Exhibit A, constitutes a public nuisance.

Mayor Friedman opened the public hearing. No speakers.

Moved, seconded (Bridges/Abelson; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to close the public hearing.

Moved, seconded (Bridges/Quinto; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to adopt Resolution No. 2015–53, including a revised Exhibit A, overriding objections by property owners and ordering the City Manager or his designee to abate certain public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26.

7. POLICY MATTERS

A. Ordinance Establishing the Measure A Swim Center Parcel Tax Rates for Fiscal Year 2015-16

Introduce by title, waive any further reading and approve an ordinance establishing the

Measure A Swim Center Parcel Tax rates for Fiscal Year 2015-16, at the maximum authorized rate of \$58.46 per single family residential unit, \$45.00 per multifamily residential unit, and \$410.00 per acre of non-residential property to address maintenance needs of the Swim Center facility and generate additional funds for future capital projects. (*Exempt from CEQA*).

Presenter: Christopher Jones, Recreation Director.

Action: Moved, seconded (Quinto/Bridges; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to approve Ordinance No. 2015–07. *Second reading scheduled for August 18, 2015.*

B. Tax and Revenue Anticipation Notes

Adopt a resolution approving the borrowing of funds for Fiscal Year 2015-16 and the issuance and sale of 2015-16 tax and revenue anticipation notes, “TRAN.” Incorporated into the resolution is the authorization of the City Manager to execute an agreement to sell the TRAN in an amount not-to-exceed \$5,000,000 and authorize staff to enter into agreements with NHA Advisors and Jones Hall, as bond counsel, to prepare and execute appropriate legal documents related to said financing.

Presenter: Lisa Malek-Zadeh, Finance Director.

Action: Moved, seconded (Abelson/Bridges; Ayes – Councilmembers Abelson, Bridges, Quinto and Mayor Friedman; Noes – None; Absent – Mayor Pro Tem Lyman) and carried to adopt Resolution No. 2015–54.

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

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

Councilmember Abelson reported that she has been really busy discussing the possible extension of Measure J, the transportation tax. The potential measure would be on the ballot in 2016.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 9:05 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 4(C) AC Transit Service Expansion Plan and Planned Outreach

1. Powerpoint presentation Plan/ACT Routes and Schedules – *Submitted by Robert Del Rosario, Director of Service Development, AC Transit.*

Item No. 6(B) Floodplain Management Ordinance Update

2. Map – *Submitted by Margaret Kavanaugh-Lynch, Development Services Manager.*
3. Comments regarding ordinance revisions – *Submitted by Tom Panas, El Cerrito.*

Item No. 6(C) FIRE HAZARD ABATEMENT

4. Revised resolution exhibits (Attachments 5 and 6) – *Submitted by Chris Renshaw, Fire Captain/Paramedic.*

Other/Items Not on the Agenda:

5. Castro Park and New School Site – *Submitted by Peggy Wilcox and Greg Visineau.*
6. Brochure “Contra Costa Climate Leaders: Planning for our Future” – *Submitted by Julia Heath, Contra Costa County Climate Leaders.*
7. PGE On-Bill Financing for Energy Efficiency Upgrades - *Submitted by Julia Heath, Contra Costa County Climate Leaders.*

8. Sample resolution – City of Lafayette consenting to inclusion of properties within the City’s jurisdiction in the California Home Finance Authority Community Facilities District No. 2014-1 (Clean Energy) to finance renewable energy improvements, energy efficiency and water conservation improvements and electric vehicle charging infrastructure and approving associate membership in the joint exercise of powers authority related thereto – *Submitted by Julia Heath, California Climate Leaders.*
9. Petition Request Form for Neighborhood Traffic Management Program – *Submitted by Ray Turnipseed.*
10. El Cerrito needs written maintenance policies including annual inspection for creeks and other “natural areas” – *Submitted by Susan Schwartz, Friends of Five Creeks.*

EL CERRITO CITY COUNCIL PROCLAMATION
Supporting Citizens for East Shore State Parks 30 Years of Public Service

WHEREAS, Citizens for East Shore Parks was founded 30 years ago to promote the creation of a State Park along the East Bay Shoreline of San Francisco Bay; and

WHEREAS, in large part because of the work of Citizens for East Shore Parks, McLaughlin Eastshore State Park has been created and is currently protecting and preserving 8.5 miles of open space, wildlife habitat, and public recreation space along the East Bay Shoreline stretching from the Bay Bridge in Oakland, through Emeryville, Berkeley, Albany, adjacent to El Cerrito and into Richmond; and

WHEREAS, Citizens for East Shore Parks spearheaded a movement joined by thousands to create this shoreline park on the east side of San Francisco Bay; and

WHEREAS, the magnificent McLaughlin Eastshore Park now provides hundreds of thousands of Bay Area residents and visitors with access to the Bay for recreation, preserves once threatened views and habitat, and protects wildlife; and

WHEREAS, Citizens for East Shore Parks remains committed to protecting, preserving and expanding open space along the East Bay Shoreline and to furthering the completion of the McLaughlin Eastshore State Park; and

WHEREAS, former El Cerrito Mayor Jean Siri also served as a Citizens for East Shore Parks Board Member and the East Bay Regional Park Director representing this ward when McLaughlin Eastshore State Park was created and was recognized for her environmental and many social endeavors by her induction into the El Cerrito Wall of Fame; and

WHEREAS, the success of the work that has been done would not have been possible without the commitment of the City of El Cerrito in supporting and facilitating the creation of the Park.

NOW THEREFORE, the City Council of the City of El Cerrito recognizes the exceptional service to the East Bay provided by Citizens for East Shore Parks and supports its continuing work toward protecting the East Bay shoreline.

Dated: August 18, 2015

Mark Friedman, Mayor



Citizens for East Shore Parks

PO Box 6087, Albany, Ca 94706
510. 524.5000

Office: 520 El Cerrito Plaza, El Cerrito CA 94530
www.eastshorepark.org

City of El Cerrito
10890 San Pablo Ave
El Cerrito, CA 94530 via email: markften@yahoo.com

June 19, 2015

Dwight Steele
Emeritus Co-Chair
(1914 - 2002)

Sylvia McLaughlin
Emeritus Co-Chair
Secretary

Robert Cheasty
President

Norman La Force
Vice President

Brian Parker
Recording Secretary

Teddi Bagging
Co-Treasurer
Ed Bennett
Co-Treasurer

Board of Directors:
Marge Atkinson
Ellen Barth
Alan Carlton
Shirley Dean
Patty Donald
Steve Granholm
Jeff Inglis
Robert Lieber
Sherry Padgett
Doris Sloan
Tony Sustak
Peter Weiner

Advisory Board:
Ken Bukowski
Arthur Feinstein
Stana Hearne
Larry Kolb
David Lewis
Mark Liolios
Kitty McLean
Betty Olds
Rich Walkling

Elected Officials:
Hon. Tom Bates
Hon. Whitney Dotson
Hon. Rochelle Nason

Executive Director:
Patricia V. Jones
Administrative Assistant
Cameron Wilson

Re: Resolution Regarding CESP's 30 Years of Public Service

Dear Mayor Friedman and City Council Members,

This year marks Citizens for East Shore Parks (CESP) 30th anniversary. We are celebrating all the individuals and groups who came together to help establish McLaughlin Eastshore State Park (MESP).

In 1985 local environmental groups banded together to form CESP with a dream to create a single shoreline park out of the remaining open space on the east shore of the San Francisco Bay. We worked to transform landfill, industrial waste sites, and private parcels slated for overdevelopment into a visionary shoreline park. We spearheaded the creation of MESP, an urban shoreline gem in the densely populated East Bay, extending 8.5 miles from Oakland, through Emeryville, Berkeley, Albany adjacent to El Cerrito and into Richmond.

This would not have been possible without support from the City of El Cerrito. Thank you for helping create a park that so many of your residents use on a regular basis. MESP is truly a shoreline gem for our urban area.

What better way to commemorate this occasion than by acknowledging the volunteer work of countless citizens by issuing a resolution from the City of Emeryville recognizing CESP's 30 years of advocacy? Please let us know if and when the City of El Cerrito City Council will consider this item.

We invite you to participate in our 30th Anniversary Celebration brunch on Saturday, November 7, 10:30 am to 1:30 pm at the Berkeley Yacht Club. Please find a proposed draft resolution and a sponsorship information sheet attached.

Here's to 30 years and more to come!

Sincerely,

Patricia V. Jones, Executive Director

CESP 30th Anniversary Honorary Committee

Sylvia McLaughlin, Committee Chair

Mayor Ruth Atkin

Mayor Tom Butt

Supervisor Keith Carson

Shirley Dean

Whitney Dotson

Supervisor John Gioia

Senator Loni Hancock

David Lewis, Save the Bay

Mayor Peter Maass

Gayle McLaughlin

Nancy Skinner

Assemblyman Tony Thurmond

ORDINANCE 2015-05

AN ORDINANCE OF THE CITY OF EL CERRITO ADDING SECTION 16.03.065 TO THE EL CERRITO MUNICIPAL CODE RELATING TO EXPEDITED PERMITTING PROCEDURES FOR SMALL RESIDENTIAL ROOFTOP SOLAR ENERGY SYSTEMS

SECTION 1. RECITALS

- A. California Government Code Section 65850.5(a) provides that it is the policy of the State to promote and encourage the installation and use of solar energy systems by limiting obstacles to their use and by minimizing the permitting costs of such systems; and
- B. California Government Code Section 65850.5(g)(1) provides that, on or before September 30, 2015, every city, county, or city and county shall adopt an ordinance, consistent with the goals and intent of subdivision (a) of Section 65850.5, that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems.
- C. The project is exempt from environmental review per CEQA Guidelines under the General Rule (Section 15061(b) (3)). The project involves updates and revisions to existing regulations. The proposed code amendments are consistent with California Law, specifically Government Code Section 65850.5 and Civil Code Section 714. It can be seen with certainty that the proposed Municipal Code text amendments will have no significant negative effect on the environment.

SECTION 2. MUNICIPAL CODE AMENDMENT

THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN THAT TITLE 16 OF THE EL CERRITO MUNICIPAL CODE IS AMENDED TO ADD A NEW SECTION 16.03.065 TO READ AS FOLLOWS:

16.03.065 – Chapter 1, Section R116 added - Small Residential Rooftop Solar Energy System Review Process.

- A. The following words and phrases as used in this section are defined as follows:

“Electronic submittal” means the utilization of one or more of the following:

- 1. E-mail,
- 2. Internet,
- 3. Facsimile.

“Small residential rooftop solar energy system” means all of the following:

1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City and paragraph (iii) of subdivision (c) of Section 714 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.
3. A solar energy system that is installed on a single or duplex family dwelling.
4. A solar panel or module array that does not exceed the maximum legal building height as defined by the City of El Cerrito.

“Solar energy system” has the same meaning set forth in paragraphs (1) and (2) of subdivision (a) of Section 801.5 of the Civil Code, as such section or subdivision may be amended, renumbered, or redesignated from time to time.

B. Section 65850.5 of the California Government Code provides that, on or before September 30, 2015, every city, county, or city and county shall adopt an ordinance that creates an expedited, streamlined permitting process for small residential rooftop solar energy systems.

C. Section 65850.5 of the California Government Code provides that in developing an expedited permitting process, the city, county, or city and county shall adopt a checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review. The building official is hereby authorized and directed to develop a modified version of the eligibility checklist from the 2014 California Solar Permitting Guidebook to conform to the City of El Cerrito’s unique climactic, geological, seismological, or topographical conditions and adopt such checklist. The checklist shall be published on the city’s public website.

D. An applicant for a small residential rooftop solar energy system shall submit a permit application and associated documentation to the City’s building division. The application may be submitted by personal, mailed, or electronic submittal (when developed and available) together with any required permit processing and inspection fees.

E. Prior to submitting an application, the applicant shall:

1. Verify to the applicant’s reasonable satisfaction through the use of standard engineering evaluation techniques that the support structure for the small residential rooftop solar energy system is stable and adequate to transfer all wind, seismic, and dead and live loads associated with the system to the building foundation; and
2. At the applicant’s cost, verify to the applicant’s reasonable satisfaction using standard electrical inspection techniques that the existing electrical system, the main panel make and type, including existing line, load, ground and bonding wiring as well as main panel

and subpanel sizes are adequately sized, based on the existing electrical system's current use, to carry all new photovoltaic electrical loads and accept new electrical connections.

F. For a small residential rooftop solar energy system eligible for expedited review, only one inspection shall be required, which shall be done in a timely manner and may include a consolidated inspection by the building official and fire chief. If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized; however the subsequent inspection need not conform to the requirements of this subsection.

G. An application that satisfies the information requirements in the checklist, as determined by the building official, shall be deemed complete. Upon receipt of an incomplete application, the building official shall issue a written correction notice detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

H. Upon confirmation by the building official of the application and supporting documentation being complete and meeting the requirements of the checklist, the building official shall administratively approve the application and issue all required permits or authorizations. Such approval does not authorize an applicant to connect the small residential rooftop solar energy system to the local utility provider's electricity grid. The applicant is responsible for obtaining such approval or permission from the local utility provider.

SECTION 3. SEVERABILITY. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect thirty days after passage thereof.

SECTION 5. PUBLICATION. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on July 21, 2015 and passed by the following vote:

AYES: Councilmembers Abelson, Bridges, Quinto and Mayor Friedman
NOES: None
ABSENT: Councilmember Lyman

ADOPTED AND ORDERED published at a regular meeting of the City Council held on August x, 2015 and passed by the following vote:

AYES: Councilmembers

NOES: Councilmembers
ABSENT: Councilmembers

APPROVED:

Mark Friedman, Mayor

ATTEST:

Cheryl Morse, City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on August XX, 2015.

Cheryl Morse, City Clerk

ORDINANCE CERTIFICATION

I, Cheryl Morse, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2015-05 of the City of El Cerrito, that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the ___ day of August 2015; and that said ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this ____ day of August, 2015.

Cheryl Morse, City Clerk

ORDINANCE 2015-06

AN ORDINANCE OF THE CITY OF EL CERRITO REPEALING EL CERRITO MUNICIPAL CODE CHAPTER 8.35, FLOOD HAZARD AREAS AND REPLACING IT BY ADDING AND ADOPTING EL CERRITO MUNICIPAL CODE CHAPTER 8.35, FLOODPLAIN MANAGEMENT

SECTION 1. RECITALS

- A. The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of El Cerrito does hereby adopt the following floodplain management regulations.
- B. The project is exempt from environmental review per CEQA Guidelines under the General Rule (Section 15061(b) (3)). The project involves updates and revisions to existing regulations. The proposed code amendments are consistent with California Law, specifically Government Code section 65850.5 and Civil Code section 714. It can be seen with certainty that the proposed Municipal Code text amendments will have no significant negative effect on the environment.

SECTION 2. FINDINGS OF FACT

- A. The flood hazard areas of the City of El Cerrito are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by uses that are inadequately elevated, flood-proofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.

SECTION 3. MUNICIPAL CODE AMENDMENT

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

- A. CHAPTER 8.35 FLOOD HAZARD AREAS is hereby repealed.
- B. CHAPTER 8.35, FLOODPLAIN MANAGEMENT is added to Title 8 of the El Cerrito Municipal Code to read in full as follows:

Chapter 8.35 FLOODPLAIN MANAGEMENT

Sections:	8.35.010	Applicability.
	8.35.020	Relationship to other restrictions.
	8.35.030	Definitions.
	8.35.040	General Provisions.
	8.35.050	Administration.
	8.35.060	Provisions for flood hazard reduction.
	8.35.070	Variance procedure.
	8.35.080	Obstructing natural drains.

8.35.010 Applicability.

The existing floodplain management area within the city is that identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study, City of El Cerrito, Contra Costa County, California" dated September 30, 2015, and all subsequent revisions and amendments, with an accompanying flood insurance rate map. This flood insurance study is adopted by reference and declared to be a part of this chapter. It is on file in the city's offices. Other flood hazard areas may be created pursuant to applicable law.

8.35.020 Relationship To Other Restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. Where this chapter and another city ordinance conflict or overlap, whichever imposes the more stringent requirements shall prevail.

8.35.030 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

1. A zone - see Special flood hazard area
2. Accessory structure means a structure that is either:
 - a. Solely for the parking of no more than 2 cars; or
 - b. A small, low cost shed for limited storage, less than 150 square feet and \$1,500 in value.
3. Accessory use means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
4. Alluvial fan means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.
5. Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
6. Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

Agenda Item No. 5(D)

7. Area of shallow flooding means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
8. Area of special flood hazard - See "Special flood hazard area."
9. Base flood means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this ordinance.
10. Base flood elevation (BFE) means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
11. Basement means any area of the building having its floor subgrade - i.e., below ground level - on all sides.
12. Building - see "Structure".
13. Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
14. Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.
15. Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 1, 1977.
16. Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
17. Flood, flooding, or flood water means:
 - a. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
 - b. The condition resulting from flood-related erosion.
18. Flood Boundary and Floodway Map (FBFM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.
19. Flood Insurance Rate Map (FIRM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
20. Flood Insurance Study means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
21. Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source - see "Flooding."

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22. Floodplain Administrator is the community official designated by title to administer and enforce the floodplain management regulations.
23. Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
24. Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.
25. Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.
26. Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."
27. Floodway fringe is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.
28. Fraud and victimization as related to Section 8.35.070 of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the El Cerrito City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.
29. Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.
30. Governing body is the local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.
31. Hardship as related to Section 8.35.070 of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The El Cerrito City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the

alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

32. Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
33. Historic structure means any structure that is:
 - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.
 - e. Determined, by a person who meets the Secretary of the Interior's standards, to appear to be eligible for listing on a local register of historic resources, the State Register of Historical Resources, or the National Register of Historic Places.
34. Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.
35. Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.
36. Lowest floor means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).
 - a. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
 1. The flood openings standard in Section 8.35.060 A.3.c;
 2. The anchoring standards in Section 8.35.060 A.1
 3. The construction materials and methods standards in Section 8.35.060.A.2 and
 4. The standards for utilities in Section 8.35.060.B
 - b. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.
37. Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
38. Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
39. Market value in the City of El Cerrito shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost by the amount of depreciation which has accrued since the structure was constructed.

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- a. The cost of replacement of the structure shall be based on the square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry.
 - b. The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or other forms of obsolescence.
 - c. Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.
40. Mean sea level means for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.
41. New construction, for floodplain management purposes, means structures for which the "start of construction" commenced on or after June 1, 1977, and includes any subsequent improvements to such structures.
42. New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 1, 1977.
43. Obstruction includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
44. One-hundred-year flood or "100-year flood" - see "Base flood."
45. Program deficiency means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.
46. Public safety and nuisance as related to Section 8.35.070 of this ordinance, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
47. Recreational vehicle means a vehicle which is:
- a. Built on a single chassis;
 - b. 400 square feet or less when measured at the largest horizontal projection;
 - c. Designed to be self-propelled or permanently towable by a light-duty truck; and
 - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
48. Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
49. Remedy a violation means to bring the structure or other development into compliance with State or local floodplain management regulations, or if this is not possible, to reduce the

- impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.
50. Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
 51. Sheet flow area - see "Area of shallow flooding."
 52. Special flood hazard area (SFHA) means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
 53. Start of construction includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
 54. Structure means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.
 55. Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
 56. Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:
 - a. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."
 57. Variance means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.
 58. Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

59. Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
60. Watercourse means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

8.35.040 General Provisions

A. Lands to which this ordinance applies.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the City of El Cerrito.

B. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the “Flood Insurance Study (FIS) for Contra Costa County, California and Incorporated Areas” dated September 30, 2015, with accompanying Flood Insurance Rate Maps (FIRM’s) and Flood Boundary and Floodway Maps (FBFM’s), dated June 1, 1977, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the El Cerrito City Council by the Floodplain Administrator. The study, FIRM’s and FBFM’s are on file at The City of El Cerrito, Community Development Department, 10890 San Pablo Avenue, El Cerrito, CA 94530.

C. Compliance.

1. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the El Cerrito City Council from taking such lawful action as is necessary to prevent or remedy any violation.
2. In the event of an emergency, the city engineer may enter upon any property and remove any obstruction in any natural drain or floodplain.

D. Abrogation and greater restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. Warning and disclaimer of liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the El Cerrito City Council, any officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

G. Severability.

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

8.35.050- Administration

A. Designation of the floodplain administrator.

The Building Official is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

B. Duties and Responsibilities of the floodplain administrator.

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:

1. Permit Review

Review all development permits to determine:

- a. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
- b. All other required state and federal permits have been obtained;
- c. The site is reasonably safe from flooding;
- d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed

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development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point within the City of El Cerrito; and

- e. All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

2. Development of Substantial Improvement and Substantial Damage Procedures.

- a. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
- b. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

3. Review, Use and Development of Other Base Flood Data.

When base flood elevation data has not been provided in accordance with Section 8.35.040.B, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 8.35.060.

NOTE: A base flood elevation shall be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

4. Notification of Other Agencies.

- a. Alteration or relocation of a watercourse:
 - 1. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - 2. Submit evidence of such notification to the Federal Emergency Management Agency; and
 - 3. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
- b. Base Flood Elevation changes due to physical alterations:
 - 1. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - 2. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's

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allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

c. Changes in corporate boundaries:

Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

5. Documentation of Floodplain Development.

Obtain and maintain for public inspection and make available as needed the following:

- a. Certification required by Section Section 8.35.060.3.a and Section 8.35.060.D (lowest floor elevations);
- b. Certification required by Section 8.35.060.A.3.b (elevation or floodproofing of nonresidential structures);
- c. Certification required by Sections 8.35.060.A.3.c (wet floodproofing standard);
- d. Certification of elevation required by Section 8.35.060.C.1.c. (subdivisions and other proposed development standards); and
- e. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

6. Map Determination.

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 8.35.050.D.

7. Remedial Action.

Take action to remedy violations of this ordinance as specified in Section 8.35.040.C.

8. Biennial Report.

Complete and submit Biennial Report to FEMA.

9. Planning.

Assure community's General Plan is consistent with floodplain management objectives herein.

10. Non-conversion of enclosed areas below the lowest floor.

To ensure that the areas below the BFE shall be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management ordinance in effect at the time of conversion, the Floodplain Administrator shall:

- a. Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are 5 feet or higher;
- b. Enter into a "NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS" or equivalent with the City of El Cerrito. The agreement shall be recorded with the Contra Costa County Recorder as a deed restriction. The non-conversion agreement shall be in a form acceptable to the Floodplain Administrator and County Counsel; and
- c. Have the authority to inspect any area of a structure below the base flood elevation to ensure compliance upon prior notice of at least 72 hours.

C. Development Permit.

1. A development permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Section 8.35.040.B. Application for a development permit shall be made on forms furnished by the City of El Cerrito. The applicant shall provide the following minimum information:
2. Plans in duplicate, drawn to scale, showing:
 - a. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their location;
 - b. Proposed locations of water supply, sanitary sewer, and other utilities;
 - c. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
 - d. Location of the regulatory floodway when applicable;
 - e. Base flood elevation information as specified in Section 8.35.040.B or Section 8.35.050.B.3;
 - f. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
 - g. Proposed elevation in relation to mean sea level to which any nonresidential

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structure will be floodproofed, as required in Section 8.35.060.A.3.b. of this ordinance and detailed in FEMA Technical Bulletin TB 3-93.

3. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Section 8.35.060.A.3.b.
4. For a crawl-space foundation, location and total net area of foundation openings as required in Section 8.35.060.A.3.c of this ordinance and detailed in FEMA Technical Bulletins 1-93 and 7-93.
5. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
6. All appropriate certifications listed in Section 8.35.050.B.5 of this ordinance.

D. Appeals.

The City Council of the City of El Cerrito shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

8.35.060 - Provisions for flood hazard reduction

A. Standards of construction

In all areas of special flood hazards the following standards are required:

1. Anchoring.

All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
2. Construction Materials and Methods.

All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:

 - a. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
 - b. Using methods and practices that minimize flood damage;
 - c. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 - d. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
3. Elevation and Floodproofing.
 - a. Residential construction.

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All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

1. In AE, AH, A1-30 Zones, elevated to or above the base flood elevation.
2. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least 2 4 feet above the highest adjacent grade if no depth number is specified.
3. In an A zone, without BFE's specified on the FIRM [unnumbered A zone], elevated to or above the base flood elevation; as determined under Section 8.35.050.B.3.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

b. Nonresidential construction.

All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with Section 8.35.060.A.3.a or:

1. Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Section 8.35.060.A.3.a, so that the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
3. Be certified by a registered civil engineer or architect that the standards of Section 8.35.060.A.3.b.1&2 are satisfied. Such certification shall be provided to the Floodplain Administrator.

c. Flood openings.

All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

1. For non-engineered openings:
 - a. Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one foot above grade;
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and

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- d. Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter; or
 - 2. Be certified by a registered civil engineer or architect.
 - d. Manufactured homes. See Section 8.35.060.D
 - e. Garages and low cost accessory structures.
 - 1. Attached garages.
 - a. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Section 8.35.060.3.C. Areas of the garage below the BFE must be constructed with flood resistant materials. See Section 8.35.060.A.2
 - b. A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
 - 2. Detached garages and accessory structures.
 - a. "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Section 2, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
 - 1. Use of the accessory structure must be limited to parking or limited storage;
 - 2. The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
 - 3. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
 - 4. Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
 - 5. The accessory structure must be designed to allow for the automatic entry of flood waters in accordance with Section 8.35.060.A.3.c.
 - b. Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 8.35.060.
- B. Standards for utilities.
- 1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - a. Infiltration of flood waters into the systems; and
 - b. Discharge from the systems into flood waters.

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2. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

C. Standards for subdivisions and other proposed development.

1. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
 - a. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
 - b. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
 - c. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
 1. Lowest floor elevation.
 2. Pad elevation.
 3. Lowest adjacent grade.
2. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
3. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
4. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

D. Standards for manufactured homes.

1. All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:
 - a. Within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the

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manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the community's Flood Insurance Rate Map that are not subject to the provisions of Section 8.35.060.D.1 will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
 - a. Lowest floor of the manufactured home is at or above the base flood elevation; or
 - b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

E. Standards for Recreational Vehicles.

A. All recreational vehicles placed in Zones A1-30, AH, and AE will either:

1. Be on the site for fewer than 180 consecutive days; or
2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the permit requirements of Section 8.35.050 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 8.35.060.D.1.

8.35.070- Variance procedure

A. Nature of Variances.

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical

characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the El Cerrito City Council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

B. Conditions for variances.

1. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 8.35.050 and 8.35.060 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 8.35.030 of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the El Cerrito City Council need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the El Cerrito City Council believes will both provide relief and preserve the integrity of the local ordinance.
5. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
6. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and

7. Such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Contra Costa County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
8. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

C. Appeal Board

1. In passing upon requests for variances, the El Cerrito City Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:
 - a. Danger that materials may be swept onto other lands to the injury of others;
 - b. Danger of life and property due to flooding or erosion damage;
 - c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
 - d. Importance of the services provided by the proposed facility to the community;
 - e. Necessity to the facility of a waterfront location, where applicable;
 - f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. Compatibility of the proposed use with existing and anticipated development;
 - h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. Safety of access to the property in time of flood for ordinary and emergency vehicles;
 - j. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
2. Variances shall only be issued upon a:
 - a. Showing of good and sufficient cause;
 - b. Determination that failure to grant the variance would result in exceptional "hardship" to the applicant; and
 - c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.
3. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use

provided that the provisions of Sections 8.35.070.C.1 – 4 are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

4. Upon consideration of the factors of Section 8.35.070.B.1 and the purposes of this ordinance, the El Cerrito City Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

8.35.080 Obstructing natural drains.

It is unlawful for any person, firm or corporation to fill, to obliterate, to obstruct or to permit the obstruction of, by natural or artificial means, or to interfere with any natural drain.

- A. Any structure, wall, bulkhead, culvert, drain, dam or obstruction, natural or artificial, hereafter constructed, erected, maintained or permitted to exist in violation of any of the provisions of this chapter, and any structure, wall, bulkhead, culvert, drain, dam or obstruction, natural or artificial, heretofore permitted to exist, or erected and constructed in such manner or of such material that the same does now, or will hereafter, obstruct the flow of any natural watercourse, natural drain or floodplain in the city, shall constitute a nuisance.
- B. Within the area having special flood hazards, the laws concerning land use, and other measures designed to reduce flood losses, shall take precedence over any conflicting laws.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect thirty days after passage thereof.

SECTION 5. PUBLICATION. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on July 21, 2015 and passed by the following vote:

AYES: Councilmembers Abelson, Bridges, Quinto and Mayor Friedman

NOES: None

ABSENT: Councilmember Lyman

ADOPTED AND ORDERED published at a regular meeting of the City Council held on August x, 2015 and passed by the following vote:

AYES: Councilmembers

NOES: Councilmembers

ABSENT: Councilmembers

APPROVED:

Mark Friedman, Mayor

ATTEST:

Cheryl Morse, City Clerk

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on August ____, 2015.

Cheryl Morse, City Clerk

ORDINANCE CERTIFICATION

I, Cheryl Morse, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2015-06 of the City of El Cerrito, that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the __ day of August 2015; and that said ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this _____ day of August, 2015.

Cheryl Morse, City Clerk

ORDINANCE NO. 2015-07

AN ORDINANCE OF THE CITY OF EL CERRITO SETTING TAX RATES BEGINNING FISCAL YEAR 2015-16 FOR THE SPECIAL TAX IMPOSED PURSUANT TO CHAPTER 4.56 OF THE EL CERRITO MUNICIPAL CODE

WHEREAS, Chapter 4.56 of the El Cerrito Municipal Code provides for a special tax (the “Special Tax”) for the purpose of renovating and reconstructing the El Cerrito Swim Center (the “Swim Center”), rehabilitating the Canyon Trails Clubhouse, and performing access and restroom renovations to the Harding, Huber, and Poinsett Park Clubhouses (collectively, the “Authorized Improvements”); and

WHEREAS, the Special Tax was approved by the voters at the March 7, 2000 election as Measure A and includes a maximum rate authorized per single-family residential unit, multi-family residential unit, and acre of non-residential property (the “Maximum Rates”); and

WHEREAS, each fiscal year, the City Council may amend Section 4.56 of the El Cerrito Municipal Code to reflect the lower rates if it determines that it is in the public interest to do so, or else the Maximum Rates will be levied; and

WHEREAS, since 2004-05, Special Tax rates have been set at the minimum level necessary to service the debt issued to finance the initial reconstruction and renovation of the Swim Center. The Swim Center is now 12 years old, and 10 years have passed since the initial renovations; and

WHEREAS, at its May 19, 2015, meeting, the City Council asked for analysis of the need for improvements to the Swim Center and the Special Tax rates that would be necessary to fund any needed improvements. Staff provided the City Council with a report at its July 21, 2015 meeting; and

WHEREAS, the City Council has determined that the Swim Center is in need of additional renovation to fulfill the objectives of the City’s voters in approving the Special Tax. As a result, to meet the continuing debt obligations and fund the additional renovations immediately or through the establishment of reserves, the City must set the Special Tax rates at the maximums authorized by the voters.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The above recitals are hereby declared to be true and correct findings of the City of El Cerrito.

SECTION 2. Section 4.56.020 (B) of the El Cerrito Municipal Code is hereby amended to read as follows (additions in underline; deletions in ~~striketrough~~):

B. ~~For Beginning~~ Fiscal Year ~~2014-15~~ 2015-16, the Special Tax imposed pursuant to Chapter 4.56 of the El Cerrito Municipal Code shall be imposed in the amount

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of ~~\$58.46~~ ~~\$38.61~~ per single family residential unit, ~~\$45.00~~ ~~\$29.73~~ per multifamily residential unit, and ~~\$410.00~~ ~~\$270.66~~ per acre of non-residential property. ~~Thereafter,~~
~~Unless~~ the Council adopts a further amending ordinance, the Special Tax shall be imposed at the Maximum Rate for each type of property.

SECTION 3. It is the intent of the City Council that, if any tax imposed under this Ordinance is for any reason held to be unconstitutional or contrary to state law, the tax which would have been imposed had this ordinance not been adopted shall remain effective.

SECTION 4. The approval of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines". This ordinance imposes a tax that can be used only for renovation and reconstruction of the El Cerrito Swim Center, but it is not a commitment to any particular project at this time. As such, under CEQA Guidelines section 15378(b)(4), the ordinance is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

THE FOREGOING ORDINANCE was introduced and first read at a regular meeting of the El Cerrito City Council on July 21, 2015, and approved by the following vote on July 21, 2015:

AYES:	Councilmembers Abelson, Bridges, Quinto and Mayor Friedman
NOES:	None
ABSENT:	Councilmember Lyman
ABSTAIN:	None

APPROVED:

Mark Friedman, Mayor

ATTEST:

Cheryl Morse, City Clerk

ORDINANCE CERTIFICATION

I, Cheryl Morse, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is the true and correct original Ordinance No. 2015-07 of the City of El Cerrito, that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the ___ day of August 2015; and that said ordinance has been published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this _____ day of August, 2015.

Cheryl Morse, City Clerk



AGENDA BILL

Agenda Item No. 5(F)

Date: August 18, 2015

To: El Cerrito City Council

From: Yvetteh Ortiz, Public Works Director/City Engineer

Subject: Approve Agreement with PSC Industrial Outsourcing, LP for Storm Drain System Maintenance Services

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to execute an agreement with PSC Industrial Outsourcing, LP for an amount not to exceed \$45,000 to provide storm drain maintenance services for Fiscal Year 2015-16.

BACKGROUND

The area on Kearney Street north of Fairmount Avenue has experienced localized flooding in the past as a result of sediment and debris build-up that has reduced the capacity of several sections of the storm drain system in this area. The major maintenance effort required to address this problem was prioritized as part of the Fiscal Year 2014-15 Capital Improvement Program. In September 2014, the City's Public Works Department released a Request for Proposals (RFP) for qualified maintenance companies to provide the sediment and debris removal services for the storm drain system in this area.

The City received two proposals from qualified companies. Following receipt of proposals, a selection committee comprised of the Operations + Environmental Services Manager and the Maintenance Superintendent evaluated the proposals. Proposals were evaluated based on qualifications, experience, technical approach, and cost competitiveness. PSC Industrial Outsourcing, LP emerged as the top-ranked company and, in November 2014, the City entered into a contract with PSC Industrial Outsourcing, LP to provide maintenance services for an amount not to exceed \$24,750, which was under the authority of the City Manager.

ANALYSIS

Between November 2014 and January 2015, PSC Industrial Outsourcing, LP, completed their original scope of services. However, a significant amount of sediment and debris remains within the storm drain system in this area and one storm drain structure was found to be in need of repair. The original work revealed a significant amount of sediment upstream that was washed down during the storms in December 2014. Staff is unsure of the sources of the sediment and debris, but will closely monitor these conditions in the future. PSC Industrial Outsourcing, LP has submitted a proposal in the

amount of \$31,653 to complete the additional services required to clear and repair the storm drain system in the area.

Staff is requesting a contract amount not to exceed \$45,000 to allow PSC Industrial Outsourcing, LP to provide these required services plus contingency as well as similar services that may be required throughout the city in preparation of the rainy season.

STRATEGIC PLAN AND ENVIRONMENTAL CONSIDERATIONS

Engaging the services of PSC Industrial Outsourcing, LP, will provide much needed maintenance of the City's storm drain system. Approval of the proposed agreement is consistent with the following El Cerrito Strategic Plan Goal:

- Goal D – *Develop and rehabilitate public facilities as community focal points*, by addressing ongoing and deferred maintenance of facilities and infrastructure; and
- Goal E – *Ensure the public's health and safety* by providing a properly functioning storm drain system to address localized flooding problems.

FINANCIAL CONSIDERATIONS

The cost of the contract will be funded by an allocation from the Measure J Storm Drain Fund (205) within the Capital Improvement Program, in an amount not to exceed \$45,000. No additional budget appropriations are required.

LEGAL CONSIDERATIONS

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

Reviewed by:

A handwritten signature in blue ink, appearing to read 'S. Hanin', is written over a horizontal line.

Scott Hanin, City Manager

Attachments:

1. Resolution

RESOLUTION 2015-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH PSC INDUSTRIAL OUTSOURCING, LP IN AN AMOUNT NOT TO EXCEED \$45,000 TO PROVIDE STORM DRAIN MAINTENANCE SERVICES FOR FISCAL YEAR 2015-16

WHEREAS, the City of El Cerrito (City) is responsible for maintaining the public storm drain system; and

WHEREAS, the area on Kearney Street north of Fairmount Avenue has experienced localized flooding in the past as a result of sediment and debris build-up that has reduced the capacity of several sections of the storm drain system in this area; and

WHEREAS, the major maintenance effort required to address this problem was prioritized as part of the Fiscal Year 2014-15 Capital Improvement Program; and

WHEREAS, in September 2014, the City's Public Works Department issued a Request for Proposals (RFP) for qualified maintenance companies to provide the sediment and debris removal services for the storm drain system in this area, and received two proposals from qualified companies; and

WHEREAS, upon consideration of qualifications, experience, technical approach, and cost competitiveness, the selection committee determined that the proposal received from PSC Industrial Outsourcing, LP best fit the needs of the City; and

WHEREAS, in November 2014, the City entered into a contract with PSC Industrial Outsourcing, LP to provide the storm drain maintenance services in an amount not to exceed \$24,750, which was under the authority of the City Manager; and

WHEREAS, between November 2014 and January 2015, PSC Industrial Outsourcing, LP, completed their original scope of services, but a significant amount of sediment and debris remains and one storm drain structure was found to be in need of repair; and

WHEREAS, PSC Industrial Outsourcing, LP has submitted a proposal in the amount of \$31,653 to complete the additional services required to clear and repair the storm drain system in the area; and

WHEREAS, the Public Works Department anticipates similar services will be required throughout the city in preparation of the upcoming rainy season; and

WHEREAS, funding of \$45,000 is available in the Adopted Fiscal Year 2015-16 Budget in an allocation from the Measure J Storm Drain Fund (205) within the Capital Improvement Program.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito, that it hereby authorizes the City Manager to execute an agreement with PSC Industrial Outsourcing, LP in an amount not to exceed \$45,000 to provide storm drain maintenance services for Fiscal Year 2015-16.

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

I CERTIFY that at a regular meeting on August 18, 2015, 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 August XX, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 5(G)

Date: August 18, 2015
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer
Subject: 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16

ACTION REQUESTED

Adopt a resolution for the following actions:

- 1) Approve plans for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16;
- 2) Accept the two submitted bids;
- 3) Authorize the City Manager to award a contract, contingent on successful negotiations with Golden Bay Construction, Inc. (the lowest responsible bidder), for a deductive change order after undergoing a value engineering process which is not inconsistent with the revised budget for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16;
- 4) Amend the Fiscal Year (FY) 2015-16 Adopted Budget to appropriate an additional \$141,724 in funding including \$60,000 in the Measure A Street Improvement Fund, \$50,000 in the Measure J Return to Source Fund and \$31,724 in Capital Improvement Fund for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16; and
- 5) Amend the Capital Improvement Program and Annual Program of Maintenance and Improvement pursuant to Measure A Street Improvement Program per the above items.

BACKGROUND

The 2015 Slurry Seal and Curb Ramp Program is a component of the Measure A Annual Street Improvement and Street Access Modifications Programs within the City's FY 2015-16 Capital Improvement Program. This project is intended to repair some twenty street segments, as shown in the attached map, which currently have minor to moderately distressed pavement. The work generally consists of repairing localized pavement failures, application of a slurry seal surface treatment, installation of thermoplastic striping and pavement markers, and installation of approximately forty new curb ramps. For bidding purposes and to allow flexibility of award within the project budget, the work was divided into a Base Bid and several Bid Alternates.

The project was advertised for bid in the West County Times on June 15 and 22, 2015. Additionally, the notice along with a complete set of Contract Documents was sent to

eight Builder and Construction Exchanges. The project was also posted on the City's website. No addenda were issued.

ANALYSIS

Two bids were received on July 7, 2015 with the following results:

Name and Location of Bidder	Base Bid	Alternate 1 - Lexington	Alternate 2 – Norvell	Grand Total
Golden Bay Construction, Inc., Hayward	\$669,412.50	\$40,956.50	\$32,369.00	\$742,738.00
VSS International, Inc., West Sacramento	\$724,095.00	\$42,166.00	\$32,231.00	\$798,492.00
Engineer's Estimate	\$551,000	\$31,000	\$22,000	\$604,000

The Contract Documents stipulated that the low bidder was to be determined by the amount of the Base Bid. The low bidder is Golden Bay Construction, Inc. with a bid of \$669,412.50 for the Base Bid. Their Base Bid is approximately 21.5% above the Engineer's Estimate of \$551,000, placing it outside the project budget.

As with the previous project biddings, staff has considered various options:

1. Reject all bids, redesign the project, and go out to bid again. With prices rising, staff does not recommend this option as it would take longer and expose the City to even higher prices.
2. Award the project and rely on the value engineering process to reduce the total project costs through deductive change orders.

Staff is recommending the value engineering through a deductive change order approach. Staff has worked with the designer on several value engineering options to lower the project costs, including re-programming one or more of the street segments to the next fiscal year's annual programs. Staff believes there is a strong likelihood that a deductive change order can be negotiated successfully with the low bidder to reduce the contract costs.

Because the City is still in the competitive bidding process, it cannot negotiate with any bidder. Therefore, we cannot know the actual value of a deductive change. Staff has conservatively estimated that approximately \$115,000 can be deducted from the low bid through elimination of additive bid items, value engineering changes, and deductions. However, additional funding will be required to complete the project as noted below.

STRATEGIC PLAN CONSIDERATIONS

Award of the construction contract is consistent with the following El Cerrito Strategic Plan Goals:

Agenda Item No. 5(G)

- Goal D – *Develop and rehabilitate public facilities as community focal points*, by addressing ongoing and deferred maintenance of facilities and infrastructure; and
- Goal E – *Ensure the public’s health and safety* by providing a safe and accessible transportation system.

ENVIRONMENTAL CONSIDERATIONS

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

FINANCIAL CONSIDERATIONS

Funding of \$640,000 for the 2015 Slurry Seal and Curb Ramp Program is included in the Adopted FY 2015-16 Capital Improvement Program and Annual Program of Maintenance and Improvement pursuant to Measure A Street Improvement Program. Funding is allocated as follows:

- \$570,000 for the Annual Street Improvement Program, C3027 from the Measure A Street Improvement Fund; and
- \$70,000 for the Annual Street Access Modifications Program, C3024 from the Measure J Return to Source Fund.

Staff is recommending an additional appropriation of \$141,724; \$60,000 in the Measure A Street Improvement Fund, \$50,000 in the Measure J Return to Source Fund and \$31,724 in the Capital Improvement Fund. Funding from the Capital Improvement Fund will be reimbursed by BART for pavement impacts resulting from the Earthquake Safety Program construction. These additional appropriations will increase the total construction budget to \$781,724.

The estimated project expenditures are summarized below and include contingency of approximately 10% for contract change orders.

Construction Phase	Cost
Construction Contract	\$628,000
Construction Contract Contingency	\$65,000
Construction Inspection, Materials Testing & Management	\$82,500
Miscellaneous (printing, postage, etc.)	\$6,224
Total	\$781,724

LEGAL CONSIDERATIONS

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

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution
2. Project Locations Map

RESOLUTION 2015--XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING PLANS FOR THE 2015 SLURRY SEAL AND CURB RAMP PROGRAM, CITY PROJECT NO. C-3027.16; ACCEPTING THE TWO SUBMITTED BIDS; AND AUTHORIZING THE CITY MANAGER TO AWARD A CONTRACT TO GOLDEN BAY CONSTRUCTION, INC. IN AN AMOUNT TO BE DETERMINED AFTER UNDERGOING A VALUE ENGINEERING PROCESS FOR THE 2015 SLURRY SEAL AND CURB RAMP PROGRAM PROJECT; AMENDING THE FISCAL YEAR 2015-16 ADOPTED BUDGET TO APPROPRIATE AN ADDITIONAL \$141,724 ACROSS MEASURE A STREET IMPROVEMENT, MEASURE J RETURN TO SOURCE AND CAPITAL IMPROVEMENT FUNDS FOR THE 2015 SLURRY SEAL AND CURB RAMP PROGRAM, CITY PROJECT NO. C3027.16; AND AMENDING THE CAPITAL IMPROVEMENT PROGRAM AND ANNUAL PROGRAM OF MAINTENANCE AND IMPROVEMENT PURSUANT TO MEASURE A STREET IMPROVEMENT PROGRAM

WHEREAS, the 2015 Slurry Seal and Curb Ramp Program Project considered pavement repairs for some twenty (20) street segments; and

WHEREAS, the work generally consists of repairing localized pavement failures, application of a slurry seal surface treatment, installation of thermoplastic striping and pavement markers, and installation of approximately forty new curb ramps; and

WHEREAS, a Notice Inviting Bids for the project was advertised in the West Contra Costa Times on June 15 and 22, 2015, sent to eight Builder and Construction Exchanges, and posted on the City's website and two bids were received on July 7, 2015; and

WHEREAS, the lowest responsible bidder was Golden Bay Construction, Inc. whose total base bid, in the amount of \$669,412.50, was 21.5 percent above the Engineer's Estimate, exceeding the projects budget; and

WHEREAS, staff intends to pursue value engineering options to reduce project costs without jeopardizing any of the critical elements of the project; and

WHEREAS, funding of \$640,000 for the 2015 Slurry Seal and Curb Ramp Program is included in the Adopted Fiscal Year (FY) 2015-16 Capital Improvement Program and Annual Program of Maintenance and Improvement pursuant to Measure A Street Improvement Program, and includes allocations of \$570,000 for the Street Improvement Program, C3027 from the Measure A Street Improvement Fund and \$70,000 for the Street Access Modifications Program, C3024 from the Measure J Return to Source Fund; and

WHEREAS, an amendment to the FY 2015-16 adopted budget is required to meet the estimated expenditures of \$781,724 for construction of the project; and

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

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

- 1) Approves plans for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16;
- 2) Accepts the two submitted bids;
- 3) Authorizes the City Manager to award a contract, contingent on successful negotiations with Golden Bay Construction, Inc. (the lowest responsible bidder), for a deductive change order after undergoing a value engineering process which is not inconsistent with the revised budget for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16;
- 4) Amend the FY 2015-16 Adopted Budget to appropriate an additional \$141,724 in funding including \$60,000 in the Measure A Street Improvement Fund, \$50,0000 in the Measure J Return to Source Fund and \$31,724 in Capital Improvement Fund for the 2015 Slurry Seal and Curb Ramp Program, City Project No. C3027.16; and
- 5) Amend the Capital Improvement Program and Annual Program of Maintenance and Improvement pursuant to Measure A Street Improvement Program per the above items.

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

I CERTIFY that at a regular meeting on August 18, 2015 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 August XX, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

LOCATION MAP



2015 Slurry Seal and Curb Ramp Program Location of Slurry Seal Streets, Parking Lot & Curb Ramps Only

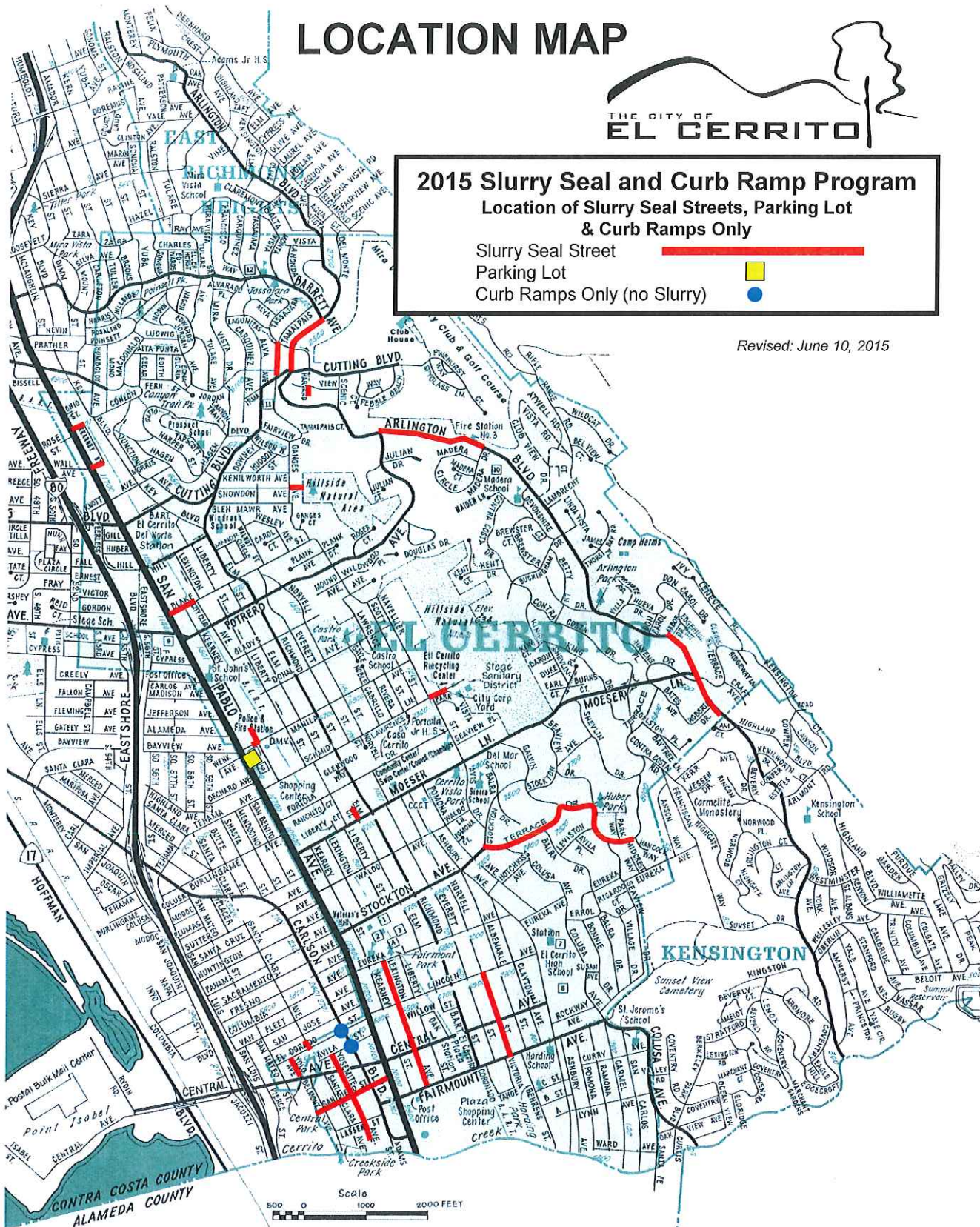
Slurry Seal Street

Parking Lot

Curb Ramps Only (no Slurry)



Revised: June 10, 2015



**Portion of Map Reproduced with permission of the El Cerrito Chamber of Commerce



AGENDA BILL

Agenda Item No. 5(H)

Date: August 18, 2015

To: El Cerrito City Council

From: Lisa Malek-Zadeh, Finance Director/City Treasurer

Subject: Agreement with the State Board of Equalization Regarding Implementation of the Local Prepaid Mobile Telephony Services Collection Act

ACTION REQUESTED

Adopt resolutions:

- 1) Authorizing the City Manager to execute required documents by the State Board of Equalization (BOE) to collect a charge on pre-paid wireless service, and authorizing the City Attorney to certify specific information to the BOE, as required by statute; and
- 2) Authorizing the examination of records related to the collection of the charge on prepaid mobile telephony services.

BACKGROUND/ANALYSIS

Traditionally, the City's utility users tax (UUT) is collected by wireless service providers who include the charge on their customers' monthly invoices. In contrast to this arrangement, customers who purchase pre-paid wireless services usually avoid paying any UUT due to collection complications. With pre-paid wireless, there is no contract, no monthly invoices, and the prepaid wireless services are usually sold by retailers, not service providers themselves. It is estimated that approximately 70% of all pre-paid wireless services are sold by retailers. Since these transactions bypass our local UUT, the City does not realize this revenue. Additionally, traditional phone plan users are treated disparately and the burden of the UUT is not equally shared among all telephone users.

Beginning January 1, 2016, Assembly Bill 1717 will take effect and solve the collection problem by requiring California retailers and on-line sellers to collect a charge on pre-paid mobile telephony services at the same time it collects sales tax on its other retail products, based on the point of sale (for retail stores in our City). Under this new law, all local jurisdictions have to contract with the BOE in order for the charge to be collected from consumers of prepaid wireless phone service.

Staff recommends that the City Council adopt the proposed resolutions authorizing the City Manager to execute the necessary documents required by the State Board of

Agenda Item No. 5(H)

Equalization to collect the charge on pre-paid wireless service and authorize the examination of pre-paid mobile telephony services charge records by the City and its tax consultant Hinderliter, De Llamas, & Associates (HDL). The resolutions also authorize the City Attorney to certify specific information to the BOE, as required by AB 1717.

FINANCIAL CONSIDERATIONS

The cost for collection of these services will be covered by the additional revenue generated by this new revenue source.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution authorizing implementation
2. Resolution authorizing examination

RESOLUTION NO. 2015–XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING
AN AGREEMENT WITH THE STATE BOARD OF EQUALIZATION FOR
IMPLEMENTATION OF THE LOCAL PREPAID MOBILE TELEPHONY SERVICES
COLLECTION ACT

WHEREAS, on November 2, 2004, the people of the City of El Cerrito approved Measure K, authorizing Ordinance No.2004-5A and ratifying and continuing the City’s existing Utility Users Excise Tax (“UUT”). Pursuant to section 4.04.30 of the El Cerrito Municipal Code, the UUT applies to prepaid mobile telephony services. (Chapter 4.04 of the Municipal Code was amended by Ordinance No. 2007-03 but did not affect the applicability of the UUT to prepaid mobile telephony services.); and

WHEREAS, the Local Prepaid Mobile Telephony Services Collection Act (Rev. & Tax. Code §§ 42100 *et seq.*) mandates the Board of Equalization (“Board”) to administer and collect a charge on prepaid mobile telephony services for all applicable local jurisdictions (Rev. & Tax. Code § 42103) that have a UUT that applies to such services; and

WHEREAS, the Board will perform all functions incident to administration and collection of the charges on prepaid mobile telephony services for the City of El Cerrito; and

WHEREAS, the Board requires that the City of El Cerrito enter into an “Agreement for State Collection and Administration of Local Charges” prior to implementation of the Local Prepaid Mobile Telephony Services Collection Act, and

WHEREAS, the Board requires the City of El Cerrito to certify that the UUT applies to prepaid local telephony services, the current UUT rate, and that it will indemnify and hold harmless the Board from liability that might result from collection of the charge on prepaid mobile telephone services; and

WHEREAS, the Board requires that the City Council of El Cerrito authorize the agreement.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that the “Agreement for State Collection and Administration of Local Charges” is hereby approved and the City Manager is hereby authorized to execute the agreement.

BE IT FURTHER RESOLVED that the City Attorney is authorized to certify to the Board of Equalization that the UUT applies to pre-paid mobile telephony services, the current UUT rate, and that the City will indemnify and hold harmless the Board of Equalization from liability that might result from collection of the charge on pre-paid mobile telephony services.

* * * * *

Agenda Item No. 5(H)

Attachment 1

I CERTIFY that at the regular meeting on August 18, 2015, 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 August XX, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

|

RESOLUTION NO. 2015--XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING
THE EXAMINATION OF PREPAID MOBILE TELEPHONY SERVICES SURCHARGE
AND LOCAL CHARGE RECORDS

WHEREAS, pursuant to Ordinance No. 2004-5A as amended by 2007-03 of the City of El Cerrito and the Local Prepaid Mobile Telephony Services Collection Act, the City of El Cerrito, hereinafter called Local Jurisdiction, entered into a contract with the State Board of Equalization, hereafter referred to as the Board, to perform all functions incident to the administration and collection of the prepaid mobile telephony services surcharge and local charges (Rev. & Tax. Code, § 42101.5); and

WHEREAS, the Local Jurisdiction deems it desirable and necessary for authorized representatives of the Local Jurisdiction to examine confidential prepaid mobile telephony services surcharge and local charge records pertaining to the prepaid mobile telephony services surcharge and local charges collected by the Board for the Local Jurisdiction pursuant to that contract; and

WHEREAS, the Board will make available to the Local Jurisdiction any information that is reasonably available to the Board regarding the proper collection and remittance of a local charge of the Local Jurisdiction by a seller, including a direct seller, subject to the confidentiality requirements of Sections 7284.6, 7284.7 and 19542 of the Revenue and Taxation Code; and

WHEREAS, Sections 42110 and 42103 of the Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board of Equalization records and establishes criminal penalties for the unlawful disclosure of information contained in or derived from the prepaid mobile telephony services surcharge and local charge records of the Board.

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

Section 1. That the City Manager, Finance Director or other officer or employee of the Local Jurisdiction designated in writing by the City Manager to the Board is hereby appointed to represent the Local Jurisdiction with authority to examine prepaid mobile telephony services surcharge and local charge records of the Board pertaining to prepaid mobile telephony services surcharge and local charges collected for the Local Jurisdiction by the Board pursuant to the contract between the Local Jurisdiction and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of the Local Jurisdiction's prepaid mobile telephony services surcharge and local charges by the Board pursuant to the contract.

Section 2. That the City Manager, Finance Director or other officer or employee of the Local Jurisdiction designated in writing by the City Manager to the Board is hereby appointed to

represent the Local Jurisdiction with authority to examine those prepaid mobile telephony services surcharge and local charge records of the Board for purposes related to the following governmental functions of the Local Jurisdiction:

- a) Economic Development
- b) Code Enforcement

The information obtained by examination of Board records shall be used only for those governmental functions of the Local Jurisdiction listed above.

Section 3. That the City Manager, Finance Director or other officer or employee of the Local Jurisdiction designated in writing by the City Manager to the Board is hereby designated to examine the prepaid mobile telephony services surcharge and local charges records of the Board of Equalization pertaining to prepaid mobile telephony services surcharge and local charges collected for the Local Jurisdiction by the Board. The person or entity designated by this section meets all of the following conditions (Rev. & Tax. Code, § 42110, subd. (b)(2)):

- a) has an existing contract with the Local Jurisdiction that authorizes the person to examine the prepaid mobile telephony services surcharge and local charge records;
- b) is required by that contract with the Local Jurisdiction to disclose information contained in or derived from, those records only to an officer or employee of the Local Jurisdiction authorized by the resolution to examine the information;
- c) is prohibited by that contract from performing consulting services for a seller during the term of that contract;
- d) is prohibited by that contract from retaining information contained in, or derived from, those prepaid mobile telephony services surcharge and local charge records, after that contract has expired.

The contract between the Local Jurisdiction and Hinderliter, De Llamas & Associates (HDL) designated by the Local Jurisdiction to request information from the Board shall be subject to the following limitations (Rev. & Tax. Code, § 42103, subd. (g)):

- a) HDL shall, to the same extent as the Board, be subject to Section 55381, relating to unlawful disclosures.
- b) the contract between the Local Jurisdiction and HDL shall not provide, in whole or in part, in any manner a contingent fee arrangement as payment for services rendered.

BE IT FURTHER RESOLVED that the information obtained by examination of the Board records shall only be used for purposes related to the collection of the Local Jurisdiction's prepaid mobile telephony services surcharge and local charges by the Board pursuant to the contract between the Local Jurisdiction and Board, or for purposes related to other governmental functions of the Local Jurisdiction, as identified above in section 2.

Agenda Item No. 5(H)
Attachment 2

I CERTIFY that at the regular meeting on August 18, 2015, 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 August 18, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 5(l)

Date: August 18, 2015
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director / City Engineer
Subject: Support for New Sustainable Transportation Funding

ACTION REQUESTED

Adopt a resolution urging Governor Brown and the State Legislature to provide sufficient and stable sources of funding for local and state transportation infrastructure to ensure the safe and efficient mobility of the traveling public and the economic vitality of California.

DISCUSSION

State of California Governor Edmund G. Brown, Jr. has called an extraordinary session to address the immense underfunding of California's transportation infrastructure. Cities and counties own and operate more than 81 percent of streets and roads in California, and the public is dependent upon a safe, reliable local transportation network. The City of El Cerrito has previously participated in efforts with the California State Association of Counties, League of California Cities, and California's Regional Transportation Planning to study unmet funding needs for local roads and bridges, including sidewalks and other essential components. The resulting 2014 California Statewide Local Streets and Roads Needs Assessment, which provides critical analysis and information on the local transportation network's condition and funding needs, indicates that the condition of the local transportation network is deteriorating as predicted in the initial 2008 study. If funding remains at current inadequate levels, in 10 years a quarter of local streets and roads in California will be in "failed" condition. If additional funding isn't secured now, it will cost taxpayers twice as much to fix the local transportation system in the future, as failure to act this year will increase unmet funding needs for local transportation facilities by \$11 billion in five years and \$21 billion in ten years.

In 2008, El Cerrito voters passed Measure A, the El Cerrito Pothole Repair, Local Street Improvement and Maintenance Measure, a half-cent sales tax, to launch a comprehensive street pavement repair and maintenance program. Fortunately, the on-going funding from Measure A is now helping to maintain the City's pavement in "very good" condition. However, significant needs remain in maintaining, repairing, and rehabilitating pedestrian and bicycle infrastructure including sidewalks, boardwalks and paths; replacing and updating traffic signal systems and traffic signs citywide; addressing a handful of local streets in need of total reconstruction; and miscellaneous other roadway work such repairs at creek overcrossings. New and sustainable sources of funding would help ensure the sustainability of El Cerrito's transportation system.

The Resolution of Support urges the Governor and Legislature to support a transportation funding package that amounts to \$6 billion annually for at least 10 years, funding be split equally between state and local governments and be spread across a broad range of funding sources to ensure no one source is increased too much. Additionally, the package should provide strong accountability provisions that protect taxpayers' investment.

STRATEGIC PLAN CONSIDERATIONS

Support for new sustainable transportation funding is consistent with the following El Cerrito Strategic Plan Goals:

- Goal B - *Achieve long-term financial sustainability* by tracking and promoting state and federal legislation that would create new funding opportunities; and
- Goal D – *Develop and rehabilitate public facilities as community focal points* by helping to develop a plan to address ongoing and deferred maintenance of facilities and infrastructure.

ENVIRONMENTAL CONSIDERATIONS

There is no direct environmental impact of supporting the new transportation funding. However, additional transportation funding will improve bicycle safety and make the pedestrian experience safer and more appealing, which leads to reduce vehicle emissions helping the State and City achieve air quality and greenhouse gas emissions reductions goals.

FINANCIAL CONSIDERATIONS

There is no financial obligation associated with the requested action.

LEGAL CONSIDERATIONS

There is no legal obligation associated with the requested action.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution

RESOLUTION NO. 2015-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO
URGING THE STATE OF CALIFORNIA GOVERNOR AND LEGISLATURE TO
PROVIDE SUFFICIENT AND STABLE SOURCES OF FUNDING FOR LOCAL AND
STATE TRANSPORTATION INFRASTRUCTURE

WHEREAS, State of California Governor Edmund G. Brown, Jr. has called an extraordinary session to address the immense underfunding of California's transportation infrastructure; and

WHEREAS, cities and counties own and operate more than 81 percent of streets and roads in California, and from the moment we open our front door to drive to work, bike to school, or walk to the bus station, people are dependent upon a safe, reliable local transportation network; and

WHEREAS, the City of El Cerrito has participated in efforts with the California State Association of Counties, League of California Cities, and California's Regional Transportation Planning Agencies to study unmet funding needs for local roads and bridges, including sidewalks and other essential components; and

WHEREAS, the resulting 2014 California Statewide Local Streets and Roads Needs Assessment, which provides critical analysis and information on the local transportation network's condition and funding needs, indicates that the condition of the local transportation network is deteriorating as predicted in the initial 2008 study; and

WHEREAS, the results show that California's local streets and roads are on a path of significant decline. On a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 66, placing it in the "at risk" category where pavements will begin to deteriorate much more rapidly and require rehabilitation or rebuilding rather than more cost-effective preventative maintenance if funding is not increased; and

WHEREAS, as a result of local funding from Measure A, the El Cerrito Pothole Repair, Local Street Improvement and Maintenance Measure, a half-cent sales tax, the City of El Cerrito's local streets have a statewide average pavement index of 85, placing us in the "very good" category, but significant needs remain in addressing pedestrian and bicycle infrastructure, traffic signal systems and signs, and other roadway work; and

WHEREAS, if funding remains at the current levels, in 10 years, 25 percent of local streets and roads in California will be in "failed" condition; and

WHEREAS, cities and counties need an additional \$1.7 billion just to maintain a status quo pavement condition of 66, and much more revenue to operate the system with Best Management Practices, which would reduce the total amount of funding needed for maintenance in the future; and

WHEREAS, models show that an additional \$3 billion annual investment in the local streets and roads system is expected to improve pavement conditions statewide from an average “at risk” condition to an average “good” condition; and

WHEREAS, if additional funding isn’t secured now, it will cost taxpayers twice as much to fix the local system in the future, as failure to act this year will increase unmet funding needs for local transportation facilities by \$11 billion in five years and \$21 billion in ten years; and

WHEREAS, modernizing the local street and road system provides well-paying construction jobs and boosts local economies; and

WHEREAS, the local street and road system is also critical for farm to market needs, interconnectivity, multimodal needs, and commerce; and

WHEREAS, police, fire, and emergency medical services all need safe reliable roads to react quickly to emergency calls and a few minutes of delay can be a matter of life and death; and

WHEREAS, maintaining and preserving the local street and road system in good condition will reduce drive times and traffic congestion, improve bicycle safety, and make the pedestrian experience safer and more appealing, which leads to reduce vehicle emissions helping the State achieve its air quality and greenhouse gas emissions reductions goals; and

WHEREAS, restoring roads before they fail also reduces construction time which results in less air pollution from heavy equipment and less water pollution from site run-off; and

WHEREAS, in addition to the local system, the state highway system needs an additional \$5.7 billion annually to address the state’s deferred maintenance; and

WHEREAS, in order to bring the local system back into a cost-effective condition, at least \$7.3 billion annually would be needed in new money going directly to cities and counties; and

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito strongly urges the Governor and Legislature to identify sufficient and stable funding sources for local street and road and state highway maintenance and rehabilitation to ensure the safe and efficient mobility of the traveling public and the economic vitality of California.

BE IT FURTHER RESOLVED, that the City of El Cerrito strongly urges the Governor and Legislature to adopt the following priorities for funding California’s streets and roads.

1. Make a significant investment in transportation infrastructure. Any package should seek to raise at least \$6 billion annually and should remain in place for at least 10 years or until an alternative method of funding our transportation system is agreed upon.

2. Focus on maintaining and rehabilitating the current system. Repairing California's streets and highways involves much more than fixing potholes. It requires major road pavement overlays, fixing unsafe bridges, providing safe access for bicyclists and pedestrians, replacing storm water culverts, as well as operational improvements that necessitate the construction of auxiliary lanes to relieve traffic congestion choke points and fixing design deficiencies that have created unsafe merging and other traffic hazards. Efforts to supply funding for transit in addition to funding for roads should also focus on fixing the system first.
3. Equal split between state and local projects. We support sharing revenue for roadway maintenance equally (50/50) between the state and cities and counties, given the equally-pressing funding needs of both systems, as well as the longstanding historical precedent for collecting transportation user fees through a centralized system and sharing the revenues across the entire network through direct subventions. Ensuring that funding to local governments is provided directly, without intermediaries, will accelerate project delivery and ensure maximum accountability.
4. Raise revenues across a broad range of options. Research by the California Alliance for Jobs and Transportation California shows that voters strongly support increased funding for transportation improvements. They are much more open to a package that spreads potential tax or fee increases across a broad range of options, including fuel taxes, license fees, and registration fees, rather than just one source. Additionally, any package should move California toward an all-users pay structure, in which everyone who benefits from the system contributes to maintaining it – from traditional gasoline-fueled vehicles, to new hybrids or electric vehicles, to commercial vehicles.
5. Invest a portion of diesel tax and/or cap & trade revenue to high-priority goods movement projects. While the focus of a transportation funding package should be on maintaining and rehabilitating the existing system, California has a critical need to upgrade the goods movement infrastructure that is essential to our economic well-being. Establishing a framework to make appropriate investments in major goods movement arteries can lay the groundwork for greater investments in the future that will also improve air quality and reduce greenhouse gas emissions.
6. Strong accountability requirements to protect the taxpayers' investment. Voters and taxpayers must be assured that all transportation revenues are spent responsibly. Local governments are accustomed to employing transparent processes for selecting road maintenance projects aided by pavement management systems, as well

as reporting on the expenditure of transportation funds through the State Controller's Local Streets and Roads Annual Report.

7. Provide Consistent Annual Funding Levels. Under current statute, the annual gas tax adjustment by the Board of Equalization is creating extreme fluctuations in funding levels – a \$900 million drop in this budget year alone. A transportation funding package should contain legislation that will create more consistent revenue projections and allow Caltrans and transportation agencies the certainty they need for longer term planning.

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

I CERTIFY that at a regular meeting on August 18, 2015, 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 August XX, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No.5(J)

Date: August 18, 2015
To: El Cerrito City Council
From: Lisa Malek-Zadeh, Finance Director/City Treasurer
Subject: Quarterly Investment Report for Period Ending June 30, 2015

ACTION REQUESTED

Receive and file the City's Quarterly Investment Report for the period ending June 30, 2015.

QUARTERLY INVESTMENT REPORT REVIEW

The Quarterly Investment Report for April 2015 – June 2015 shows that the City's investments had a par value of \$1,524,405 as of June 30, 2015. During the quarter interest of approximately \$40 was earned and debt service payments for the Recycle Center, Street Improvement Fund, City Hall and the Solar Lease Project were made totaling \$826,426.

The City continues to have minimal investments that are not required for debt service reserves and to have limited, if any, interest earnings on restricted funds. Of the total amount invested, \$2,706 is invested in the pooled funds with the State Treasurer's Local Agency Investment Funds (LAIF) and \$1,521,699 is held in money market funds.

FINANCIAL CONSIDERATIONS

The purpose of the City's Investment Policy is to provide guidelines for prudent investment of the City's idle funds and maximum efficiency of the City's cash management system. The ultimate goal is to enhance the City's economic condition while protecting the funds at all times. The City's investments comply with the "Authorized Investments" section of the Investment Policy.

Reviewed by:

Scott Hanin
City Manager

Attachment:

1. City of El Cerrito Quarterly Investment Report For Period Ending June 30, 2015

City of El Cerrito

Quarterly Investment Report For the Period Ending June 30, 2015

FUND	INVESTMENT TYPE	INVESTMENT	TRUSTEE/ BROKER	PAR VALUE	COST	INTEREST OR YIELD	MATURITY DATE	COST/ 100	*MARKET VALUE
Pooled Investments	Pooled Fund	LAIF	CA State Treasurer	\$2,706.06	\$2,706.06	0.24%	N/A	100.00	\$2,706.06
Solar Project Financing	Prime Money Market	Deutsche Bank Prime Money Market	Deutsche Bank	\$10,169.72	\$10,169.72	0.01%	N/A	100.00	\$10,169.72
Swim Center Fund	Blackrock Institutional Money Market	Union Bank/Blackrock Liquidity	Union Bank of CA	\$166,932.74	\$166,932.74	0.01%	N/A	100.00	\$166,932.74
City Hall Debt Fund	Blackrock Institutional Money Market	Union Bank/Blackrock Liquidity	Union Bank of CA	\$603,385.88	\$603,385.88	0.01%	N/A	100.00	\$603,385.88
Street Improvement Fund	Blackrock Institutional Money Market	Union Bank/Blackrock Liquidity	Union Bank of CA	\$741,210.42	\$741,210.42	0.01%	N/A	100.00	\$741,210.42
				\$1,524,404.82	\$1,524,404.82				\$1,524,404.82

I Certify that this report is in compliance with the City of El Cerrito Investment Policy and that there are adequate funds available to meet the next six months of estimated expenditures as required by the California Government Code 53646.


Lisa Malek-Zaden, Finance Director/City Treasurer



AGENDA BILL

Agenda Item No. 7

Date: August 18, 2015
To: El Cerrito City Council
From: Mayor Mark Friedman, and
Suzanne Iarla, Assistant to the City Manager
Subject: Study Session Regarding Establishing a Local Minimum Wage Ordinance

ACTION REQUESTED

This Study Session is an opportunity for the City Council to hear from a panel of experts, and to discuss and provide feedback regarding development of a local minimum wage ordinance. Should the Council wish to proceed with directing staff to prepare an ordinance for consideration, the Council is requested to provide specific direction regarding the elements it would like to see in a proposed local minimum wage ordinance for El Cerrito.

BACKGROUND

Income disparity, (or the gap between rich and poor), is growing in the United States. Many households supported by a single full-time current minimum wage earner are at or below the national poverty line set by the Federal government. Low-wage earners in the Bay Area are at a further disadvantage since the cost of living in the Bay Area is higher than the national average.

For the past two years, Mayor Friedman has been working with City Manager Scott Hanin to determine the best time and manner to bring this matter to the City Council for discussion. To that end, Mayor Friedman has also been working with a local coalition of partners who are working towards a long-term effort to cut poverty in Contra Costa County by raising awareness and addressing the systemic and structural causes of poverty. It has been the desire of the Mayor to seek a more regional approach but at the same time ensuring that El Cerrito moves quickly to address this issue.

Establishing a local “living wage” was identified as a strategy towards achieving the City’s Strategic goal of “*Ensuing the public’s health and safety*” at the Council’s strategic plan update study session held on March 28, 2015.

During the Study Session tonight, the City Council will hear from the following people:

- Contra Costa County Supervisor John Gioia

Agenda Item No.

- Mariana Moore, Director, Ensuring Opportunity Campaign to Cut Poverty in Contra Costa
- Annette Bernhardt, Senior Researcher, UC Berkeley Institute for Research on Labor and Employment/Labor Center
- Jennifer Lin, Deputy Director, East Bay Alliance for a Sustainable Economy, (EBASE)

Following the informational presentations, staff will lead the Council through a discussion to provide direction regarding what elements the Council would like to see in a draft local minimum wage ordinance. Staff will then draft a proposed ordinance and bring it back to the City Council for consideration in the coming months.

ANALYSIS

The current minimum wage in California is \$9.00 per hour (Effective since July 1, 2014). On January 1, 2016, the minimum wage in California will increase to \$10.00 per hour.

Living Wage in Contra Costa

The Massachusetts Institute of Technology (MIT) developed a living wage calculator to determine the wage needed to cover basic family expenses (basic needs budget) plus all relevant taxes for geographically specific areas. (The Calculator is available online at <http://livingwage.mit.edu/metros/41860>.) The MIT living wage model is a market-based approach to measure basic needs (i.e., a family's likely minimum food, child care, health insurance, housing, transportation, and other basic necessities (e.g. clothing, personal care items, etc.) costs. The living wage calculator estimates the living wage needed to support various household types.

Table 1 shows the living wage hourly rate that an individual must earn to support their family, if they are the sole provider and are working full-time (2080 hours per year) in Contra Costa County in 2014:

Table 1

Household Type	Living Wage Needed in Co.Co.County	Living Wage Needed in Bay Area	Poverty Wage
1 Adult	\$13.35	\$13.77	\$5.00
1 Adult 1 Child	\$26.90	\$27.91	\$7.00
1 Adult 2 Children	\$30.46	\$31.47	\$9.00
1 Adult 3 Children	\$38.70	\$39.92	\$11.00
2 Adults (One Working)	\$20.65	\$21.45	\$7.00
2 Adults (One Working) 1 Child	\$25.20	\$26.21	\$9.00
2 Adults (One Working) 2 Children	\$27.83	\$28.85	\$11.00

2 Adults (One Working) 3 Children	\$32.74	\$33.96	\$13.00
2 Adults	\$10.33	\$10.72	\$3.00
2 Adults 1 Child	\$14.60	\$15.10	\$4.00
2 Adults 2 Children	\$16.61	\$17.12	\$5.00
2 Adults 3 Children	\$19.76	\$20.37	\$6.00

**Poverty wage = National average for the poverty threshold used to determine eligibility for financial assistance from the federal government.*

Recently, a number of Bay Area municipalities have enacted local minimum wage ordinances as shown in Table 2, for example:

Table 2

Agency	Snapshot of current hourly rate (2015)
Berkeley	\$11.00
Emeryville	\$14.44 (large employers) & \$12.25 (small employers)
Oakland	\$12.25
Richmond	\$9.60

Richmond's Living Wage Rates

In 2014, El Cerrito's neighboring jurisdiction, the City of Richmond, established a "Living Wage" at \$9.00 with scheduled annual increases over the next five years (until 2019). After that time, the rate will be adjusted annually for inflation based on Consumer Price Index changes. As shown in Table 3, Richmond's rate is intended to be comparable to the City of Berkeley's living wage rate by 2019.

Table 3

Effective Date	City of Richmond
July 1, 2014	\$9.00 per hour
January 1, 2015	\$9.60 per hour
January 1, 2016	\$11.52 per hour
January 1, 2017	\$12.30 per hour
January 1, 2018	\$13.00 per hour
January 1, 2019 <	Adjusted per the Consumer Price Index

Goal for \$15/hr Wage by 2020

Presently the coalition working to increase the minimum wage in Costa Costa County is hoping to have as many jurisdictions as possible achieve a \$15 an hour minimum wage by 2020. Although still below a self-sufficiency wage, it will provide much greater economic stability for those working for the minimum wage. By phasing in increases over the next 4 years it will allow employers who pay the minimum wage to better adjust to the higher labor costs.

A recent study by the Center for Economic and Policy Research concluded that local minimum wage increases can raise the earnings of low-wage workers without a discernible impact on their employment. Increasing the minimum wage increases financial stability for families and stimulates the local economy by increasing consumer purchasing power.

FINANCIAL CONSIDERATIONS

This is an informational presentation only. Staff will determine the overall cost impact of a proposed ordinance to the City should a draft ordinance be developed for City Council consideration.

LEGAL CONSIDERATIONS

This is an informational presentation only.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. DRAFT of staff PowerPoint presentation
2. **“The Impact of Oakland’s Proposed City Minimum Wage Law: A Prospective Study”** by UC Berkeley Center for Labor Research and Education (also available online at <http://laborcenter.berkeley.edu/the-impact-of-oaklands-proposed-city-minimum-wage-law-a-prospective-study/>)
3. Executive Summary of “The Proposed Minimum Wage Law for Los Angeles: Economic Impacts and Policy Options” by UC Berkeley Center for Labor Research and Education, March 2015. Note: The full report is available online at <http://irle.berkeley.edu/cwed/briefs/2015-01.pdf>



DRAFT STUDY SESSION ON ESTABLISHING A LOCAL MINIMUM WAGE

**El Cerrito City Council Meeting
August 18, 2015
El Cerrito City Hall**

DRAFT ONLY



PRESENTERS:

- **Supervisor John Gioia**
- **Mariana Moore, Director**
Ensuring Opportunity Campaign to Cut Poverty in
Contra Costa
- **Annette Bernhardt, Senior Researcher**
UC Berkeley Institute for Research on Labor and
Employment/Labor Center
- **Jennifer Lin, Deputy Director**
East Bay Alliance for a Sustainable Economy
(EBASE)

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CONTRA COSTA FAMILY OF FOUR

\$23,850

= 2014 Federal Poverty Level
(12.5% of CCCo. residents –131,800 men, women, children)

\$74,353

= Contra Costa Median Family Income (2012)

\$71,711

= Contra Costa Self-Sufficiency Standard
\$ needed to avoid relying on public assistance

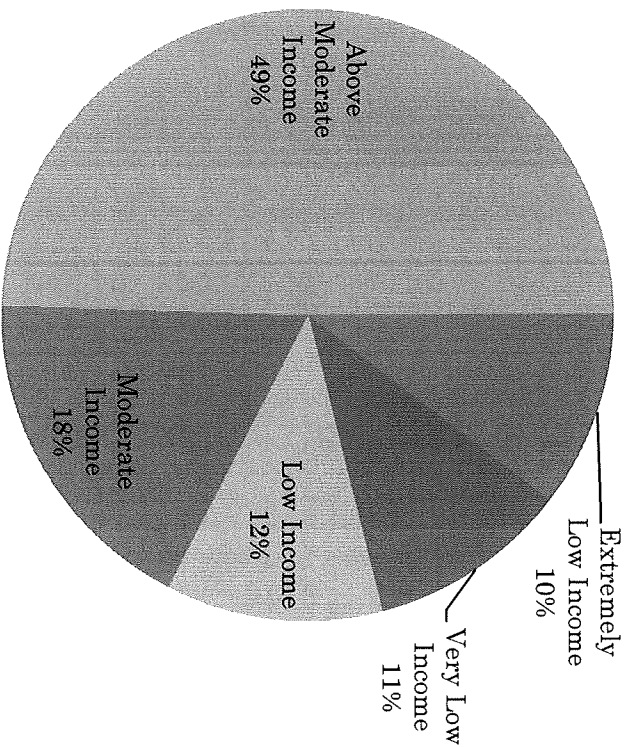
\$37,440

= Two full-time jobs @ current CA minimum wage

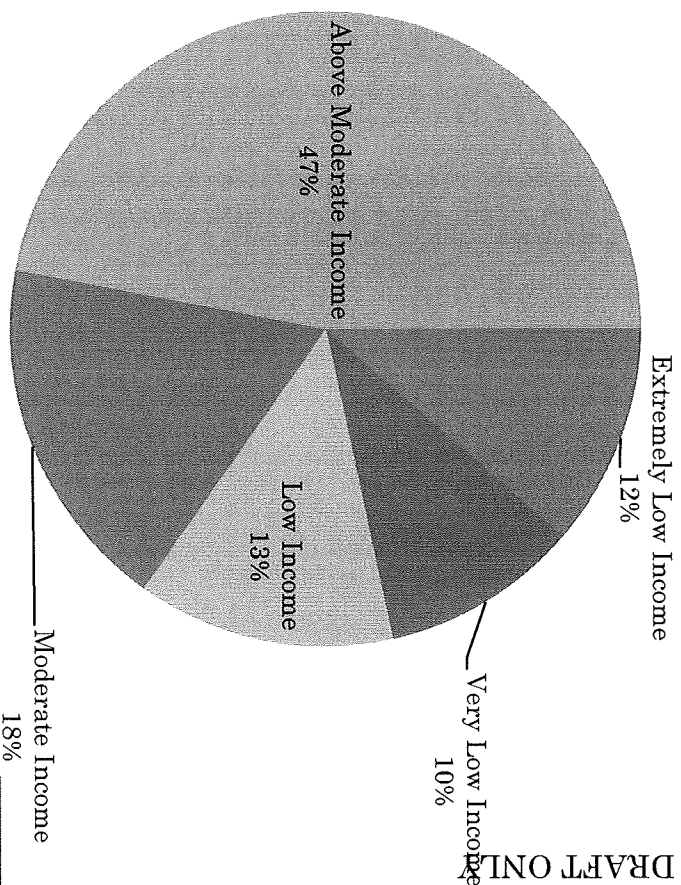
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HOUSEHOLD INCOME CATEGORIES

El Cerrito



Contra Costa County



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Moderate Income
18%



Within Contra Costa County,
the coalition is currently aiming
to achieve a
\$15.00/hour minimum wage
by 2020.

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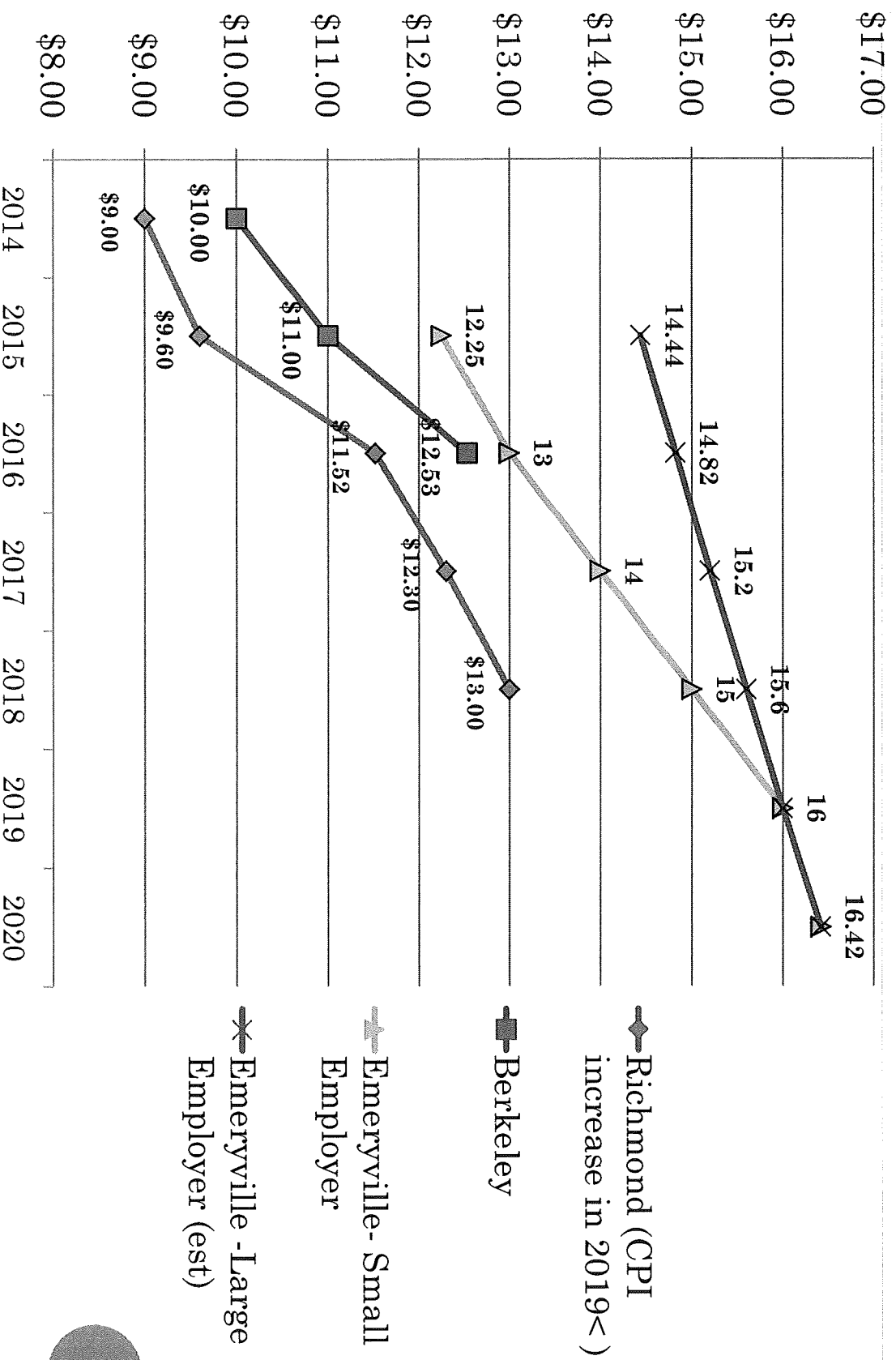
MINIMUM WAGE RATES

Agency	2015 Hourly Rate	2016 Hourly Rate	2016 increase as of
Statewide	\$9.00	\$10.00	Jan 1 st
Berkeley	\$11.00	\$12.53	Oct., 1
Emeryville	\$14.44 (large employers) & \$12.25 (small employers)	\$14.82 / \$13.00	July 1
Oakland	\$12.25	Adjusted by CPI	Jan. 1
Richmond	\$9.60	\$11.52	Jan. 1

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ANNUAL WAGE INCREASES

Note: month of annual increase varies by city.



DRAFT ONLY

WAGE LEVEL

Most local minimum wage laws are phased in over a number of years.

- Is the minimum wage level of \$15.00/hr in 2020 the desired goal for El Cerrito?
- Alternative schedules could include a different wage level or timeline.

INDEXED TO C.P.I.

Most local minimum wage laws include annual increases indexing to cost of living.

- After 2020, should the wage level include annual increases based on Consumer Price Index for Urban Wage Earners and Clerical Workers for the Bay Area?

SMALL BUSINESSES & NPOS

Some cities have provided slower phase-ins for small businesses (San Francisco and Emeryville) or Non-Profit Organizations (Berkeley), however, this creates an additional administrative burden.

- Should there be a slower phase-in for small businesses?
- If the City Council wishes to consider a slower phase-in for small businesses, how should small business be defined (i.e. # of employees, gross receipts, etc.)
- Should there be a slower phase-in for non-profit organizations?

TOTAL COMPENSATION

Richmond's ordinance has a unique clause that allows a health care credit of up to \$1.50 per hour to be considered part of the wage.

Crediting health benefits towards a minimum wage would create significant enforcement challenges for the City.

- o Does the City Council want to allow employers be able to crediting health benefits towards the minimum wage? If yes, what amount should be allowed as a credit? Should that amount be fixed or able to be adjusted by the City Council over time?

ENFORCEMENT

Best Practices:

- Private right of action
- Damages and other penalties
- Retaliation protections
- Notice posting and record keeping provisions

WAGE LIENS

A wage lien—a claim on property owned by the employer so that it cannot be sold without payment going to the worker—is one tool some states use to secure payment from employers found to owe back wages. Staff would need to research if this tool would be effective in El Cerrito.

- o Does the City Council want staff to research if this tool would be effective in El Cerrito and develop a recommendation about including a provision to include wage liens?

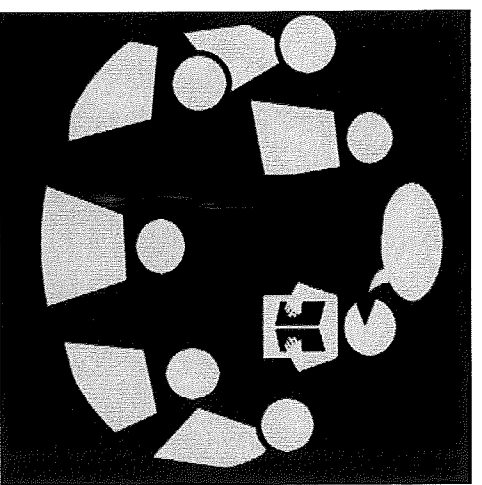
ENFORCEMENT ACTIVITIES

Since El Cerrito is a small city, with lean staffing, pro-active investigations to determine minimum wage compliance will likely be limited.

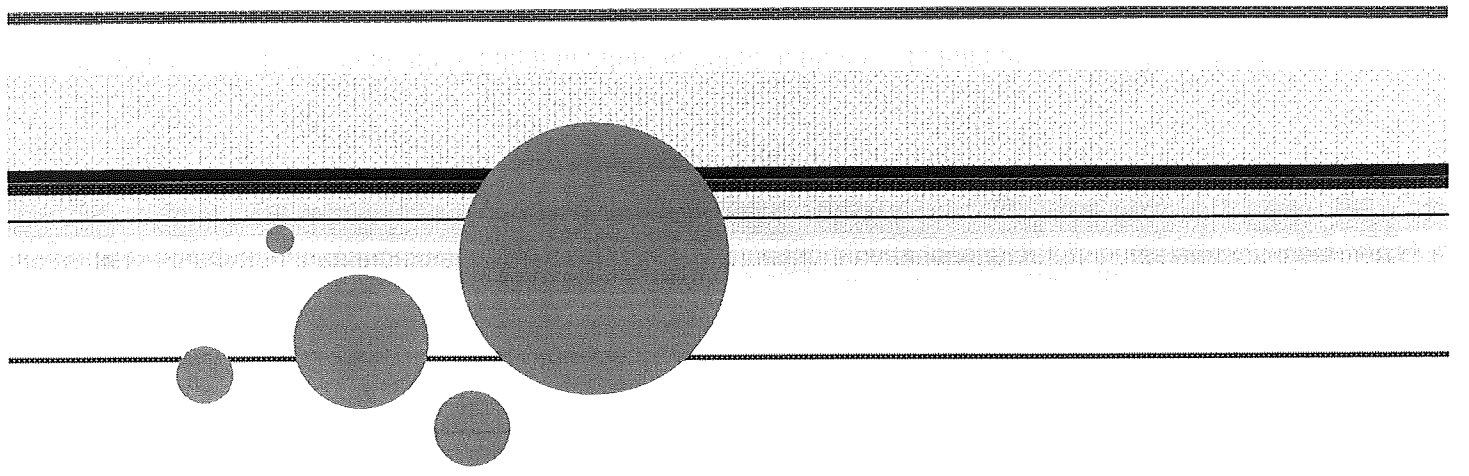
- Staff will evaluate the staffing needs for the program and research how other small cities are handling their programs as well as research if there are any agencies or non-profits that are potential partners to assist with education/outreach and complaints/enforcement.

NEXT STEPS

- City Council direction on options
- Continued Outreach to specific groups
 - Chamber of Commerce, business groups
- Community Input on Draft Ordinance
- City Council Consideration – possibly Oct/Nov



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ADDITIONAL QUESTIONS OR COMMENTS?

Thank you.



Center on Wage and Employment Dynamics

Agenda Item No. 7
Attachment 2

POLICY BRIEF

June 2014

Institute for Research on Labor and Employment
University of California, Berkeley

The Impact of Oakland's Proposed City Minimum Wage Law: A Prospective Study

by Michael Reich, Ken Jacobs, Annette Bernhardt and Ian Perry

Michael Reich is Professor of Economics and Director of the UC Berkeley Institute for Research on Labor and Employment; Ken Jacobs is the Chair of the UC Berkeley Center for Labor Research and Education; Annette Bernhardt is a visiting professor of sociology and visiting researcher, Institute for Research on Labor and Employment; Ian Perry is a researcher at the UC Berkeley Center for Labor Research and Education.

Acknowledgments: We thank Sylvia Allegretto, Chris Benner, Cynthia Kroll, William Lester, Zeynep Ton and staff of the California Employment Development Department for their helpful assistance.

Executive Summary

The Lift Up Oakland Coalition, an alliance of community, labor, small business and faith organizations, has placed an initiative on the Oakland November 2014 ballot that would establish a minimum wage of \$12.25 for businesses in the city starting March 1, 2015. This study examines the effects of a \$12.25 minimum wage on Oakland workers and businesses.

Drawing on a variety of government data sources, we estimate that more than a quarter of the Oakland workforce would benefit from the proposed policy, with the average worker earning an additional \$2,700 a year. Our analysis of the existing economic research literature suggests that businesses will adjust to modest increases in operating costs through reduced employee turnover costs, improved work performance, and a small, one-time increase in restaurant prices.

Specifically, we find:

- **About 25 to 30 percent of Oakland workers or between 40,000 to 48,000 Oakland workers would receive a pay raise.**
 - Between 31,000 to 34,000 would be directly affected by a minimum wage increase.
 - Between 9,000 to 14,000 would be indirectly affected by a ripple effect.
- **Workers' hourly wages and annual incomes would rise, resulting in increased annual earnings of \$120 million per year.**
 - Hourly wages of affected workers would rise by an average of \$1.69/hour.
 - Average annual earnings would increase by about \$2,700 per year.
- **Adults and workers of color would see significant benefits of a pay increase.**
 - 96.5 percent of affected workers are in their twenties or older, and over half of the workers receiving raises are in their thirties or older.
 - Workers of color (Black, Hispanic, and Asian) make up about 62.1 percent of the total workforce in Oakland, but they represent about 78.7 percent of workers affected by a minimum wage increase to \$12.25.
 - About 43.0 percent of the affected workers are Hispanic/Latino.
- **Increasing the minimum wage would have a modest impact on business operating costs and consumer prices.**
 - Research evidence indicates that the costs of a higher minimum wage are absorbed through reduced worker turnover, improved worker performance and small one-time increases in restaurant prices.
 - Operating costs would increase by 0.3 percent for retail businesses and 2.8 percent for restaurants.
 - Restaurant prices would increase by 2.5 percent. A \$10 meal would increase by 25 cents, to a total of \$10.25. For retail and the local economy as a whole, price increases would be negligible.

-
- **Previous studies found that minimum wage increases have little negative impact on employment.**
 - Three rigorous studies of the employment impacts of existing local minimum wage laws all find no significant impact on employment.
 - A national study compares employment in all the counties that straddle state borders with different minimum wages, for the period 1990 to 2012. This study finds no statistically significant effects of minimum wage increases on either employment or hours in restaurants and other low-wage industries, controlling for a range of regional and local differences that previous research did not include.
 - **The proposed 36 percent minimum wage increase in Oakland lies within the range of previous local minimum wage laws.**
 - The ten previous local minimum wage laws in the U.S. have mandated an average increase of 43.0 percent, with a range of 13.3 percent to 84.5 percent.
 - The proposed policy would increase the minimum wage to 54 percent of the Oakland median wage of \$22.64 an hour. This ratio is within the historical range of the ratio of the federal minimum wage to the median wage.

Introduction

Residents of Oakland, California will soon be voting whether or not to adopt a city-wide minimum wage policy. The proposal under consideration would establish a minimum wage of \$12.25 for businesses operating in the city as of March 1, 2015, indexed to inflation in subsequent years. In this report, we first estimate the number of workers that would be affected and describe their demographic and job characteristics. We then estimate the resulting increase in wages and analyze their likely impacts on business costs, prices and employment. We also compare the magnitude of the proposed increase to those in the ten other extant local minimum wage laws.

Background

Real wages for the majority of American workers have stagnated over the last decade, even as incomes at the top rose sharply (Mishel and Shierholz 2013). According to the California Budget Project, workers in the bottom 20 percent of the income distribution in California now earn 12 percent less in inflation-adjusted wages than in 1979 (California Budget Project 2014). Even though states like California have set minimum wage rates above the federal level, they still remain below their historic value in inflation-adjusted terms and do not reflect the higher cost of living in many urban areas.

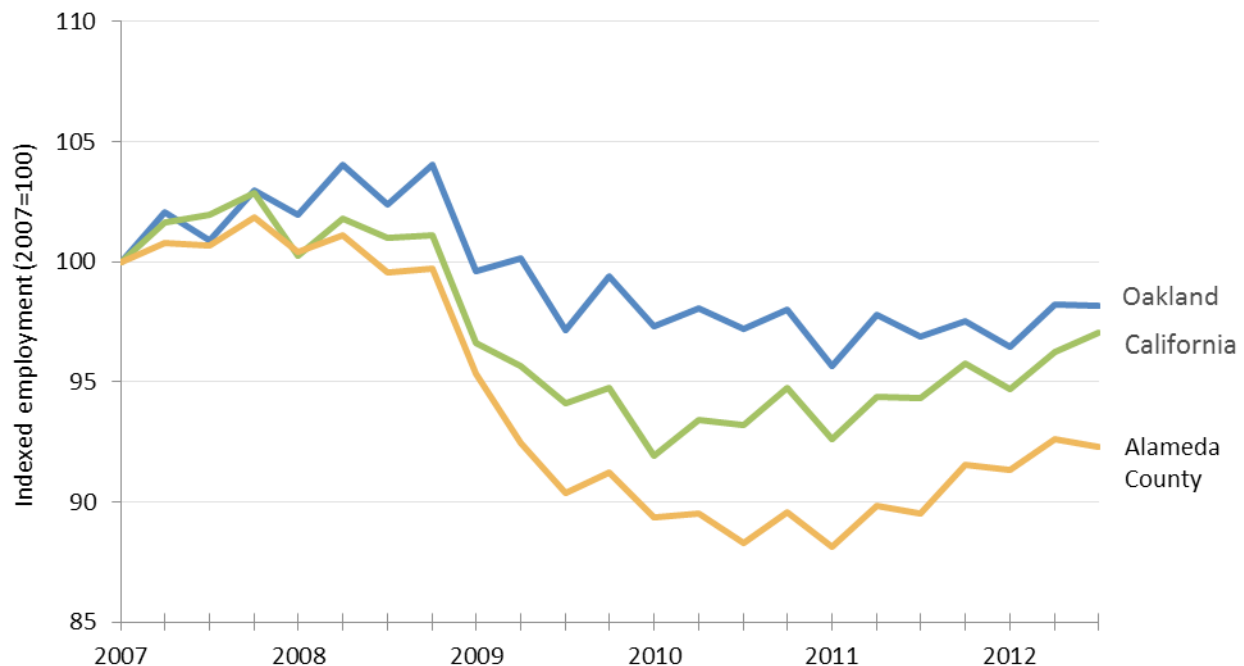
In response, cities and counties have begun to set their own minimum wages at levels that reflect local economic conditions and living costs. Ten cities and counties have approved local minimum wage laws. Most recently Seattle, Washington approved a minimum wage of \$15 an hour, to be phased in over several years. In the Bay Area, in 2003 San Francisco became the first city in the nation to pass a citywide minimum wage law. In 2012, San Jose voters approved a minimum wage initiative setting the minimum wage to \$10 per hour as of January 1, 2014 with subsequent annual cost of living increases.

Proposals are also currently under consideration to increase the minimum wage to \$12.53 in Berkeley, \$13 in Richmond and \$15 in San Francisco. California's minimum wage is set to increase to \$9 on July 1, 2014 and to \$10 on January 1, 2016.

Oakland, the largest city in Alameda County, accounts for about one-fourth of the county's population. Its principal immediate neighbors are Emeryville and Berkeley to the north, the East Bay Regional Park District to the east, San Leandro to the south and Alameda to the west. About 45 percent of employed Oakland residents work in Oakland; conversely, about 60 percent of workers with jobs located in Oakland commute in from nearby cities.¹ The proposed minimum wage law would cover everyone who works in Oakland (excepting state and federal government employees and the self-employed).

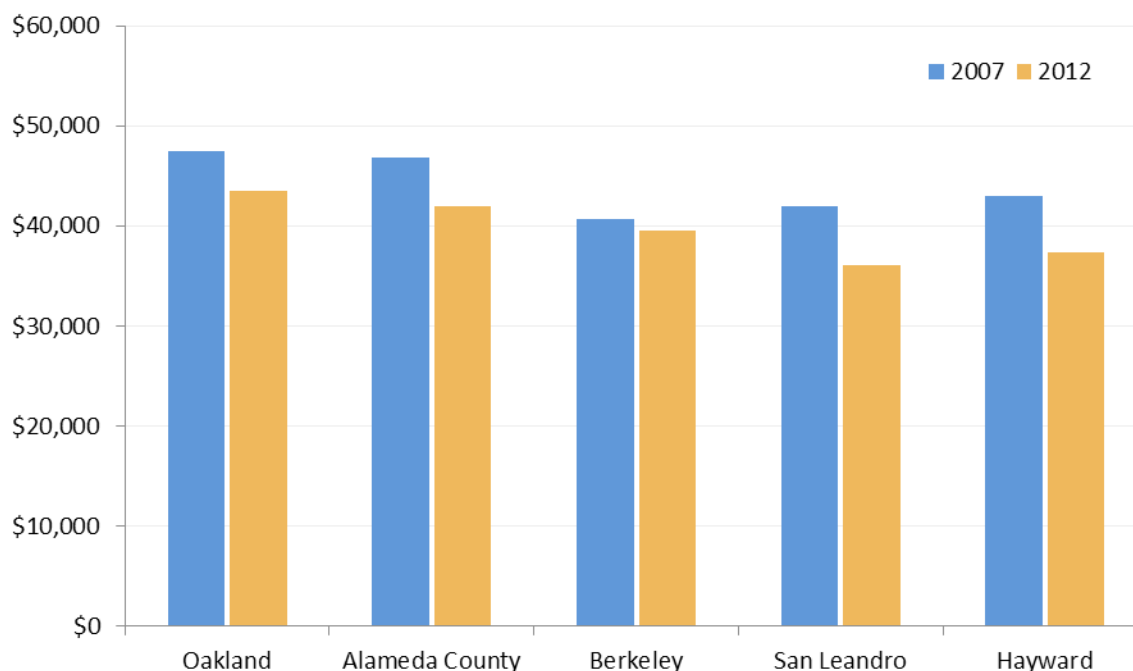
Oakland's economic situation has improved in recent years. During the Great Recession that began in December 2007, employment did not fall as rapidly in Oakland as in Alameda County or in California. As shown in Figure 1, the number of jobs in Oakland is very close to pre-recession levels, a better record than that of Alameda County and California as a whole. Moreover, while the 2014 Oakland unemployment rate remains higher (8.9 percent) than in Alameda County as a whole (5.7 percent), both rates have been falling, and at about the same pace.²

Figure 1. Quarterly Employment Growth (Indexed to 2007)



Source: U.S. Census Bureau, Quarterly Workforce Indicators Data (not seasonally adjusted)

Figure 2. Median Annual Earnings by Place of Work (2012 Dollars)



Source: U.S. Census Bureau, American Community Survey, 2005-2012.

Notes: Estimates are three-year averages.

Despite the recovery, inflation-adjusted median annual earnings for those who work in Oakland are still below pre-recession levels. These declines in median earnings likely reflect a faster contraction of middle wage jobs during the recession and a faster growth of low-wage jobs during the recovery. However, workers in Alameda County as a whole experienced a somewhat larger decline in real earnings than did Oakland Workers (Figure 2). Median inflation adjusted annual earnings fell 8.4 percent for workers in Oakland and 10.4 percent in Alameda County between 2007 and 2012. Nonetheless, median annual earnings for those who work in Oakland are actually higher than in nearby Berkeley, Hayward and San Leandro and slightly higher than in Alameda County as a whole.³

Oakland's economy thus exhibits the same uneven recovery that characterizes the East Bay and the state as a whole. Income inequality in the region has been growing, leaving low-wage workers further behind. According to a recent Brookings Institution report, inequality in Oakland ranks seventh among U.S. cities, just behind New York (Berube 2014). Moreover, according to the Census Bureau, income inequality in Oakland-- as measured by the city's Gini coefficient-- has risen by 2.65 percent since 2008, a more rapid increase than in neighboring San Francisco, and more rapid than in the U.S.⁴ At the same time, median rents in Oakland increased by 20 percent between 2005 and 2012⁵, twice the rate of increase in median household incomes.⁶

Impacts on Workers

Estimated Number of Affected Workers

To estimate the number of workers affected by the proposed minimum wage increase, we obtain the wage distribution of workers in Alameda County using the 2012 American Community Survey (ACS), scaled to approximate employment counts for Oakland.⁷ This step is necessary because the ACS does not allow us to identify individuals who work in Oakland; the smallest geographic area for measuring place of work is the county. We therefore assume that the proportion and characteristics of low-wage workers in Alameda County are similar to low-wage workers in Oakland. Our analysis suggests that the Alameda County workforce serves as a good proxy for the Oakland workforce on many dimensions. For example, 2012 median annual earnings were \$43,480 for workers employed in Oakland and \$41,922 for workers employed in Alameda County.⁸ Where we expect workforce characteristics to differ between the county and the city, we use additional methods to provide an estimate. We do not include self-employed workers or federal or state government employees in our sample, since these groups of workers are not covered by the proposed Oakland law.

After obtaining the wage distribution in Oakland just before the proposed minimum wage law would go into effect, we then estimate the number of workers that would be affected by the increase and the additional wages they would receive if the policy were implemented. To construct these estimates, we also adjust for projected wage growth at the bottom of the wage distribution that would occur without the policy, the interim increase in the state minimum wage to \$9 on July 1, 2014, the subsequent state minimum wage increase to \$10 on January 1, 2016, and projected employment growth.

We produce a low and a high estimate. Both estimates include a directly affected group (workers who make less than the proposed minimum wage) and an indirectly affected group (workers who make slightly more than the proposed minimum wage, but who are also likely to receive a small raise via what is known as the “ripple effect”). The two estimates differ in their assumptions about the size of the ripple effect and the number of very low-wage earners (workers making less than the minimum wage). More information on our methodology is available in an online technical appendix (see Welch-Loveman, Perry and Bernhardt 2014). In this report we present the midpoint of the two estimates, unless otherwise noted.

Table 1 shows the estimated number and percent of workers affected by Oakland’s proposed minimum wage increase. We estimate that between 25 and 30 percent of Oakland workers will receive pay raises, which translates into 40,000 to 48,000 Oakland workers. The majority of the affected workers will be directly affected workers – that is, those earning less than \$12.25 when the law would go into effect.

Table 1. Number of Workers Affected by Oakland’s Proposed Minimum Wage Increase

	Low Estimate		High Estimate	
	Workers	Percent of Workforce	Workers	Percent of Workforce
All Affected Workers	40,000	24.8	48,000	29.5
Directly Affected Workers	31,000	19.1	34,000	20.7
Indirectly Affected Workers	9,000	5.7	14,000	8.7

Source: Authors’ analysis of ACS, OES, and QCEW data. See Welsh-Loveman, Perry and Bernhardt 2014.

Estimated Size of Wage Increases

In addition to the number of workers affected, we also estimate the additional earnings that affected workers would receive as a result of the proposed minimum wage law. Table 2 presents four measures: the average increase in hourly wages, the average increase in annual earnings, the average percentage increase in annual earnings and the total projected increase in earnings. We estimate that hourly wages of affected workers will rise by about \$1.69, that their annual earnings will increase by about \$2,700, and that their earnings will increase by about 18.7 percent.⁹ In total, workers will earn about \$120 million more in the first year of implementation as a result of the higher wage rate.

Table 2. Pay Increases for Workers Affected by Oakland’s Proposed Minimum Wage Law

Total Increase In Earnings	\$120,100,000
Average Hourly Wage Increase	\$1.69
Average Annual Earnings Increase	\$2,700
Average Percent Annual Earnings Increase	18.7

Source: Authors’ analysis of ACS, OES, and QCEW data. See Welsh-Loveman, Perry and Bernhardt 2014.

Notes: Results refer to workers affected by Oakland’s proposed minimum wage increase.

Demographics of Affected Workers

Table 3 profiles key demographic characteristics of the workers affected (both directly and indirectly through the ripple effect) by the proposed Oakland minimum wage law. In this table we use our low estimate to identify affected workers.

The first column of Table 3 displays the distribution of affected workers among demographic groups. For example, 48.2 percent of affected workers are women and 51.8 are men. Column 2 shows the same breakdown for all workers in Oakland. The last column shows the percentage of workers in each demographic group that will be affected by the proposed law. For example, 25.7 percent of female workers and 24.0 percent of male workers will receive a wage increase under the proposed law.

Table 3. Demographic Characteristics of Workers Affected by Oakland’s Proposed Minimum Wage Increase
(all figures are percentages unless otherwise noted)

	% of All Affected Workers	% of All Workers	% of Group Affected
Gender			
Male	51.8	53.5	24.0
Female	48.2	46.5	25.7
Median Age			
	32	41	
Age			
19 and Younger	3.5	1.2	70.7
20-29	39.8	19.9	49.7
30-39	19.8	24.9	19.8
40-54	25.8	37.5	17.1
55 and Older	11.1	16.5	16.6
Education			
Less than High School	22.9	10.0	56.9
High School or G.E.D.	25.2	18.5	33.7
Some College	27.2	22.5	30.0
Associate’s Degree	6.0	7.6	19.4
Bachelor’s Degree or Higher	18.8	41.3	11.3
Country of Birth			
U.S. Born	50.0	61.0	20.3
Foreign Born	50.0	39.0	31.8
Family Structure			
Married	38.5	54.0	17.7
Have Children	35.8	45.0	19.7

Source: Authors’ analysis of ACS, OES, and QCEW data.

Notes: Affected workers are determined using our low estimate.

Contrary to the common perception that minimum wage workers are mainly teens, we estimate that 96.5 percent of affected workers are in their twenties or older, and that over half of the workers receiving raises are in their thirties or older. Over a third of affected workers have children and over a third are married. Compared to the overall workforce, affected workers are more likely to be immigrants and are less likely to hold an Associate’s or Bachelor’s degree.

For the estimates in Table 3, we used the demographic characteristics of Alameda County workers to approximate the characteristics of Oakland workers; for the measures listed in the table, we have confirmed that this inference is valid. However, our analysis suggests that the Oakland workforce differs from the Alameda County workforce in terms of race and ethnicity, and family income-related measures. Since the available data do not allow us to directly identify workers employed in Oakland, we show in Table 4 the average of two different estimates.¹⁰

As shown in Table 4, workers of color will disproportionately benefit from the proposed law compared to white workers. The families of affected workers are disproportionately low-income (with more than half falling below 200 percent of the federal poverty level), and more likely to be receiving food stamps. Substantial majorities of working poor families will receive an increase in income from the proposed law.

Table 4. Estimated Race and Household Income Characteristics of Workers Affected by Oakland’s Proposed Minimum Wage Increase

(all figures are percentages unless otherwise noted)

	% of All Workers Getting a Raise	% of All Workers	% of Group Getting a Raise
Race/Ethnicity			
White (Non-Hispanic)	18.2	34.1	15.3
Black (Non-Hispanic)	13.6	13.8	29.2
Hispanic	43.0	25.3	49.9
Asian (Non-Hispanic)	22.1	23.0	28.6
Other	3.2	3.8	24.2
Household Income Relative to Poverty Level (FPL)			
Less than 100% of FPL	18.7	6.8	81.5
100% to 150% of FPL	21.6	9.0	71.8
150% to 200% of FPL	15.2	7.4	60.6
More than 200% of FPL	44.4	76.7	16.9
Average Worker Share of Household Income	41.3	55.4	
Food Stamp Assistance			
Family Receives Food Stamp Assistance	19.2	8.7	64.9

Source: Authors’ analysis of ACS, OES, and QCEW data.

Notes: See text for explanation of the two estimation methods. Affected workers are determined using our low estimate.

Job Characteristics of Affected Workers

In Table 5, we profile the job characteristics of workers affected by the proposed minimum wage law. Not surprisingly, the median annual earnings of affected workers is quite low, less than half of the median for the workforce as a whole. Affected workers are also more likely to work part-time and part-year than the general workforce, and are less likely to have health insurance provided by their employer. The industry breakdown is also instructive. Fully half of all affected workers are employed in three industries: retail trade (17.1 percent); restaurants (17.9 percent); and education, health and social services industries (15.7 percent). (The latter set of industries includes teachers’ assistants, medical assistants, childcare workers and private-pay home health aides). Several smaller industries also have a disproportionate number of affected workers, such as administrative and waste management services (largely temporary workers).

Table 5. Job Characteristics of Workers Affected by Oakland’s Proposed Minimum Wage Increase
(all figures are percentages unless otherwise noted)

	% of All Workers Getting a Raise	% of All Workers	% of Group Getting a Raise
Median Individual Annual Earnings (2013 Dollars)	\$16,200	\$44,600	
Full-Time / Part-Time Worker			
Full-Time (35 or More Hours per Week)	63.4	80.1	19.6
Part-Time (Fewer than 35 Hours per Week)	36.6	19.9	45.7
Full-Year / Part-Year Worker			
Full-Year (50-52 Weeks per Year)	77.7	84.9	22.7
Part-Year (Fewer than 50 Weeks per Year)	22.3	15.1	36.5
Sector			
Private Sector Employer	87.8	79.6	27.4
Non-Profit Employer	8.1	11.5	17.4
Local Government	4.2	9.0	11.5
Health Insurance Provided by Employer			
Yes	46.0	76.4	14.9
No	54.0	23.6	56.8
Industry			
Agriculture, Forestry, Fishing, Hunting, and Mining	0.2	0.3	
Construction	4.9	5.6	21.4
Manufacturing	10.5	14.0	18.6
Wholesale Trade	3.8	4.2	22.2
Retail Trade	17.1	11.3	37.4
Transportation, Warehousing, and Utilities	3.2	4.7	17.3
Information and Communications	1.5	2.9	13.0
Finance, Insurance, Real Estate, and Rental and Leasing	2.8	5.0	14.1
Professional, Scientific, and Management	2.9	9.1	7.9
Administrative and Waste Management Services	7.7	4.4	42.9
Educational, Health and Social Services	15.7	21.7	18.0
Arts, Entertainment, Recreation	2.2	1.9	29.2
Accommodations	1.7	1.0	
Food Services	17.9	6.9	63.9
Other Services (except Public Administration)	7.2	4.5	40.2
Public Administration	0.7	2.4	6.7

Source: Authors’ analysis of ACS, OES, and QCEW data.

Notes: Affected workers are determined using our low estimate. Blank values for “% of Group Getting a Raise” indicate less than 50 observations for that category.

Impacts on Businesses

Impact on Costs for Business Owners

We next estimate the impact of Oakland's proposed minimum wage law on the operating costs of businesses. Our strategy is to compare the estimated increase in the overall wage bill resulting from the proposed law to the existing wage bill paid by employers, drawing on our estimates in Table 1 and Table 2 above.

Table 6 shows our analysis of the estimated increase in business operating costs in two traditionally low-wage industries, retail and restaurants. Businesses' total wage bill will increase 2.4 percent for the retail industry, and 8.9 percent in the restaurant industry. However, operating costs will rise by a much smaller amount, since wage costs only make up a portion of the total operating costs that businesses face. Labor costs (excluding health benefits) account for 11 percent of retail operating costs and 31 percent of restaurant operating costs.¹¹ We therefore estimate that total operating costs will increase by 0.3 percent for retail and 2.8 percent for restaurants, as a result of the proposed minimum wage law.

Table 6. Impact of Oakland's Proposed Minimum Wage Increase On Business Operating Costs

Retail Industries

% Change in Payroll Costs	2.4
Labor Costs as % of Operating Costs*	11
% Change in Operating Costs	0.3

Restaurant Industries

% Change in Payroll Costs	8.9
Labor Costs as % of Operating Costs*	31
% Change in Operating Costs	2.8

Source: Authors' analysis of ACS, OES, QCEW, U.S. Census Monthly and Annual Retail Trade and BEA data.

*Labor costs exclude health insurance. Operating costs include costs of merchandise purchased for re-sale.

Given these modest estimated increases in operating costs, we turn next to a discussion of how businesses might adjust. We discuss, in turn, the effects of minimum wages on employment and hours, on worker productivity and turnover, and on consumer prices.

Impact on Employment and Hours

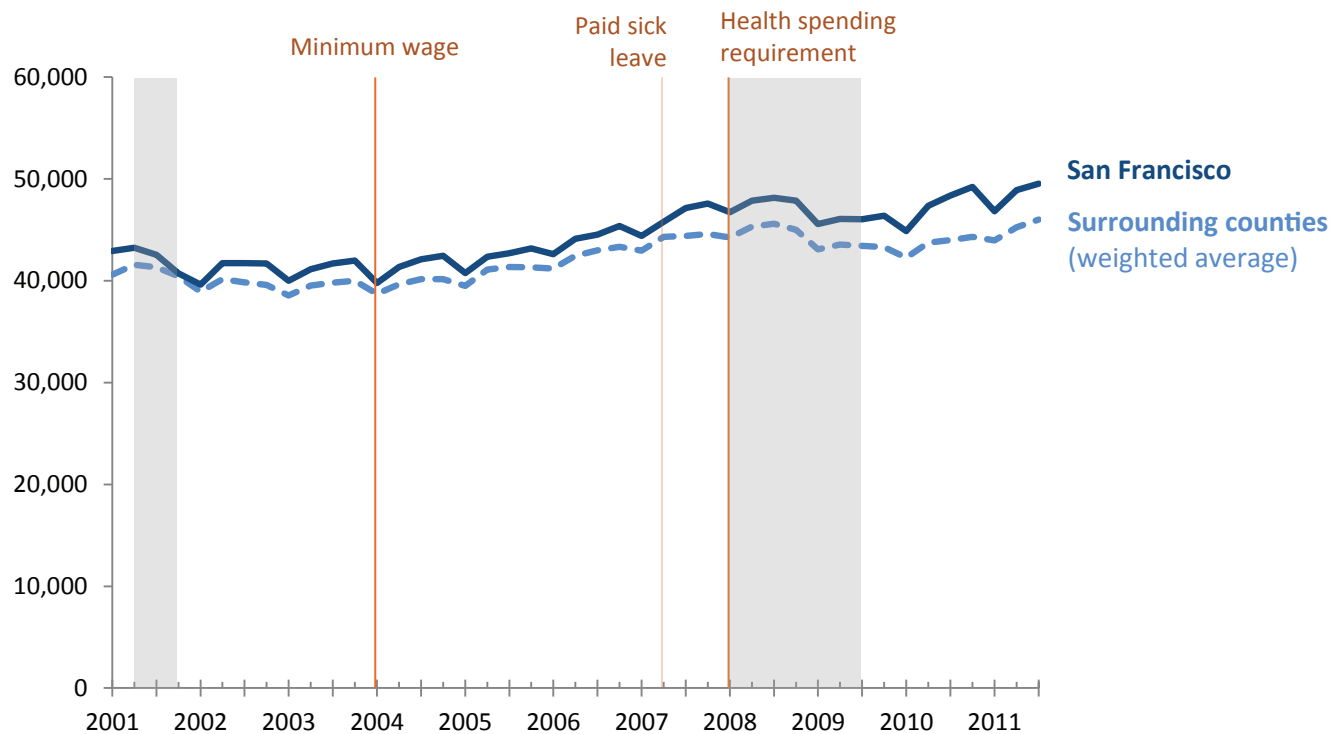
In a recent report prepared for the City of Seattle, Reich, Jacobs and Bernhardt (2014) provide an extensive review and synthesis of economic research on the employment and hours impacts of minimum wage increases. Here, we draw on that paper and provide a brief summary of what we consider to be the most compelling studies.

Research evidence from local minimum wage laws

There are three rigorous studies of the employment impacts of existing local minimum wage laws. Dube, Naidu and Reich (2007) studied the impact of San Francisco’s minimum wage law after it increased from \$6.75 to \$8.50 an hour in 2004. They surveyed a sample of restaurants before and after the wage increase. The sample included restaurants from San Francisco as well as neighboring East Bay cities that were not covered by the policy.

The authors found no statistically significant negative effects on either employment or the proportion of full-time jobs as a result of the San Francisco law. This finding holds for both full-service and fast-food restaurants (one might expect more sensitivity to a higher minimum wage in the latter). Figure 3 shows the results from their follow-up study (Reich, Jacobs, and Dietz 2014). Restaurant employment in San Francisco rose slightly faster than in surrounding counties after the minimum wage increase, and again after San Francisco implemented two additional policies (paid sick leave and a health spending requirement).

Figure 3. Bay Area Restaurant Employment



Source: Reich, Jacobs and Dietz (2014)

Notes: Shaded areas indicate recessions. Surrounding counties include San Mateo, Santa Clara, and Alameda Counties.

Potter (2006) studied the impact of Santa Fe’s minimum wage law after it increased from \$5.15 to \$8.50 in 2004, a substantial increase of 65 percent. Potter compares changes in employment at Santa Fe businesses before and after the ordinance went into effect, and to changes in employment in nearby Albuquerque over the same time period. (Albuquerque did not have a city minimum wage law at that time.) Potter found no statistically significant negative impact of Santa Fe’s minimum wage increase on the city’s employment. This finding also held for accommodation and food services, the industries with the highest proportion of minimum wage workers.

Finally, Schmitt and Rosnick (2011) studied the impact of the above two laws, comparing employment trends in these cities before and after their minimum wage increases to control groups of surrounding suburbs and nearby metropolitan areas. The authors focused on fast-food restaurants, food services, retail trade, and other low-wage industries, and found no discernible negative effects on employment, even three years after the respective ordinances were implemented.¹²

Evidence from state and federal minimum wage laws

The results from studies of local minimum wage laws are corroborated by extensive research on state and federal minimum wage laws. Allegretto, Dube, Reich and Zipperer (2013) looked at every state and federal minimum wage increase in the U.S. between 1990 and 2012 and identified several hundred pairs of adjacent counties that were located on different sides of a state border with a minimum wage difference. This research design compares the employment trends of the most affected groups – teens and restaurants – across adjacent counties with different minimum wage levels. This study finds no statistically significant effects of minimum wage increases on either employment or hours in restaurants and other low-wage industries, controlling for a range of regional and local differences that previous research did not include.

Belman and Wolfson (2014) provide the most extensive recent summary of the minimum wage research literature. They conclude that minimum wage employment effects in the U. S. are “both vanishingly small and not statistically significant in even the most generous test” (p. 168). A separate review of minimum wage research by Schmitt (2013) similarly finds “the minimum wage has little or no discernible effect on the employment prospects of low-wage workers.”

In summary, the best research studies find that minimum wage mandates (in the range implemented to date) do not have a statistically significant negative effect on employment or hours. How, then, do firms adjust to the modest increase in operating costs estimated above?

Effects on Worker Productivity and Recruitment and Retention Costs

As discussed in detail by Reich, Jacobs and Bernhardt (2014), businesses can adjust to the increased costs of a minimum wage increase without reducing employment. First, when workers are paid more, their productivity can improve, as can their attitude about their job, how hard they work, and their ability to make it to work on time (Reich, Jacobs and Dietz 2014 and Hirsch, Kaufman and Zelenska 2011). Second, minimum wages can reduce the high levels of job churning that characterize low-wage labor markets. The National Restaurant Association estimates that annual employee turnover in restaurants approaches 75 percent in some restaurant classifications (National Restaurant Association 2010). Turnover levels are high as workers leave jobs that pay higher wages or because they are unable to stay in their jobs due to poverty-related problems such as difficulties with transportation, child care, or health. Dube, Lester and Reich (2013) found that a 10 percent increase in the minimum wage results in a 2.1 percent reduction in turnover for restaurant workers. Turnover can be quite costly to firms, even for low-wage workers. Boushey and Glynn (2012) find that the median cost of replacement for a job paying \$30,000 a year or less is 16.1 percent of an employee’s annual earnings. As a result, rather than eliminating jobs, raising the minimum wages can reduce turnover and increase job stability. The associated reduction in employers’ recruitment and retention costs offsets about 20 to 25 percent of the costs of minimum wage increases (Dube, Lester and Reich 2013).

Impact on Restaurant Prices

Firms also adjust to increased costs by passing on some of the increases to consumers through higher prices. Since the minimum wage applies to all employers, firms such as restaurants that serve the local market will be able to pass costs through to consumers without experiencing a competitive disadvantage. And since the demand for restaurant meals responds inelastically to price increases, restaurant profits do not fall.

Research by Aaronson, French and MacDonald (2008) has found that for every percentage point increase in the minimum wage, restaurant prices rise by 0.072 percent. An earlier study (Lee et al. 2000) showed that restaurant operating costs increase by about 0.1 percent for each percentage increase in the minimum wage (see also Benner and Jayaraman 2012). The two studies together thus suggest that 70 to 75 percent of cost increases are passed on as higher restaurant prices. Preliminary results from a study of San Jose's recent experience arrive at a similar estimate (Allegretto and Reich 2014). Applying this estimate to restaurants in Oakland implies an average price increase of 2.6 percent, which is very close to annual restaurant price increases in recent years.

Table 7. Impact of Oakland's Proposed Minimum Wage Increase On Restaurant Prices

	Low Estimate	High Estimate
Retail Industries	0.2%	0.3%
Restaurant Industries	2.0%	2.9%

Source: Authors' analysis of ACS, OES, QCEW, U.S. Census Monthly and Annual Retail Trade and BEA data.

In Table 7 we provide our own estimates of the impact on restaurant and retail prices. Our low estimate uses the lower estimated increase in operating costs from Table 6, and assumes that 75 percent of those costs are passed through to consumers. Our high estimate uses the higher estimate for increases in operating costs and assumes that 100 percent of the costs are passed through to consumers. For restaurants, we predict a one-time increase in prices of 2.0 to 2.9 percent. The midpoint of this range, 2.5 percent, is very similar to the prediction from the research literature above. The price of a \$10 menu item would thus increase very modestly, to \$10.25. For retail and the local economy as a whole, price increases would be negligible.

Comparison to Other Minimum Wage Increases

It is important to emphasize that the economic research summarized above is necessarily limited to studying the minimum wage laws that have been implemented to date. It is therefore useful to ask how the Oakland's proposed minimum wage increase compares to those that have been implemented in the past.

The proposed ordinance would increase Oakland's minimum wage by 36.1 percent at the time of proposed implementation (in March 1, 2015, the state minimum wage will be \$9 an hour, rising to \$10 on January 1, 2016). While high, the size of the proposed increase is well within the range of other local minimum wage laws. The ten previous local minimum wage laws in the U.S. have mandated an average

increase of 43.0 percent in their minimum wage, with a range of 13.3 to 84.5 percent (this calculation includes Seattle's new law). A number of these laws were phased in over time, with the first year's increase typically the largest. Across all existing laws, first-year increases ranged from 6.7 to 65.0 percent, with an average of 25.6 percent. Again, Oakland's proposed increase falls within the range of other cities' laws.

While the proposed wage standard for Oakland is higher than is currently in effect in other Bay Area cities, Richmond, Berkeley and San Francisco are all considering wage increases that would be close to, or in the case of San Francisco, higher than, the \$12.25 an hour under consideration in Oakland.

Another measure used by economists to determine the ability of the economy to absorb higher minimum wage levels is the ratio of the minimum wage to the median wage. The proposed wage of \$12.25 is 54 percent of the median wage in Oakland of \$22.64 an hour. This ratio is within the historical range of the federal minimum wage-median ratio, which reached 55 percent in 1968 (Dube 2013), and it is lower than the 59 percent ratio in the new Seattle law.

Conclusion

Drawing on a variety of government data sources, we estimate that 40,000 to 48,000 workers would benefit from Oakland's proposed minimum wage policy, with the average worker earning an additional \$2,700 a year. Our analysis of the existing economic research literature suggests that businesses will adjust to modest increases in operating costs through reduced employee turnover costs, improved work performance, and a small, one-time increase in restaurant prices.

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Endnotes

¹ Bay Area Census analysis of 2006-2010 American Community Survey Commute Flows. <http://www.bayareacensus.ca.gov/transportation.htm>

² Bureau of Labor Statistics Local Area Unemployment Statistics.

³ U.S. Census Bureau; American Community Survey, 2005-2012 American Community Survey 3-Year Estimates, Table B08521; <<http://factfinder2.census.gov>>; accessed 6 June 2014.

⁴ U.S. Census Bureau; American Community Survey, 2008 and 2012 American Community Survey 1-Year Estimates, Table B19083; <<http://factfinder2.census.gov>>; accessed 5 June 2014.

⁵ Based on annual data. U.S. Census Bureau; American Community Survey, 2005-2012 American Community Survey 1-Year Estimates, Table B25064; <<http://factfinder2.census.gov>>; accessed 3 June 2014.

⁶ Based on annual data. U.S. Census Bureau; American Community Survey, 2005-2012 American Community Survey 1-Year Estimates, Table B19013; <<http://factfinder2.census.gov>>; accessed 3 June 2014.

⁷ According to the Quarterly Census of Employment and Wages, Oakland accounted for 25 percent of Alameda County employment in the second quarter of 2013.

⁸ U.S. Census Bureau; American Community Survey, 2010-2012 American Community Survey 3-Year Estimates, Table B08521; <<http://factfinder2.census.gov>>; accessed 6 June 2014.

⁹ Although more workers will receive an increase in our high estimate, the average wage increases are smaller because the additional workers included in the high estimate will receive below-average increases. For more detail on our estimation methods, see Welsh-Loveman, Perry and Bernhardt (2014).

¹⁰ The first estimate simply uses the characteristics of Alameda County workers. The second estimate uses the characteristics of Alameda County workers who live in or near Oakland (including Emeryville, Piedmont, San Leandro, and the city of Alameda). Oakland accounts for 79 percent of the residents in this area. The second estimate should not be interpreted as a more accurate estimate, because only 40.5 percent of Oakland workers live in Oakland.

¹¹ To determine the labor share of operating costs in retail we use data from the U.S. Census Monthly and Annual Retail Trade (<http://www.census.gov/retail/index.html>), which provides data on retail sales, merchandise purchased by retailers for resale and detailed operating expenses. We add operating expenses and purchases together to determine total operating costs. We add the costs of fringe benefits (minus health insurance) to annual payroll to estimate total labor costs. Health benefits are excluded since, unlike payroll taxes and workers compensation insurance, the costs of the benefits will not change if wages are increased. Dividing labor costs by operating costs gives us the labor share. The Retail Trade data does not provide the cost of goods purchased for resale in the restaurant industry. Industry data on gross operating surplus is available in the Bureau of Economic Analysis Input-Output Account Data (http://www.bea.gov/industry/io_annual.htm). The data was accessed from the Use Table, 2012, before redefinitions, producer value. We subtract gross operating surplus from sales to get the total restaurant operating costs and proceed as done for retail.

¹² The restaurant industry-backed Employment Policies Institute has produced three studies of Santa Fe and San Francisco (Yelowitz 2005a; 2005b; 2012). In our assessment, these studies suffer from serious methodological problems that make the results unreliable. They also offer contradictory results; see Reich, Jacobs and Bernhardt (2014) for details.

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Executive Summary:

The Proposed Minimum Wage Law for Los Angeles: Economic Impacts and Policy Options

By Ken Jacobs, Annette Bernhardt and Ian Perry

March 20, 2015

Note: The full report is available online at <http://irle.berkeley.edu/cwed/briefs/2015-01.pdf>

The Los Angeles City Council is considering a citywide minimum wage increase to \$13.25 by 2017 and \$15.25 by 2019, followed by annual increases indexed to inflation. In this prospective study, we assess the economic impact of the proposal on workers, businesses and the city's economy, and analyze a range of policy design options.

Our below findings are based on a mid-range scenario for future wage and inflation growth in Los Angeles. If actual economic growth turns out to be stronger or weaker than in this scenario, our assessment would change accordingly.

Effects on Workers

- The proposed policy would result in significant benefits to workers and their families. By 2017, we estimate that 542,000 workers in Los Angeles, or 37.8 percent of the covered workforce, will receive a wage increase from the proposed law. These estimates include a ripple effect in which some workers who earn above the new minimum wage also receive an increase. Average annual earnings will increase by 20.4 percent, or \$3,200 (in 2014 dollars).
- By 2019, we estimate that 609,000, or 41.3 percent of the covered workforce, will receive a wage increase from the proposed law. Average annual earnings will increase by 30.2 percent, or \$4,800 (in 2014 dollars).
- The large majority of affected workers will be adults with a median age of 33 (only 3 percent are teens).
- The proposed minimum wage increase will disproportionately benefit workers of color, who represent over 80 percent of affected workers. In particular, we estimate that more than half of Latino/a workers in Los Angeles will receive a pay increase.

- The median annual earnings of affected workers (\$16,600 in 2014 dollars) is about half of the median income for all workers in Los Angeles. Affected workers are disproportionately employed in part-time and part-year jobs, and are also less likely to have health insurance through their employer.
- Affected workers disproportionately live in low-income families; on average, affected workers bring home more than half of their family's income.
- Affected workers live disproportionately in the lower-income areas of the city. These areas will experience much greater earnings gains than the city as a whole.
- The research literature suggests that there may be downstream benefits from the proposed wage increase, such as improved health outcomes for both workers and their children, and increases in children's school achievement and cognitive and behavioral outcomes.

Effects on Businesses

- We estimate that the majority of workers getting a raise from the proposed law are employed in the private, for-profit sector. Four industries alone account for half of the affected workforce by 2019: food services, which is largely restaurants (17.3 percent), health care and social assistance (12.9 percent), retail trade (14.0 percent), and administrative and waste management services, such as temp agencies and janitorial and security contractors (9.4 percent).
- We estimate that about 40 percent of affected workers are employed at firms with fewer than 50 employees. At the other end of the size range, close to 40 percent of affected workers are employed at firms with 500 employees or more.
- Minimum wage increases do not affect all industries equally. For example, we estimate that 79.7 percent of workers in the restaurant industry will receive a wage increase by 2019; that figure is only 19.1 percent in Professional and Scientific Services industries.
- Overall, we estimate that firms' operating costs will increase by 0.5 percent by 2017 and 0.9 percent by 2019 as a result of the proposed law; these are cumulative estimates and will be spread over several years. The largest increases will occur in food services, administrative and waste management services, and apparel manufacturing.
- We estimate that 6 percent of the workers projected to receive increases are employed in one of Los Angeles' 2,500 nonprofit organizations. The impact of the proposed law varies considerably across the nonprofit sector, with the largest effects in residential care and early care and education.

Costs and Benefits for Los Angeles' Economy

- On the cost side, we find that employers will pass on their increased operating costs to consumers via prices, after accounting for savings from reduced employee turnover. As a result of these price increases, consumer demand in Los Angeles will decrease by \$592 million by 2017 and \$1.128 billion by 2019 (nominal dollars).

- While price increases reduce consumer demand, increases in low-wage workers' wages will have the opposite effect. On the benefits side, we estimate that the total wage increase from the proposed law (net of reductions in public assistance and lost worker income due to reductions in consumer demand) will be \$1.361 billion by 2017 and \$2.381 billion by 2019 (nominal dollars). These increased incomes generate further spending benefits through multiplier effects.
- The costs of the proposed minimum wage law will be concentrated in Los Angeles City, but the full benefits will be realized throughout Los Angeles County, because more than half of the affected workers live, and therefore spend most of their increased earnings, outside the city.
 - *Los Angeles City:* Combining costs and benefits and taking into account multiplier effects, we estimate a cumulative net reduction in GDP of \$135 million by 2017 and \$315 million by 2019, or 0.1 percent compared to a scenario with no city minimum wage increase. These effects on the level of economic activity correspond to a cumulative net reduction in employment in Los Angeles City of 1,552 jobs by 2017 and 3,472 jobs by 2019, or 0.1 and 0.2 percent of all employment, respectively. These employment changes are quite small when compared to projected job growth of 2.5 percent a year in the city.
 - *Los Angeles County:* Combining costs and benefits and taking into account multiplier effects, we estimate a cumulative net increase in employment of 3,666 jobs by 2017 and 5,262 jobs by 2019 at the county level.
- These are cumulative estimates, which will be spread over a number of years; 2017 estimates will be spread over 2015-2017, and 2019 estimates will be spread over 2015-2019.
- We project a nominal increase in sales and business tax receipts for the City of \$2.6 million in 2017 and \$4.7 million in 2019. We were not able to project increases in costs to the City budget.
- Previous research suggests that business relocations in the Los Angeles area are more determined by real estate prices and access to consumer markets than by differences in labor costs. Wages are likely to rise just outside of Los Angeles City as businesses there will want to hold on to their workforce. The low levels of retail vacancy rates inside and near Los Angeles City will also mitigate any net business exodus.
- Recent research also suggests that any business closures stimulated by minimum wage increases tend to be offset by additional new businesses.

Policy Assessment

- We find that the benefits of the proposed minimum wage law will largely outweigh the costs in Los Angeles City, and when the larger region is considered, the net impact of the law will be positive.
- The high density of low-wage jobs in Los Angeles means that the benefits of raising the minimum wage will be considerable; it also means that the risks of unintended effects are greater, especially at higher wage levels.

- In implementing a local minimum wage ordinance of the proposed magnitude, it will be essential to monitor the program as it develops. Support will be needed for small businesses and nonprofit agencies to make the transition toward higher wages, and to secure increases in reimbursement rates for nonprofits funded through government subsidies.
- Finally, given the high rates of workplace violations in Los Angeles, the goals of the minimum wage proposal will be realized only by including robust enforcement language in the law, creating a city enforcement agency, and implementing good enforcement practices and policies.

Our goal in this report has been to provide the Los Angeles City Council the best information available as it weighs these competing factors in designing the best policy for the city's workers, businesses and residents.