



AGENDA

SPECIAL CONCURRENT CITY COUNCIL/REDEVELOPMENT AGENCY SUCCESSOR AGENCY MEETING – CLOSED SESSION

Tuesday, November 3, 2015 – 6:00 p.m.

Hillside Conference Room

REGULAR CITY COUNCIL MEETING

Tuesday, November 3, 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

6:00 p.m.

CONVENE SPECIAL CONCURRENT CITY COUNCIL/REDEVELOPMENT SUCCESSOR AGENCY MEETING

ANNOUNCEMENT OF CLOSED SESSION

CITY COUNCIL CLOSED SESSION ITEMS

1) CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

(Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): One potential case)

2) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Government Code Section 54956.9(d)(1))

Name of case: Sipple v. City of Alameda, et al. (Los Angeles Superior Court Case No. BC462270)

REDEVELOPMENT SUCCESSOR AGENCY ITEM

3) CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

(Government Code Section 54956.9(d)(1))

Name of case: El Cerrito Redevelopment Agency Successor Agency v. Cohen, (Third Appellate District, Case No. C078064)

ORAL COMMUNICATIONS (*Comments are limited to 3 minutes per speaker and to items listed on this special meeting agenda only*)

**RECESS INTO CLOSED SESSION
ADJOURN SPECIAL CONCURRENT CITY COUNCIL/REDEVELOPMENT
SUCCESSOR AGENCY MEETING – CLOSED SESSION**

ROLL CALL

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

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – *Councilmember Jan Bridges.*

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. PRESENTATION

El Cerrito – Kensington Community Wildfire Protection Plan – *Presentation by Cheryl Miller, Executive Director, Diablo Fire Safe Council.*

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

A. Minutes for Approval

Approve the October 6, 2015 Regular City Council meeting minutes.

B. Proclamation Recognizing the El Cerrito Preschool Cooperatives 75th Anniversary

Approve a proclamation congratulating and honoring the El Cerrito Preschool Cooperative for its 75 years of valuable service to the children and parents of the community, and extending to those parents and teachers, the City Council's best wishes for a bright future.

C. Proclamation Recognizing the Sundar Shadi Holiday Display

Approve a proclamation recognizing the Sundar Shadi Holiday Display and the dedication and on-going commitment of volunteers in continuing the tradition of sharing the Holiday Display as a gift to the community and celebrating this unique part of El Cerrito's history and culture.

D. Proclamation Declaring November 4, 2015 as "Shelter-in-Place Education Day"

Approve a proclamation recognizing the importance of preparing for emergencies and encouraging participation in the Contra Costa Community Awareness Emergency Response (CAER) Group's public education efforts. In support of the parents, teachers, students and staff that will be participating with hundreds of other schools and childcare centers in the Shelter-in-Place Drill, the City Council proclaims November 4, 2015, as "Shelter-in-Place Education Day" in the City of El Cerrito.

E. Amendment to the City's Neighborhood Traffic Management Program

Adopt a resolution amending the City's Neighborhood Traffic Management Program to re-classify Speed Humps as a Tier I Measure. *Exempt from CEQA.*

F. Funding Appropriation for Tree Hazard Reduction Work in City Parks

Adopt a resolution: 1) Approving an additional appropriation of \$35,000 from the unrestricted General Fund balance as part of a mid-year budget adjustment to the Fiscal Year (FY) 2015-16 Adopted Budget to address tree hazard reduction work in City parks; and 2) Authorizing the City Manager to enter into an agreement with West Coast Arborists in an amount not to exceed \$25,000 for hazard reduction work in Arlington and other City parks. *Exempt from CEQA.*

G. Professional Services Agreement with Management Partners

Adopt a resolution authorizing the City Manager to execute an amendment to the Professional Services Agreement between the City of El Cerrito and Management Partners (Consultant) to provide support services to the Community Development Department in an amount not to exceed \$22,000 bringing the total contract to an amount not to exceed \$42,000.

H. First Amendment to License Agreement with BART for Ohlone Greenway

Adopt a resolution authorizing the City Manager to execute the First Amendment to the License Agreement (First Amendment) by and between the San Francisco Bay Area Rapid Transit District (BART) and the City of El Cerrito (City) regarding improvement, operation, and maintenance of the BART owned portion of the Ohlone Greenway. *Exempt from CEQA.*

I. 2014 Pavement Rehabilitation Project, City Project No. C3074 – Funding Appropriation for Tree Work on Manila Avenue

Adopt a resolution amending the Capital Improvement Program/Annual Program of Maintenance and Improvement pursuant to the Measure A Street Improvement Program and the Fiscal Year (FY) 2015-16 Adopted Budget to appropriate an additional \$18,750 in the Measure A Street Improvement Fund (Fund 211) for completion of tree installation work under the 2014 Pavement Rehabilitation Project, City Project No. C3074. *Exempt from CEQA.*

J. Committee on Aging Appointment

Approve a Committee on Aging recommendation to appoint Margot Allen to the Committee on Aging, effective November 3, 2015.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS

CITY COUNCIL ITEM

A. Minimum Wage Ordinance

Receive a presentation, hear public comments and upon conclusion, introduce by title, waive any further reading, and approve an ordinance amending the El Cerrito Municipal Code Title 6 ("Business Permits and Regulations") by adding a new Chapter 6.95 ("City Minimum Wage Standards").

REDEVELOPMENT AGENCY SUCCESSOR AGENCY ITEM

B. Long Range Property Management Plan

Adopt a Successor Agency resolution approving and authorizing the submittal of a Long Range Property Management Plan to the Oversight Board and State Department of Finance.

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, November 17, 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). Assistive listening devices are available for use at the meeting.
- ***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.

INTRODUCTION OF EL CERRITO-KENSINGTON CWPP

By Cheryl Miller, Executive Director, Diablo Fire Safe Council

The City of El Cerrito has a unique ecology that contains all the necessary ingredients to create a catastrophic urban interface wildfire – particularly the topography, climate and vegetation. While El Cerrito has this rich setting for catastrophic fire to strike, large-scale fires are a rare event and do not occur regularly. In fact the rarity of this type of fire actually allows for the accumulation of fuels needed to drive large scale fire incidents driven by extreme wind conditions. Contemporary population growth leading to residential development in the wildland urban interface (WUI) along with the introduction and proliferation of exotic plant species exacerbates this problem by putting more people, property, critical infrastructure and natural resources in harm's way.

In order to reduce the risk of loss of life and property due to wildfire, the Diablo Fire Safe Council will develop project partners and work with residents, representatives of federal, regional, state and local agencies along with community organizations to create the El Cerrito / Kensington Community Wildfire Protection Plan to be adopted in 2016.

The format of the CWPP is guided by the Healthy Forest Restoration Act (HFRA). In fact the HFRA calls for such plans. The principles behind the CWPP are not new. National and State Fire Plans, the Federal Emergency Management Agency Disaster Mitigation Act of 2000 and several locally developed documents all mandate community based planning efforts, coordination, project identification, prioritization, funding review and multi-agency cooperation.

Unique benefits of the CWPP include:

- The opportunity to establish a locally appropriate definition and boundary for the WUI;
- The requirement for federal agencies, when planning fuel reduction projects, to give priority to projects that provide for the protection of at-risk communities or watersheds, or that implement recommendations in a CWPP; and
- Expedited National Environmental Policy Act (NEPA) procedures for federal agencies implementing fuel reduction projects identified in a CWPP.

Since El Cerrito / Kensington have no federally owned lands within or adjoining us, the stakeholder group will develop what the El Cerrito / Kensington CWPP should include and why the plan is of value to us. The ideas can be grouped around several themes including overall planning and participation, fuel reduction projects, increased public awareness and involvement in prevention, balance of fire hazard reduction and environmental protection, fire resistant structures. Many common challenges and shared solutions will be identified and a selected for development with action plans.

El Cerrito - Kensington CWPP Action Plan - Overview

Tasks	Timeframe	Outcome/ Results/ Deliverables
Planning Preparation Identify decision-makers (minimum = local government, fire agency and Cal Fire). Identify and engage interested parties. Develop informational materials regarding process and stakeholder involvement.	Oct 15, 2015 (DFSC Board Meeting) Kensington Fire Protection District Board 10/14/15 El Cerrito City Council 11/4/2015	Project Scoping: schedule, potential stakeholders; perspectives; communication methods; outreach plan. Outreach: Tri City Safety Fair – Sept 19
Review Existing CWPP and Brainstorm Projects & Priorities Review existing Community Base Map based on existing local assessments Review existing risk assessments that identify: - Fuel hazards - Risk of wildfire occurrence - Homes, business & critical infrastructure at risk - Other community values at risk - Local preparedness & fire fighting capabilities Refine “Current Priority Fuels Reductions Projects and Prevention Strategies” and “Recommendations to Reduce Structure Ignitability.”	Nov 2015 or January 2016	Project Working Session #1 - Refinements to existing CWPP and community risk assessment map. Identify projects and select prevention strategies. Community Events/ outreach
Action Plan and Assessment Strategy Develop “Action Plan” and “Assessment Strategy.” Refine recommendations and select priorities, roles, responsibilities, funding needs & timetables for highest priority projects. Establish assessment strategy for relevance and effectiveness over long term.	Feb 2016	Project Working #2 - Draft Action Plan
Action Plan Adoption (Step #8) Admin Draft Plan Update Circulate Draft Plan for Public Review and Comment. Finalize the “Community Wildfire Protection Action Plan” and present for approvals.	March 2016 March – Apr 2016 Final Action Plan for Approvals May 2016	Project Working Session #4 Admin Draft Action Plan Public Comment on Draft Plan. On-line survey and written comments, Earth Day April 22, 2016 Presentations to adopting bodies.

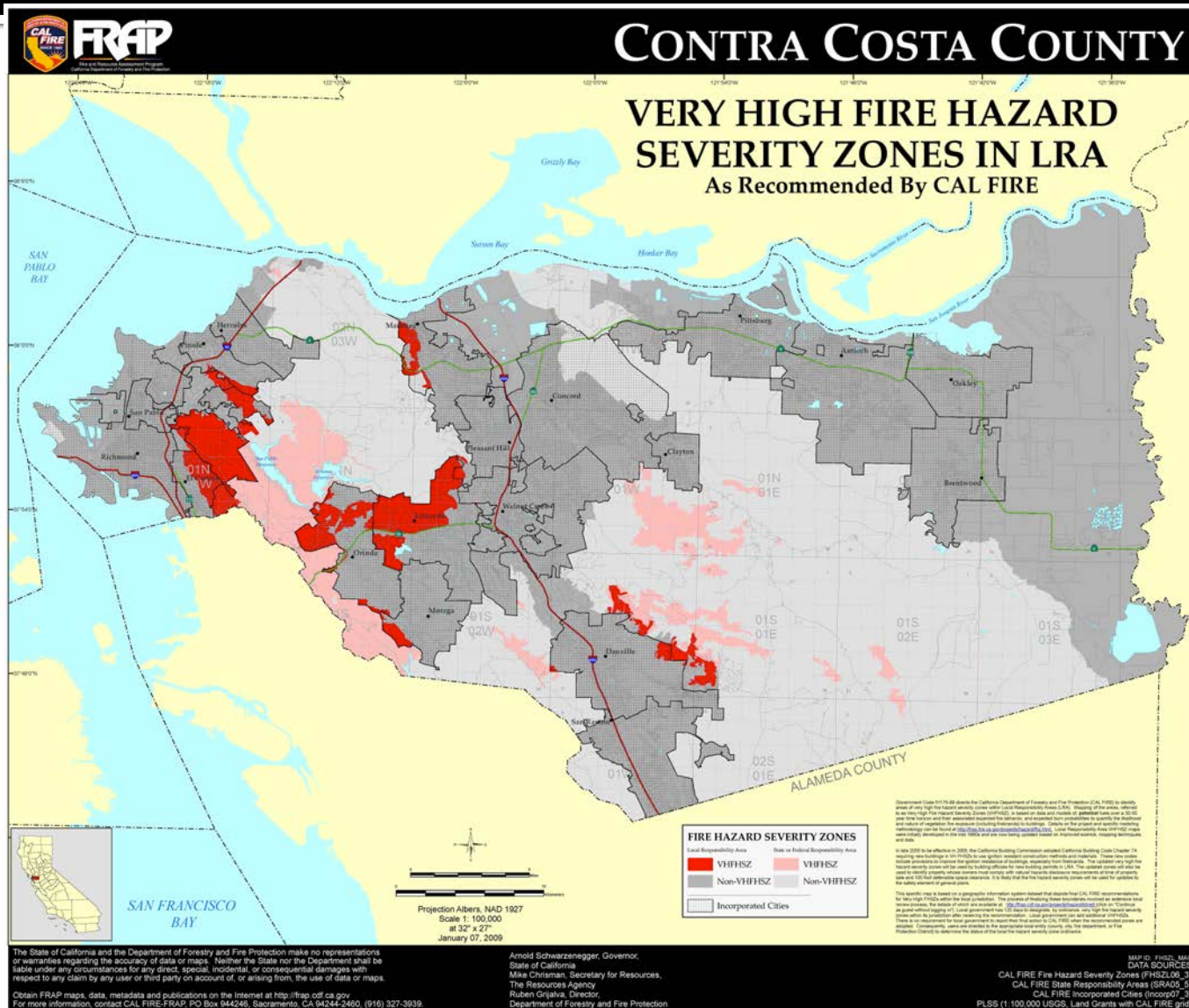


El Cerrito- Kensington CWPP Action Plan



Partners in Wildfire Prevention

CAL FIRE Statewide Hazard Assessment

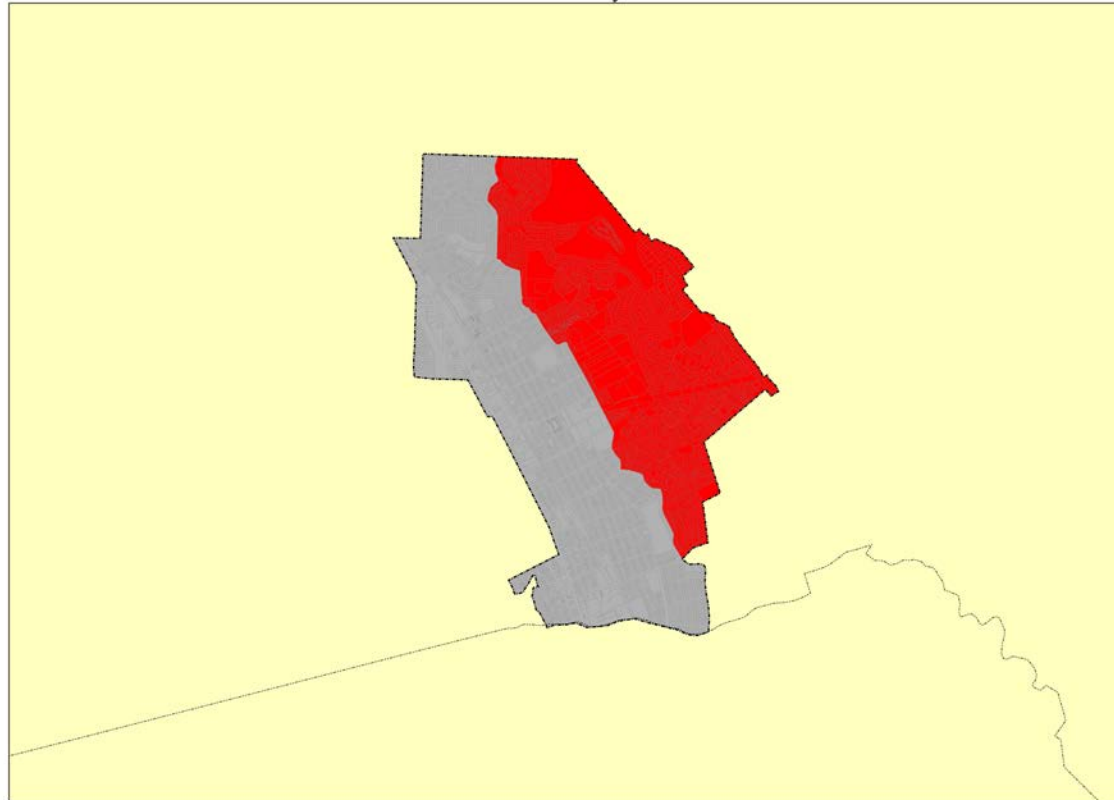


CAL FIRE Statewide Hazard Assessment



El Cerrito

Very High Fire Hazard Severity Zones in LRA As Recommended by CAL FIRE



Fire Hazard Severity Zones

Very High Fire Hazard Severity Zones (VHFHSZ) are areas where the potential for loss of life and property is high due to the presence of very high fire hazard severity zones (VHFHSZ) and the potential for loss of life and property is high due to the presence of very high fire hazard severity zones (VHFHSZ).

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This map was developed using data products such as parcel and city boundaries provided by local government agencies. In certain cases, the map includes geographic information that is not shown on the map. The map is for informational purposes only. Questions and requests related to parcel or city boundary data should be directed to the appropriate local government entity.

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Projection: Albers, NAD 1983
Scale: 1" = 12,000'
at 30° x 30"
January 7, 2009

The State of California and the Department of Forestry and Fire Protection make no representations or warranties regarding the accuracy of data or maps. Neither the State nor the Department shall be liable under any circumstances for any direct, special, incidental, or consequential damages with respect to any claim by any user or third party on account of, or arising from, the use of data or maps.

Obtain FRAP maps, data, metadata and publications on the Internet at <http://frap.cff.ca.gov>

For more information, contact CAL FIRE-FRAP, P.O. Box 94246, Sacramento, CA 95824-2460, (916) 327-3809

Arnold Schwarzenegger, Governor,
State of California
Mark Crimmins, Secretary for Resources,
The Resources Agency
Robert Gipe, Director,
Department of Forestry and Fire Protection

MAP ID: FHSZ_VH_ElCerrito
DATA SOURCES:
CAL FIRE Fire Hazard Severity Zones (FHSZ) 06_31

What is a CWPP?



CWPP

Community Wildfire Protection Plan
Contra Costa County, California

Prepared by
Diablo Fire Safe Council

Cover photos provided by: Lucas Hirst - www.lucas911.com



Requirements of CWPP

Plan must include:

1. Collaborative Planning Process
2. Prioritized Fuel Reduction
3. Treatment of Structural Ignitability



Required Signators of CWPP

- The applicable local government (i.e., county + city)
- The local fire department(s)
- The state entity responsible for forest management.

Proposed Planning Process

1. Project Kickoff
2. Review Existing CWPP & Brainstorm Projects & Priorities
3. Action Plan Development
4. Finalize Action Plan



Contra Costa County
Community Wildfire Protection Plan Appendices

El Cerrito - Kensington CWPP Action Plan - Overview

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For 10/15/2015 KFPD Board Meeting

Various strategies to reduce the risk of wildfire

1. Collaborative partners
2. Risk of ignitions
3. Fire weather
4. Community at risk hazards
5. Defensible space programs
6. Structure survivability
7. New & infill development
8. Fuel management on public & large scale private lands
9. Protect facilities & infrastructure
10. Local preparedness & firefighter capability

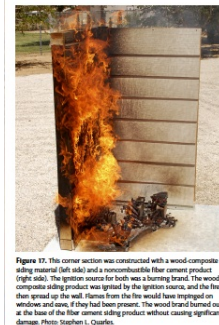


Figure 17. This corner section was constructed with a wood-composite siding material (left side) and a noncombustible fiber cement product (right side). The ignition source for both was a burning brand. The wood-composite siding product was ignited by the ignition source, and the fire then spread up the wall. Flames from the fire would have impinged on windows and eaves, if they had been present. The wood brand burned out at the base of the fiber cement siding product without causing significant damage. Photo: Stephen L. Quarles.



Partners in Wildfire Prevention Outreach and Awareness





When you see the red flag Here's What To Do:



Firefighters will raise red flags at fire stations in Alameda and Contra Costa Counties to warn residents of extreme fire weather, as warnings are issued by the National Weather Service. These Red Flags, created by the Diablo FireSafe Council, are part of the effort to make homes and communities safer from wildland fire.

Lack of rain, dry vegetation, low humidity and strong winds make fire seasons especially severe. Several days a year, typically during the Fall, these factors combine, making it easier for fires to start and more difficult to put them out. When these weather conditions reach critical levels we all need to take extra care. On these Red Flag Days local Fire Chiefs urge you to follow these important guidelines:

- DO: Be alert and report any small fires immediately by calling 9-1-1. Be prepared to provide information on the fire's exact location.
- DO: Have a plan for gathering family members, pets and valuables in case an approaching wildfire requires evacuation.
- DO: Always mow before 10 am when grass has the most moisture.
- DO: After use, place tools and vehicles with hot catalytic converters (mowers, weed eaters, chain saws, motorcycles) only on paved or dirt areas (not grass).
- DO: Use extra caution with charcoal and gas barbecues. Be sure to use your barbecue in a clear area, away from dry grass or brush. Make sure coals are cold before disposing of them.
- DO: Obey park or trail closure signs and any other restrictions (such as no campfires, barbecues, or smoking).
- DO: Contact your local fire agency for specific concerns and requirements.
- DO NOT: Discard cigarettes or other smoking materials on roadsides or dry grass. Dispose of them properly in a non-combustible container.
- DO NOT: Shoot off fireworks. All fireworks are a potential hazard, including the "safe and sane" types, such as Sparklers. (In some communities, ALL fireworks are illegal).
- DO NOT: Park cars on weeds or dry grass. Weeds and grass are highly combustible, so use caution where you park.
- DO NOT: Use lawnmowers on dry weeds. Lawnmowers are for lawns.

Here are some tips on what to do BEFORE fire season arrives:
Remove tree limbs within 10 feet of any chimneys or stovepipes; Remove pine needles and leaves from roofs, eaves, and rain gutters; Clear flammable vegetation to a minimum of 100 feet or to the property line; Clear pathways to allow firefighters easy access to your house; And always be alert!



FOR MORE INFO CHECK OUT WWW.DIABLOFIRESAFE.ORG OR CALL 1-877-725-6803

ONE LESS SPARK ONE LESS wildfire

CAUSED BY: HOMEOWNERS

Use the Right Equipment
Use string trimmer to cut tall, dry grass.

Remove Rocks
Remove rocks from dry grass or weeds. Metal mower blades hitting rocks start wildfires.

Be Ready!
Have water and a fire extinguisher readily available.

Only You Can Prevent Wildfires.

More information on wildfire prevention is available at www.PreventWildfireCA.org



ONE LESS SPARK ONE LESS wildfire

CAUSED BY: HOMEOWNERS

Chainsaw Spark
Ensure chainsaws and other equipment have approved spark arrestors. Have a fire extinguisher ready.

Cutting, welding, and grinding
Grind, sharpen, and weld on a paved enclosed area.

Report All Fires CALL 9-1-1
Report location, what is burning, how fast it is moving, how tall are the flames, what is in danger, stay on the phone.

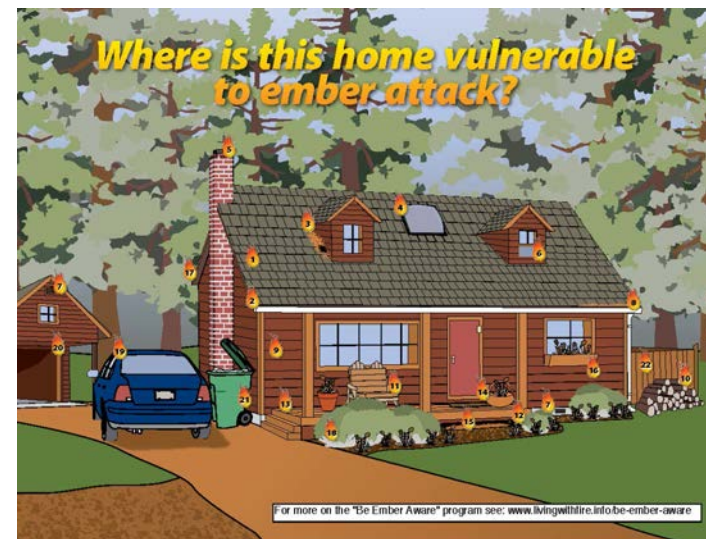
For more information on fire preparedness, visit www.PreventWildfireCA.org

California Wildfire Coordinating Group



Wildfire is a coordinated effort by the 15222 Fire Service, which is an equal opportunity employer/contractor. (EEO/AAE)

Printed by: FireSafe Council, Alameda, Contra Costa, San Francisco, and Santa Clara Counties. May 2013



Partners in Wildfire Prevention Education and Training



Partners in Wildfire Prevention

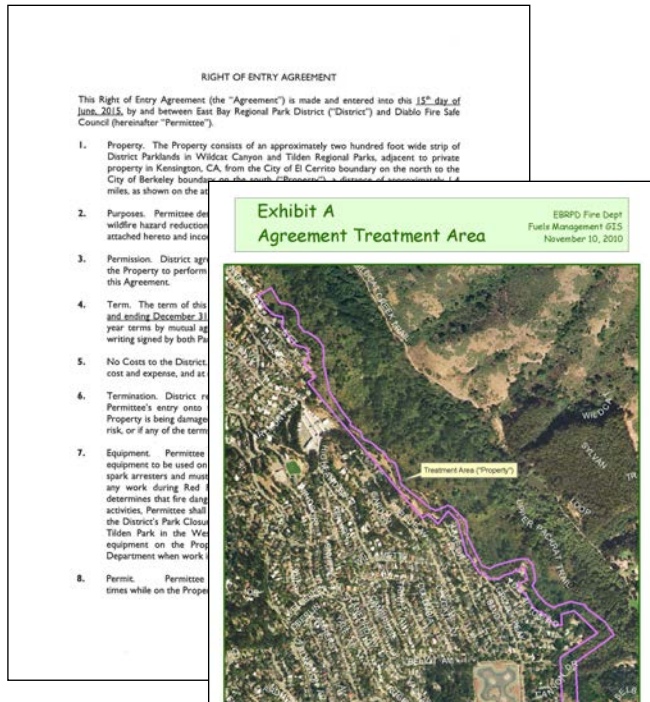
Planning for Fire Safety



Funded through the California Fire Safe Council by a grant from the Cooperative Fire Program of the U.S. Forest Service, Department of Agriculture, Pacific Southwest Region.

Diablo Fire Safe Council - Partners in Wildfire Prevention

Fuel Reduction Projects



Before



After



Cost Share Funding Available Now!



www.diablofiresafe.org

2015 – 2016 Defensible Space Fuel Reduction Project Funding

Request to Participate

The Diablo Fire Safe Council (DFSC) is sponsoring defensible space fuel reduction projects for 2015 – 2016. Cost-share assistance of up to \$5,000 per project is available to groups or groups of individuals to hire contractors to reduce fuel loads and create defensible space. Funding provided by a grant from the Cooperative Fire Program of the U.S. Forest Service, Department of Agriculture, Pacific Southwest Region.

DFSC may assist Alameda County or Contra Costa County property owners with vegetation management projects that will lead to compliance with their local fire department's defensible space requirements in areas designated as Priority Hazard Zones.

Contractors will be hired directly by property owners with DFSC funds augmenting private property owner contributions. Diablo Fire Safe Council will maintain a list of Contractors to aid the property owners with selection and scoping of project work.

Contractors and homeowners will not contract directly with the Diablo Fire Safe Council. DFSC will pay directly to the contractors a portion of project costs up to \$5,000 per project.

*To have your project considered for funding
please complete the following information:*

1. Designated Project Coordinator: _____

Phone: (Daytime) _____ (Evening) _____ (Cell) _____

Email: _____

2. Neighborhood/ Street Names: _____

Project Address: _____ APN: _____

3. Number of households or volunteers involved (minimum 5): _____

Names and address of household or volunteers involved (attach an additional sheet if necessary):

1) _____

2) _____

3) _____

4) _____

5) _____

6) _____

7) _____

Diablo Fire Safe Council is not obligated to provide services and is not liable for its failure to provide services, nor for the performances of services under this program.

Application

4/20/2015

4. Describe your project and what you plan to do to achieve Defensible Space within 100 feet of your homes, anticipated tasks and timeframe (attach an additional sheet if necessary):

- | | |
|---|--|
| ☐ Chipping of homeowner cut material | ☐ Green waste removal of homeowner cut material |
| ☐ Weed whacking/ mowing (as part of a larger project)* | ☐ Needle/ leaf removal |
| ☐ Tree thinning (cutting of small trees)* | ☐ Brush cutting* |
| ☐ Tree "limbing up"* | ☐ Grazing* |

**Note: Your project may be located where there are federally protected species or other environmental concerns. Ground disturbing projects as indicated by * will require environmental review by DFSC and the funding agency. Best management practices will need to be incorporated into all ground disturbing fuel reduction work.*

5. Briefly describe the services or funding your neighborhood can provide. Services may include: time spent organizing your neighbors for a work-day, follow-up weed control, tools or supplies needed for the project. If you are providing matching funds, indicate amount.

6. Briefly describe how your project will help protect your neighborhood from wildfire.

I certify this information to be true and correct and that the information provided is subject to verification. If my group is selected, we agree to work with Diablo Fire Safe Council to further define the scope of the project. We understand that we will be responsible for hiring a contractor for the work.

Signature: _____ Date: _____

Diablo Fire Safe Council is not obligated to provide services and is not liable for its failure to provide services, nor for the performances of services under this program.

Application

8/31/2015

Expanding Participation

- Outreach Methods
 - Email Updates (*"constant contact"*)
 - Information on web-sites and newsletters
 - Media releases
 - Presence & presentations
- Stakeholders to spread the word to their groups
- Additional stakeholders



El Cerrito Patch



CONTRA COSTA TIMES MY TOWN: EL CERRITO



Contact

Cheryl Miller, Executive Director

Email: DFSCMiller@comcast.net

Phone: (510) 282-1265

Website: Diablofiresafe.org



Next Steps

Identify meeting location & available date

*Invite stakeholders and
interested community members*

*Review existing CWPP and
Brainstorm Projects & Priorities*

Return to City Council in May for endorsement

EL CERRITO CITY COUNCIL

MINUTES

REGULAR CITY COUNCIL MEETING

Tuesday, October 6, 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

Present: Councilmembers Abelson, Lyman, Quinto and Mayor Friedman.

Absent: Councilmember Bridges

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Friedman convened the regular City Council meeting at 7:00 p.m.

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

2. COUNCIL / STAFF COMMUNICATIONS

Councilmember Abelson reported on her attendance at the September 30 – October 2, 2015 League of California Cities Annual Conference in which she is the City's delegate. She also attended League Policy Committee meetings. As a member of the Resolutions Committee she discussed and considered four League resolutions regarding the following topics: 1) Prolonged electrical outages involving Southern California Edison; 2) Ascension to the position of the League of California Cities President; 3) Over concentration of drug and alcohol recovery and treatment facilities in residential neighborhoods while respecting patient rights and legal obligations of public entities; and 4) Short term occupancy rentals such as Airbnb. Councilmember Abelson also reported on the presentation that State Librarian Greg Lucas, made to the Conference participants.

Councilmember Quinto reported that he also attended the League's Annual Conference and stated that many cities are considering a tobacco ordinance and noted that it is nice to see El Cerrito in the forefront of this issue. Councilmember Quinto also attended the Asian Pacific Islander Caucus with other mayors and councilmembers and the Sierra Club's Beyond Oil Conference in San Jose which was very informative and well attended. As the City's alternate to the Marin Clean Energy Board (MCE) Councilmember Quinto reported on his attendance at the MCE annual meeting. He is excited about the possibilities of other cities joining MCE and the success of high deep green enrollment in El Cerrito.

Mayor Pro Tem Lyman thanked Police Chief Moir and Fire Chief Maples for making resources available at the annual Tri-City Safety Day. The event was well attended by youth. Mayor Pro Tem Lyman stated that the MCE Executive Board recently voted to have a higher level of renewable energy as part of its portfolio. By 2025 MCE wants renewable energy to be eighty percent of its portfolio. This is thirty percent above the current target set by Senate Bill 350.

Mayor Friedman reported that he attended the Music for Madera fundraiser sponsored by the El Cerrito Trail Trekkers and the Arts and Culture Commission. It was a great event. Mayor Friedman also attended the West County Mayors and Supervisors Association. The Association received a presentation about a ferry terminal that will be built at the Craneway Pavilion and also discussed issues concerning the Metropolitan Transportation Commission's (MTC) proposal to take over the Association of Bay Area Governments (ABAG). The Association approved a resolution stating that discussions should take place about efficiencies and other issues without the threat of a hostile takeover.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Ruth Cazden, Chair, Arts and Culture Commission, encouraged all to attend the City's Annual Arts Day Festival on October 17, 2015. Chairperson Cazden stated that the City is in the forefront of promoting arts and culture.

Sidney Manchester-Jones, El Cerrito, stated that residents of Audiss RV Park are being displaced by money and power in the form of Mr. Biggs. Residents of the park are long term, permanent residents who have rights. Mr. Manchester-Jones stated that he is a senior citizen who is disabled and lives on a limited income. Mr. Biggs needs to prepare a resident impact report.

Jelina Pike, El Cerrito, spoke about the impacts of her family being evicted from her home at Audiss Park. There should be provisions in development agreements for displaced people or developers should be required to offer low cost housing nearby or make funds available [for displaced residents].

Glenda Markle, El Cerrito, spoke in support of the displaced residents of Audiss Park. Ms. Markle stated that rents are very high outside Audiss Park and asked the City to take communities like Audiss into consideration where people are like family and spend holidays together.

Ray Turnipseed, El Cerrito, stated that there is a traffic problem in his neighborhood at Navellier and Gladys. Mr. Turnipseed stated the neighborhood needs speed humps and traffic controls. Mr. Turnipseed said he was told by staff that there would be a traffic study completed by September and was told recently that it would not be done. Mr. Turnipseed stated that people need to be treated fairly and seriously. The City Council needs to take an interest in this issue and take control. There are going to be 600 people at the new middle school.

James Todd Bennet, El Cerrito, stated that the Castro Neighborhood group is having trouble understanding who the Council is supporting – the Castro Park Neighborhood or the School District? Mr. Bennet stated that there needs to be substantive effort put forward to protect what is left of the neighborhood. With interlocking Memoranda of Understanding it is difficult to see who the City is representing. The Neighborhood is concerned about preserving park access and parking. The School District doesn't have a plan for parking. There are not enough parking places for school staff on campus and not enough discussion about the kid drop-off zones.

Nick Gallore, El Cerrito, spoke in support of the Audiss Park residents and requested preparation of a resident impact report.

Ronnie Polonsky, El Cerrito, spoke in support of the Audiss Park residents and said the City should provide low cost housing for the residents. Ms. Polonsky suggested that the City Council study the issue and come back with a plan.

Sharon Maldonado, Berkeley, stated that the Audiss residents are a marvelous group. The City needs a demolition plan or ordinance that will preserve the ability of people to remain in the City. Ms. Maldonado expressed concerns with the resident impact report and asked the City to see if the developer can provide some low income housing at the Audiss Park site.

Thad Smith, El Cerrito, expressed concerns about the loss of affordable and low cost housing in the City and stated that based on the property tax Mr. Biggs pays for the site, it is not an undue burden on Mr. Biggs to provide compensation for the Audiss residents.

Al Miller, El Cerrito, invited all to the Rotary Club's Sip and Savor fundraiser event. Some of the proceeds will go to the Library Foundation. The Rotary Club donated \$11,000 to the Library Foundation last year.

Arlin Robins, El Cerrito, stated that the City is allowing Audiss residents to be displaced because they are low-income in exchange for higher property taxes. Ms. Robins challenged the City Council and staff to look into what alternatives exist for Audiss residents. Maybe the City Hall parking lot near the Police Department could be turned into a park with a tiny home community area. Ms. Robins stated that it is possible to find a way to give Audiss residents a new home in the city.

Ms. Robins also expressed her support for Consent Calendar Item No. 5C, the Freedom from Workplace Bullies Proclamation.

Nicholas Arzio, El Cerrito, urged the City Council to treat the Audiss Park residents reasonably and fairly. Mr. Arzio said it is strange to see, that with the City's Housing Element, that 31 parcels that function as affordable housing will be replaced with 27 luxury condominiums.

Helene Maxwell, Oakland, spoke in support of the Audiss Park residents. Ms. Maxwell stated that Audiss Park is not an RV Park. The residents are not transient, but are permanent. Some residents have lived at the trailer park for more than 20 years. Audiss residents need to be afforded the same rights as mobile home park residents because Mr. Biggs has been operating Audiss Park as a de facto mobile home park.

Howdy Goudey, El Cerrito, expressed support for the Audiss Park residents and questioned whether there is a legal liability associated with the owner misrepresenting the operation of the site and whether the city failed to enforce correct use of the site. The owner, city, and developer have an incentive to get together and do the right thing. This is a moral matter. Someone needs to step up and say that it is wrong to displace people of lower income for people with higher income for the profit of others.

Mayor Friedman stated that the City Attorney and staff have put a lot of time into the Audiss Park issue and that he has a meeting with residents and advocates next week. Mayor Friedman noted that the comments of the residents and those who care about the residents is heartfelt.

4. PRESENTATIONS – None

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

Moved, seconded (Lyman/Abelson; Ayes – Councilmembers Abelson, Lyman, Quinto and Mayor Friedman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to approve Consent Calendar Item Nos. 5A and 5C through 5F in one motion as indicated below. Consent Calendar Item No. 5B was removed from the Consent Calendar by Mayor Friedman and voted on separately as indicated below.

A. Minutes for Approval

Approve the September 15, 2015 Regular City Council meeting minutes.

Action: Approved minutes.

B. Tobacco Retailer Licensing Program Ordinance

First reading September 15, 2015 with amendments. Vote Unanimous: Ayes – Councilmembers Abelson, Bridges, Lyman, Quinto and Mayor Friedman; Noes – None; Abstain – None; Absent – None.

Adopt Ordinance 2015–08 amending El Cerrito Municipal Code Title 6 “Business Permits and Regulations” by adding a new Chapter 6.100 “Tobacco Retailer License Program, repealing Section 19.20.210, amending Section 19.46.060(D) and Table 19.07-A.

Jacqueline Aranda, El Cerrito, spoke in support of the tobacco retailer ordinance, said she looks forward to implementation of the program and thanked the City Council for prioritizing the health of youth in El Cerrito.

Mary Jaccodine, Contra Costa Tobacco Coalition, congratulated the City on the tobacco retailers licensing ordinance, noted that it will become a model for other cities and thanked the City for all of its hard work. Ms. Jaccodine stated that the Coalition would like the City Council to reconsider some of the ordinance provisions and that the current ordinance does not capture the strength of the City Council’s current commitment. Issues in the ordinance that the Coalition asked the City Council to reconsider are: 1) The two year implementation period; 2) Grandfathering clauses and separation requirements; and 3) Exception for new retailers contained in the 1000 foot separation between tobacco retailers.

Action: Removed from the Consent Calendar at the request of staff for the purpose of considering a revision to Section 6.100.340 of the ordinance. Moved, seconded (Lyman/Quinto; Ayes – Councilmembers Abelson, Lyman, Quinto and Mayor Friedman; Noes - None; Abstain – None; Absent – Councilmember Bridges) and carried to adopt Ordinance 2015–08 as approved on September 15, 2015, including administrative changes made to footnotes 3 and 4. *Effective January 1, 2016.*

C. Proclamation Declaring October 18-24, 2015 as Freedom from Workplace Bullies Week

Approve a proclamation declaring October 18-24, 2015 as Freedom from Workplace Bullies Week in the City of El Cerrito and commending the California Healthy Workplace Advocates and the Workplace Bullying Institute, which raise awareness of the impacts of, and solutions for, workplace bullying in the United States; and encouraging all residents in the City of El Cerrito to recognize this special observance.

Action: Approved proclamation.

D. Proclamation Declaring October 2015 Domestic Violence Awareness Month

Approve a proclamation declaring October 2015 as Domestic Violence Awareness Month in the City of El Cerrito and urging all residents to actively participate in efforts to end violence in our homes, in our schools, and in our communities.

Action: Approved proclamation.

E. Grant Co-Sponsorship to the El Cerrito Library Foundation

Adopt a resolution authorizing the City Manager or his designee to grant co-sponsorship status to the El Cerrito Library Foundation.

Action: Adopted Resolution No. 2015–63.

F. Contract with New World Systems for Licensing, Maintenance and Support

Adopt a resolution authorizing the City Manager to enter into a Standard Software Maintenance Agreement (SSMA) with New World Systems (NWS) to provide software licensing, maintenance and support services in an amount not to exceed \$314,580 through October 31, 2020.

Action: Adopted Resolution No. 2015–64.

6. PUBLIC HEARINGS

Adoption of an Active Transportation Plan, Including Mitigated Declaration and Mitigation Monitoring and Reporting Program

Conduct a public hearing and upon conclusion adopt a resolution approving the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and adopting the Active Transportation Plan.

Presenter: Yvetteh Ortiz, Public Works Director and Carrie Nielson, Senior Transportation Planner and Project Manager, Fehr and Peers.

Mayor Friedman opened the public hearing. Four speakers.

Speakers: Tom Panas, El Cerrito, stated that he strongly supports the Plan as proposed.

Howdy Goudey, El Cerrito, spoke in support of the Plan and stated that he is very complementary of its visionary aspects. Mr. Goudey said that he is concerned that there is a heavy reliance on lower quality bicycle facilities and that the City needs to go beyond the sharrows and bike boulevards to increase the number of bike riders on the road. The City needs to be more expansive and more bold to encourage bike ridership.

Paul Fadelli, El Cerrito and BART, commended the City Council for the Active Transportation Plan and its efforts to make transit easier to get to. Mr. Fadelli said BART is working on improving accessibility by making transit easier so people will get out of their cars and that BART looks forward to working with the City in the future. El Cerrito is making a great, innovative step forward.

Al Miller, El Cerrito, spoke in support of extra provisions for bicycle and pedestrian safety and protection around schools, particularly new school locations.

Action: Moved, seconded (Friedman/Abelson; Ayes – Councilmembers Abelson, Lyman, Quinto and Mayor Friedman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to appoint Councilmember Abelson and Mayor Pro Tem Lyman to a Council subcommittee to review the Active Transportation Plan with staff to address any concerns they may have and continue the public hearing to a future meeting of the City Council.

7. POLICY MATTERS - None

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS - No reports

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 9:46 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 5(B) Ordinance Establishing a Tobacco Retailer License Program

1. Revised Ordinance – Submitted by Suzanne Iarla, Assistant to the City Manager.
2. Comments urging strengthening of certain provisions in the ordinance – Submitted by Mary Jaccodine, Co-Chair, Contra Costa Tobacco Prevention Coalition.

Item No. 6 Adoption of Active Transportation Plan, including Mitigated Declaration and Mitigation Monitoring and Reporting Program

3. Powerpoint presentation – Submitted by Yvetteh Ortiz, Public Works Director.

EL CERRITO CITY COUNCIL PROCLAMATION

Recognizing the El Cerrito Preschool Cooperative's 75th Anniversary

WHEREAS, the El Cerrito Preschool Cooperative (ECPC) is celebrating its 75th anniversary this year, and upon this occasion, the School is deserving of special public recognition and the heartiest congratulations; and

WHEREAS, the ECPC was established in October 1940 with New Deal funding and a staff of three teachers and was the first institution in the Bay Area to have been financed and built entirely through the efforts of concerned parents and has gained national recognition for its continuing efforts to ensure quality preschool education. The ECPC is housed in the original building at 7200 Moeser Lane that was dedicated on February 1, 1947 and constructed due to massive fundraising efforts by its member families; and

WHEREAS, the ECPC continues to operate as a fully functional preschool serving over fifty member families yearly with a staff of two directors, two teachers and one administrator. ECPC enjoys a rich history of outstanding teachers who have nurtured children and their parents for many decades. Kathy Clark, Nga Bui, Par Farrokmid, and Jenny Byrne have committed a combined total of over 80 years to the ECPC community; and

WHEREAS, the ECPC continues to advocate its theme of play, learn, grow so that many more can learn the importance of a play-based preschool and is run entirely by member families who serve on the Board of Directors and meet monthly to approve the operating budget, manage the facility and build community; and

WHEREAS, ECPC continues to upgrade its Wildlife Habitat Garden and hosts a diverse assortment of birds that contribute to the ecology of El Cerrito and offers play-based education to the broader community through outreach efforts like Messy Art Day, which in March 2015 welcomed over 700 visitors.

NOW THEREFORE, the City Council of the City of El Cerrito hereby congratulates and honors the El Cerrito Preschool Cooperative for its 75 years of valuable service to the children and parents of the community and extends to those parents and teachers the City Council's best wishes for a bright future.

Dated: November 3, 2015

Mark Friedman, Mayor

EL CERRITO CITY COUNCIL PROCLAMATION

Recognizing the Sundar Shadi Holiday Display

WHEREAS, Starting in 1949 and continuing for almost 50 years, El Cerrito resident Mr. Sundar Shadi created an elaborate holiday display on his Arlington Avenue property; and

WHEREAS, the unique folk art display was handcrafted out of papier-mâché and plaster of Paris by Mr. Shadi. The display depicts the town on Bethlehem including more than 120 figures including 60 sheep, plus goats, donkeys, villagers and near life-sized shepherds, dogs, camels, wise men, an angel as well as 90 miniature buildings; and

WHEREAS, Mr. Shadi's award-winning display on Arlington Avenue drew thousands of onlookers each year to El Cerrito and was cherished by many local residents; and

WHEREAS, Due to age and poor health, Mr. Shadi stopped exhibiting the display in 1997. He died in 2002 at the age of 101. In 2001, the El Cerrito Community Foundation, under the leadership of former Mayor, Jane Bartke, negotiated with Mr. Shadi's Trustee to secure the collection for the purpose of continuing Mr. Shadi's tradition; and

WHEREAS, Since 2002, the Foundation - with additional volunteers from the community - have re-created the display on the Moeser Lane hillside each December, continuing Mr. Shadi's wish to provide a gift to his neighbors and the community of El Cerrito and beyond; and

WHEREAS, Visiting the display is a multi-generational family tradition for many area residents and the display continues to be seen by thousands of people each year; and

WHEREAS, In 2015, the display will be lit from 5 pm to 10 pm from Saturday, December 12, 2015 through Saturday, December 26, 2015; and

WHEREAS, It is the desire of the City Council to recognize the contributions to the community of El Cerrito of the display tradition started by Mr. Shadi in El Cerrito in 1949; and

NOW THEREFORE, the City Council of the City of El Cerrito hereby recognizes the Sundar Shadi Holiday Display and the dedication and on-going commitment of volunteers to continue the tradition of sharing the Holiday Display as a gift to the community and celebrating this unique part of El Cerrito's history and culture.

Dated: November 3, 2015

Mark Friedman, Mayor

EL CERRITO CITY COUNCIL PROCLAMATION

November 4, 2015 is “Shelter-in-Place Education Day”

WHEREAS, public and private schools and childcare centers throughout Contra Costa County will be participating in the Shelter-in-Place Drill on November 4, 2015; and

WHEREAS, Contra Costa Community Awareness Emergency Response Group (“CAER”) is sponsoring the 14th Annual Shelter-in-Place Drill and assisting schools and childcare centers with their emergency preparedness; and

WHEREAS, emergency response agencies including fire, sheriff and health officials all recommend Shelter-in-Place as the immediate action to take in case of a hazardous release; and

WHEREAS, the Shelter-in-Place Drill increases public awareness about Shelter-in-Place as a protective action and gives students and teachers practice in implementing this important procedure; and

WHEREAS, the County Office of Education has endorsed the Shelter-in-Place Drill and encouraged all sites to participate.

NOW THEREFORE, the City Council of the City of El Cerrito hereby recognizes the importance of preparing for emergencies and encourages participation in the Contra Costa CAER Group’s public education efforts. In support of the parents, teachers, students and staff that will be participating with hundreds of other schools and childcare centers in the Shelter-in-Place Drill, we proclaim November 4, 2015, as “Shelter-in-Place Education Day” in the City of El Cerrito.

Dated: November 3, 2015

Mark Friedman, Mayor



2015 Shelter-in-Place Drill FACT SHEET

- The Shelter-in-Place drill will begin at 11:00 a.m. on November 4th. This coincides with the testing of the safety sirens in Contra Costa that sound at 11:00 a.m.

Or, if necessary, you can change to a time better suited to your site.



Please note: If you do not normally hear the sound of the sirens on the first Wednesday of every month YOU WILL NOT HEAR THEM ON Nov. 4th. Sirens are only one of the ways a Shelter-in-Place alert is broadcast. In an actual emergency, other tools to alert the public would also be used, such as KCBS 740AM radio, scrolling messages on CCTV, weather radio alerts, and the TENS system (automated telephone calls).

- Each site will determine how complex they want the Shelter-in-Place drill to be at their own facility. The scope can range from a tabletop exercise with staff to a full-scale drill bringing everyone inside to Shelter-in-Place. Drill can be as long as you want it to be.
- The drill is being sponsored by Contra Costa County CAER (Community Awareness Emergency Response) Group. CAER is a non-profit organization with members from fire, law enforcement, health services, emergency services, plus community and industry representatives.
- All public and private schools and childcare centers are encouraged to participate. This is a chance to be part of a countywide exercise that will promote further awareness about Shelter-in-Place training and procedures.
- Participating schools and childcare centers will have their names posted on the CAER web site at www.cococaer.org.
- The County Board of Supervisors as well as All City Councils in the County are being asked to proclaim November 4th as "Shelter-in-Place Education Day."
- The Shelter-in-Place Drill is an annual event on the first Wednesday in November. CAER sponsors the drill to promote emergency preparedness in our schools and childcare centers.



AGENDA BILL

Agenda Item No. 5(E)

Date: November 3, 2015
To: El Cerrito City Council
From: Melissa Tigbao, Engineering Manager
Yvetteh Ortiz, Public Works Director/City Engineer
Subject: Amendment to the City's Neighborhood Traffic Management Program

ACTION REQUESTED

Adopt a resolution amending the City's Neighborhood Traffic Management Plan to re-classify Speed Humps as a Tier I Measure.

BACKGROUND

In September 2010, the City Council adopted a Neighborhood Traffic Management Program (NTMP) (Resolution No. 2010-59) for the City of El Cerrito to address resident concerns about vehicular speeds, high traffic volumes, and quality of life issues in El Cerrito's neighborhoods. The adoption of the NTMP served as an implementation measure for various policies under the General Plan, Transportation and Circulation Element - Goal T3, which calls for a transportation system, including safe and adequate streets, sidewalks, street trees, and signs, that not only maintains, but also improves the livability of the City.

Before adoption of the NTMP, the El Cerrito Public Works and Police Departments have employed various enforcement, education, and engineering measures to address neighborhood traffic concerns. However, Police enforcement of all streets at all times is not possible and the Public Works Department had no formalized process to verify the need for various types of traffic management measures except the City's Speed Hump Program, which was limited to speed humps on local streets. Also, many residential streets did not meet the qualifying criteria for speed humps as provided for in the City's Speed Hump Program based on their classification as collector or arterial streets or the speed threshold. As such, City staff addressed resident requests on a first-come, first-serve basis – with each request becoming a unique process and each involving extensive City resources. The major problem with this method was that requests were not put into the proper context – which ones have priority and which ones represent “normal” traffic conditions on residential streets. Another problem with this method was its inability to systematically evaluate impacts on surrounding local streets when a traffic modification is considered.

The NTMP was prepared to best meet the needs of El Cerrito based on past efforts in the City, guidance provided by the City's General Plan and City Council, policies and lessons learned from other jurisdictions, practices published by the transportation

industry, and community input regarding traffic concerns and ideas for improvements. The NTMP provided City staff and community members the resources to work together in addressing neighborhood traffic concerns. More specifically, the NTMP provided citywide guidelines and procedures for responding to citizen requests for traffic management in their neighborhoods and a toolbox of potential traffic management measures beyond speed humps on local streets only. An NTMP solution includes several improvement measures at one or more locations unlike a standard traffic solution, which involves only one measure, such as signing and striping, at a single location. All traffic requests are initially evaluated using the regular traffic request process, and shifted to an NTMP process, if necessary.

The NTMP consists of tiered measures, Tier I and Tier II. Tier I Measures are considered non-physical measures, consisting of education and enforcement combined with low-cost engineering devices. Educational measures include but are not limited to the Neighborhood Pace Car/Pledge Program, which was launched in the fall of 2011. Engineering measures include low-cost improvements such as enhanced pavement markings and signing to provide reduced lane widths and intersection narrowing features. Tier II Measures are mostly physical engineering measures, and thus a more restrictive form of traffic management. Tier II Measures are generally higher in cost and have more significant impacts than Tier I Measures. Since Tier II measures impact many people in a neighborhood and tend to be more costly, a higher-level of support and additional steps are called for in the process to ensure neighborhood consensus.

ANALYSIS

When the NTMP was adopted, the City's Speed Hump Program was integrated into the NTMP. Over the past five years, the most common type of NTMP requests are for speed humps and, in most cases for streets classified as local streets, speed humps have been found to be the most appropriate solution.¹ However, due to the device being classified as Tier II in the NTMP, the process of approving the installation of speed humps involves several steps. One of the aims of NTMP was to be more responsive to resident concerns while providing a process that maximizes neighborhood participation and decision-making, and obtains measureable consensus from the neighborhood throughout. The current Tier II process is causing frustration amongst residents especially when it comes to the installation of speed humps given the previous process was not as intensive. City staff is requesting to amend the adopted NTMP to re-classify speed humps as a Tier I Measure in order to streamline the process and address requests in a more timely manner.

Prior to the adoption of the NTMP, the Speed Hump Program for local streets had several installation criteria. One specific criterion, which was difficult to meet, was that the 85th percentile speed had to be in excess of 30 miles per hour (mph). After approval

¹ Speed humps are not an approved device for collector and arterial streets due to their impacts on emergency response and transit vehicles.

by the Police and Fire Departments and staff's determination that the requested location met the installation criteria, the requestor was required to submit a petition form showing support of more than sixty percent (60%) of the parcels fronting the block. The NTMP lowered the speed threshold to 27 mph in order to be more responsive to resident concerns. However, as a Tier II Measure, the NTMP inadvertently complicated the process and requires a second petition, a ballot for pilot improvements, temporary installation, and final ballot is required for a neighborhood to receive permanent speed humps on their block.

As a Tier I Measure, speed humps would be evaluated with the same installation criteria, however only one petition for sixty percent in favor of the humps. Re-classifying the speed humps as a Tier I Measure will streamline the process and allow City staff to be more responsive to neighbors, which was the intent of the NTMP.

STRATEGIC PLAN CONSIDERATIONS

The City's Strategic Plan articulates the mission of the City to serve, lead, and support our diverse and transit-rich community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety, and creating an economically and environmentally sustainable future. The NTMP and the proposed amendment are consistent with the following El Cerrito Strategic Plan Goals:

- Goal A – *Deliver exemplary government services* by understanding the concerns that the community has expressed of the lengthy speed hump process and amending the NTMP to provide an effective procedure to respond to neighborhood requests.
- Goal C – *Deepen a sense of place and community identity* by recognizing the role of streets not only as vehicle routes but also as part of an extensive system of public spaces where people live, city residents meet, and businesses reside.

ENVIRONMENTAL CONSIDERATIONS

As indicated with the original adoption of the NTMP in August 2010, pursuant to Section 21065 of the State of California Public Resources Code and 15378 of the California Environment Quality Act Guidelines, the NTMP is not a project under the California Environmental Quality Act (CEQA). Therefore, the NTMP is exempt from any further consideration under CEQA although individual projects may require additional evaluation.

FINANCIAL CONSIDERATIONS

There are no direct financial impacts associated with the action requested tonight. In general, the NTMP process for Tier I projects is less resource intensive than Tier II projects, which typically require the use of consultants. Therefore, the proposed amendment would reduce the burden on City staff and residents' time and efforts as compared to maintaining speed humps as Tier II measures. It should be noted, however, that Tier I projects still do require data collection of speed and volumes and collision

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analysis, which are typically completed by City staff from the Public Works and Police Departments.

Funding for the evaluation and implementation of NTMP projects is considered as a part of the City's annual budgeting and Capital Improvement Program (CIP) process, which are subject to separate City Council actions. Currently, funding of up to \$60,000 for NTMP-related expenses for consultants and contractors is included in the Adopted Fiscal Year 2015-16 Capital Improvement Program and Annual Program of Maintenance and Improvement pursuant to Measure A Street Improvement Program, Project C3070. Depending on the size and scope of an NTMP project, City staff may also seek outside funding, such as state and federal grants.

Assuming a one-block project, City staff estimates the total cost to complete a Tier I, speed hump project from the evaluation through implementation phases will range from approximately \$10,000 to \$20,000.

LEGAL CONSIDERATIONS

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

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution

RESOLUTION 2015-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING THE NEIGHBORHOOD TRAFFIC MANAGEMENT PROGRAM TO RE-CLASSIFY SPEED HUMPS FROM A TIER II MEASURE TO A TIER I MEASURE.

WHEREAS, the City Council adopted a Neighborhood Traffic Management Program (NTMP) (Resolution No. 2010-59) in 2010 to address resident concerns about vehicular speeds, high traffic volumes, and quality of life issues in El Cerrito's neighborhoods and to serve as an implementation measure for various transportation-related policies in the City of El Cerrito General Plan; and

WHEREAS, the NTMP was prepared to best meet the needs of El Cerrito based on past efforts in the City, guidance provided by the City's General Plan and City Council, policies and lessons learned from other jurisdictions, practices published by the transportation industry, and community input regarding traffic concerns and ideas for improvements; and

WHEREAS, Tier I Measures are generally non-physical measures, consisting but not limited to education and enforcement combined with low-cost engineering devices, while Tier II Measures are mostly physical engineering measures, and thus a more restrictive form of traffic management with more potential impacts; and

WHEREAS, the City's Speed Hump Program was integrated into the NTMP and the process of approving the installation of speed humps requires several steps due to its classification as a Tier II Measure, and is resource-intensive and time-consuming for both City staff and residents; and

WHEREAS, City staff is requesting to amend the adopted NTMP to re-classify speed humps to a Tier I Measure in order to streamline the process for approving the installation of speed humps and to enable the City to be more responsive to resident concerns as originally intended; and

WHEREAS, pursuant to Section 21065 of the State of California Public Resources Code and 15378 of the California Environment Quality Act Guidelines, the NTMP is not a project under the California Environmental Quality Act (CEQA) and therefore, the NTMP is exempt from any further consideration under CEQA although individual projects may require additional evaluation.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of El Cerrito, hereby amends the Neighborhood Traffic Management Program to re-classify Speed Humps from a Tier II Measure to a Tier I Measure.

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

I CERTIFY that at a regular meeting on November 3, 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 November XX, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 5(F)

Date: November 3 , 2015

To: El Cerrito City Council

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

Subject: Additional Funding Appropriation and Contract Authorization for Tree Hazard Reduction Work in City Parks

Adopt a resolution to:

- 1) Approve an additional appropriation of \$35,000 from the unrestricted General Fund balance as part of a mid-year budget adjustment to the Fiscal Year (FY) 2015-16 Adopted Budget to address tree hazard reduction work in City parks; and
- 2) Authorize the City Manager to enter into an agreement with West Coast Arborists in an amount not to exceed \$25,000 for hazard reduction work in Arlington Park and other City parks.

DISCUSSION

As a result of a tree failure at the picnic area in Arlington Park this past summer, the City engaged consulting arborist SBCA Tree Consulting (SBCA) to perform a tree risk assessment of trees in the areas of Arlington Park frequented by the public, including playgrounds, picnic areas, clubhouse, tennis courts, pond and sidewalk next to Arlington Boulevard. Shortly after the tree failure, three trees were removed based on the initial recommendation from the consulting arborist. The final report prepared by SBCA recommends the removal of another nine trees and pruning of other trees to reduce tree hazards in Arlington Park.

Additionally, due to the extended drought and deferred maintenance, some trees in other City parks are in poor condition and require hazard reduction work. For instance, a tree risk assessment currently underway by SBCA at Dorothy Rosenberg Memorial Park has preliminarily recommended the near-term removal of at least five trees. City staff also recommends the removal of several dead trees in Canyon Trail Park.

This additional work was not anticipated in the current budget for annual tree maintenance and would significantly reduce the amount of maintenance that should also be done on the City's street trees. Historically, the City has pruned park trees on an as-

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needed basis. While not addressing every park tree, this work will provide an opportunity to reduce public safety concerns arising from trees in public parks.

Informal bids for the recommended work at Arlington Park were received from four tree service companies with the lowest bid coming from West Coast Arborists (WCA) at \$23,632. It is estimated that the cost for other City park priority tree hazard reduction work is approximately \$11,000. If funding is approved, City staff will request informal bids cost from WCA and other tree care contractors for this additional work.

The timing of this work is critical as the rainy season has formally begun. The importance of the work is underscored by predictions of a strong El Niño season. As such, staff is requesting additional funds be appropriated for the tree work in City parks so it can be completed as soon as possible and not reduce the funds needed for the street tree grid pruning work, which has fallen behind schedule due to urgent service calls and tree failures outside of the grid schedule.

STRATEGIC PLAN CONSIDERATIONS

The requested actions are consistent with the following El Cerrito Strategic Plan Goals:

- Goal D – *Develop and rehabilitate public facilities as community focal points* by addressing deferred maintenance in the City’s public parks.
- Goal E – *Ensure the public’s health and safety* by reducing the risk of tree failures in City parks.

FINANCIAL CONSIDERATIONS

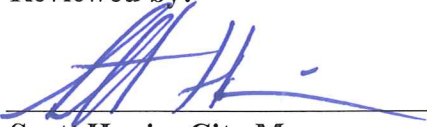
Staff is requesting an additional appropriation of \$35,000 from the unrestricted General Fund balance to address critical tree maintenance needs in City parks and will add this request as part of the FY 2015-16 mid-year budget adjustment. During the year, staff will look for savings in other General Fund expenses to offset the additional appropriation from the fund balance.

As WCA currently has another contract with the City to plant trees along Manila Street, the proposed contract of \$25,000 will increase the annual amount of procured services with this vendor beyond the City Managers authority of \$25,000 and therefore needs Council approval.

LEGAL CONSIDERATIONS

If the funding appropriation is approved, staff will execute a contract with West Coast Arborist using the City Attorney’s approved general services contract template (Attachment 2), and will procure services for the additional park work according to City policy.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution
2. General Services Contract with West Coast Arborists

RESOLUTION 2015– XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING AN ADDITIONAL APPROPRIATION OF \$35,000 FROM THE UNRESTRICTED GENERAL FUND BALANCE AS PART OF THE MID-YEAR BUDGET ADJUSTMENT TO THE FISCAL YEAR (FY) 2015-16 ADOPTED BUDGET, AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH WEST COAST ARBORISTS, INC. IN AN AMOUNT NOT TO EXCEED \$25,000 FOR TREE HAZARD REDUCTION WORK IN ARLINGTON PARK AND OTHER CITY PARKS

WHEREAS, a recent tree hazard risk assessment of Arlington Park by SBCA Tree Consulting recommends the immediate removal of nine trees and hazard pruning of several other trees; and

WHEREAS, a tree risk assessment of Dorothy Rosenberg Memorial Park trees by SBCA Tree Consulting recommends the timely removal of at least five trees; and

WHEREAS, City staff recommends the timely removal of standing dead trees in Canyon Trail Park; and

WHEREAS, the City solicited informal bids from four tree service companies with the lowest bid being submitted by West Coast Arborists (WCA) in an amount of \$23,632; and staff estimates that the recommended work in Dorothy Rosenberg park and in Canyon Trail Park is approximately \$11,000; and

WHEREAS, timing of this work is critical to complete prior to the City receiving any strong storms; and

WHEREAS, due to accelerated tree failure rates caused by the four-year drought and deferred maintenance, the Adopted Fiscal Year 2015-16 annual tree maintenance budget is projected to fall short of meeting current street tree pruning and removal requirements, and more funds are required to abate tree hazards in City parks.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito, approves an additional appropriation of \$35,000 from the unrestricted General Fund balance as part of the mid-year budget adjustment to the FY 2015-16 Adopted Budget, and authorizes the City Manager to execute a contract with West Coast Arborists, Incorporated in an amount not to exceed \$25,000 for tree hazard reduction work in Arlington Park and other City parks.

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

Agenda Item No. 5(F)

Attachment 1

I CERTIFY that at a regular meeting on November 3, 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 November__, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

**GENERAL SERVICES AGREEMENT BETWEEN
THE CITY OF EL CERRITO AND
WEST COAST ARBORISTS, INC.**

This agreement for General Services ("Agreement") is entered into on _____ (the "Effective Date") between the CITY OF EL CERRITO, a municipal corporation, with offices located at 10890 San Pablo Avenue, El Cerrito, California ("City") and West Coast Arborists ("Contractor") (together sometimes referred to as the "Parties").

Section 1. SERVICES. In accordance with the terms and conditions set forth in this Agreement, Contractor agrees to perform all services described in the Scope of Services, attached as Exhibit A, which is incorporated herein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 Term of Services.** This Agreement shall begin on the Effective Date and shall end June 30, 2016, unless the term of the Agreement is otherwise terminated or modified, as provided for herein. If the performance of the Scope of Services extends beyond the term of this Agreement, then the term of this Agreement shall be extended solely for and until completion of the Scope of Services.
- 1.2 Standard of Performance.** Contractor shall diligently perform all services required in connection with this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services in connection with this Agreement.
- 1.4 Termination.** City may cancel this Agreement at any time and without cause upon written notification to Contractor. In the event of termination, Contractor shall be entitled to compensation for services satisfactorily completed as of the date of written notice of termination; City, however, may condition payment of such compensation upon Contractor delivering to City documents and records identified in Section 10.1 of this Agreement.

Section 2. COMPENSATION. City hereby agrees to pay Contractor for the Scope of Services, whether by fixed price, hourly rates subject to a fixed rate schedule, pursuant to the fee schedule attached as Exhibit B, which is incorporated herein. Total compensation for work performed under this Agreement, **NOT TO EXCEED** Twenty Five Thousand Dollars (\$25,000).

- 2.1 Invoices.** Contractor shall submit invoices once a month, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Contractor shall have ninety (90) days after the completion of work to invoice City for all amounts due and outstanding under each governed by this Agreement. In the event, Contractor fails to invoice City for all amounts due within such ninety (90) day period, Contractor shall waive its right to collect payment from City.
- 2.2 Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred.

- 2.3 Reimbursable Expenses.** No expenses, costs, or liabilities of Contractor shall be reimbursable unless the obligation and manner of reimbursement is expressly set forth in the scope of services (Exhibit A) and in the fee schedule (Exhibit B).
- 2.4 Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

Section 3. CHANGES AND EXTRA SERVICES.

- 3.1** Provided that City gives reasonable advance notice to Contractor, City may propose in writing changes to Contractor's work within the Scope of Services described. If Contractor is of the opinion that any proposed change causes an increase or decrease in the cost, or a change in the schedule for performance, of the services, Contractor shall notify City in writing of that fact within five (5) days after receipt of written proposal for changes. Contractor may also initiate such notification, upon identifying a condition which may change the Scope of Services as agreed at the time of execution of this Agreement covering such Scope of Services. When and if City and Contractor reach agreement on any such proposed change and its effect on the cost and time for performance, they shall confirm such agreement in writing as an amendment to this Agreement. In the event the Parties cannot reach agreement as to the proposed change, at the City's sole discretion, Contractor shall perform such work and will be paid for labor, materials, equipment rental, etc., actually used to perform the work.
- 3.2** City shall not be liable for payment of any changes under Section 3.1, nor shall Contractor be obligated to perform any such changes, except upon such written amendment or supplement; provided that if, upon City's written request, Contractor begins work in accordance with a proposed change, City shall be liable to Contractor for the amounts due with respect to Contractor's work pursuant to such change, unless and until City notifies Contractor to stop work on such change.

Section 4. PROJECT SITE. Contractor shall perform the Services in such a manner as to cause a minimum of interference with City's operations and the operations of other contractors at each Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Services at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish. Each Project site may include all buildings, offices, and other locations where Services are to be performed, including any access roads. Contractor shall be solely responsible for the safe transportation and packing in proper containers and storage of any equipment required for performing the Services, whether owned, leased or rented. City will not be responsible for any such equipment which is lost, stolen or damaged or for any additional rental charges for such equipment. Equipment left or stored at a Project site, with or without permission, is at Contractor's sole risk. City may assume that anything left on the work site an unreasonable length of time after said work is completed has been abandoned. Any transportation furnished by City shall be solely as an accommodation and City shall have no liability therefore. Contractor acknowledges and agrees that it shall assume the risk and is solely responsible for its use of any City owned equipment and property provided by City for the performance of Services. City shall have no liability to Contractor therefore. In addition, Contractor further acknowledges and agrees that it shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or

other motorized vehicles as well as any equipment, tools, or other property which is utilized by Contractor on each Project site.

Section 5. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below for the period covered by the Agreement.

- 5.1 Workers' Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than One Million Dollars (\$1,000,000.00) per accident.
- 5.2 Commercial General and Automobile Liability Insurance.** Contractor shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than Two Million Dollars (\$2,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles. The City of El Cerrito shall be named as an additional insured and insurance shall provide primary coverage with respect to the City by written endorsement to the policy.
- 5.3 General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.
- 5.4 Professional Liability Insurance.** ~~(Required for all Licensed Contractors performing design work) Contractor shall maintain professional liability insurance for licensed professionals performing work in connection with this Agreement in an amount not less than One Million Dollars (\$1,000,000.00) covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) per claim.~~
- 5.5 All Policies Requirements.**
 - 5.5.1 Verification of Coverage.** Prior to beginning any work under this Agreement, Contractor shall, at the sole option of the City, provide City with (1) certified Certification of Insurance that demonstrates compliance with all applicable insurance provisions contained herein; and (2) upon request by the City, complete certified copies of all policies and/or complete certified copies of all endorsements that demonstrate compliance with this Section 5.
 - 5.5.2 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement must be attached to all insurance obtained in accordance with this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or

reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

- 5.6** **Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of City for all work performed by Contractor, its employees, agents and subcontractors.

Section 6. **INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.**

- 6.1** Contractor shall to the fullest extent allowed by law, with respect to all services performed in connection with this Agreement, indemnify, defend and hold harmless the City and its officials, commissioners, officers, employees, agents and volunteers from and against any and all claims that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Contractor. Contractor will bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such Claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the City shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the City.

Section 7. **STATUS OF CONTRACTOR.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent.

Section 8. **LEGAL REQUIREMENTS.**

- 8.1** **Governing Law.** The laws of the State of California shall govern this Agreement.
- 8.2** **Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work in connection with this Agreement.
- 8.3** **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.
- 8.4** **Nondiscrimination and Equal Opportunity.** In compliance with federal, state and local laws, Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement.
- 8.5** **Work Requiring Payment of Prevailing Wages.** In accordance with California Labor Code § 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which these services are to be performed, and not less

than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code shall be paid to all workers engaged in performing the services under this Agreement.

Section 9. MODIFICATION.

- 9.1 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 9.2 Assignment.** Contractor may not assign this Agreement or any interest therein without the prior written approval of the City.
- 9.3 Subcontracting.** Contractor shall not subcontract any portion of the performance contemplated and provided for herein without prior written approval of the City. Where written approval is granted by the City, Contractor shall supervise all work subcontracted by Contractor in performing the Services; shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work; the subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Services; and Contractor is obligated to ensure that any and all subcontractors performing any Services shall be fully insured in all respects and to the same extent as set forth under Section 5, to City's satisfaction.
- 9.4 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.
- 9.5 Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:
- 9.5.1** Immediately terminate the Agreement;
 - 9.5.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor in accordance with this Agreement;
 - 9.5.3** Retain a different Contractor to complete the Services not finished by Contractor;
or
 - 9.5.4** Charge Contractor the difference between the costs to complete the work at the time of breach and the amount that City would have paid Contractor in accordance with Section 2 if Contractor had completed the Work.

Section 10. KEEPING AND STATUS OF RECORDS.

- 10.1 Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains in accordance with this Agreement and that relate to the matters covered under the terms of this Agreement shall be the property of the City.

- 10.2 Contractor's Books and Records.** Contractor shall maintain any and all records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.
- 10.3 Confidential Information and Disclosure.** During the term of this Agreement, either party (the "Disclosing Party") may disclose confidential, proprietary or trade secret information (the "Information"), to the other party (the "Receiving Party"). The Receiving Party shall hold the Disclosing Party's Information in confidence and shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Information. Contractor understands that City is a public City and is subject to the laws that may compel it to disclose information about Contractor's business.

Section 11. WARRANTY.

- 11.1** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Services (including but not limited to all equipment and materials supplied in connection therewith) shall be free from defects in design and workmanship, and that Contractor shall perform all Services in accordance with all applicable engineering, construction and other codes and standards, and with the degree of high professional skill normally exercised by or expected from recognized professional firms engaged in the practice of supplying services of a nature similar to the Services in question. Contractor further warrants that, in addition to furnishing all tools, equipment and supplies customarily required for performance of work, Contractor shall furnish personnel with the training, experience and physical ability, as well as adequate supervision, required to perform the Services in accordance with the preceding standards and the other requirements of this Agreement. In addition to all other rights and remedies which City may have, City shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further services which may be required to correct any deficiencies which result from Contractor's failure to perform any Services in accordance with the standards required by this Agreement. Moreover, if, during the term of this Agreement (or during the one (1) year period following the term hereof), any equipment, goods or other materials or Services used or provided by Contractor under this Agreement fail due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable notice from City, replace or repair the same to City's satisfaction. Unless otherwise expressly permitted, all materials and supplies to be used by Contractor in the performance of the Services shall be new and best of kind.
- 11.2** Contractor hereby assigns to City all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Services.

Section 12. HEALTH AND SAFETY PROGRAMS. The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all City site programs.

- 12.1** Contractor will be responsible for acquiring job hazard assessments as necessary to safely perform all duties of each Project and provide a copy to City upon request.
- 12.2** Contractor will be responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of Project and provide copies of the certified training records upon request by City. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.
- 12.3** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 12.4** City, or their representatives, shall periodically monitor the safety performance of the Contractor working on the Project. All Contractors and their subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from City to Contractor under this Agreement at any time when, or for any Services performed when, Contractor is not in full compliance with this Section 10.
- 12.5** Contractor shall immediately report any injuries to the City site safety representative. Additionally, the Contractor shall investigate and submit to the City site safety representative copies of all written accident reports, and coordinate with City if further investigation is requested.
- 12.6** Contractor shall take all reasonable steps and precautions to protect the health of their employees and other site personnel with regard to their Scope of Services. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the City site safety representative upon request.
- 12.7** Contractor shall develop a plan to properly handle and dispose of all hazardous wastes they generate within the Scope of Services.
- 12.8** Contractor shall advise its employees and subcontractors that any employee, who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Project.
- 12.9** Contractor shall, at the sole option of the City develop and provide to the City a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials to include diesel fuel used for trucks owned or leased by the Contractor.

Section 13. MISCELLANEOUS PROVISIONS.

- 13.1 Attorneys' Fees.** If a Party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that Party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 13.2 Venue.** In the event that either Party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 13.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect.
- 13.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 13.5 Contract Administration.** This Agreement shall be administered by the City Manager or his designee, who shall act as the City's representative. All correspondence shall be directed to or through the representative.
- 13.6 Notices.** Any written notice to Contractor shall be sent to:
- West Coast Arborists
Attention: Victor Gonzales, Vice President
2200 E. Via Burton St.
Anaheim, CA 92806
- Any written notice to City shall be sent to:
- Stephen Prée, Environmental Programs Manager / City Arborist
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530
- 13.7 Professional Seal.** Where applicable in the determination of the City, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

13.8 Integration; Incorporation. This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

13.9 Alternative Dispute Resolution. If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:

Each Party will designate a senior management or executive level representative to negotiate the dispute. Through good faith negotiations, the representatives will attempt to resolve the dispute by any means within their authority. If dispute remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by mediation through a disinterested third person as mediator selected by both Parties. Mediation will begin within thirty (30) days of the selection of this disinterested third party, and will end fifteen (15) days after commencement. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code § 900, et. seq.

13.10 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the date signed by the City.

CITY OF EL CERRITO

CONTRACTOR

Date: _____

Date: _____

Scott Hanin, City Manager

[NAME, TITLE]

Attest:

Approved as to Form:

Cheryl Morse, City Clerk

Sky Woodruff, City Attorney

EXHIBIT A

SCOPE OF SERVICES

Standard of Performance

Contractor shall diligently perform all services required in connection with this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession. All trees shall be pruned or removed according to the most current editions of the following benchmark standards for tree pruning:

- American National Standards Institute (ANSI) A3000 Pruning Standards.
- ANSI Z133 Safety Standards
- ISA Best Management Practices: Tree Pruning
-

Scope of Services

Contractor shall provide tree pruning and removal work to be performed in El Cerrito at locations as directed by the City Public Works staff, including, but not limited to:

Location One- Arlington Park, 1120 Arlington Blvd, El Cerrito, 94530

A. Removals

1. One (1) Monterey Pine: 33"x 60+' (Tree inventory #110) may be accessible by crane
2. Seven (7) White Alder: 15", 14", 10", 22", 16", 18", 17" (#31,52,62,63,64,83,103)
3. One(1) Leyland Cypress 58" x 60+ (# 88)
 - Grind stumps removing chips to ≤ 6" above grade, scatter remaining chips in park woods

B. Aerial inspection and crown clean ≥2" diameter dead branches, safety pruning, end weight reduction

1. Two(2) Coast Redwood 58", 43" xx 51+' (#18,19)
2. Three(3) Monterey Cypress 26" 39" 64" each 60+' (# 47,48,49)

C. End weight reduction, clearance, dead wood >2", structural and/or safety pruning

1. Three (3) American Sweetgum: 17", 17" 45-60' , 60+' (#29,30,33)
2. Three (3) White Mulberry: 13" each x 20-40' (# 56,57,58)
3. One (1) Brisbane box: 5"x 15-30' (# 54)
4. One (1) Hollywood Juniper: 6"x 20' (#55)
5. Nine (9) Planetree: 3"- 6"x 21-30' (# 1-3, 22-23,25,26,51,53)
6. One(1) Portuguese laurel: 8"x 11-20" (# 59)

D. Minor crown cleaning and removal of dead wood >2"

1. One(1) Leyland Cypress - remove large disproportional damaged leader (#65)
2. Seven(7) Leyland Cypress: 27"- 43" x 25-50' (# 66,67,71-74,78)
3. Two (2) White Alder: 18"x 31-40'; 30"x 31-40' (# 32, 117)
4. One(1) White Alder: 20"x 30'(#104)
5. Two (2) Leyland Cypress : 30"x >50' each (#60,61)

EXHIBIT B

FEE SCHEDULE

See attached: West Coast Arborists Proposal 38696
Date 7/30/2015
Arlington Park, 1120 Arlington Blvd.
El Cerrito , CA

Proposal 38696

State Contractors License #366764
Liability Insured



West Coast Arborists, Inc.
390 Martin Avenue
Santa Clara, CA 95050
(P) 408.855.8660 (F) 408.844.8606

PROPOSAL FOR TREE MAINTENANCE SERVICES

CUSTOMER: CITY OF EL CERRITO	INV. NEEDED: Yes
MAIN CONTACT: STEPHEN PREE	BILLING CONTACT: STEPHEN PREE
ADDRESS: 10890 SAN PABLO AVE EL CERRITO, CA 94530	ADDRESS: 10890 SAN PABLO AVE EL CERRITO, CA 94530
PHONE/FAX: (510) 867-9665 / (510) 233-5401	PHONE/FAX: (510) 867-9665 / (510) 233-5401
EMAIL: SPREE@CI.EL-CERRITO.CA.US	EMAIL: SPREE@CI.EL-CERRITO.CA.US
JOB LOCATION: Arlington Park, 1120 Arlington Blvd, El Cerrito	
JOB DESCRIPTION: See scope of work.	

QTY	DESCRIPTION	U/M	U/P	TOTAL
8	A. Tree & Stump Removal	Each	\$875.00	\$7,000.00
5	B. Aerial Inspection & Crown Clean	Each	\$875.00	\$4,375.00
	C. Through Cable	No Bid	\$0.00	\$0.00
1	D. Tree & Stump Removal	Each	\$3,000.00	\$3,000.00
18	E. End weight reduction	Each	\$99.00	\$1,782.00
13	F. Crown Clean & Deadwood > 2"	Each	\$575.00	\$7,475.00
	G. Water Jetting	Man Hour	\$80.00	\$0.00
	H. Small Tree Removal 6-14" DSH	Each	\$300.00	\$0.00
	Medium Tree Removal 14.1-25" DSH	Each	\$750.00	\$0.00
	Large Tree Removal 25"+ DSH	Each	\$2,500.00	\$0.00

CONTINUED

COMMENTS:	
ESTIMATED BY: JOE BARTOLO	Date: 7/30/2015
ACCEPTED BY:	Date:

Proposal 38696

State Contractors License #366764
Liability Insured



West Coast Arborists, Inc.
390 Martin Avenue
Santa Clara, CA 95050
(P) 408.855.8660 (F) 408.844.8606

PROPOSAL FOR TREE MAINTENANCE SERVICES

CUSTOMER: CITY OF EL CERRITO	INV. NEEDED: Yes
MAIN CONTACT: STEPHEN PREE	BILLING CONTACT: STEPHEN PREE
ADDRESS: 10890 SAN PABLO AVE EL CERRITO, CA 94530	ADDRESS: 10890 SAN PABLO AVE EL CERRITO, CA 94530
PHONE/FAX: (510) 867-9665 / (510) 233-5401	PHONE/FAX: (510) 867-9665 / (510) 233-5401
EMAIL: SPREE@CI.EL-CERRITO.CA.US	EMAIL: SPREE@CI.EL-CERRITO.CA.US
JOB LOCATION: Arlington Park, 1120 Arlington Blvd, El Cerrito	
JOB DESCRIPTION: See scope of work.	

QTY	DESCRIPTION	U/M	U/P	TOTAL
	I. Small Stump Removal 6-14" DSH	Each	\$150.00	\$0.00
	Medium Stump Removal 14.1-25 DSH	Each	\$250.00	\$0.00
	Large Stump Removal 25-36" DSH	Each	\$350.00	\$0.00
	Very Large Stump Removal 36"+ DSH	Each	\$475.00	\$0.00
	J. Small Single Street Tree Clearance 6-14" DSH	Each	\$300.00	\$0.00
	Medium Single Street Tree Clearance 14.1-25" DSH	Each	\$600.00	\$0.00
	Large Single Street Tree Clearance 25"+ DSH	Each	\$1,200.00	\$0.00
	K. Tree Planting, Staking & Mulching 15 gallon - City Provided tree	Each	\$275.00	\$0.00
	Tree Planting, Staking & Mulching 15 gallon - Contractor provided tree	Each	\$350.00	\$0.00

GRAND TOTAL: \$23,632.00

COMMENTS:

ESTIMATED BY: JOE BARTOLO

Date: 7/30/2015

ACCEPTED BY:

Date:



AGENDA BILL

Agenda Item No. 5(G)

Date: November 3, 2015
To: El Cerrito City Council
From: Melanie Mintz, Community Development Director
Subject: Professional Services Agreement Amendment with Management Partners

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to execute an amendment to the Professional Services Agreement between the City of El Cerrito and Management Partners (Consultant) to provide support services to the Community Development Department in an amount not to exceed \$22,000 bringing the total contract to an amount not to exceed \$42,000.

DISCUSSION

The Community Development Department entered into a \$20,000 Professional Services Agreement with Management Partners (Consultant) on May 13, 2015 to provide economic development consulting services to the Department as it works to update its approach to economic development in the aftermath of the loss of redevelopment. Through that contract, the Consultant is updating the City's 2006 Economic Development Action Plan, providing specialized staff support to the City's San Pablo Avenue Priority Development Area Implementation Plan/Contra Costa Transportation Authority Planning grant effort and providing services on an as-needed basis. The tasks being performed under the existing agreement are still underway.

Since that time, the City also requested that the Consultant prepare a proposal to assist with Successor Agency/Redevelopment Dissolution activities, including preparation and execution of a Long Range Property Management Plan (LRPMP) and assistance with development and execution of a Request for Proposal process for properties to be sold for transit-oriented development (the Mayfair and Eastshore Triangle sites). The Consultant's proposal for these activities is \$22,000.

With the passage of Senate Bill 107 in September, which amended the Redevelopment Dissolution statutes, the Successor Agency is required to submit a Long Range Property Management Plan (LRPMP) to the Department of Finance (DOF) to manage disposition of the former Redevelopment Agency properties. The LRPMP must be approved by the DOF by December 31, 2015. In order to meet the timeline, staff issued a Task Order Amendment (First Amendment to the Agreement) authorizing the Consultant to prepare the LRPMP under the existing Professional Services Agreement. The First Amendment to the Agreement did not alter the previous Agreement's contract amount of \$20,000.

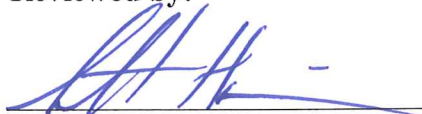
Agenda Item No. 5(G)

This proposed Second Amendment to the Agreement would add \$22,000 to the Agreement, bringing the total to \$42,000.

FINANCIAL CONSIDERATIONS

The cost of the proposed amendment to the Professional Services Agreement will be paid for through the adopted Community Development Department budget. No new budget appropriation is required.

Reviewed by:



Scott Hanin, City Manager

Attachment:

1. Accompanying Resolution

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT AMENDMENT WITH MANAGEMENT PARTNERS IN AN AMOUNT NOT TO EXCEED \$22,000 FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$42,000

WHEREAS, the City of El Cerrito entered into a Professional Services Agreement with Management Partners (Consultant) on May 13, 2015 to provide economic development consulting and support services to the Community Development Department; and

WHEREAS, the Community Development Department issued a Task Order Amendment (First Amendment) to include development of a Long Range Property Management Plan, which did not change the Agreement amount; and

WHEREAS, the Community Development Department requested a proposal from Consultant to complete Successor Agency/Redevelopment Dissolution activities including the development and execution of the Long Range Property Management Plan (LRPMP) and the development and execution of a Request for Proposals process for properties to be sold for transit-oriented development pursuant to the LRPMP; and

WHEREAS, adequate budget for the proposed services is included in the adopted Fiscal Year 2015-16 budget and no new funds are required.

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of El Cerrito does hereby authorize the City Manager to execute an amendment to the Professional Services Agreement between the City of El Cerrito and Management Partners in an amount not to exceed \$22,000, for a total Agreement amount not to exceed \$42,000.

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

I CERTIFY that at a regular meeting on November 3, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

Agenda Item No. 5(G)
Attachment 1

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

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 5(H)

Date: November 3, 2015

To: El Cerrito City Council

From: Yvetteh Ortiz, Public Works Director/City Engineer

Subject: First Amendment to License Agreement with BART for Ohlone
Greenway

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to execute the First Amendment to the License Agreement (First Amendment) by and between the San Francisco Bay Area Rapid Transit District (BART) and the City of El Cerrito (City) regarding improvement, operation, and maintenance of the BART-owned portion of the Ohlone Greenway.

BACKGROUND

2011 License Agreement

In October 2011, the City Council adopted Resolution No. 2011-78 approving a License Agreement governing the BART-owned portion of the Ohlone Greenway. The Ohlone Greenway is comprised of two properties: BART's and the City's. The BART property is generally located beneath the elevated BART tracks, while the City property is located east of the BART property. A Quit Claim Deed provided the City property from AT&SF Railroad in 1980. Existing City facilities on both portions of the Greenway include a mixed-use bicycle and pedestrian path, landscaping, lighting, play areas, benches and other various amenities. The License Agreement contains various provisions including a process for implementing improvements, maintenance responsibilities for both parties, and definition of the corridor's primary use as a mass transit corridor, as well as, indemnification, insurance and notification provisions. It expires on December 31, 2036.

The License Agreement indicates that, with some exceptions, installation of any permanent or non-permanent structure, facility, grading or other improvements, requires that the City submit plans and specifications for BART approval. Improvements excluded from requiring BART approval include non-permanent structures such as trash receptacles, benches, signs, and similar structures and landscaping and irrigation activities. The License Agreement indicates that the City is responsible for the maintenance and operation of all the existing facilities and new improvements related to the Ohlone Greenway, while BART is responsible for graffiti removal and other maintenance on BART's structures (e.g., support columns for aerial track).

Agenda Item No. 5(H)

Ohlone Greenway BART Station Area Access, Safety and Placemaking (ASP) Improvements Project

The Ohlone Greenway is a heavily used, multi-use path that runs the entire length of the City of El Cerrito and connects the El Cerrito Plaza and El Cerrito del Norte BART stations. Per the Ohlone Greenway Master Plan, adopted by the City Council in 2009, the City has been implementing projects along the Greenway to enhance its usability and contribute to reduced vehicle-miles travelled and a healthier, more connected community. However, there remains a need for improvements at the two BART stations where the Greenway currently becomes narrower and has an irregular alignment (especially as compared to other sections of the Greenway, which were improved as part of the BART Earthquake Safety Program construction) and where higher pedestrian, bicycle, automobile and bus traffic contribute to increased conflicts between all modes of travel. The Ohlone Greenway BART Station Area Access, Safety and Placemaking (ASP) Improvements Project was developed to address this need and meet multiple City goals to improve connectivity, enhance sense of place, bring new vibrancy and support the higher-density transit-oriented neighborhoods adjacent to BART.

The project is located along the Fairmount Avenue to Central Avenue and Hill Street to Cutting Boulevard blocks of the Ohlone Greenway as well as the adjacent street crossings of the Greenway. The project will improve the Greenway through the two BART stations including widening the path, enhancing landscaping and establishing “high use pedestrian zones” on the arterial streets. Key placemaking elements such as native landscaping, seating, and lighting are being provided to increase the sense of connectivity to the rest of the Greenway and establish a strong sense of place at these transportation gateways to the community. Finally, to improve security along the Greenway, the existing camera surveillance system will be upgraded and expanded to include three other locations along the Greenway.

Grant Funding and Caltrans Local Assistance Process

In June 2013, the City Council adopted Resolution No. 2013-29 applying for \$3.47 million in federal grant funds through the Contra Costa County Portion of the Metropolitan Transportation Commission’s (MTC’s) OneBayArea Grant (OBAG) Program for design and construction of the Ohlone ASP Improvements Project. The OBAG Program requires a minimum 11.47% percent local match in non-federal funding. BART agreed to provide \$300,000 in funding from the Measure J Project No. 10002-01, “Transit Oriented Development (TOD) and Access Improvements at El Cerrito Plaza & del Norte BART Stations.” The additional local matching funds are being provided by a portion of the Park In-Lieu funds contributed by Safeway as part of development of their del Norte Store.

Projects funded by federal transportation grants must go through a rigorous administrative process through the Caltrans Office of Local Assistance. As such, after the grant was formally awarded to the City by MTC in Fall 2013, City staff worked through the Caltrans process to request authorization to proceed with the design of the project, which included a field review and preliminary environmental studies, among

other items. These steps needed to be completed before the City could begin the consultant selection process for engineering and design services. At the culmination of the selection process, in April 2015, the City Council adopted Resolution No. 2015-30 approving a consulting services agreement with BKF Engineers. Since then, City staff and the BKF consulting team have been developing the design including conducting public outreach, obtaining a National Environmental Policy Act (NEPA) Categorical Exclusion determination, coordinating with BART, and undergoing a peer review as required by the Measure J funding program.

ANALYSIS

Under the License Agreement, described above, BART granted the City permission to use BART property for path and landscaping purposes related to the Ohlone Greenway. However, the License Agreement did not include the portions of the Ohlone Greenway that currently cross the parking/drive areas of BART's El Cerrito Plaza station and El Cerrito del Norte station (Stations Parking Areas), specifically on the following blocks: Knott Avenue to Cutting Boulevard, Cutting Boulevard to Hill Street, and Central Avenue to Fairmount Avenue. The Greenway is located on both BART property and City property within portions of these Stations Parking Areas. It appears that the 2011 License Agreement did not include these areas because BART currently takes responsibility for maintenance of the Greenway facilities including the path and landscaping, and litter and graffiti removal.

The License Agreement must be amended to expand the areas covered thereby formalizing the current use of portions of the Stations Parking Areas for the Greenway alignment and allowing for the Ohlone ASP project improvements within this alignment, and adding portions of Stations Parking Areas needed to implement key placemaking elements of the project improvements (such as landscaping, seating areas, and play spaces). The License Agreement must also be amended to modify certain other terms regarding operations and maintenance of these additional areas by both parties. The Stations Parking Areas over which these improvements are to be constructed are on approximately 32,580 square feet of BART property.

These additional areas will be governed by all terms and conditions in the License Agreement, unless otherwise specified in the First Amendment. Under the First Amendment, the City will be assuming sole responsibility and liability for the pre-construction, construction, operation, and maintenance of any improvements on the additional areas, except that litter and graffiti removal will continue to be the responsibility of BART. In addition, similar to the current License Agreement, the City will need to obtain a BART permit for construction of any improvements within these areas. Any required BART inspection services will be provided at no cost to the City.

BART is agreeing to allow the City to connect into existing BART utility infrastructure for electrical, water and storm drainage. The City will be allowed to draw electricity and water, at no cost to the City, to serve the additional areas of the Ohlone Greenway. It should be noted that the First Amendment allows BART to terminate the City's use of BART's electrical and water service with a six-month notice. Both BART and City staff consider the likelihood of such a termination to be very low.

City staff is requesting approval of the First Amendment so that the City, with BART as a partner, can continue to improve the Greenway at these key transportation gateways to the City. As some of funding for the Ohlone ASP Project originates from federal sources, the City must certify that work is within the City right-of-way and/or that the City has secured all necessary property interests to construct, operate, and maintain the project improvements before Caltrans will authorize construction to proceed. Approval of the First Amendment will allow City staff to submit the right-of-way certification documents to Caltrans by mid-November 2015 thereby keeping the project on schedule.

STRATEGIC PLAN AND ENVIRONMENTAL CONSIDERATIONS

The City's Strategic Plan articulates the mission of the City to serve, lead, and support our diverse and transit-rich community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety, and creating an economically and environmentally sustainable future. Approval of the proposed amendment is consistent with the following El Cerrito Strategic Plan Goal:

- Goal C – *Deepen a sense of place and community identity* by promoting strong neighborhoods;
- Goal D – *Develop and rehabilitate public facilities as community focal points*, by addressing ongoing and deferred maintenance of facilities and infrastructure;
- Goal E – *Ensure the public's health and safety* by improving pedestrian and bicycle safety; and
- Goal F – *Foster environmental sustainability citywide* by encouraging alternative modes of transportation to the single occupancy vehicle.

In 2009, the City completed an Initial Study and Negative Declaration per California Environmental Quality Act (CEQA) Guidelines, Section 15063, to evaluate the cumulative impacts of the improvements identified for the Greenway in the Ohlone Greenway Master Plan. The project is consistent with the Master Plan and will not have a significant effect on the environment.

FINANCIAL CONSIDERATIONS

Currently, routine landscaping maintenance services for the Ohlone Greenway consists of general clean-up, mowing, weeding and refuse collection for a variety of landscaped areas, three small play areas, creek crossings, and several areas of sensitive habitat, as well as, the Bruce King Dog Park, Tree Park, and Baxter Creek Gateway Park. These services are performed by a landscape maintenance contractor, currently New Image Landscape Company, at a cost of approximately \$29,000 per year. Given the size and character of the additional areas to be maintained, the additional maintenance responsibilities resulting from execution of the First Amendment are estimated to cost the City approximately \$2,000 to \$3,000 per year in routine landscaping maintenance. Funding for annual landscaping maintenance is considered as a part of the overall City's annual budgeting process, which is subject to separate City Council actions. The Public Works Department anticipates requesting additional maintenance funding for this purpose beginning in Fiscal Year 2017-18 after the project is completed and the warranty period expires.

Agenda Item No. 5(H)

Path and sidewalk areas, after they are built or replaced, typically require no routine maintenance and therefore no increased costs for annual maintenance are anticipated for these types of facilities. Rehabilitation or replacement are not anticipated for many years, and will be budgeted for as part of the City's Capital Improvement Program.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and commented on the First Amendment. The final version will be substantially in the form attached.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution
2. First Amendment – Exhibit A to the Resolution

RESOLUTION 2015-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO THE LICENSE AGREEMENT (FIRST AMENDMENT) BY AND BETWEEN THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (BART) AND THE CITY OF EL CERRITO (CITY) REGARDING IMPROVEMENT, OPERATION, AND MAINTENANCE OF THE BART-OWNED PORTION OF THE OHLONE GREENWAY

WHEREAS, in 2011, the City Council adopted Resolution No. 2011-78 approving a License Agreement between the San Francisco Bay Area Rapid Transit District (BART) and the City of El Cerrito (City) governing the improvement, operation, and maintenance of the BART-owned portion of the Ohlone Greenway; and

WHEREAS, the Ohlone Greenway is a heavily used, multi-use path that runs the entire length of the City of El Cerrito and connects the El Cerrito Plaza and El Cerrito del Norte BART station; and

WHEREAS, per the 2009 Ohlone Greenway Master Plan, the City has been implementing projects along the Greenway to enhance its usability and contribute to reduced vehicle-miles travelled and a healthier, more connected community; and

WHEREAS, the Ohlone Greenway BART Station Area Access, Safety and Placemaking (ASP) Improvements Project is intended to improve bicycle and pedestrian routes to transit, commercial nodes and housing; bring new vibrancy to a Priority Development Area to encourage housing development; increase user safety and accessibility at the El Cerrito Plaza and El Cerrito del Norte BART Stations; and improve the integration of the two BART Stations with the surrounding community; and

WHEREAS, in 2013, the City Council adopted Resolution No. 2013-29 applying for approximately \$3.47 million in federal grant funds through the Contra Costa County Portion of the Metropolitan Transportation Commission's (MTC's) OneBayArea Grant (OBAG) Program for design and construction of the project, committing the necessary non-federal match, and assuring the project would be completed per federal requirements; and

WHEREAS, MTC subsequently awarded the City \$3,468,000 in federal funds; and

WHEREAS, the non-federal local matching funds include \$300,000 from the BART Measure J Project No. 10002-01, "Transit Oriented Development (TOD) and Access Improvements at El Cerrito Plaza & del Norte BART Stations" Project, and additional funding from Park In-Lieu funds contributed by Safeway as part of development of their del Norte Store; and

WHEREAS, the License Agreement did not include the portions of the Ohlone Greenway that currently cross the parking/drive areas of BART's El Cerrito Plaza station and El Cerrito del Norte station (Stations Parking Areas), specifically on the following

blocks: Knott Avenue to Cutting Boulevard, Cutting Boulevard to Hill Street, and Central Avenue to Fairmount Avenue; and

WHEREAS, the License Agreement must be amended to expand the areas covered thereby formalizing the current use of portions the Stations Parking Areas for the Greenway alignment and allowing for the Ohlone ASP project improvements within this alignment, and adding portions of Stations Parking Areas needed to implement key placemaking elements of the project improvements (such as landscaping, seating areas, and play spaces); and

WHEREAS, the License Agreement must also be amended to modify certain other terms of the License Agreement regarding operations and maintenance of these additional areas by both parties; and

WHEREAS, the City completed an Initial Study and Negative Declaration in 2009 per California Environmental Quality Act (CEQA) Guidelines, Section 15063, to evaluate the cumulative impacts of the improvements identified for the Greenway in the Ohlone Greenway Master Plan, and the project is consistent with the Master Plan and will not have a significant effect on the environment.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to execute the First Amendment to the License Agreement by and between the San Francisco Bay Area Rapid Transit District and the City of El Cerrito regarding improvement, operation, and maintenance of the BART-owned portion of the Ohlone Greenway.

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

I CERTIFY that at a regular meeting on November 3, 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 November 3, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

FIRST AMENDMENT TO LICENSE AGREEMENT

This FIRST AMENDMENT TO LICENSE AGREEMENT (the “First Amendment”) is entered into on this _____ day of _____, 2015 (the “Effective Date”), by and between the SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (“BART”), a rapid transit district, and the CITY OF EL CERRITO (“City”), a municipal corporation (collectively, the “Parties”).

RECITALS

A. The Parties entered into that certain License Agreement (the “License Agreement”), attached here as Exhibit “B” and made a part hereof, on November 15, 2011 whereby BART granted permission to City to use certain BART property commonly known as the Ohlone Greenway (the “Premises”) for bicycle and pedestrian pathway and landscape purposes.

B. The Premises did not include certain portions of the parking/drive areas of BART’s El Cerrito Plaza station and El Cerrito del Norte station (the “Stations Parking Areas”). City desires to design, construct, maintain, and operate, at its own cost, lighting, landscaping, pedestrian and bicycle path improvements, including but not limited to benches, bike racks, concrete seatwalls, and special concrete paving, on the aforementioned portions.

C. The Parties desire to amend the License Agreement to (1) expand the Premises by adding portions of the Stations Parking Areas, identified in Exhibit “C” as “Additional Premises,” and (2) to modify certain other terms of the License Agreement, all as set forth in this First Amendment.

AGREEMENT

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

A. Capitalized terms used in this First Amendment and not defined herein have the meaning given to them in the License Agreement.

B. Additional Premises. The Parties agree that the approximately thirty-two thousand five hundred eighty (32,580) square feet of BART property, identified as “Additional Premises” in Exhibit “C,” attached hereto and made a part hereof, is hereby added to and included in the Premises. Exhibit “A” of the License Agreement is also amended to add and include the property identified in Exhibit “C” of this First Amendment.

C. Terms and Conditions. The Additional Premises shall now be governed by all terms and conditions in the License Agreement that apply to the Premises, unless otherwise set forth in this First Amendment. Such terms and conditions include City’s agreement to assume sole responsibility and liability for the pre-construction, construction, operation, and

maintenance of any improvements on the Additional Premises, except that removal of graffiti and litter shall continue to be the responsibility of BART, per existing BART practices.

D. Pre-Construction Use of the Premises. No less than forty-eight (48) hours prior to entering the Additional Premises for the purpose of property surveying, City shall notify BART's Real Estate and Property Development Department. BART's designated contact shall be Gary Anderson, Senior Right of Way Officer, at ganders@bart.gov and (510) 464-6676, or his designee.

E. New Construction of Improvements. Any new construction of improvements on the Additional Premises (the "Improvements") are subject to the terms of BART's Permit to Enter, attached hereto as Exhibit "D" and made a part hereof, including but not limited to BART's review and approval of draft construction specifications and drawings and City's agreement to Permit to Enter standard terms and conditions. City shall apply to BART for such Permit to Enter, with draft construction specifications, no less than six (6) weeks prior to the start of construction. City shall also provide BART with any change orders (the "Change Orders") in connection with the Improvements for review and approval, as appropriate. The start of any new construction or improvements is subject to BART's approval and issuance of the Permit to Enter, following City's application. BART's approval or issuance shall not be unreasonably withheld or delayed.

F. BART-Required Inspection Services. BART agrees to provide any BART-required inspection services in connection with such permits and authorizations for the Improvements on the Additional Premises at no cost to City.

G. Connections to BART Utility Infrastructure. BART agrees to allow City to connect into existing BART utility infrastructure for electrical, water and storm drainage. Except as provided below and only to the extent permitted by law, City may (i) draw from BART's electric grid, at no cost to City, solely for Ohlone Greenway needs related to the Additional Premises, and (ii) draw from BART's water supply, at no cost to City, for Additional Premises irrigation system needs. Notwithstanding any provision to the contrary, BART is not responsible for any liability arising from temporary outages to water or electric supply. Provided BART gives City six (6) months advance notice, BART may, at its sole discretion, terminate City's no-cost consumption of electricity and water.

H. Mass Transit Corridor Purposes. The Parties acknowledge and agree that as an express condition of this First Amendment: (i) notwithstanding any other provision herein, BART reserves the Additional Premises for future use for mass transit corridor purposes and reserves the right to terminate the License, as necessary, in BART's sole judgment, for such purposes, upon notice as provided in Article 15 of the License; (ii) the Premises, the Additional Premises, and any improvements are to be used for a bicycle and pedestrian pathway, allow access to BART's associated stations, and, for purposes of Section 4(f) of the Department of Transportation Act, codified at 49 U.S.C. § 303(c), said pathway is designated by the City and by BART as primarily non-recreational in nature, as not significant for recreational purposes and will be utilized as an integral part of the local transportation system; and (ii) the City will not use or consent to the use of any grant funds pursuant to Section 6(f)(3) of the Land and Water

Conservation Fund Act, codified at 42 U.S.C. § 4601-8(f)(3), for any development or improvements to the Premises or any subset of the Premises, such as the Additional Premises, or to any property adjacent to the Premises, the City assumes responsibility, at its sole cost, for compliance with the requirements of DOT Act section 4(f), the LWCF Act, and the Public Park Preservation Act of 1971 (Cal.Pub.Res.Code section 5401 et seq.), as applicable, with respect to the Premises, the Additional Premises, and/or such property adjacent to the Premises.

I. No Joint Venture. Nothing in this First Amendment is intended to nor does establish the Parties as partners, co-venturers or principal and agent with one another.

J. As amended by this First Amendment, the License Agreement shall continue in full force and effect between BART and City and in accordance with all of its terms. This First Amendment and the License Agreement shall be construed as a whole in order to effectuate the intent of the parties to amend the License Agreement in the manner specified in this First Amendment.

IN WITNESS WHEREOF, the Parties hereby enter into this First Amendment, to be effective upon full execution hereof.

CITY OF EL CERRITO,
a municipal corporation

By: _____
Date

Recommended for Approval:

Scott Hanin
City Manager

By: _____
Sky Woodruff
City Attorney

SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT,
a rapid transit district

By: _____
Sean Brooks
Manager, Real Estate and
Property Development Department
Date

Recommended for Approval:

By: _____

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("License") is entered into this 15th day of November, 2011 (the "Effective Date"), by and between the **SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**, ("BART"), a rapid transit district, and the **CITY OF EL CERRITO** ("City"), a municipal corporation (collectively, the "Parties").

THE PARTIES ENTER INTO THIS LICENSE on the basis of the following facts, understandings, and intentions:

WITNESSETH:

WHEREAS, BART owns certain property located in the City of El Cerrito, County of Contra Costa, State of California highlighted in **Exhibit A**, attached hereto and incorporated herein by reference (the "Premises") and commonly known as the Ohlone Greenway;

WHEREAS, City desires to improve, maintain and use a portion of the Premises for bicycle and pedestrian pathway and landscape purposes, in a manner that will not interfere with any of BART's uses of the Premises;

WHEREAS, BART is willing to allow City to use the Premises for bicycle and pedestrian pathway and landscape purposes, subject to the terms and conditions contained herein;

NOW, THEREFORE, BE IT MUTUALLY AGREED, that for and in consideration of the premises herein and the covenants hereinafter contained and the mutual benefits to be derived by both parties, the parties agree as follows:

1. **LICENSE.** BART hereby confers upon City a license and privilege to use the Premises, subject to BART's superior and paramount rights of ownership, possession and use, for the purposes of improving, maintaining and using a portion of the Ohlone Greenway, and City accepts this license and privilege.
2. **TERM.** This License shall commence upon execution by all parties and shall expire on December 31, 2036. This License is non-assignable and non-transferable.
3. **NON-EXEMPTION.** This License does not and shall not be interpreted to grant City any rights to proceed with any improvement, maintenance or use of the Premises without compliance with all applicable Federal or State laws or local ordinances or the obtaining of permits or authorizations required by any other public agency, nor shall it be construed as authorizing any zoning variance or establishing any precedent for similar variance except as may be provided herein.

4. **LIMITING CONDITIONS.** City acknowledges that the real property comprising the Premises has been acquired by and for the use of BART. BART retains the right to use, sell or change areas of the Premises, subject to the City's right of first refusal in the event of a sale.
5. **NATURE OF USE.** This License is granted solely for the purpose of authorizing City to provide such improvements, maintenance and use of said portions of the Ohlone Greenway for general public use without discriminatory practices as defined by the law. Such use by City or public shall be at all times subject to the primary use of the Premises by BART. City shall not install permanent buildings, structures or facilities within or upon Premises without written authorization from BART. BART maintains all rights of entry to the subject site, including the right to alter, repair, maintain and operate its facilities. BART shall have the right to enter the Premises upon or through adjacent property thereto owned by the City for the purpose of maintaining BART facilities located on the Premises. BART shall notify the City a minimum of 48 hours in advance of any entry for purpose of maintenance activities which requires the closure of the Ohlone Greenway pathway. BART shall sign appropriate detour routes around any such closure and comply with all applicable encroachment requirements.
6. **CITY PLANS.** With the exceptions identified in this Section, prior to the installation of any permanent or non-permanent structure, facility, grading modification or improvement ("Improvements"), City shall submit plans and specifications for the proposed Improvements to BART for BART's approval. Work on structures, facilities, grading or Improvements shall not be initiated by City until written approval is executed by BART, which approval shall not be unreasonably withheld. Plans and specifications must show that the Improvements are for bicycle and pedestrian pathway, and associated landscaping purposes as an integral part of the local transportation system and are compatible with Section 7 herein.

Non-permanent structures that are excluded from the requirement to obtain prior BART approval includes but is not limited to trash receptacles, benches, sign installations, and similar structures. Permanent structures are defined as any structure that a person can enter, such as a restroom. Grading that is excluded from the requirement to obtain prior BART approval includes but is not limited to addition or removal of mulch or minor grade changes for routine landscape maintenance such as the addition of soil amendments, landscape soil or the breaking of the surface for the purpose of digging holes for sign and bench installation or anything of a similar kind.

Landscaping and irrigation activities that are excluded from the requirement to obtain prior BART approval include removal or planting of new or existing vegetation and plants with the exceptions noted in this section. Landscaping and irrigation improvements shall be selected and located according to public safety and traffic engineering best practices, in a manner that protects the security and safety of pathway users by maintaining line of sight to the pedestrian and bicycle pathways from adjacent roadways. Landscaping and irrigation improvements shall be installed in a manner that allows regular maintenance of the BART

elevated trackway and prevents vegetation from either growing up into the trackway from below or overhanging onto the trackway from above. No species of tree or vegetation shall be planted under the BART tracks such that the mature growth height of such trees or vegetation will come within ten (10) feet, measured vertically, from the underside of the elevated trackway structure to the top of the tree canopy or vegetation. For vegetation not located under the trackway structure, no species of tree shall be planted such that, at the highest point of the elevated trackway structure, the mature growth of such trees will come within ten (10) feet, measured horizontally from the outermost edge of the elevated trackway structure to the outermost edge of the tree canopy. For the purposes of taking measurements as described in this Paragraph 6, the "elevated trackway structure" is defined as the horizontal portion of the elevated structure directly supporting the tracks, excluding the vertical support pillars.

7. **MAINTENANCE AND OPERATION.** City shall be responsible for maintenance and operation of all of its facilities and improvements related to the Ohlone Greenway and adjacent landscaping and pathway lighting. Such responsibilities include routine and major maintenance of the pathway surface, landscaping and lighting mounted on the underside of BART's aerial track structure. Removal of graffiti on BART's structures shall continue to be the responsibility of BART, per existing BART graffiti removal practices. City shall maintain and operate said portions of Ohlone Greenway as shown in Exhibit A in an orderly, safe, and sanitary manner. BART shall remove signs, posters, graffiti or any other item upon BART's aerial piers promptly upon occurrence, per existing BART practices.
8. **INDEMNIFICATION.** City shall indemnify and hold BART, its directors, officers, agents and employees harmless from all claims, demands, suits, loss, damages, injury and liability (direct or indirect, including any and all costs and expenses in connection therewith) but only in proportion to and to the extent arising out of anything done or omitted to be done by the City, its officers, agents and employees under or in connection with any work, authority or jurisdiction delegated to the City.

BART shall indemnify and hold City, its directors, officers, agents and employees harmless from all claims, demands, suits, loss, damages, injury and liability (direct or indirect, including any and all costs and expenses in connection therewith) but only in proportion to and to the extent arising out of anything done or omitted to be done by BART, its officers, agents and employees under or in connection with any work, authority or jurisdiction delegated to the BART.

9. **MASS TRANSIT CORRIDOR PURPOSES.** The City acknowledges and agrees that as an express condition of BART's grant of the License: (i) notwithstanding any other provision herein, BART reserves the Premises for future use for mass transit corridor purposes and reserves the right to terminate the License as necessary, in BART's sole judgment, for such purposes, upon notice as provided in Article 15 herein; (ii) the Premises are to be used for a bicycle and pedestrian pathway, allow access to BART's associated stations, and, for purposes of Section 4(f) of the Department of Transportation Act, codified at 49 U.S.C. §

303(c) ("DOT Act Section 4(f)"), said pathway is designated by the City as not significant for recreational purposes, and will be utilized as an integral part of the local transportation system; and (iii) the City will not use or consent to the use of any grant funds pursuant to Section 6(f)(3) of the Land and Water Conservation Fund Act, codified at 42 U.S.C. § 4601-8(f)(3) ("LWCF Act"), for any development or improvements on to the Premises; and (iv) in the event that the City undertakes any use, development or improvements for park purposes, and/or uses or consents to the use of any grant funds pursuant to Section 6(f)(3) of the Land and Water Conservation Fund Act, codified at 42 U.S.C. § 4601-8(f)(3) ("LWCF Act"), on the Premises and/or on property adjacent to the Premises, the City assumes responsibility, at its sole cost, for compliance with the requirements of DOT Act section 4(f), the LWCF Act and the Public Park Preservation Act of 1971 (Cal. Pub. Res. Code section 5401 et seq.), as applicable, with respect to the Premises and/or such property adjacent to the Premises."

10. **EMERGENCY ACCESS.** The City of El Cerrito Fire Department responds to emergencies on BART property, including the underground, at-grade and elevated sections of trackway. BART and City agree to preserve emergency access to BART's trackway at all times, regardless of whether or not the Ohlone Greenway or any other part of BART property is otherwise open to the public or used by the City for any purpose. Should BART decide to exercise BART's rights under Sections 4, 12, 15 and/or 16 to close public access to the Ohlone Greenway or terminate this License for any reason, emergency access shall be maintained. Emergency access is defined as access equivalent to the condition currently existing via the Ohlone Greenway.
11. **INSURANCE.** At all times during the life of this License, or as may further be required by this License, City at its own cost and expense shall provide the insurance specified by this Article.

11.1 Evidence Required

At or before execution of this License, City shall provide BART with a certificate of insurance executed by an authorized representative of the insurer(s) evidencing that City's insurance complies with this Article. The certificate shall reference the License Agreement between BART and City. In addition, a copy of all required endorsements shall be included with and attached to the Certificate of Insurance.

11.2 Notice of Cancellation, Renewal, Reduction or Material Change in Coverage

All policies shall be endorsed to provide thirty (30) days prior written notice of any cancellation, reduction or material change in coverage. For policies that extend beyond the coverage policy year, City shall submit to BART's Manager of Insurance certification confirming the insurance has been renewed and continues in place. Notice shall be forwarded to:

Department Manager, Insurance
San Francisco Bay Area Rapid Transit District

P. O. Box 12688,
Oakland, California 94607-2688

11.3 Qualifying Insurers

All policies shall be issued by California admitted companies which hold a current policy holders alphabetic and financial size category rating of not less than A:VIII according to Best's Insurance Reports.

11.4 Insurance Required

A. Commercial General Liability Insurance for bodily injury (including death) and property damage which provides limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate.

1. Coverage shall include:
 - a) Premises and Operations;
 - b) Products/Completed Operations;
 - c) Broad Form Property Damage;
 - d) Contractual liability;
 - e) Personal Injury liability; and
 - f) Cross-Liability and Severability of Interests.
2. Such insurance shall include the following endorsements, copies of which shall be provided:
 - a) Inclusion of BART, its directors, officers, representatives, agents and employees as additional insured as respects to City's operations in connection with this License;
 - b) Stipulation that the insurance is primary insurance and that no insurance or self-insurance of BART will be called upon to contribute to a loss.

B. Comprehensive Automobile Liability for bodily injury (including death) and property damage which provides coverage limits of at least One Million Dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

C. Workers' Compensation/Employer's Liability Insurance Statutory Workers' Compensation and Employer's Liability insurance for not less than One Million Dollars (\$1,000,000) per accident applicable to Employer's Liability coverage for all employees engaged in services or operations under this License. The policy shall include broad form all-states/other states coverage. Coverage shall be specifically endorsed to include the insurer's waiver of subrogation in favor of BART, its directors, officers, representatives, agents and employees, a copy of which shall be provided to BART. Should City contract any work to be

done on the Premises, City shall require each contractor or subcontractor of any tier to similarly to comply with this Article, all in strict compliance with federal and state laws.

11.5 Special Provisions

A. The foregoing requirements as to the types and limits of insurance coverage to be maintained by City and any approval of said insurance by BART is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by City pursuant to this License, including but not limited to the provisions concerning indemnification.

B. BART acknowledges that some insurance requirements contained in this Article may be fulfilled by a funded self-insurance program of City. However, this shall not in any way limit liabilities assumed by City under this License. Any self-insurance program must be approved in writing by BART.

C. Should any of the work under this License be contracted, City shall require each of its contractor or subcontractor of any tier to provide the aforementioned coverage, or City may insure its contractor(s) under its own policy(s).

D. BART reserves the right to terminate the License in the event of material noncompliance with the insurance requirements of this Article.

12. **DAMAGES.** In the event that BART is charged with any liability arising out of this License for injury or damages caused by or resulting by reason of anything done or omitted to be done by the City, its officers, agents and employees under or in connection with any work, authority or jurisdiction delegated to the City in connection with City's construction, maintenance, or use of the Premises and is required to pay any damages, award, compensation or judgment because of said construction, maintenance, operation or use, BART may terminate this License if not reimbursed by City or City's insurance carrier under City's agreement to indemnify BART herein.

13. **COSTS AND EXPENSES.** By its approval of facilities, BART in no way assumes any liability or obligation whatsoever for any costs or expenses to be incurred by City under this License for the purposes for which this License is made. Such freedom from liability or expense by BART shall include any connection or service charges or rates or bills for City utility services, including but not limited to gas, electric, water, sewer, garbage or rubbish removal from all structures and facilities maintained by the City for the purposes of the Ohlone Greenway.

14. **CONCESSIONAIRES AND OTHER THIRD PARTIES.** Any and all rights granted by City to concessionaires or other third parties involving the Premises shall be approved by BART in writing prior to the granting thereof and shall be in effect only during the term of this License. BART shall have no obligation to, or responsibility for, such concessionaires or third parties and it shall be the

responsibility of City that such parties observe and conform to any pertinent conditions of this License, including but not limited to BART's rights of ownership, possession and use. Concessionaires shall release and hold harmless BART from all liability and claims for damages. Said release shall be a condition precedent to the City's grant of any permission or license to said concessionaires or third parties.

15. NOTICES. All notices shall be given to each party in writing, personally or by mail, address as follows:

San Francisco Bay Area Rapid Transit District
P.O. Box 12688
Oakland, CA 94604-2688
ATTN: Right of Way Management Division

All notices given by BART to City shall be addressed as follows:

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530
ATTN: City Manager
citymanager@ci.el-cerrito.ca.us

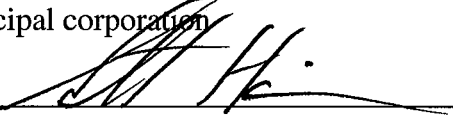
EXHIBIT "B"
to the First Amendment to the License Agreement

License Agreement
City of El Cerrito

IN WITNESS WHEREOF, the parties hereto have executed one (1) or more copies of this License, as of the Effective Date.

CITY OF EL CERRITO

a municipal corporation

Name: 

Title: City Manager
Scott Hanin
City Manager

**SAN FRANCISCO BAY AREA RAPID TRANSIT
DISTRICT,**

a rapid transit district


Jeff Ordway
Department Manager, Real Estate & Property Development

EXHIBIT "A"
to the License Agreement
Page 2 of 9

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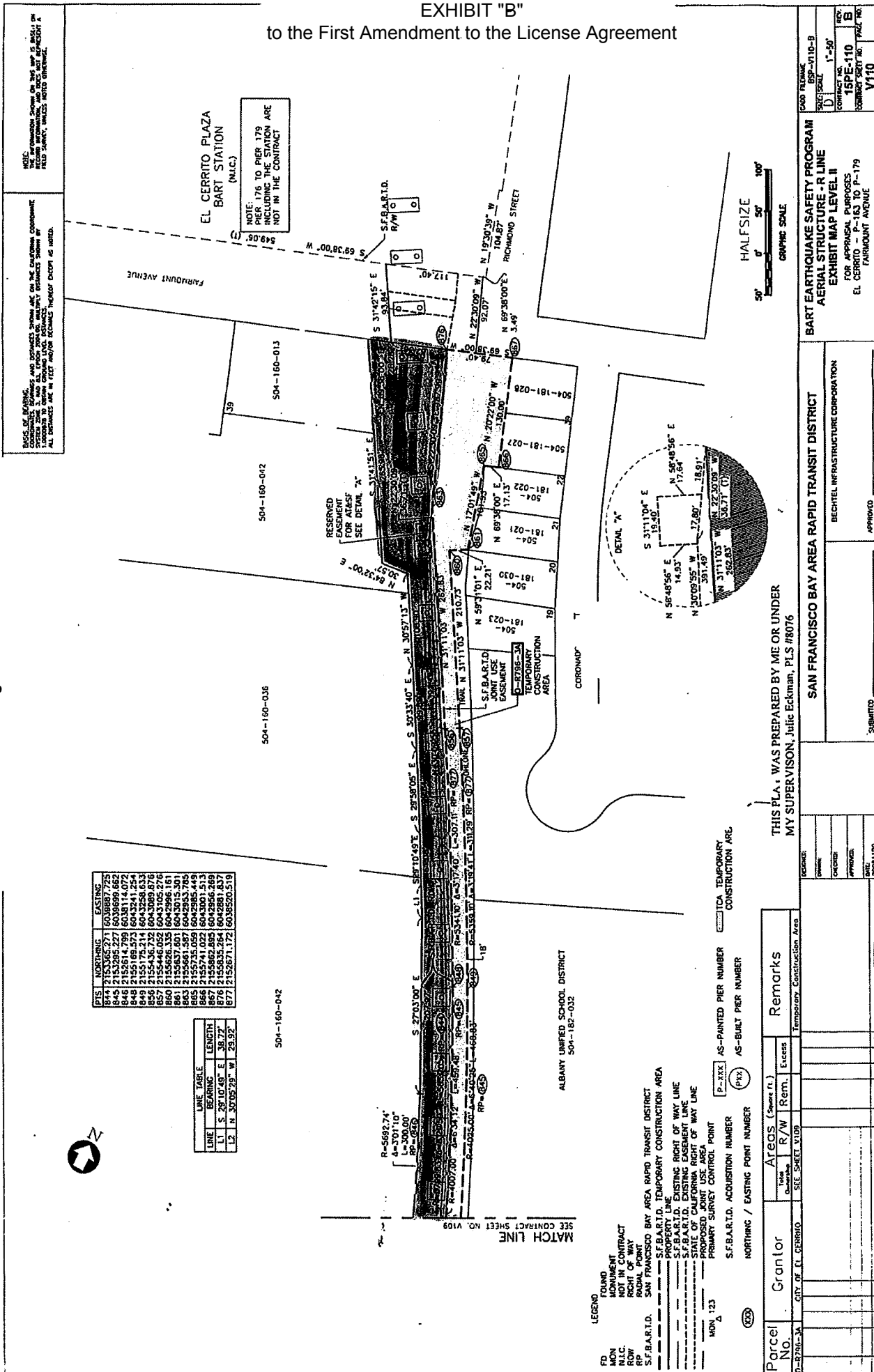


EXHIBIT "A"

EXHIBIT "B"



CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	30007.00'	0°05'10"	45.10'

MP 8.51

PLS #8076

T

Duration:

SAN F

CO BAY

1. INTRODUCTION

**FINE
FROG**

— 458

8-111A

EXHIBIT "A"

Page 4 of 9

BASIS OF HEARING.
 COORDINATE BEARINGS AND DISTANCES SHOWN ARE ON THE CALIFORNIA COORDINATE SYSTEM ZONE 3. HAD ALL EPOCH 2004.0, MULTIPLY DISTANCES SHOWN BY 1.00000078 TO OBTAIN CORRECTED LEVEL DISTANCES.
 ALL DISTANCES ARE IN FEET UNLESS OTHERWISE NOTED.

	PITS	NORTHWEST	EASTING
8041	2157681.740	8041720.381	
8042	2157681.740	8041720.381	
8043	2157681.740	8041720.381	
8044	2157681.740	8041720.381	
8045	2157681.740	8041720.381	
8046	2157681.740	8041720.381	
8047	2157681.740	8041720.381	
8048	2157681.740	8041720.381	
8049	2157681.740	8041720.381	
8050	2157711.986	8041720.381	
8051	2157733.577	8041720.381	
8052	2157733.577	8041720.381	
8053	2157733.577	8041720.381	
8054	2157733.577	8041720.381	
8055	2157733.577	8041720.381	
8056	2157733.577	8041720.381	
8057	2157733.577	8041720.381	
8058	2157733.577	8041720.381	
8059	2157733.577	8041720.381	
8060	2157733.577	8041720.381	
8061	2157733.577	8041720.381	
8062	2157733.577	8041720.381	
8063	2157733.577	8041720.381	
8064	2157733.577	8041720.381	
8065	2157733.577	8041720.381	
8066	2157733.577	8041720.381	
8067	2157733.577	8041720.381	
8068	2157733.577	8041720.381	
8069	2157733.577	8041720.381	
8070	2157733.577	8041720.381	
8071	2157733.577	8041720.381	
8072	2157733.577	8041720.381	
8073	2157733.577	8041720.381	
8074	2157733.577	8041720.381	
8075	2157733.577	8041720.381	
8076	2157733.577	8041720.381	
8077	2157733.577	8041720.381	
8078	2157733.577	8041720.381	
8079	2157733.577	8041720.381	
8080	2157733.577	8041720.381	
8081	2157733.577	8041720.381	
8082	2157733.577	8041720.381	
8083	2157733.577	8041720.381	
8084	2157733.577	8041720.381	
8085	2157733.577	8041720.381	
8086	2157733.577	8041720.381	
8087	2157733.577	8041720.381	
8088	2157733.577	8041720.381	
8089	2157733.577	8041720.381	
8090	2157733.577	8041720.381	
8091	2157733.577	8041720.381	
8092	2157733.577	8041720.381	
8093	2157733.577	8041720.381	
8094	2157733.577	8041720.381	
8095	2157733.577	8041720.381	
8096	2157733.577	8041720.381	
8097	2157733.577	8041720.381	
8098	2157733.577	8041720.381	
8099	2157733.577	8041720.381	
8100	2157733.577	8041720.381	

LINE TABLE		
LINE	BEARING	LENGTH
L1	N 67°42'10" E	16.05'
L2	N 67°42'10" E	16.05'

BOULEVARD GARDENS TRACT NO. 1
BLOCK 35

EXHIBIT "B"

to the First Amendment to the License Agreement

SEE CONTRACT SHEET NO. V113

MATCH LINE

BOULEVARD GARDENS TRACT NO. 1
BLOCK 23

THIS PLAN WAS PREPARED BY ME OK UNDER
MY SUPERVISOR, Julie Eckman, PLS #8076

Area	Area
------	------

Parcel No.	Grantor	Areas (Square ft.)		Remarks
		Total Outstanding	R/W Rem. Excess	
R-34-1-1-3B	CITY OF EL CERRITO	SEE SHEET W11		Temporary Construction Area
R-35-2-1-1B	CITY OF EL CERRITO	11,234		Temporary Construction Area

[illegible]

DATE:		SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT BECHTEL INFRASTRUCTURE CORPORATION	APPROVED _____ SUBMITTED _____
DRAWN:			
DESIGNED:			
APPROVED:			
DATE:	2008/1/20		

BART EARTHQUAKE SAFETY PROGRAM

**AERIAL STRUCTURE - R LINE
EXHIBIT MAP LEVEL 1**

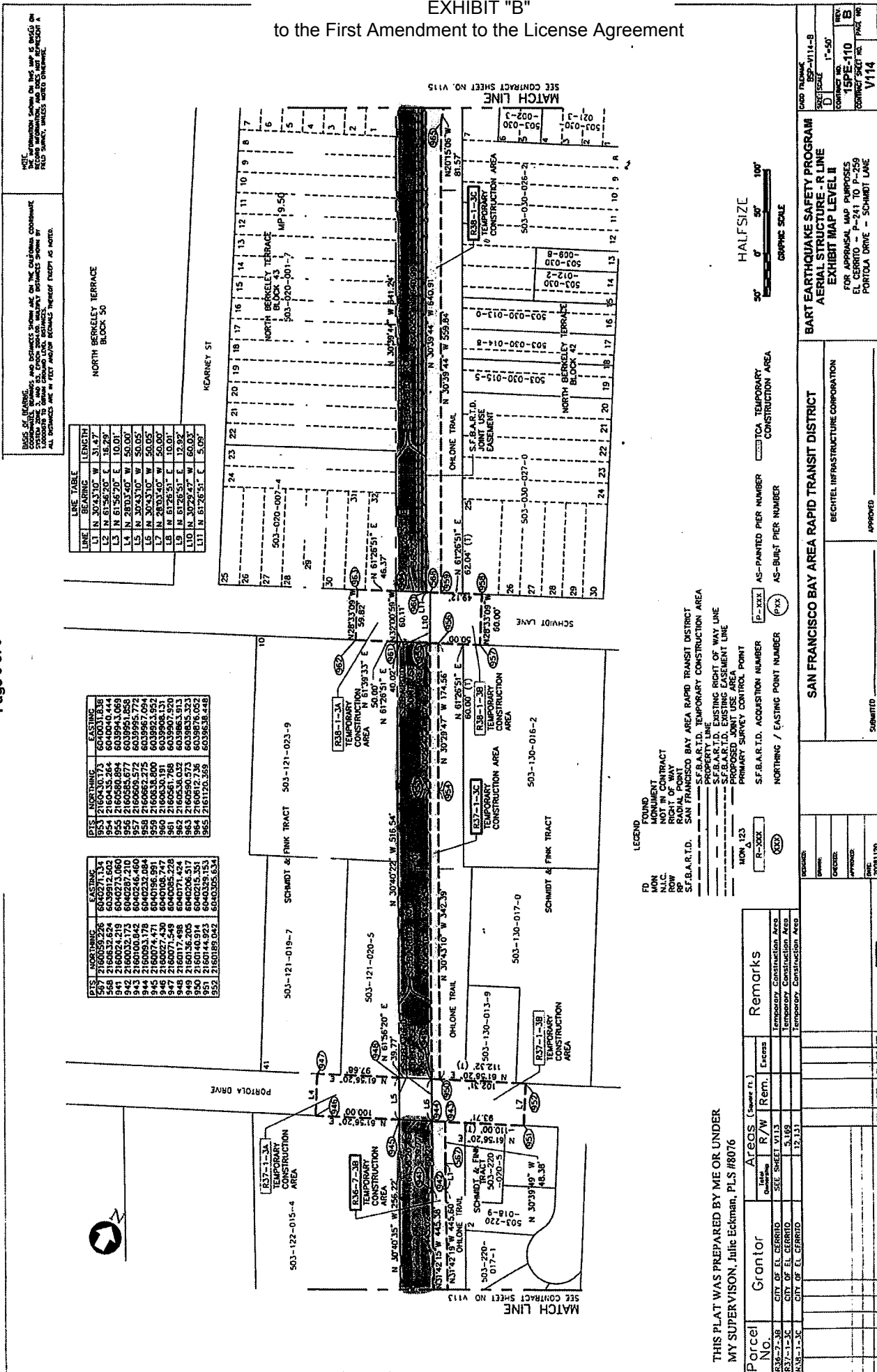
FOR APPRAISAL PURPOSES
G. C. 204 TO 206

EL CERRITO - P-204 TO P-222
EUREKA AVENUE - STOCKTON AVENUE

[illegible]

EXHIBIT "A"
to the License Agreement
Page 6 of 9

EXHIBIT "B"
to the First Amendment to the License Agreement



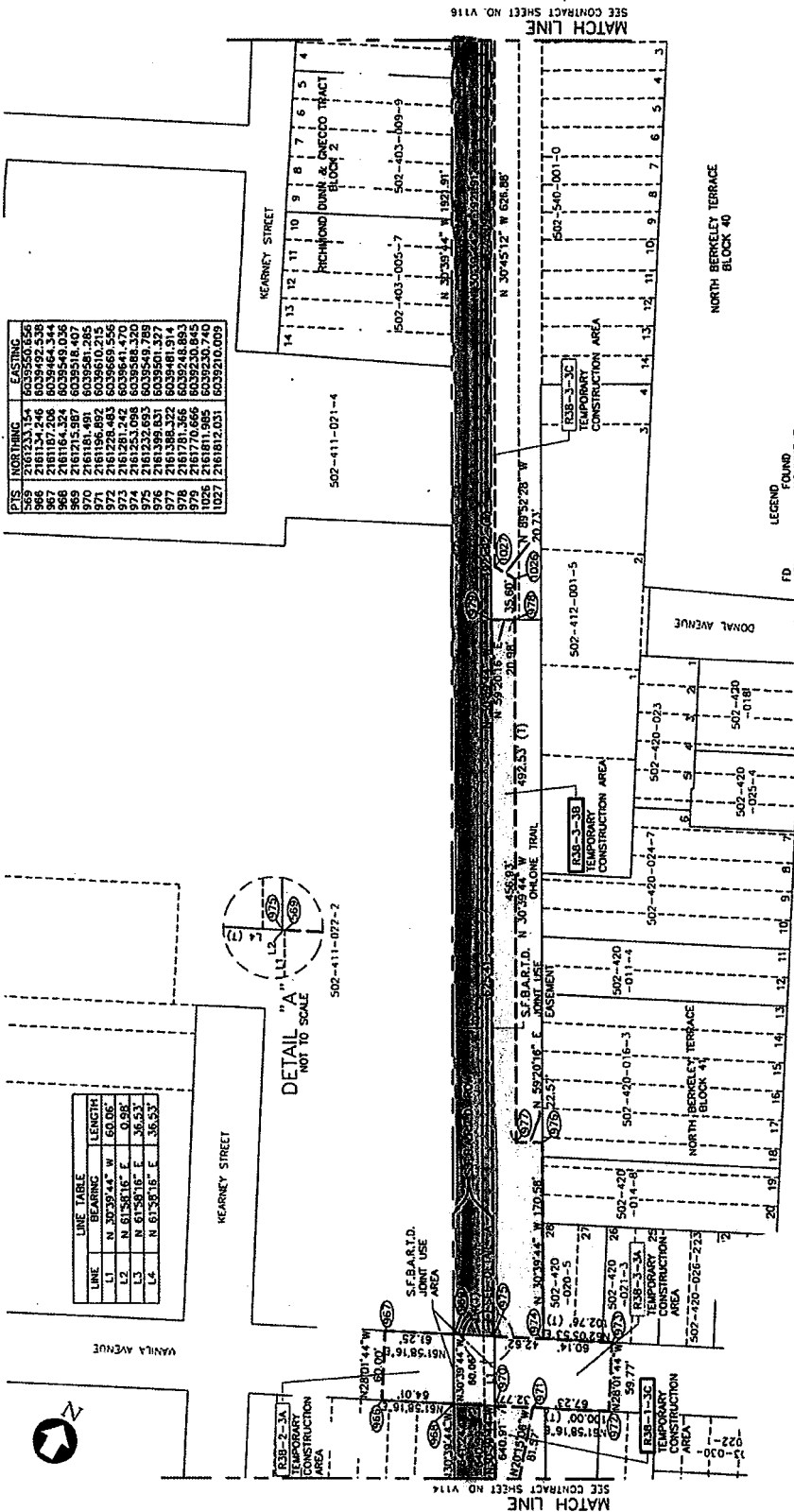
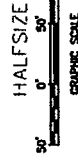
THIS PLAT WAS PREPARED BY ME OR UNDER
MY SUPERVISION, Julie Eckman, PLS #8076

EXHIBIT "A"

Page 7 of 9

EXHIBIT "B"

to the First Amendment to the License Agreement



THIS PLAT WAS PREPARED BY ME OR UNDER
MY SUPERVISION. Julie Eckman. PLS #8076

Parcel No.	Grantor	Areas (Square Ft.)		Excess	Remarks
		Left Over	R/W		
8354-1-30	CITY OF EL CERRITO	SEE SHEET 0114			Temporary Construction Area
8354-1-30	CITY OF EL CERRITO		16,970		Temporary Construction Area

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT BECHTEL INFRASTRUCTURE CORPORATION	BART EARTHQUAKE SAFETY PROGRAM AERIAL STRUCTURE - R LINE EXHIBIT MAP LEVEL II		DATA PROVIDED RSP-V115-B
	SCALE 1"=50'	CONTRACT NO. 15PE-110	REV. C
APPROVED _____ DRAFTED _____	FOR APPRAISAL PURPOSES EL CENTRO - P-260 TO P-276 MANILA AVENUE - DONAL AVENUE		CONTRACT SHEET NO. V115

EXHIBIT "A" to the License Agreement Page 8 of 9

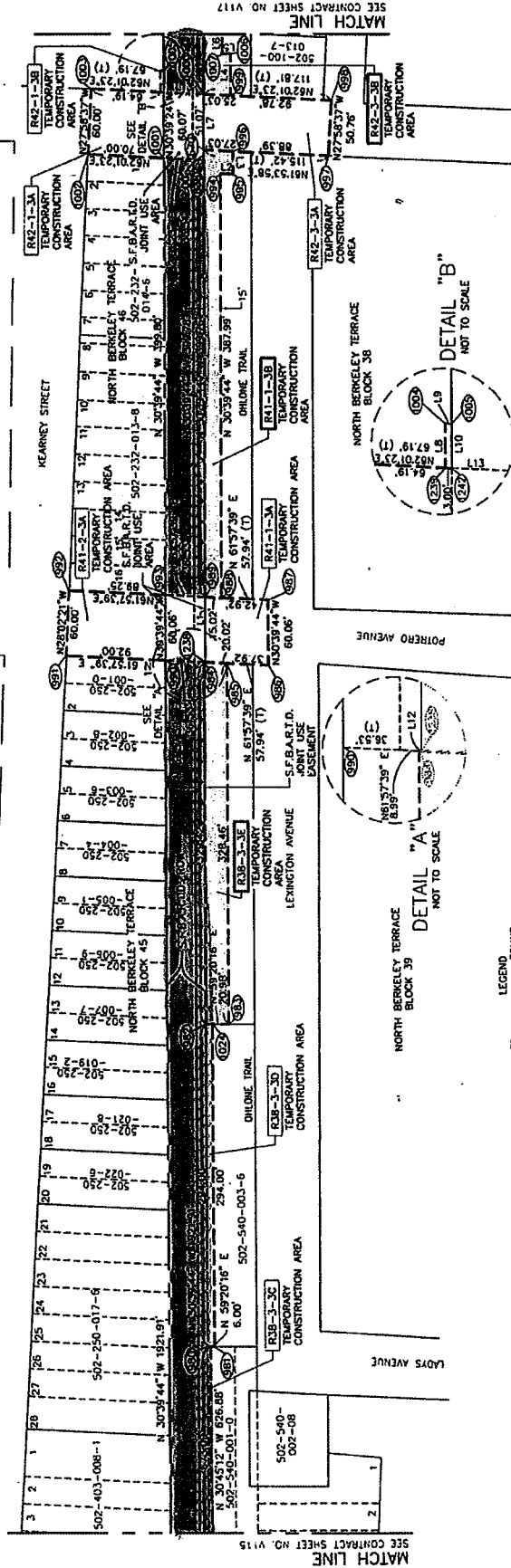
SAN PABLO AVENUE

LINE	BEARING	LENGTH
1	N 30°29'44" W	60.06'
2	N 59°20'16" E	12.00'
3	N 30°29'44" W	20.23'
4	N 30°29'44" W	38.68'
5	N 59°20'16" E	8.00'
6	N 30°29'44" W	33.40'
7	N 30°29'44" W	60.07'
8	N 30°29'44" W	19.95'
9	N 61°47'54" E	3.00'
10	N 30°29'44" W	19.97'
11	N 30°29'44" W	372.39'
12	N 61°47'54" E	0.88'
13	N 52°01'23" E	36.53'

NORTH BERKELEY TERRACE
BLOCK 48

P.T.S.	NORTHING	EASTING
570	2163283.646	6033436.110
571	2163302.376	6033435.281
572	2163344.012	6033433.256
573	2163388.840	6033409.444
574	2163345.313	6033327.500
575	2163264.782	6033303.766
576	2163231.923	6033241.947
577	2163284.915	6033213.798
578	2163332.192	6033260.310
579	2163378.580	6033307.777
580	2163374.501	6033300.866
581	2162855.947	6033457.081
582	2162878.902	6033425.879
583	2163315.092	6033270.485
584	2163316.435	6033273.137

EXHIBIT "B" to the First Amendment to the License Agreement



LEGEND

FO MON NOT IN CONTRACT ROW S.F.B.A.R.I.D. SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT PROPERTY LINE S.F.B.A.R.I.D. EXISTING RIGHT OF WAY LINE S.F.B.A.R.I.D. EXISTING EASEMENT LINE

THIS PLAT WAS PREPARED BY ME OR UNDER MY SUPERVISION, Julie Eckman, PLS #8076

Parcel No.	Grantor	Area (Square ft.)	R/W	Rem.	Remarks
238-3-36	CITY OF EL CERRILLO	6,500			Temporary Construction Area
831-1-38	CITY OF EL CERRILLO	6,378			Temporary Construction Area
242-3-36	CITY OF EL CERRILLO	13,802			Temporary Construction Area

SEARCHED	INDEXED	SERIALIZED	FILED
JAN 20 2008			
FBI - SAN FRANCISCO			

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT	
BECHTEL INFRASTRUCTURE CORPORATION	APPROVED
SUBMITTED	

BART EARTHQUAKE SAFETY PROGRAM	
AERIAL STRUCTURE - R LINE	
EXHIBIT MAP LEVEL II	
FOR APPROVAL PURPOSES	15PE-110
EL CERRITO - P-277 TO P-284	
CLAYTON AVENUE - BLAKE STREET	
CONTRACT NO.	V116

SCALE	1"=50'
CONTRACT NO.	15PE-110
CONTRACT NO.	V116

EXHIBIT "A" to the License Agreement Page 9 of 9

EXHIBIT "A"

to the License Agreement

Page 9 of 9

NOTE: INFORMATION SHOWN ON THIS MAP IS BASED ON THE FOLLOWING DATA: FIELD SURVEY, SATELLITE, PHOTOGRAPHIC, AND AERIAL PHOTOGRAPHIC. THIS MAP DOES NOT REPRESENT A GUARANTEE OF ACCURACY OR A WARRANTY OF ANY KIND. THE USER ASSUMES ALL LIABILITY FOR ANY AND ALL DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING OUT OF OR FROM THE USE OF THIS MAP.

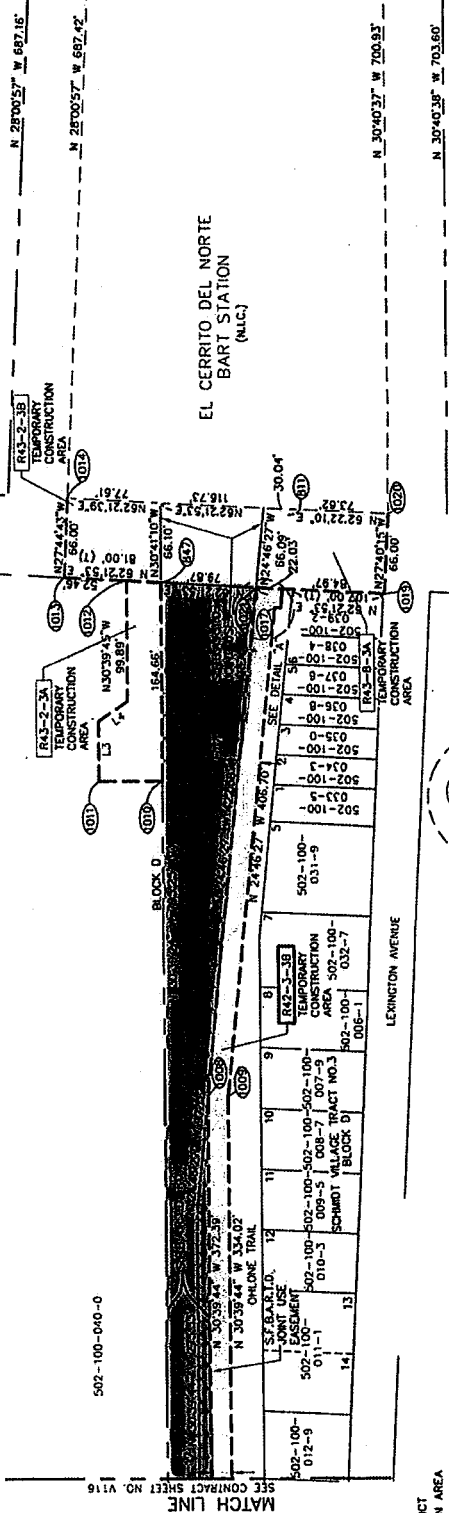
PTS	NORTHING	EASTING
811	2164111.533	6037937.327
847	2164000.542	6037987.646
850	2164047.808	6037957.922
1008	2163951.817	6037937.327
1010	2163858.893	6037951.605
1011	2163832.107	6037906.414
1012	2163987.306	6037942.368
1013	2164021.391	6037937.327
1015	2164057.388	6037933.912
1016	2164097.599	6037910.713
1017	2164031.084	6037960.134
1018	2164057.388	6037937.327
1019	2164145.675	6038002.550
1020	2164145.675	6038002.550
1021	2164037.591	6037938.408

LINE	BEARING	LENGTH
L1	N 85°13'33" E	5.00'
L2	N 24°46'27" W	16.11'
L3	S 30°39'25" E	50.00'
L4	S 25°15'02" W	29.04'

SAN PABLO AVENUE

SCHMIDT VILLAGE TRACT NO.3
BLOCKS E. F. C. H
502-100-040-0

EXHIBIT "B"
to the First Amendment to the License Agreement



DETAIL "A"
NOT TO SCALE

THIS PLAT WAS PREPARED BY ME OR UNDER
MY SUPERVISION, Julie Eckman, PLS #8076

Parcel No. 242-3-38	Grantor CITY OF EL CERRITO	Areas (Square ft.)		Remarks
		Lot Area	Excess	
SEE SHEET V116		Temporary Construction Area		
SEE SHEET V117		Permanent Construction Area		
LEGEND FOUND MONUMENT NOT IN CONTRACT RIGHT OF WAY S.F.B.A.R.T.D. SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT PROPERTY LINE S.F.B.A.R.T.D. TEMPORARY CONSTRUCTION AREA S.F.B.A.R.T.D. EXISTING RIGHT OF WAY LINE S.F.B.A.R.T.D. EXISTING EASEMENT LINE PROPOSED JOINT USE AREA PRIMARY SURVEY CONTROL POINT S.F.B.A.R.T.D. ACQUISITION NUMBER NORTHING / EASTING POINT NUMBER AS-BUILT PER NUMBER AS-PAINTED PER NUMBER				
CONTRACT NO. 15PE-110 FOR APPRAISAL PURPOSES EL CERRITO - P-295 TO P-309 HILL STREET APPROVED SUBMITTED DATE: 12/01/10				

BART EARTHQUAKE SAFETY PROGRAM
AERIAL STRUCTURE - R LINE
EXHIBIT MAP LEVEL "B"
FOR APPRAISAL PURPOSES
EL CERRITO - P-295 TO P-309
HILL STREET

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT
BECHTEL INFRASTRUCTURE CORPORATION

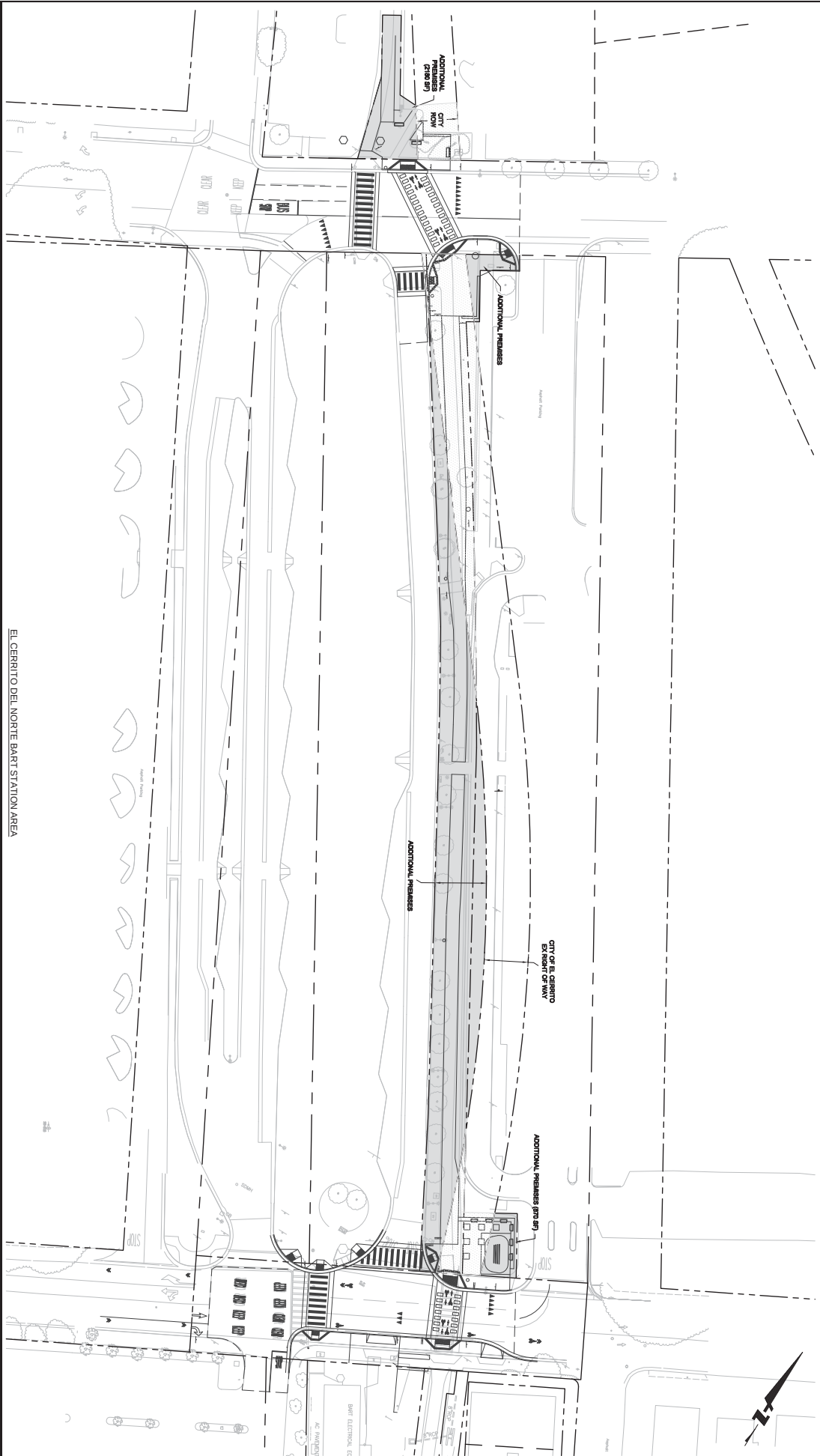
APPROVED

DATE: 12/01/10

CONTRACT NO. 15PE-110

FOR APPRAISAL PURPOSES
EL CERRITO - P-295 TO P-309
HILL STREET

APPROVED



EL CERRITO DEL NORTE BART STATION AREA

LEGEND

ADDITIONAL PREMISES (14,066 SF)

CITY RIGHT OF WAY WITHIN LIMIT OF WORK (8,286 SF)

EXHIBIT "C"
TO THE FIRST AMENDMENT TO THE
LICENSE AGREEMENT



OHLONE GREENWAY BART STATION AREA ACCESS, SAFETY AND PLACEMAKING IMPROVEMENTS PROJECT
EL CERRITO, CA

BKF
ENGINEERS / SURVEYORS / PLANNERS

255 SHORELINE DRIVE
SUITE 200
REDWOOD CITY, CA 94065
925-845-2250 (FAX)
925-845-2250 (TEL)

REGISTERED PROFESSIONAL ENGINEER
No. C 005690
10/24/2015

CALIFORNIA

BKF WC
BKF WC

RCS
RCS

DATE	10/20/15	SCALE	1"=30'
PROJECT NO.	20150302		
REVISION	02 OF 02		
CONTRACT NO.			
CONTRACT NAME			
CONTRACT LOCATION			
CONTRACT DESCRIPTION			
CONTRACT OWNER			
CONTRACT DATE			
CONTRACT STATUS			
CONTRACT COMMENTS			

© BKF Engineers

EXHIBIT "D"
to the First Amendment to the License Agreement

CITY OF EL CERRITO
10890 San Pablo Avenue
El Cerrito, CA 94530

PERMIT NO. _____

PERMIT TO ENTER (PERMANENT IMPROVEMENTS)

Subject to the following covenants, terms, conditions and restrictions, the San Francisco Bay Area Rapid Transit District (hereinafter "District" or "BART") hereby grants permission to the City of El Cerrito (hereinafter "Permittee") (collectively, the "Parties") to construct, maintain and operate lighting, landscaping, pedestrian and bicycle path improvements, including but not limited to benches, bike racks, concrete seatwalls and special concrete paving, on the Ohlone Greenway as per the License Agreement between the San Francisco Bay Area Rapid Transit District and the City of El Cerrito, dated November 15, 2011 and the First Amendment to the License Agreement, dated _____, 2015 (hereinafter the "Improvements") upon District property located within the El Cerrito Plaza and El Cerrito del Norte BART station areas in the City of El Cerrito, County of Contra Costa, (hereinafter "Premises"), as shown on Exhibit "A," attached hereto and incorporated herein by reference.

1. Subject to Section 20 below, the term of this Permit shall commence on _____, and end on _____, provided, however, that at any time during the term, the Permit may be terminated by either party upon thirty (30) calendar days prior written notice to the other party. Said notice shall be sent certified mail, return receipt requested, to:

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530
Attention: _____

or

Real Estate and Property Development Department
San Francisco Bay Area Rapid Transit District
300 Lakeside Drive, 22nd Floor
Oakland, California 94612
Attention: Department Manager

The notice period shall begin to run upon receipt of said notice.

2. The fee for this Permit shall be for the review of construction drawings and shall not exceed \$_____. Fees to reimburse BART for plan review will be billed to Permittee upon completion of the Work and shall be paid to BART within thirty (30) days

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of the invoice date. A 10% late fee will be assessed on the balance if payment is not received within said 30 days of the invoice date. The late fee will be increased to 20% on the original balance if payment is not received within 60 days of the invoice date. BART reserves all rights to pursue all appropriate remedies to collect outstanding payments and penalties that have not been paid by Permittee within 90 days of the invoice date.

3. Permittee's right to use this area shall be non-exclusive and non-transferable, and shall be for the sole purpose of constructing, maintaining and using the Improvements. In no event shall District's property be deemed to be a public right-of-way. Overnight parking is prohibited on District's property.

4. Conditions of Use:

4.a Permittee's work shall include the following:

4.b Permittee shall submit a Site Specific Work Plan (SSWP) for BART's review and written approval prior to any use of the Premises. Review and approval of the SSWP may take 6 to 10 weeks.

4.c Permittee shall have Underground Service Alert and an independent utility locator service mark out the excavation locations prior to digging.

4.d Construction equipment operating adjacent to BART's operating envelope shall be so situated and restrained so it will not damage BART facilities nor violate BART's operating envelope per the General Guidelines for Design and Construction Over or Adjacent to BART's At-Grade and Aerial Structures attached hereto and incorporated herein by reference.

4.e BART shall not be responsible for any impact to the Permittee's Work due to BART operations.

5. Any change in the scope of this permit shall be subject to a separate amendment.

6. Permittee agrees that, as an essential condition to issuance of this Permit, BART shall not assume any responsibility or liability to Permittee or any other person for damage to Permittee's facilities caused by BART, subject to the following limitation. Except for claims arising out of BART's gross negligence or willful misconduct, Permittee shall defend, indemnify and hold harmless BART, its directors, officers, agents and employees from all claims, demands, suits, loss, damages, injury and liability, direct or indirect (including any and all cost and expenses in connection therewith), incurred by reason of any act, or failure to act, of BART, its officers, agents,

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employees and subcontractors or any of them, in connection with Permittee's facilities. Except for claims arising out of BART's gross negligence or willful misconduct, Permittee agrees at its own cost, expense and risk to defend any and all claims, actions, suits or other legal proceedings brought or instituted against BART, its directors, officers, agents and employees, or any of them, arising out of BART's act or failure to act in connection with Permittee's facilities, and to pay and satisfy any resulting judgments, settlements or other expenses associated therewith.

7. Conditions of this Permit shall be binding on all future owners of the Improvements. Permittee shall notify BART's Manager of the Real Estate and Property Development Department of any change in ownership of the Improvements.

8. The cost of repair and any and all losses caused by Permittee's damage to any BART property or facility, or resultant loss of service, shall be at the sole expense of Permittee. Any damage to BART property or facilities shall be repaired or remedied by either Permittee or BART, at BART's discretion, and at Permittee's sole cost and expense. Permittee agrees to reimburse BART promptly for any such damage.

9. Permittee shall have the duty and agrees to exercise reasonable care to properly maintain District's property pursuant to this Permit, including, but not limited to, removing debris dumped or placed on the Premises during the term of this Permit, from any source, and to exercise reasonable care inspecting for and preventing any damage to any portion of District's property.

10. Permittee acknowledges that said Improvements constitute an encroachment upon BART's property and agrees to construct, repair, maintain and use said Improvements in accordance with and subject to the provisions of this Permit, applicable provisions of the "General Terms and Conditions Relating to Utility Permits," attached hereto as Exhibit "___," and incorporated herein by reference, and all applicable state and local laws. Where there is a conflict between the provisions of this Permit and the "General Terms and Conditions Relating to Utility Permits," this Permit shall prevail.

11. Permittee agrees to notify District's Construction Liaison in the Construction Services Division, John Fu at (510) 464-6439, or his designee, at least 14 calendar days prior to any use of the Premises. Should Permittee require any utility hook-ups, Permittee will obtain all necessary permits and pay all fees in connection therewith. Permittee shall not engage in any activity on District property until all necessary permits, licenses and environmental clearances have been obtained.

12. Permittee shall not (a) use, generate, or store, or allow its employees, contractors or agents to use, generate, or store any Hazardous Materials on the Premises, except for those materials required to perform the Work permitted under this Permit and in compliance with all federal, state and local laws and regulations for the protection of the environment, human health and safety, as now in effect or hereafter amended (hereinafter "Environmental Laws"); or (b) release or dispose of, or allow its employees, contractors or agents to release or dispose of, any Hazardous Materials on

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the Premises. "Hazardous Materials" are those materials now or hereafter (a) defined as hazardous substances or hazardous wastes pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. section 9601 et seq.) or the Resource Conservation and Recovery Act (42 U.S.C section 6901 et seq.); (b) listed in the Hazardous Substances List, Title 8, California Code of Regulations, G.I.S.O. Section 337-339, or those which meet the toxicity, reactivity, corrosivity or flammability criteria of the above Code; (c) characterized, regulated or subject to permitting or warning requirements as hazardous or toxic materials, substances, chemicals, pollutants, contaminants or wastes, or as materials for which removal, remediation or disposal is required, under any Environmental Laws; or (d) otherwise posing a present or potential hazard to human health, welfare or the environment.

13. BART shall at all times have the right to go upon and inspect the Premises and the operations conducted thereon to assure compliance with any of the requirements in this Permit. This inspection may include, but is not limited to, taking samples of substances and materials present for testing.

14. Permittee shall be responsible for and bear the entire cost of removal and disposal, in compliance with Environmental Laws, for all Hazardous Materials and non-hazardous wastes introduced to the Premises during Permittee's use and possession of the Premises. Permittee shall also be responsible for any remediation on or off the Premises necessitated by such Hazardous Materials or non-hazardous wastes. As used herein, "remediation" includes any investigation or post-cleanup monitoring that may be necessary in compliance with Environmental Laws. For purposes of disposal, Permittee shall be the generator of any such Hazardous Materials and shall provide a generator identification number on manifests for such disposal as required by Environmental Laws.

15. To the extent that any New Environmental Condition is caused by, or any Pre-existing Environmental Condition is contributed to or exacerbated by, Permittee's acts or omissions (including those of its employees, contractors and agents) during its use and possession of the Premises, Permittee shall, at BART's discretion, either (a) perform remediation of such New Environmental Condition or Pre-Existing Environmental Condition, at Permittee's cost and expense, in compliance with Environmental Laws and subject to the approval of a governmental agency with jurisdiction; or (b) indemnify BART against all costs incurred by District in performing remediation of such New Environmental Condition or Pre-Existing Environmental Condition. A "New Environmental Condition" is defined as the release or threatened release of Hazardous Materials on, about, under or emanating from the Premises as of the commencement date of this Permit. A "Pre-Existing Environmental Condition" is defined as the release or threatened release of Hazardous Materials on, about, under or emanating from the Premises prior to the commencement date of this Permit.

16. Permittee agrees to assume responsibility and liability for, and defend, indemnify and hold harmless BART, its directors, officers, agents and employees from all claims, demands, suits, losses, damages, injury, and liability, direct or indirect (including any

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and all costs, fees and expenses in connection therewith) arising from the introduction on the Premises of any Hazardous Materials or non-hazardous wastes by Permittee (including its employees, contractors and agents) or from any New Environmental Condition to the extent caused by, or any Pre-existing Environmental Condition to the extent contributed to or exacerbated by, the acts or omissions of Permittee (including those of its employees, contractors and agents) during its use and possession of the Premises.

17. Permittee agrees to assume responsibility and liability for, and defend, indemnify and hold harmless BART, its directors, officers, agents and employees from all claims, demands, suits, losses, damages, injury, and liability, direct or indirect (including any and all costs, fees and expenses in connection therewith), caused by acts or omissions of Permittee, its employees, contractors and agents in connection with the Work done pursuant to this Permit, except to the extent such losses are caused by the gross negligence or willful misconduct of the District. Permittee agrees at their own cost, expense and risk to defend any and all actions, suits, or other legal proceedings brought or instituted against BART, its directors, officers, agents and employees arising from the acts or omissions of Permittee, its employees, contractors and agents in connection with the Work done pursuant to this Permit, and to pay and satisfy any resulting judgments, settlements or other expenses associated therewith.

18. To the extent that a governmental agency with jurisdiction requires remediation of any Pre-Existing Environmental Condition that is discovered as a result of Permittee's activities pursuant to this Permit, and is not contributed to or exacerbated by the acts or omissions of Permittee, its employees, contractors or agents, Permittee shall, at BART's discretion, either (a) perform remediation of such Pre-Existing Environmental Condition, at Permittee's cost and expense, in compliance with Environmental Laws and subject to the approval of a governmental agency with jurisdiction; or (b) indemnify BART against all costs incurred by BART in performing remediation of such Pre-Existing Environmental Condition.

19. Permittee agrees that no easement, lease or other property right is acquired by Permittee through this Permit.

20. Upon any use of BART property by Permittee other than that authorized by this Permit, or upon failure of the Permittee to conform to any of the terms and conditions of this Permit, BART may terminate this Permit immediately.

21. Upon Permit expiration, Permittee shall leave the completed Improvements on the Premises, and within 30 days shall otherwise restore to its former condition all BART property which has been disturbed by Permittee, except as provided otherwise in the Permit. Restoration shall include, but not be limited to, removal of all equipment, materials, debris and the like, and repair of any damage. If Permittee fails to restore BART property as required herein, BART may perform such restoration or removal at Permittee's sole expense. If the Permit expires or is terminated prior to the completion of Improvements, BART may elect, at its sole discretion, to require Permittee to leave

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the Improvements on the Premises or remove them and restore the Property.

22. Insurance shall be provided, or caused to be provided, by Permittee as stated in Exhibit " " attached hereto and incorporated herein by reference. Insurance shall be approved by BART's Insurance Manager prior to any use of the Premises.

23. Counterparts. This Permit may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and shall become effective when there exist copies hereof which, when taken together, bear the authorized signatures of each of the parties hereto. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Permit.

SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

By _____ Date _____
Sean Brooks
Manager, Real Estate and Property Development Department

ACCEPTED
CITY OF EL CERRITO

By _____ Date _____
Name _____
Title _____

2532727.1



AGENDA BILL

Agenda Item No. 5(I)

Date: November 3, 2015
To: El Cerrito City Council
From: Yvetteh Ortiz, Public Works Director/City Engineer
Subject: 2014 Pavement Rehabilitation Project, City Project No. C3074 – Funding Appropriation for Tree Work on Manila Avenue

ACTION REQUESTED

Adopt a resolution amending the Capital Improvement Program/Annual Program of Maintenance and Improvement pursuant to the Measure A Street Improvement Program and the Fiscal Year (FY) 2015-16 Adopted Budget to appropriate an additional \$18,750 in the Measure A Street Improvement Fund (Fund 211) for completion of tree installation work under the 2014 Pavement Rehabilitation Project, City Project No. C3074.

DISCUSSION

As part of the 2014 Pavement Rehabilitation Program, Manila Avenue between Richmond Street and Kearney Street was repaved this summer. The sidewalk, curb, gutter, and pavement all along Manila Avenue had been displaced by street tree roots which contributed to the poor pavement conditions. In order to reconstruct the sidewalk, curb, gutter and pavement, a substantial amount of tree root pruning would have been required and this would have detrimentally affected the health of these large trees, many of which had previously been compromised by prior root and utility pruning. For this reason, City staff determined that 13 street trees should be removed and replaced with up to 24 trees of species that are suitable for the specific site conditions.

As indicated in the February 2015 report to City Council, West Coast Arborists (WCA) began the tree work under its FY 2014-15 tree maintenance agreement with the City. WCA completed the tree removal portion in January 2015. The tree installation work had been anticipated to be completed in early 2015 as well, but was delayed to better coordinate various components of the pavement work that was being completed by a separate contractor. At this time, in response to input from the Tree Committee and residents, and to implement improved practices for tree installation, City staff proposes to enhance the scope of the tree planting work to install up to 30 street trees, cardboard weed deterrent, sheet mulch, and header boards, and include additional clearing, grubbing and minor grading work.

WCA has submitted a cost proposal of \$18,750 for the enhanced tree planting work. An amendment to the original contract can be executed by the City Manager under his

authority per the City's purchasing policy. Staff is seeking to complete the work in early November given this is the preferred planting season and the work is long overdue.

STRATEGIC PLAN CONSIDERATIONS

The requested action is consistent with the El Cerrito Strategic Plan Goal D – *Develop and rehabilitates public facilities as community focal points* by addressing deferred maintenance, and replacing and installing new trees along City streets.

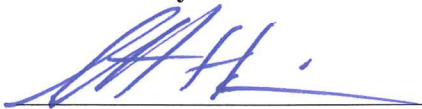
FINANCIAL CONSIDERATIONS

In order to complete the enhanced tree installation work, City staff is requesting an additional appropriation of \$18,750 in the Measure A Street Improvement Fund (211) under the 2014 Pavement Rehabilitation Project, City Project No. C3074.

LEGAL CONSIDERATIONS

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

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution

RESOLUTION 2015--XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING THE CAPITAL IMPROVEMENT PROGRAM/ANNUAL PROGRAM OF MAINTENANCE AND IMPROVEMENT PURSUANT TO MEASURE A STREET IMPROVEMENT PROGRAM AND THE FISCAL YEAR 2015-16 ADOPTED BUDGET TO APPROPRIATE AN ADDITIONAL \$18,750 IN THE MEASURE A STREET IMPROVEMENT FUND (FUND 211) FOR COMPLETION OF TREE INSTALLATION WORK UNDER THE 2014 PAVEMENT REHABILITATION PROJECT, CITY PROJECT NO. C3074

WHEREAS, Manila Avenue between Richmond Street and Kearney Street was repaved as part of the 2014 Pavement Rehabilitation Project; and

WHEREAS, the sidewalk, curb, gutter, and pavement all along Manila Avenue between Richmond Street and Kearney Street had been displaced by street tree roots which contributed to the poor pavement conditions; and

WHEREAS, City staff determined that the 13 street trees along this section of Manila Avenue should be removed and replaced with up to 24 trees of species suitable for the specific site conditions; and

WHEREAS, West Coast Arborists (WCA) began the tree work under its 2014-15 tree maintenance agreement with the City, and completed the tree removal portion of the work in January 2015; and

WHEREAS, in response to input from the Tree Committee and residents, and to implement improved practices for tree planting, City staff proposes to enhance the scope of the tree planting work to install up to 30 street trees, cardboard weed deterrent, sheet mulch, and header boards, and include additional clearing, grubbing and minor grading work; and

WHEREAS, WCA has submitted a cost proposal of \$18,750 for the enhanced tree planting work, and an amendment to the original agreement can be executed under the City Manager's authority; and

WHEREAS, the project work is an appropriate use of Measure A Street Improvement funds; and

WHEREAS, an amendment to the Fiscal Year 2015-16 Adopted Budget is required to complete the enhanced tree planting work.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito amends the Capital Improvement Program/Annual Program of Maintenance and Improvement pursuant to Measure A Street Improvement Program and the Fiscal Year 2015-16 Adopted Budget to appropriate an additional \$18,750 in the Measure A Street

Agenda Item No. 5(I)

Attachment 1

Improvement Fund (Fund 211) for completion of tree planting work under the 2014 Pavement Rehabilitation Program, City Project No. C3074.

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

I CERTIFY that at a regular meeting on November 3, 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 November XX, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 5(J)

Date: November 3, 2015

To: El Cerrito City Council

From: Janet Bilbas, Senior Services Supervisor

Subject: Committee on Aging Membership Recommendation

ACTION REQUESTED

Approve the Committee on Aging recommendation to appoint Margot Allen to the Committee on Aging, effective November 3, 2015.

BACKGROUND

At the October 21, 2015 Committee on Aging, regular meeting the members voted unanimously to recommend to the City Council the appointment of Ms. Margot Allen.

For the past 12 years Ms. Allen has lived in El Cerrito and is currently the onsite Manager of El Cerrito Village apartments. She is also a Certified Administrator for Residential Care Facility: Independent and Assisted Living.

Ms. Allen is interested in advocating for the needs of seniors and is especially interested in the area of low-cost affordable housing for seniors.

Reviewed by:

Scott Hanin
City Manager

Attachment:

1. Margot Allen Application



**November 3, 2015
Regular City Council Meeting**

**Agenda Item No. 5(J)
Committee on Aging Appointment
Attachment 1 – Margot Allen Application**

Hardcopies are available for review at:

Office of the City Clerk
10890 San Pablo Avenue
El Cerrito, CA
(510) 215-4305

and

The El Cerrito Library
6510 Stockton Avenue
El Cerrito, CA



AGENDA BILL

Agenda Item No. 7(A)

Date: November 3, 2015
To: El Cerrito City Council
From: Suzanne Iarla, Assistant to the City Manager
Subject: Adoption of an Ordinance to Establish a Local Minimum Wage

ACTION REQUESTED

Receive a presentation, hear public comments and upon conclusion introduce by title, waive any further reading, and approve an ordinance amending the El Cerrito Municipal Code (ECMC) Title 6 (“Business Permits and Regulations”) by adding a new Chapter 6.95 (“City Minimum Wage Standards”).

BACKGROUND

In an effort to provide greater economic stability to low-wage earners in our community, and acknowledging the high relative cost of living in the San Francisco Bay Area, the El Cerrito City Council, led by Mayor Mark Friedman, has expressed a desire to establish a citywide minimum wage that provides a higher minimum wage than required by the State of California. On March 28, 2015, at the City Council’s Strategic Plan update study session, establishing a local “living wage” was identified as a strategy toward achieving the City’s Strategic Plan goal of “***Ensure the public’s health and safety.***”

Mayor Friedman has been working with *Ensuring Opportunity*, a local coalition of partners who are working toward a long-term effort to cut poverty in Contra Costa County by raising awareness and addressing the systemic and structural causes of poverty. Ensuring Opportunity is leading the effort to encourage all jurisdictions in Contra Costa County to increase the minimum wage to \$15.00 per hour by the year 2020.

The current minimum wage in California is \$9.00 per hour (effective July 1, 2014). On January 1, 2016, the minimum wage in California will increase to \$10.00 per hour. Recently, a number of Bay Area municipalities have enacted local minimum wage ordinances, including Richmond, Berkeley, Emeryville, San Francisco, San Jose, Mountain View, Sunnyvale, and most recently, Santa Clara and Palo Alto. For a list of cities with minimum wage ordinances, see Table 9 of Attachment 3, the Contra Costa County Policy Brief by the UC Berkeley Center for Labor Research and Education.

Currently, there is a petition to include an initiative on the November 2016 statewide ballot called the “Fair Wage Act of 2016” to increase the state minimum wage. The main components of the proposed statewide ballot initiative include an \$11.00 minimum wage as of January 1, 2017, to be increased each year on January 1 until the wage reaches \$15.00 per hour in 2021, and each year following would be adjusted by CPI. The Attorney General provided “title and

summary” for the petition, however advocates are still in the signature-gathering stage so it is unknown at this time if the initiative will appear on the ballot, and whether or not it will be passed by California voters. The State Legislative Analyst's Office (LAO) has reviewed the proposed statewide ballot initiative including economic impacts and fiscal effects of a statewide minimum wage of \$15.00 per hour in 2021. The report is available online at: <http://www.lao.ca.gov/BallotAnalysis/Initiative/2015-032>.

On August 18, 2015, the City Council held a study session on increasing the minimum wage in the City of El Cerrito. The Council listened to presentations and public comments, and provided direction to staff regarding what elements the Council would like to see in a local minimum wage ordinance. Various community groups and City advisory bodies have expressed support for the City Council to adopt a local minimum wage, including:

- El Cerrito Democratic Club
- Committee on Aging (Motion passed 9-1)
- Crime Prevention Committee (Motion passed 3-2)
- Economic Development Committee (Motion passed 4-2)
- Human Relations Commission (Motion passed unanimously)

Although the timeframe for development of this item has been short, the City conducted an extensive public outreach program to receive feedback from residents and businesses. The public was invited to learn about the proposed ordinance and provide input at the meetings of the Economic Development Committee, the Human Relations Commission, and at a Community Input Meeting held at City Hall. Staff also made presentations to the El Cerrito Rotary Club and the El Cerrito Chamber of Commerce. Staff received many comments at the various meetings, through the online forum Open El Cerrito on the City's website, and via an online survey offered to local businesses. Attachment 2 provides a summary of results from the online business survey as well as the comments submitted on Open El Cerrito. Overall, a majority of people who provided feedback were in support of the City establishing a local minimum wage of \$15.00 per hour by 2020, with some preferring a faster phase-in of 2018.

A number of local businesses expressed concern, though many business owners said it would not negatively impact their business, or would have no effect. Of the 42 business owners who completed the online business survey, only 8 currently have employee(s) receiving the minimum wage, and 19 have employees currently making less than \$15.00 per hour. When asked how the business might handle the impact of the proposed increase, the responses were increase prices (62%), increase wages to comply (41%), reduce employee work hours (38%), reduce number of employees (38%), consider relocating outside of El Cerrito (26%) and change operating structure (17%). See Attachment 2 for more information derived from the survey.

ANALYSIS

Along with considering the feedback provided by El Cerrito residents and business community, staff worked with the Ensuring Opportunity Campaign to develop an ordinance for consideration by the City Council. *Ensuring Opportunity* has introduced a plan to establish a \$15.00 per hour minimum wage in Contra Costa County by 2020. The plan includes increasing the minimum wage by an amount corresponding to the prior year's increase, if any, in the cost of living beginning in 2021 and each year thereafter to prevent inflation from eroding its value.

Attachment 3 shows the Campaign's plan and results of the Contra Costa Countywide Study by the *Center for Economic and Policy Research*.

For the study, *Ensuring Opportunity* engaged the Institute for Research on Labor and Employment at University of California, Berkeley (Labor Center) to look at the anticipated effects of the proposed minimum wage increase on Contra Costa workers and businesses. The Labor Center estimated that if all the cities in the county, as well as the county itself, enact the proposed law using the schedule studied, that the proposed minimum wage increase would provide significant gains in income to Contra Costa's low-wage workers and their families. Most businesses would be able to absorb the increased costs, and consumers would see a moderate increase in restaurant prices spread over five years. The proposal's impact on overall employment is therefore not likely to be significant.

Although studies of past minimum wage increases have not shown significant effects on overall employment rates, the wage increases studied were generally smaller in magnitude—and affected a smaller share of the workforce—than *Ensuring Opportunity's* proposal. Additionally, there is less data available on the impacts of minimum wage ordinances that include an automatic annual increase indexed to the Consumer Price Index (CPI). Unfortunately, it is hard to estimate the impact on local economies and the risk of adverse effects for an individual city due to uncertainties such as how individual businesses and people will be impacted by the change, the extent of leakage of the economic stimulus since a significant number of workers live outside the city, as well as the impact to businesses and on the city's ability to attract new businesses if the minimum wage is not raised by nearby cities.

Ensuring Opportunity's plan was framed within a model ordinance that the Campaign hopes can be adopted by each city in the County. A regional approach among the cities to adopt the same or similar minimum wage laws would simplify compliance and enforcement, as well as maximize the positive economic effects from increased spending by low-wage workers and their families, as discussed in the Contra Costa Countywide Study. Staff and the City Attorney have reviewed the model ordinance, and have developed the proposed ordinance presented in Attachment 1 for the City Council's consideration. The proposed ordinance includes some variations from the model ordinance that are tailored to El Cerrito based on feedback from residents and businesses, as well as considerations from staff with respect to implementation of the elements of the proposed ordinance.

Proposed Minimum Wage Ordinance

As drafted, the proposed ordinance requires employers to pay the minimum wage to employees who perform at least two (2) hours of work within one week within the geographic boundaries of the City of El Cerrito. The wage shall be paid for each hour of work performed within the boundaries of the City. State minimum wage law exemptions are included in the ordinance and State wage formulas will be applied to the minimum wage rate that would result in higher wages to the worker.

In addition to the payment of the minimum wage, other significant terms of the ordinance require employers to post a notice at the workplace of the current and prospective minimum wage rates and the employees' rights under the local law in English and in any language spoken by more

than 10% of employees; maintain payroll records for a period of four years; and allow authorized City representatives to review such records as part of an investigation. The ordinance prohibits retaliation or discrimination against any person seeking to enforce its terms. The enforcement provisions of the ordinance include the right for employees to pursue a civil action to recover back wages and to seek reinstatement. The ordinance also authorizes the City to issue administrative citations and fines to noncompliant employers.

Phase-In Schedule

Other jurisdictions that have adopted local minimum wages have scheduled annual increases over a period of years, after which the rate is then adjusted annually for inflation based on changes in the Consumer Price Index (CPI). The gradual phase-in allows employers who pay the minimum wage to more easily adjust to the higher labor costs.

At the study session in August, the City Council asked staff to consider schedules achieving the \$15.00 per hour rate by either 2018 or 2020. Three different phase-in schedules are noted in the table below. All increases are within the range of wage schedules enacted in other communities.

Table 2: Phase In Schedules

Year	Ensuring Opportunity Proposal	% increase	Increase to \$15.00 by 2020 (Staff Recommendation)	% increase from previous rate	Increase to \$15.00 by 2018	% increase from previous rate
July 2016	\$10.20	13%	\$11.00	22%	\$11.00	22%
Jan 2017	\$11.40	12%	-none-		\$13.00	18%
Jan 2018	\$12.60	11%	\$13.00	18%	\$15.00	15%
Jan 2019	\$13.80	10%	\$14.00	8%	Adjusted per CPI	-
Jan 2020	\$15.00	9%	\$15.00	7%	Adjusted per CPI	-
Jan 2021	Adjusted per CPI	-	Adjusted per CPI	-	Adjusted per CPI	-

**Percent increase is compared to previous year's minimum wage*

The proposed ordinance presented by staff includes the 5 year phase-in period advocated by Ensuring Opportunity to achieve the \$15.00 per hour rate by 2020. Staff heard feedback from a number of local business owners who said the 2020 scenario would give businesses more time to adjust to the new rates. Although low-wage earners and advocates noted that the 2018 scenario would benefit affected workers sooner, the faster phase-in to achieve \$15.00 per hour by 2018 was not contemplated in the Labor Center's study and might have more adverse effects on local businesses compared to the slower phase-in by 2020.

Staff recommends the local wage become effective on July 1, 2016. This provides more time for both local employers and City staff to prepare for the initial effective date. In order to return to the standard calendar year schedule, staff recommends that the next increase to the minimum wage become effective on January 1, 2018 at a rate of \$13.00. At that point, the wage would

increase \$1.00 per year until the \$15.00 minimum wage is reached in the year 2020, with a CPI increase thereafter.

Other Considerations

Paid Sick Leave Benefits: California AB 1522, the “Healthy Workplaces, Healthy Families Act of 2014” went into effect on July 1, 2015 and requires employers to provide one (1) hour of paid sick leave for every 30 hours worked. At the August Study Session, the City Council indicated interest in considering enhanced sick leave benefits above the provisions of State law, and allowed staff to address this matter separately from the minimum wage ordinance. Although enhanced sick leave benefits were included in the model ordinance presented by Ensuring Opportunity, and some community members were in support, the proposed ordinance does not include enhanced paid sick leave benefits. Such provisions would add to the complexity of administration and would be difficult for the City to enforce. Staff intends to monitor the newly enacted law and its requirements, some of which are still being implemented by employers, and any future adjustments to the law by the State. If an enhanced paid sick leave provision becomes part of a regional approach adopted by other communities or if the City Council desires to go beyond State law, the City Council could consider adding such a provision to the City’s ordinance in the future.

Hospitality Service Charges: The model ordinance presented by *Ensuring Opportunity* included provisions to regulate service charges, specifically to require hospitality employers (i.e., a restaurant, hotel, or banquet facility) to pass on the service charges collected to the worker(s) actually performing the services. Staff was concerned that this provision goes beyond mandating a minimum rate of pay and instead precludes business owners from deciding how to manage their business, as such a provision limits how a business can spend revenue from the service charge if they choose to collect such a fee. Further, service charges may not be documented as clearly as wages, making an investigation difficult. If, in the future, this provision becomes the norm for other nearby communities and the City Council at that time wishes to have regional consistency, the Council could consider adding such a provision to the ordinance in the future.

STRATEGIC PLAN CONSIDERATIONS

Adoption of the proposed local minimum wage ordinance would help fulfill Goal E, “Ensure the Public’s Health and Safety.” Specifically, adoption of the proposed ordinance would contribute to achieving the strategy to “*Explore innovative and best practices for promoting public health*” since the benefit to low-wage earners will help those households to cover their basic living expenses. Additionally, the proposed ordinance fulfills Goal A, “Deliver Exemplary Government Services”, and specifically assists in achieving the strategy to “*Recruit and retain a talented workforce.*”

FINANCIAL CONSIDERATIONS

As an employer, the City will incur a slight increase in labor costs. The minimum wage increase will require an adjustment to several part-time pay grades, consisting mostly of seasonal and temporary positions. Estimated costs depend upon the number of part-time staff hired and the number of other employees potentially impacted by salary compaction associated with these

increases; staff estimates an overall increase of approximately \$30,000-\$50,000 for the next fiscal year.

To administer the program, staff time will be required for education and outreach, as well as dealing with complaints, conducting investigations, and handling enforcement. This could be done by hiring additional staff, using temporary or contract employees, or possibly by contracting with another agency or consultant. Based on discussions with other cities, staff estimates the program will require a dedicated staff member for at least the first six months to a year, which could be reduced later once the program is in full effect. Staff costs will be considered and proposed during the upcoming budget process.

Staff recommends delegating preliminary investigation and informal resolution tasks to a consultant or via a contract with another agency. If a complaint advances to the formal administrative hearing stage, the City will handle such proceedings in accordance with already established procedures in the municipal code. This cost is estimated at \$10,000 annually, but could be higher depending upon the number and complexity of investigations.

LEGAL CONSIDERATIONS

The ordinance has been reviewed and approved by the City Attorney.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Ordinance
2. Summary of online business survey results and comments submitted on Open El Cerrito
3. Contra Costa County Policy Brief by the UC Berkeley Center for Labor Research and Education

ORDINANCE No 2015–XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING THE EL CERRITO MUNICIPAL CODE BY ADDING A NEW CHAPTER 6.95 (“CITY MINIMUM WAGE STANDARDS”)

WHEREAS, the current Federal minimum wage rate is \$7.25 per hour, and the California minimum wage will be \$10.00 per hour on January 1, 2016; and

WHEREAS, the cost of living in the San Francisco Bay area is higher than the national average and many families in Contra Costa County struggle to cover basic household expenses; and

WHEREAS, a county-wide increase of the minimum wage to \$15 per hour by 2020 would benefit about 33% of Contra Costa’s workforce, and 89% of working poor families; and

WHEREAS, a county-wide increase of the minimum wage to \$15 per hour by 2020 would bring the minimum wage up from 38% to 50.1% of the Contra Costa median full-time wage, well within the historical range of the ratio for the federal minimum wage to the national median full-time wage; and

WHEREAS, in Contra Costa County, more than half of workers receiving the minimum wage are employed in four industries: retail trade (19.9%), food services (17.9%), health services (9.4%), and administrative and waste management services (8.4%), a classification that includes building services contractors and employment agencies, and

WHEREAS, in 2014, there were 453 companies operating in El Cerrito with a total of 5,035 employees; and

WHEREAS, over half the jobs in El Cerrito in 2014 were concentrated in the retail, accommodation and food services, health care and social assistance, and administrative and waste management services industries; and

WHEREAS, a county-wide increase of the minimum wage to \$15 per hour by 2020 would likely result in only modest prices increases for consumers spread over five years, generally ranging from 0.2% to 1.9% annually with most notably an estimated 7% overall increase in operating costs for restaurants; and

WHEREAS, other jurisdictions in the region are considering enacting a minimum wage that is higher than the minimum wage required by federal and state law, and the Cities of San Francisco, Oakland, Emeryville, Berkeley, San Jose, Mountain View, Sunnyvale, Santa Clara, Palo Alto, and Richmond have already adopted such a minimum wage; and

WHEREAS, in an effort to help working households achieve economic security and acknowledging the higher relative cost of living in San Francisco Bay Area, the City Council of the City of El Cerrito wishes to enact a citywide minimum wage that is higher than the minimum wage required by the federal and state rates; and

WHEREAS, payment of a minimum wage advances the interests of the City as a whole, by creating jobs that keep workers and their families out of poverty; and

WHEREAS, a higher minimum wage rate protects the public health, safety and welfare by requiring that workers employed in El Cerrito are compensated in such a manner as to enable and facilitate their individual self-reliance within the City of El Cerrito; and

WHEREAS, the City Council of the City of El Cerrito may desire to consider additional benefits to workers employed in El Cerrito in the future beyond those required by the State, including enhanced paid sick leave, as other communities within the region explore additional ways to improve the lives of workers in the San Francisco Bay Area; and

WHEREAS, the City of El Cerrito may adopt a higher minimum wage pursuant to the powers vested in the City under the laws and Constitution of the State of California including but not limited to the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution and section 1205(b) of the California Labor Code; and

WHEREAS, it is the intent of the City Council, in enacting a minimum wage ordinance, to ensure compliance with the business standards and practices of the City and to increase the minimum wage for workers within the geographic boundaries of the City.

NOW THEREFORE, The City Council of the City of El Cerrito does hereby ordain as follows:

SECTION 1. FINDINGS.

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

SECTION 2. AMENDMENT OF EL CERRITO MUNICIPAL CODE TITLE 6

Chapter 6.95 (“City Minimum Wage Standards”) is hereby added to Title 6 (“Business Permits and Regulations”) of the El Cerrito Municipal Code to read as follows:

CHAPTER 6.95 CITY MINIMUM WAGE STANDARDS

6.95.010 – Title.

6.95.020 – Authority.

6.95.030 – Definitions.

6.95.040 – Minimum Wage.

6.95.050 – Exemptions and Waivers.

6.95.060 – Notice, Posting and Payroll Records.

6.95.070 – Retaliation Barred.

6.95.080 – Implementation.

6.95.090 – Enforcement.

6.95.100 – Private Rights Of Action.

6.95.110 – Remedies.

6.95.120 – No Preemption of Higher Standards.

6.95.130 – Fees.

6.95.010 Title. This Chapter shall be known as the “City Minimum Wage Standards.”

6.95.020 Authority. This Chapter is adopted pursuant to the powers vested in the City of El Cerrito under the laws and Constitution of the State of California, including but not limited to, the police powers vested in the City pursuant to Article XI Section 7 of the California Constitution and Section 1205(b) of the California Labor Code.

6.95.030 Definitions. As used in this Chapter, the following capitalized terms shall have the following meanings:

A. "City" shall mean the City of El Cerrito or any person, business, or public agency designated by the city council or city manager to perform various investigative, enforcement and informal resolution functions pursuant to this chapter.

B. "CPI" shall mean the Consumer Price Index for urban wage earners and clerical workers for the San Francisco-Oakland-San Jose, CA metropolitan statistical area (or if such index is discontinued, then in the most similar successor index).

C. "Employee" shall mean any person who:

1. In a particular week performs at least two hours of work within the geographic boundaries of the City for an Employer; and

2. Qualifies as an employee entitled to payment of a minimum wage from any employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission.

D. "Employer" shall mean any Person who conducts business in the City, or maintains a business facility in the City, and directly or indirectly (including through the services of a temporary services, staffing agency or similar entity) employs or exercises control over the wages, hours or working conditions of any Employee. Any person exempt from payment of the California minimum wage is not an Employer for the purposes of this Chapter.

E. "Minimum Wage" shall have the meaning set forth in Section 6.95.040.

F. "Person" shall mean any individual, association, organization, partnership, business trust, limited liability company, corporation or other legal entity.

G. "Particular week" shall mean any seven consecutive days, starting with the same calendar day each week beginning at any hour on any day, so long as it is fixed and regularly occurring.

1. An employer may establish the day of week when an employee's "particular week" starts, but once an employee's workweek is established, it remains fixed regardless of his /her working schedule.

2. An employer may change an employee's workweek only if the change is intended to be permanent and is not designed to evade an employer's obligations to this chapter.

6.95.040 Minimum Wage.

A. Employers shall pay Employees no less than the Minimum Wage for each hour worked within the geographic boundaries of the City.

B. The Minimum Wage rate shall be as follows:

1. Beginning on July 1, 2016, the Minimum Wage shall be an hourly rate of \$11.00 per hour.

3. Beginning on January 1, 2018, the Minimum Wage shall be an hourly rate of \$13.00 per hour.

4. Beginning on July 1, 2019, the Minimum Wage shall be an hourly rate of \$14.00 per hour.

5. Beginning on July 1, 2020, the Minimum Wage shall be an hourly rate of \$15.00 per hour.

6. Beginning on July 1, 2021, and each July 1 thereafter, the Minimum Wage shall increase by an amount equal to the prior year's increase, if any, in the CPI, as determined by the United States Department of Labor. The City shall use the February-to-February change in the CPI to calculate the annual increase, if any. A decrease in the CPI shall not result in a decrease of the Minimum Wage.

C. An Employer may not count an Employee's tips or gratuities as a credit toward the Employer's obligation to pay the Employee the Minimum Wage.

D. An Employer who compensates Employees, in whole or in part, on a commission basis that is consistent with State and Federal law, may count commission earnings toward its obligation to pay the Minimum Wage.

E. Whenever the California Labor Code requires an employee to be paid at a rate using a formula based on the state minimum wage, the same formula shall be used to calculate the payment of an employee under this Chapter, except that the local Minimum Wage shall be used. This section shall also apply to learners and apprentices eligible to be paid less than the minimum wage under the provisions of the Labor Code and the regulations of the Department of Industrial Relations.

6.95.050 Exemptions and Waivers.

A. Individual Waiver Prohibited.

Any waiver by an individual Employee of any of the provisions of this Chapter shall be deemed contrary to public policy and shall be void and unenforceable. Any request to an individual Employee by an Employer to waive his or her rights under this Chapter shall constitute a violation of this Chapter.

B. Waiver through Collective Bargaining.

To the extent required by federal law, all or any portion of the applicable requirements of this chapter may be waived in a bona fide collective bargaining agreement, provided that

such waiver is explicitly set forth in such agreement in clear and unambiguous terms.

6.95.060 Notice, Posting And Payroll Records.

A. By May 1 of each year, the City shall publish and make available to Employers a bulletin announcing the adjusted Minimum Wage rate for the upcoming year, which shall take effect on July 1. In conjunction with this bulletin, the City shall publish and make available to Employers, in all languages spoken by at least ten percent of the workforce in the City, a notice suitable for posting by Employers in the workplace informing Employees of the current Minimum Wage rate and of their rights under this Chapter.

B. Every Employer shall post, in a conspicuous place at any workplace or job site where any Employee works, the notice published each year by the City informing Employees of the current Minimum Wage rate and of their rights under this Chapter. Every Employer shall post such notices in any language spoken by at least ten percent of the Employees at the workplace or job site. In the event that at least ten percent of the Employees at a workplace or job site speak a language for which the City does not publish and make available a notice, the Employer shall be responsible for accurately translating the notice published by the City. Every Employer shall also provide each Employee at the time of hire with the Employer's name, address, and telephone number in writing.

C. Employers shall maintain for at least three years a record for each Employee, which shall include the Employee's name, hours worked, pay rate, and service charges collected and distributed. Upon an Employee's reasonable request, Employers shall provide that Employee with a copy of his or her records within ten calendar days.

D. Employers shall permit access to work sites and relevant records for authorized City representatives, with appropriate notice and during normal business hours or at a mutually agreeable time, for the purpose of monitoring compliance with this Chapter and investigating employee complaints of noncompliance, including production for inspection and copying of its employment records, but without allowing social security numbers to become a matter of public record. Relevant payroll records may include all time cards, cancelled checks, cash receipts, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement of payments to an employee(s). Where an Employer does not maintain or retain adequate records documenting wages paid, or does not allow the City reasonable access to such records, the Employee's account of how much he or she was paid shall be presumed to be accurate, absent clear and convincing evidence otherwise. Any Employer who fails to maintain or retain adequate records may be subject to a fine or penalty pursuant to Section 6.95.090.

6.95.070 Retaliation Barred.

It is unlawful for an Employer to discriminate in any manner or take adverse action against any Employee, including but not limited to termination, reduction in compensation or number of hours worked, or reassignment of duties, in retaliation for the Employee exercising his or her rights under this Chapter, including for making a complaint to the City, participating in any of its proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this Chapter. Taking adverse action against an Employee within

120 days of that Employee's exercise of rights protected by this Chapter shall raise a rebuttable presumption that the Employer acted in retaliation. The Employer may overcome this presumption by establishing, with clear and convincing evidence, a non-retaliatory reason for the adverse action.

6.95.080 Implementation.

A. Guidelines. The city manager or designee is authorized to establish an administrative procedure for receiving and investigating complaints of noncompliance with this Chapter and rendering the City's decisions on the merits of such complaints. The city manager or designee shall coordinate implementation and enforcement of this chapter and may promulgate appropriate guidelines or rules for such purposes. The city manager or designee is also authorized to establish administrative procedures and guidelines for the City initiating investigation and enforcement of noncompliance with this Chapter on its own accord and in the absence of a specific complaint.

B. Investigation. The City shall be responsible for investigating any possible violation of this chapter by an Employer or other person. The City shall have the authority to inspect workplaces, interview persons and request the city attorney to subpoena books, papers, records or other items relevant to the enforcement of this chapter.

C. Reporting Violations. An Employee or any other person may report to the City in writing any suspected violation of this chapter. The City shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the Employee or person reporting the violation, provided, however, that with the authorization of such person, the City may disclose his or her name and identifying information as necessary to enforce this chapter or other labor laws. In order to further encourage reporting by Employees, if the City notifies an Employer that the City is investigating a complaint, the City shall require the employer to post or otherwise notify its Employees that the City is conducting an investigation, using a form provided by the City.

D. Informal Resolution. The City shall make every effort to resolve complaints informally, in a timely manner, and shall have a policy that the City shall take no more than one year to resolve any matter before initiating an enforcement action. However, the failure of the City to meet this one year deadline shall not be grounds for closure or dismissal of the complaint.

E. The City is authorized to award the same relief in its proceedings as a court may award. Employees are not required to pursue administrative remedies as a prerequisite for pursuing a civil action under this Chapter.

F. The city manager, upon approval by the City Council, may designate another agency or entity to administer this Chapter.

6.95.090 Enforcement.

Where compliance with the provisions of this Chapter is not forthcoming, as determined by the City in its sole discretion, the City may take any appropriate enforcement action to ensure compliance, including but not limited to the following:

A. The City may issue an Administrative Citation pursuant to provisions of the City's Municipal Code, El Cerrito Municipal Code Chapter 1.14. The amount of this fine shall vary based on the provision of this Chapter violated, as specified below:

1. A fine may be assessed for retaliation by an Employer against an Employee for exercising rights protected under this Chapter. The fine may be up to one thousand dollars (\$1,000.00) for each Employee retaliated against.

2. A fine of up to five hundred dollars (\$500.00) may be assessed for any of the following violations of this Chapter:

a. Failure to post notice of the Minimum Wage rate.

b. Failure to maintain payroll records for the minimum period of time as provided in this Chapter.

c. Failure to allow the City access to payroll records.

B. A fine equal to the total amount of appropriate remedies, pursuant to Section 6.95.110 of this Chapter. Any and all money collected in this way that is the rightful property of an Employee, such as back wages, interest, and civil penalty payments, shall be disbursed by the City in a prompt manner.

C. If a repeated violation of this Chapter has been finally determined, the City may require the employer to post public notice of the employer's failure to comply in a form determined by the city.

D. The City has the authority to waive or decrease the amount of any fee or civil penalty an Employer owes to the City under this Chapter.

E. The City Attorney may initiate a civil action for injunctive relief and damages and civil penalties in a court of competent jurisdiction.

F. Any Employer who receives an Administrative Citation under this Section may appeal such station pursuant to the provisions of El Cerrito Municipal Code Chapter 1.14.

6.95.100 Private Rights of Action.

Any Person claiming harm from a violation of this Chapter may bring an action against the Employer in a court of competent jurisdiction to enforce the provisions of this Chapter and shall be entitled to all remedies available to remedy any violation of this Chapter, including but not limited to back pay, reinstatement and/or injunctive relief. Violations of this Chapter are declared to irreparably harm the public and covered employees generally. The Court shall award reasonable attorney's fees, witness fees and expenses to any plaintiff who prevails in an action to enforce this Chapter. Any Person who negligently or intentionally violates this Chapter shall be also liable for civil penalties up a maximum of \$1,000 for each violation, in addition to any other remedies provided.

6.95.110 Remedies.

A. The remedies for violation of this Chapter include but are not limited to:

1. Reinstatement, the payment of back wages unlawfully withheld, and the payment of an additional sum as a civil penalty in the amount of at least \$50 to each Employee whose rights under this Chapter were negligently or intentionally violated for each day or portion thereof that the violation occurred or continued, and fines imposed pursuant to other provisions of this Chapter or state law.

2. Interest on all due and unpaid wages at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the wages are paid in full.

3. Reimbursement of the City's administrative costs of enforcement and reasonable attorney's fees.

4. The City may require the Employer to pay an additional sum as a civil penalty in the amount of \$100 to the City for each Employee or person whose rights under this Chapter were violated for each day or portion thereof that the violation occurred or continued, and other penalties imposed pursuant to other provisions of this Code or state law.

B. The remedies, penalties and procedures provided under this Chapter are cumulative and are not intended to be exclusive of any other available remedies, penalties and procedures established by law which may be pursued to address violations of this Chapter. Actions taken pursuant to this Chapter shall not prejudice or adversely affect any other action, administrative or judicial, that may be brought to abate a violation or to seek compensation for damages suffered.

C. No criminal penalties shall attach for any violation of this Chapter, nor shall this Chapter give rise to any cause of action for damages against the City.

D. The city may place a lien or special assessment on an Employer's property for the recovery of any unpaid fines or penalties under this Chapter, pursuant to the procedures provided for in Chapter 1.08 of this Code.

6.95.120 No Preemption of Higher Standards.

The purpose of this Chapter is to ensure minimum labor standards. This Chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City. This Chapter shall not be construed to limit a discharged Employee's right to bring a common law cause of action for wrongful termination. In the event that the state or federal minimum wage is greater than the Minimum Wage provided for in this Chapter, the greater minimum wage shall apply.

6.95.130 Fees.

Nothing herein shall preclude the City Council from imposing a fee on all Employers to recover the cost of administering this Chapter.

SECTION 3. SEVERABILITY.

If any provision or application of this Ordinance is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid or inoperative shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this Ordinance in order to preserve the maximum permissible effect of each subsection herein. The City Council of the City of El Cerrito hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable. Nothing herein may be construed to impair any contractual obligations of the City. This Ordinance shall not be applied to the extent it will cause the loss of any federal or state funding of City activities.

SECTION 4. NOTICING, POSTING AND PUBLICATION.

This Ordinance is adopted pursuant to the procedures established by state law, and all required notices have been given and the procedure for adoption has been properly held and conducted.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect and be enforced beginning on July 1, 2016, and prior to the expiration of fifteen days from the passage thereof, the Ordinance or a summary thereof shall be posted or published as may be required by law, and thereafter the same shall be in full force and effect.

THE FOREGOING ORDINANCE was introduced and first read at a regular meeting of the El Cerrito City Council on November 3, 2015, and approved by the following vote on November XX, 2015:

AYES:
NOES:
ABSENT:
ABSTAIN:

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

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Mark Friedman, Mayor

ATTEST:

Cheryl Morse, City Clerk

2015 El Cerrito Business Survey

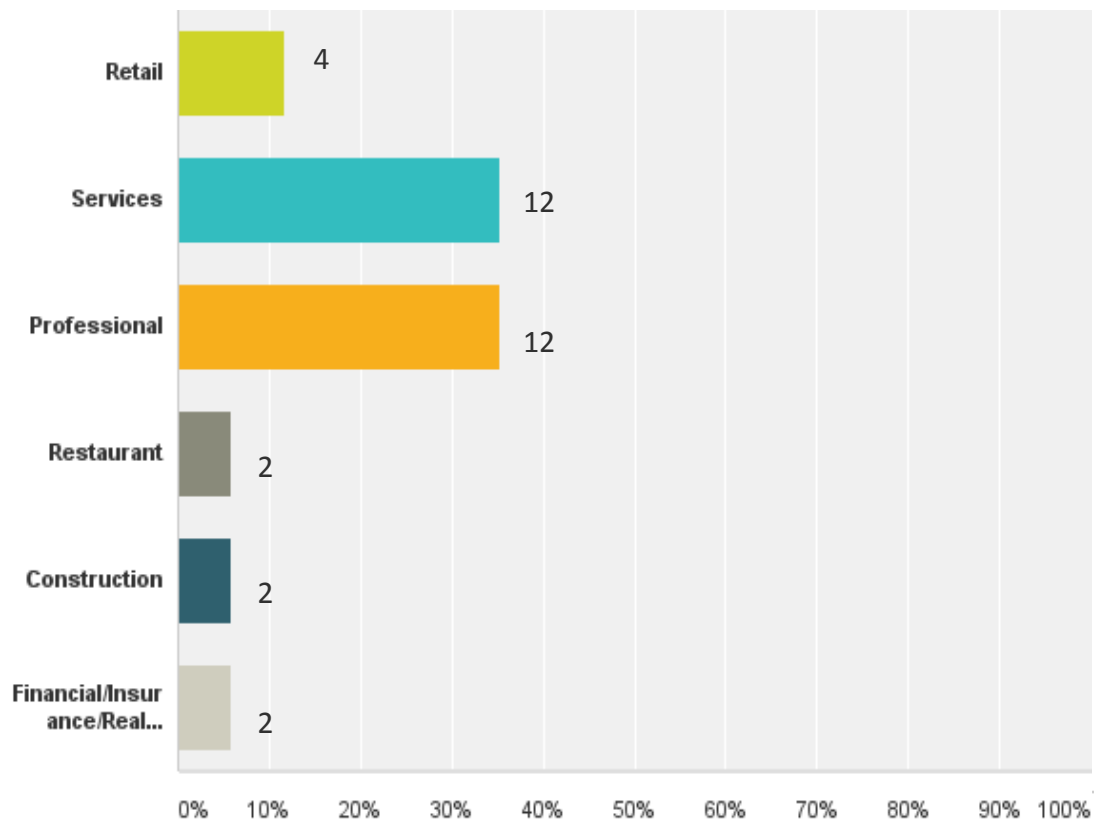
Survey Created: Friday, September 25, 2015

Survey Closed: Monday, October 19, 2015

Complete Responses: 42

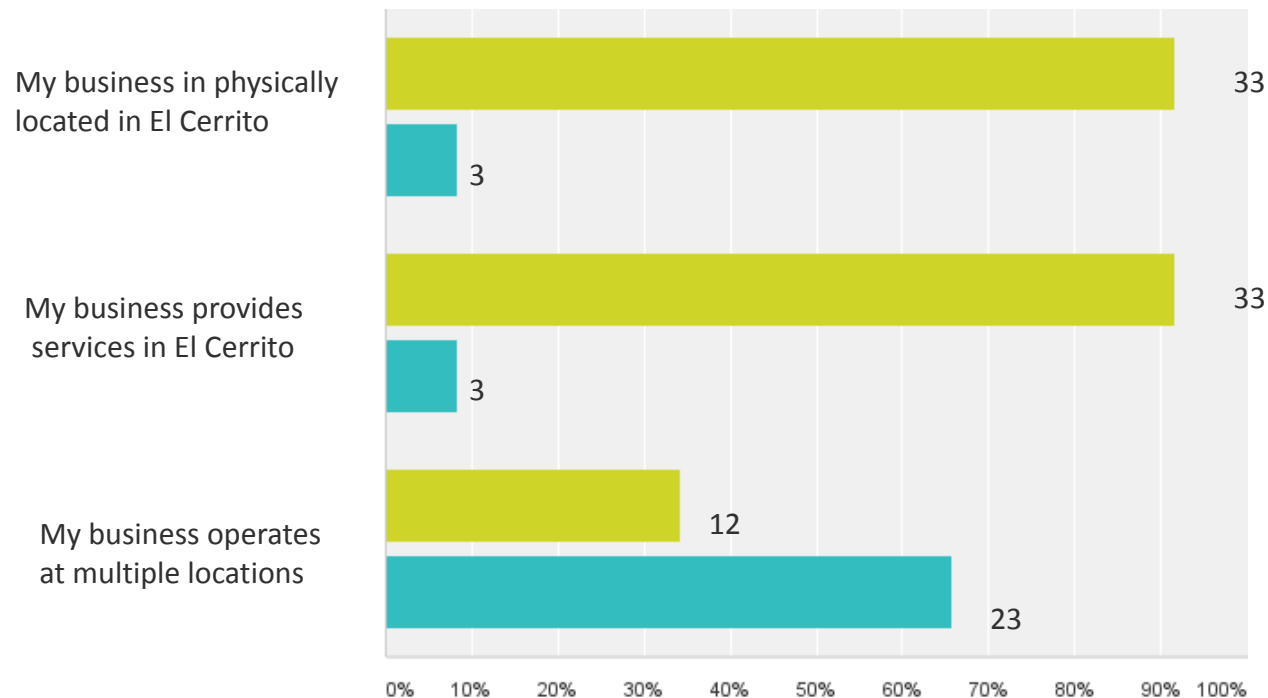
Q1: What is the nature of your business?

Answered: 34 Skipped: 8



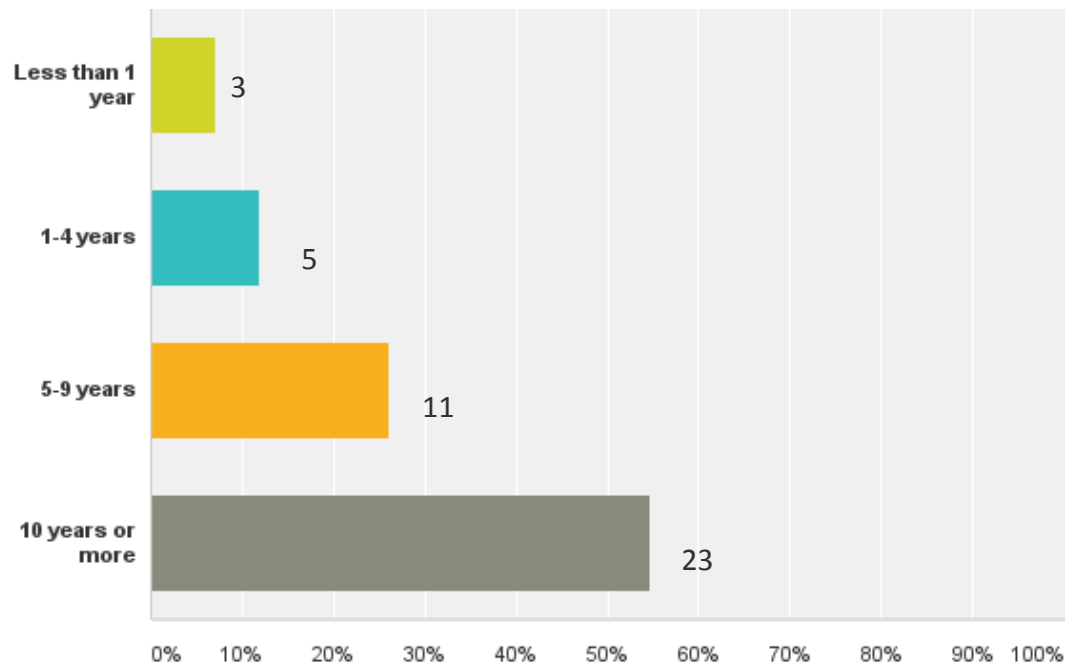
Q3: Check All that Apply:

Answered: 42 Skipped: 0



Q4: How long have you been operating this business in El Cerrito?

Answered: 42 Skipped: 0



Q5: How many full time equivalent ("FTE") employees do you currently have?

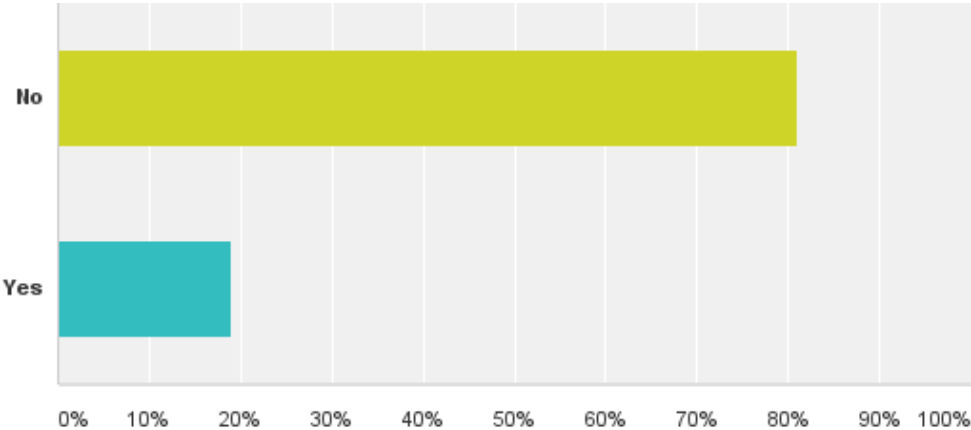
Answered: 42 Skipped: 0

Answer Choices	Average Number	Total Number	Responses
FTE Employees:	9	391	42
Total Respondents: 42			

Q6: Do you have employees that are currently paid the State Minimum Wage (\$9.00 per hour)?

Answered: 42 Skipped: 0

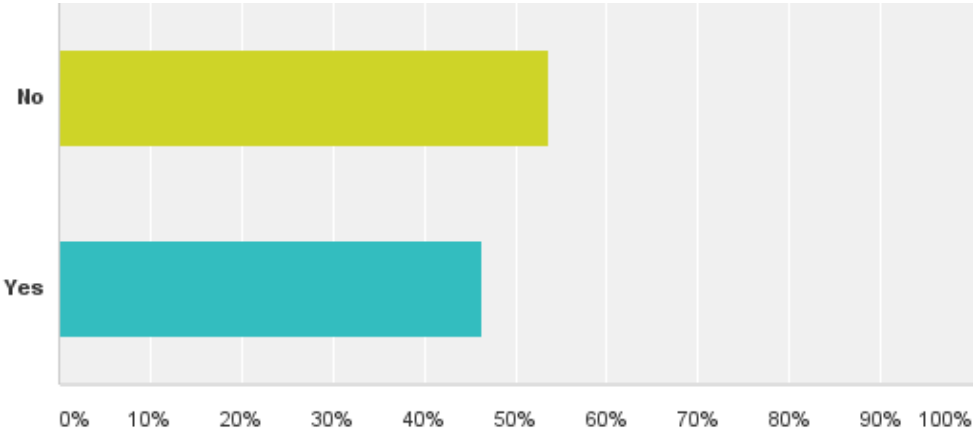
Answer Choices	Responses	
No	80.95%	34
Yes	19.05%	8
Total	42	



Q7: Do you have employees that are paid less than \$15 per hour (proposed hourly rate by either 2018 or 2020)?

Answered: 41 Skipped: 1

Answer Choices	Responses	
No	53.66%	22
Yes	46.34%	19
Total	41	



Q8: If a local minimum wage of \$15 was enacted, how might you handle the increase?

Answered: 29 Skipped: 13

Answer Choices	Responses	
Increase wages to comply	41.38%	12
Reduce number of employees	37.93%	11
Reduce employee work hours	37.93%	11
Increase prices	62.07%	18
Consider relocating outside of El Cerrito	27.59%	8
Change operating structure	17.24%	5
Total Respondents: 29		

SUMMARY OF COMMENTS

EL CERRITO BUSINESS SURVEY

If a local minimum wage of \$15 was enacted, how might you handle the increase?

“OTHER” Open-Ended Responses:

- Likely we may be forced to close. It's just a reality of what we are able to ask for our services vs what we pay in rent & payroll.
- None of the above - would not affect us.
- Already paying
- Any lowest paid employee is \$15.00 per hr.
- Would not expand within El Cerrito. Would be less willing to hire workers with little experience because expense is greater and riskier.
- There would be no change required because we do not pay less than \$15/hr
- Eliminate or decrease weekly/monthly/ annual bonus
- I use only sub-contractors who earn @ \$50 a hour.
- No impact on our business
- We are just starting out so I'm not sure how we would handle a jump that big. It would essentially be like paying for a third person without an actual body.
- Would not effect me
- Nothing since I already pay \$15
- No effect on my business
- Doesn't affect my business
- I have no employees; It would not affect me
- Would have no effect

If you might change your operating structure in response to the minimum wage increase, please elaborate below:

Open-Ended Responses:

- “No change” x 3 responses
- Would not hire students for Parr time work
- Probably retire. Too many government requirements/restrictions on how to run a business.
- I would cut back staff available on each shift. I would likely close an addtl day per week.
- I would only send those employees that are already at \$15.00 or more to El Cerrito
- Yes
- Now we pay state mandated double minimum wage to many employees that use their own tools. We will have to supply tools and the net effect will

be a wage reduction for those employees. They earn \$18 per hour and will go down to union contract rate of \$15.60. They also will not be able to use the tools they have invested in. We also pay most employees production bonuses and these will be curtailed and eliminated to bring their overall income in line with area standards.

- Close store
- Change operating structure from sole proprietorship to worker owned co-operative (coop)
- We strongly support this. Please go for it.
- No
- Wouldn't change anything
- Hire independent contractors only

Would local minimum wage of \$15 impact your decision to expand your business?

Open-Ended Responses:

- "No" x 21 responses
- "Yes" x 6 responses
- Expansion would be out of the question. I would be unable to expand and instead would likely close. We are a higher end business with nationwide minimum \$ requirements in a community that is working towards growth & development, but we don't yet have enough of customer base to sustain. This increase would tank us before the community could catch up in great enough numbers.
- Some what. We have an in house training program that begins at \$13.00/hr. After 6 months it goes to \$14.00 and at the end of 1 year to \$15.00/hr
- Yes, I would strongly look for options outside of El Cerrito. Our sales tax is already too high, and this would be a large incentive for me to relocate my business.
- Yes. It would increase labor costs by 9% in El Cerrito.
- Of course
- Would not be able to expand business with \$15 minimum wage. Now I have two part time employees.
- I would not expand in EC.
- Yes. We are currently only really open for lunch and would like to expand our hours down the road. but if we have to jump our wages that much I don't think we could afford paying another person to cover the hours
- Yes, being a new business my overhead expenses are already high. Making them higher isn't encouraging from a new business owner standpoint. Once you raise the "minimum" employees will expect to get

raises accordingly to reflect the new standard as opposed to phasing raises over time.

- Not at all. Go for it.
- Yes, a lot. I will close my store.

If you weren't already operating in El Cerrito, would a local minimum wage of \$15 have had an impact on opening your business here?

Open-Ended Responses:

- "No" x 17 responses
- "Yes" x 11 responses
- Possibly
- na
- It would have a negative impact. I couldn't afford to move my business there.
- Yes, It is too high and we are too small to carry that burden in El Cerrito
- Of course - if other close by cities did not adopt this wage
- Yes. Would have probably made us consider other areas or locations.
- Yes, see answer 10 above
- None. I don't have any employees
- Not at all. Go for it.

The City Council is considering phasing-in a minimum wage of \$15 per hour by either 2018 or 2020. (For example, a possible timeframe to achieve \$15/hr wage by 2020 would be \$1 annual increases starting 2016 through 2020.) How would implementation of the increased minimum wage by 2018 instead of 2020 impact your business?

Open-Ended Responses:

- "N/A" x 2 responses
- "No" or "No effect" x 4 responses
- Hard to tell considering other possible economic factors in the future
- wouldn't hire any new employees. business would stay at current staffing levels. wage increases stifles business growth
- It would not allow our business the time to better budget for the staff increases and also not allow as much time to gently increase our rates.
- It would not, as I don't currently have any employees. However, it may restrict me from getting employees in the future.
- Any increase in payroll will impact my employer taxes as well as my rates for workers' comp insurance.
- The longer out the better, but even at that pace it would be unsustainable. I would use that time to get thru my lease term while I try to locate alternative space outside the community before making the decision to

close. That is still approx. a 10% increase per year for 5 successive years.

- I foresee all our employees there by then
- Not at all
- Would help create a better living environment in the community and therefore would help us.
- No change
- A mandatory increase is bad. let the market dictate what I have to pay my employees
- Worthy wages got me on this path years ago. I am thrilled you are doing this.
- 9% increase in labor costs in a compressed amount of time.
- It would be good for the community as a whole and would not impact our business. It could result in residents having more income to spend on local services.
- I am sure you can do that math without my help
- Cost more sooner
- It sure wont help
- It will give our business an unfair competitive wage structure when competing with repair shops in other areas as well as owner operated facilities.
- Negative impact. Would have to fire one employee.
- No impact
- The pain would be spread out, but still painful.
- We already start our employees above min but it then means that if we add new employees I feel I will also have to raise everyone's rate at the same pace or face people feeling slighted.
- Would not impact
- We would start our new unskilled or untrained workers at \$15 instead of the current \$13 and \$14/hr.
- We have to increase our menu items prices which will impact on losing and reducing business due to the high price.
- Raises overhead costs. The margin, as a new business, is already slim. It may make it such that it is no longer feasible to work in this city.
- \$1 per year increase will much help to keep running the business.
- Would not impact
- None. I would simply change from sole proprietorship to cooperative.
- Not at all. Go for it.
- No impact- it would be fine since it means employees are able to live locally
- Would not have any effect
- Same. The competition is actually nationwide and even global.
- I will prepare to close my shop earlier.

Local Minimum Wage

What are your thoughts about establishing a local minimum wage in El Cerrito?

All On Forum Statements sorted by support

As of October 28, 2015, 8:36 AM



As with any public comment process, participation in Open El Cerrito is voluntary. The statements in this record are not necessarily representative of the whole population, nor do they reflect the opinions of any government agency or elected officials.

Local Minimum Wage

What are your thoughts about establishing a local minimum wage in El Cerrito?

As of October 28, 2015, 8:36 AM, this forum had:

Attendees:	65
On Forum Statements:	16
All Statements:	27
Hours of Public Comment:	1.4

This topic started on August 31, 2015, 1:27 PM.

Local Minimum Wage

What are your thoughts about establishing a local minimum wage in El Cerrito?

Sandra Dellafiora inside Precinct ELC106

September 10, 2015, 2:38 PM

Yes, adopt a minimum wage of \$15.00 / hour in El Cerrito.

4 Supporters

Name not shown inside Precinct ELC102

September 11, 2015, 9:11 AM

I am in total support of a \$15 minimum wage for El Cerrito. In spite of what the Chamber of Commerce will say--they are usually on record against a minimum wage nationwide--this will not drive businesses away, there is no record of its having done so in places where minimum wage has been raised!

2 Supporters

Name not shown inside Precinct ELC108

September 10, 2015, 6:38 PM

Yes, I completely endorse a minimum wage of \$15/hour.

2 Supporters

nichelle lee inside Precinct ELC107

September 10, 2015, 6:16 PM

Yes, I agree, please adopt a minimum wage of \$15.00 / hour in El Cerrito.

2 Supporters

Lee Rathert inside Precinct ELC112

September 10, 2015, 3:30 PM

I applaud El Cerrito for both the realization and necessity of increasing the minimum wage. When I was young, any fast food restaurant was filled with teenagers earning money for their college education. The adults were managers helping them on their way. Today it seems to be reversed. The majority are older adults trying to make ends meet while the managers seem to be young people. We have fallen so far behind that the necessary correction is going to be painful. If we wait until 2018 or beyond to realize this goal, inflation and other factors will have eaten up the benefit. The minimum wage needs to be corrected now. The business owners who will feel the brunt of this correction need to be helped in order for them to maintain. The community expertise should focus on them. The minimum wage should increase quickly otherwise the benefit is lost and it is just a feel good for government. Hey we hear you and we're doing something about it, baloney.

2 Supporters

Kay Starkweather inside Precinct ELC105

September 23, 2015, 9:43 AM

I enthusiastically support raising the minimum wage to \$15 per hour in El Cerrito as soon as possible---2018 is

Local Minimum Wage

What are your thoughts about establishing a local minimum wage in El Cerrito?

preferable to 2020 but 2016 is better. I am proud to live in a City considering this humane and progressive proposal.

Name not shown inside Precinct ELC112

September 21, 2015, 8:18 PM

I live and work in EL Cerrito. I work with the public everyday , I work 40 hours a week
I have no health care , no 401k. The company I work for is a very large corporation , they do not give raises , I work with people that have never been given a raise in salary in 3 years .
They will do the bare minimum for their workers and nothing more .This is shameful and an insult to us that went to school got a license to work in this industry .To see a house keeper at a Hotel in Emeryville make 14.44 an hour cleaning rooms and all I make is 10.00 withno hope of making more I'm starting to think cleaning rooms at a hotel doesnt sound so bad after all
Please make the big Corporations stop treating us like slaves raise the minimum wage to 15.00
By January 1 2016 !!

Name not shown inside Precinct ELC110

September 18, 2015, 12:43 PM

I can agree with the \$15 minimum wage but please consider an incremental increase.
As a retired small business owner I gave all my employees healthcare, sick leave and paid vacation. I was in the clothing wholesale business so some jobs were simply tagging clothes and checking for holes.
If I had to pay those workers \$15 an hour plus their healthcare and vacation and sickpay, then I would be tempted to outsource those jobs, or worse to go offshore.
One of the reasons we closed our business was that we couldn't offer good working conditions and wages and still compete with the companies who manufactured in Asia and Latin America.
I don't know how many small manufacturing companies there are in El Cerrito but please be aware of their situation.

Name not shown inside Precinct ELC105

September 14, 2015, 8:41 PM

I think it's vital to support members of our community making minimum wage, especially those of us working full time that are the sole providers for our house hold. I live in El Cerrito and was unable to continue working here because I couldn't afford to work full time on a minimum wage job and still pay rent, bills and student loans. I had to work a full time job and a part time job to be able to be financially independent and even with having a tight budget, I was living paycheck to paycheck.

Linda Haverty Rugg inside Precinct ELC102

September 13, 2015, 8:58 AM

Linda Haverty Rugg, El Cerrito

I believe that \$15/hour is a good step toward promoting a living wage for all workers in El Cerrito. If one

Local Minimum Wage

What are your thoughts about establishing a local minimum wage in El Cerrito?

imagines a person working a full 40-hour week, that would work out to \$600/week or \$2,400/month before taxes. Quickly scanning ads for housing in El Cerrito and Richmond provides the information that the rock-bottom price for an apartment for a single person (as of this morning) is \$825/month (for a basement apartment in Richmond). This would be barely manageable at \$15/hour, and this was the only apartment listed at this price. From there it quickly goes up above \$1,000. If we want our citizens to be able to afford housing and a reasonably healthy and prosperous life, less than \$15/hour is not going to do it, and \$15/hour will barely do it. Housing is just one example (and some people can of course share, live with family, etc.) -- what about childcare? Transportation costs? Individuals who are forced to go on public assistance to augment their minimum-wage earnings will provide less money for the community tax base, and will instead draw on that tax base, even though they are working and productive members of society. It is time for us to be realistic about who is in the minimum-wage workforce. As another writer noted, we are only in limited cases talking about teenagers living at home. Most of these jobs are now held by people who must support themselves and others. Even pooling two or three such incomes will scarcely support a household. Businesses should make it part of their business plan to provide a \$15/hour wage at minimum, and appropriate benefits. If they are unable to provide that level of support for workers, they should not be in business. And corporate entities, whether representing themselves or represented by franchise-owners, absolutely must meet that expectation. The issue of competition with other cities is perhaps a distraction; though one could argue that the ablest workers will be more attracted to another nearby city because the wages are higher there, others could argue that businesses would be more attracted to a city requiring less of its employers. So I believe that the argument instead should be made on the basis of quality of life for all the citizens -- poor quality of life in a sector of the workforce (homelessness, lack of access to childcare and other services, inability to buy and repair and maintain property, inability to purchase goods, inability to pay taxes at a level to maintain roads and other services) leads to an absolute decline in the quality of life for citizens overall. Yes, to a minimum of \$15/hour. Absolutely yes.

Farhad Farahmand inside Precinct ELC106

September 12, 2015, 10:44 PM

I completely support increasing the minimum wage to \$15/hr.

Isaac Mankita inside Precinct ELC107

September 12, 2015, 1:24 PM

I totally support raising the minimum wage in El Cerrito to \$15 dollars per hour. I would urge city leaders to coordinate region-wide to gain consistency across adjacent labor markets. I'm proud to be associated with such a progressive initiative!

Rebecca Milliken inside Precinct ELC107

September 12, 2015, 1:02 PM

I fully support adoption of a local minimum wage in El Cerrito. Given that neighboring cities have already adopted minimum wage ordinances, it is important that El Cerrito join regional efforts. We don't want to lose our workforce to neighboring cities with higher wages. I encourage Council to implement as quickly as possible, with a phased approach, and in alignment with neighboring cities to reduce competition among them.

Local Minimum Wage

What are your thoughts about establishing a local minimum wage in El Cerrito?

Thank you for your leadership and efforts on this critical legislation.

Lamar Turner inside Precinct ELC101

September 11, 2015, 5:27 PM

I support increasing the minimum wage in El Cerrito to \$15/hour.

Lamar Turner
2323 Mira Vista Drive
El Cerrito, CA 94530

Toby Blome inside Precinct ELC104

September 11, 2015, 11:27 AM

I am so delighted to hear that El Cerrito is working on adopting a minimum wage at \$15.00. The key argument that should be emphasized is that all workers have a right to a livable wage....otherwise we veer toward slavery. In response to all economic arguments, many of them false, that discourage minimum wage increases, every worker is serving our community and should be paid a wage that allows them to support themselves without hardship, whether or not they are young or old, with or without family. El Cerrito City Council: Please don't wait until 2018...be a model for the rest of the country: BE COURAGEOUS, establish the minimum wage by next year. If, as one study in Oakland indicated: raising the minimum wage for restaurant workers by several dollars, for example, would only result in the need to increase meal costs by 25 cents....WHAT ARE WE WAITING FOR? Please help to end slave labor in this country....which is still being done by mostly people of color.....this thoughtful act will help toward ending racist policies and creating a more just society, and a more content community, which helps us all!

Name not shown inside Precinct ELC111

September 11, 2015, 8:03 AM

I am not sure how raising the minimum wage aligns with the goal of "ensuing the public's health and safety" but in general I think it is a good idea. There are a few things to consider.

- 1) I think the greatest challenge facing El Cerrito is the collapse of businesses on the San Pablo Ave corridor. The street is a series of shuttered storefronts, big and small, representing a significant loss of sales tax revenue. While the bay area economy roars, El Cerrito is still in the throes of the recession. If a local minimum wage is related to health and safety then so is a vital business district. Does establishing a local minimum wage help address this challenge?
 - 2) I believe Richmond established a local minimum wage that is less than \$15. It may be a good idea to keep the minimum wage consistent between Richmond and El Cerrito so as not to cause undue competition between the two communities for employees.
 - 3) Increasing the minimum wage during a period of prosperity seems straightforward. Think about the next economic downturn. If an employer decides that he/she can afford \$30 per hour for labor, is it better to keep three people employed at the current minimum wage or two people at the proposed minimum wage?
-

September 2015



Center on Wage and Employment Dynamics

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

Contra Costa County's Proposed Minimum Wage Law: A Prospective Impact Study

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

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EXECUTIVE SUMMARY

The Ensuring Opportunity Campaign to Cut Poverty in Contra Costa has introduced a plan to establish a \$15 per hour minimum wage in Contra Costa County, California, by 2020. The proposal would phase in the minimum wage increase over five steps. This study examines the effects of the proposed minimum wage increase on Contra Costa workers and businesses (assuming that all of the cities in the county, as well as the county itself, enact the proposed law). Drawing on a variety of government data sources, we find the following:

About 111,000 workers—or about 33 percent of Contra Costa’s workforce—would receive a pay raise under the proposal.

Workers’ hourly wage and annual income would rise, resulting in a total increase in aggregate earnings of \$418 million (in 2014 dollars) by 2020.

- Hourly wages of affected workers would rise by an average of \$2.40.
- Average annual earnings would increase by about \$3,800 per year.

Adults, workers of color, and working poor families would receive significant benefits.

- We estimate that 94 percent of affected workers are in their twenties or older, and more than half of the workers receiving raises are in their thirties or older.
- Workers of color (black, Latino/a, Asian, and other) make up approximately two-thirds of the workers receiving raises.
- Workers of all education levels will benefit from the proposed increase, with less educated workers benefitting the most.
- Fully 89 percent of working poor families will receive a pay increase.
- Median annual earnings of affected workers are about \$16,200 (in 2014 dollars), which is 38 percent of the overall workforce median.

The proposed minimum wage increase would have a moderate impact on restaurant operating costs and prices, and a negligible impact on prices in the rest of the economy.

- More than half of all affected workers are employed in four industries: retail trade (19.9 percent), food services (17.9 percent), health services (9.4 percent), and administrative and waste management services (8.4 percent), a classification that includes building services contractors and employment agencies.
- Operating costs would increase by 6.9 percent for restaurants by 2020, 0.6 percent for retail, and 0.5 percent for the overall economy.
- Restaurant prices would increase by 6.0 percent by the time the law is fully implemented. A \$10 meal would increase by 60 cents, to a total of \$10.60. This increase would be spread over five years,

ranging from 0.2 to 1.9 percent annually. There would be negligible price increases for the retail industry and the rest of the economy.

- While higher prices may reduce consumer demand, economic models suggest that this will be offset at the county level by the increased purchasing power of low-wage workers receiving the pay increase.
- The best economic research on past minimum wage increases does not find statistically significant effects on employment or hours worked. It is important to note, however, that the minimum wage increases studied in this broader literature were generally smaller in magnitude—and affected a smaller share of the workforce—than the laws recently passed in California and the proposal being contemplated by Contra Costa County.

The size of the proposed minimum wage increase lies within the range of local minimum wage increases passed to date, as well as other measures of a local economy’s capacity to absorb higher wage standards.

- Compared to existing state law, the proposal would raise Contra Costa’s minimum wage by 36 percent (in inflation-adjusted terms). The 27 local minimum wage laws passed to date have mandated increases ranging from 11.7 to 76.5 percent.
- The proposal would increase the minimum wage to 50.1 percent of the Contra Costa median full-time wage, well within the historical range of the ratio for the federal minimum wage to the national median full-time wage.
- Cities in Contra Costa would maximize the economic benefits and minimize the risk of adverse effects by coordinating in passing higher wage standards—if not for the County as a whole, at least for sub-regions of the County.

In sum, we estimate that the proposed minimum wage increase would provide significant gains in income to Contra Costa’s low-wage workers and their families. Most businesses would be able to absorb the increased costs, and consumers would see a moderate increase in restaurant prices spread over five years. The proposal’s impact on overall employment is therefore not likely to be significant. However, since any prospective impact study has a level of inherent uncertainty, the actual effects of the proposed minimum wage law should be closely monitored during implementation.

1. INTRODUCTION

The Ensuring Opportunity Campaign to Cut Poverty in Contra Costa has put forth a proposal to establish a \$15 per hour minimum wage by 2020 throughout Contra Costa County. For the proposal to cover all of Contra Costa, each of the nineteen cities and towns as well as the county itself would need to enact it. The minimum wage would be raised to \$10.20 on January 1, 2016; to \$11.40 on January 1, 2017; to \$12.60 on January 1, 2018; to \$13.80 on January 1, 2019; and to \$15.00 on January 1, 2020 (see Table 1). The minimum wage would cover all workers in Contra Costa County except for federal, state, and local school district employees. For the purposes of this report, we assume that all cities and the county enact the same proposal at the same time.

In this report, we first estimate the effects on workers including: the number of workers affected by the proposal, the size of the wage increases, and the demographics and job characteristics of the affected workers. We next examine the industry distribution of workers affected by the proposal and the effects on business operating costs and prices in highly-impacted industries. We then review the economic research literature on the effects of minimum wage increases on employment. Finally, we compare the proposal to existing local minimum wage laws and examine unique features of the Contra Costa County economy. We conclude with review of additional policy design questions and an overall assessment of the proposed increase.

Table 1. Wage Schedule for the Proposed Minimum Wage Policy

Year	Nominal Dollars	Percentage Increase from Previous Year	Constant 2014 Dollars	Percentage Increase from Previous Year
2015 (actual)	\$9.00		\$8.80	
2016	\$10.20	13.3	\$9.74	10.8
2017	\$11.40	11.8	\$10.64	9.2
2018	\$12.60	10.5	\$11.49	8.0
2019	\$13.80	9.5	\$12.30	7.0
2020	\$15.00	8.7	\$13.06	6.2

Note: Constant dollar values are calculated using the average annual change for the past ten years of the San Francisco-Oakland-San Jose Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

2. BACKGROUND

Like other cities and counties in the Bay Area, Contra Costa County, situated across the bay from San Francisco, has recovered from the Great Recession. In fact, the East Bay Economic Development Alliance (2015) forecasts that the East Bay “is poised for steady growth in 2015 as the local economic engine continues firing on all cylinders.” The labor market in Contra Costa is strong with unemployment at just 4.7 percent, lower than the state’s rate (6.1 percent) and the county’s unemployment rate prior to the recession.¹ Employment in the county has nearly regained its pre-recession levels. As another sign of the region’s growth, Contra Costa’s population has increased by 9 percent since 2007. A uniquely large share of

Contra Costa's population commutes outside of the county for work—46.4 percent in 2013, up from 41.2 percent in 2007.²

But even as the local economy has rebounded, wages for Contra Costa's workers have declined in real terms. Between 2007 and 2013, median annual earnings (adjusted for inflation) fell by 12.1 percent for those who work in the county.³ Over the same period, income inequality (as measured by the Gini coefficient) rose by 3.9 percent, a larger increase than in neighboring San Francisco and the U.S. as a whole.⁴

By enacting a local minimum wage law throughout the county, Contra Costa would join a growing number of cities that are setting wage standards to reflect local economic conditions and living costs. To date, 27 cities and counties have approved local minimum wage laws, eventually reaching \$15 an hour in Los Angeles, San Francisco, and Seattle. In Contra Costa, the city of Richmond already enacted a local minimum wage in 2014. Other California cities that have recently enacted local minimum wage laws are Oakland, Berkeley, Emeryville, San Jose, Mountain View, Sunnyvale, and San Diego.

3. EFFECTS ON WORKERS

Estimated Number of Affected Workers

To estimate the number of workers affected by the proposed minimum wage increase, we analyze the wage distribution of workers in Contra Costa County using the 2012-2013 American Community Survey (ACS), scaled to approximate more accurate employment counts for Contra Costa from the 2013 U.S. Bureau of Labor Statistics' Quarterly Census of Employment and Wages.⁵ We exclude federal, state, and local school district employees as well as the self-employed from our analysis, since those groups of workers would not be covered by the proposal.⁶ Again, we assume that each city in Contra Costa as well as the county itself will enact the proposed minimum wage schedule at the same time.

After simulating the wage distribution in Contra Costa just before the proposed minimum wage increase would go into effect on January 1, 2016, we estimate, for each annual phase-in step, the number of workers affected by the increase and the additional wages they would receive. We also simulate what the wage distribution would be if the proposal were not enacted, adjusting for increases in the state minimum wage. Our impact estimates are therefore a comparison of workers' wages under the proposed minimum wage increase to workers' wages under state minimum wage law only. We also adjust for expected employment and wage growth (see Perry and Bernhardt 2015 for more detail).⁷

We are unable to account for the existing local minimum wage law passed by the city of Richmond in 2014 because the ACS does not allow us to identify place of work at the city level; the smallest geographic area for measuring place of work in the ACS is the county. Therefore, our impact estimates will be slightly overstated. The overstatement should be small because Richmond only represents 8.5 percent of total Contra Costa employment,⁸ and because the Richmond law excludes businesses that have fewer than 800 employee hours over a two-week period and sets a lower minimum wage for businesses that generate more than half of their income from sales outside of the city. In addition, the minimum wage in the Contra Costa proposal would exceed the Richmond minimum wage by 2018.

Our impact simulation model produces a low and a high estimate to account for measurement error in the ACS wage distribution. Both estimates include a directly affected group (workers making less than the proposed minimum wage) and an indirectly affected group (workers making 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 current minimum wage). More information on our methodology is available in the online technical report (Perry and Bernhardt 2015). In this report we present the average of the two estimates in all tables.

Table 2 shows the estimated number and percentage of covered workers affected by the proposed minimum wage increase in Contra Costa County. By 2020, we estimate that 111,000 workers will receive a pay raise, or about 32.7 percent of the covered workforce. Of these, 93,000 workers, or 27.7 percent of the covered workforce, are directly affected workers (earning less than \$15 per hour when the proposal would be fully implemented in 2020) and 17,000, or 5.1 percent of the covered workforce, are indirectly affected (earning slightly more than \$15 per hour when the proposal would be fully implemented in 2020).

Table 2. Cumulative Number of Workers Affected by Proposed Minimum Wage Policy

Year	Number of Affected Workers (cumulative)	Number of Directly Affected Workers (cumulative)	Number of Indirectly Affected Workers (cumulative)	Percent of Covered Workforce (cumulative)
2016	64,000	51,000	13,000	20.2
2017	80,000	63,000	17,000	24.7
2018	92,000	71,000	21,000	28.0
2019	101,000	83,000	17,000	30.3
2020	111,000	93,000	17,000	32.7

Source: Authors' analysis of ACS, OES, and QCEW data. See Perry and Bernhardt (2015) for details.

Note: The proposed minimum wage proposal will not cover self-employed workers or state and federal workers. Directly affected workers are those with wages below the proposed new minimum wage in each year. Indirectly affected workers are those with wages slightly above the proposed new minimum wage, who will receive an increase via the ripple effect. The number of directly affected workers and indirectly affected workers may not sum to the total number of affected workers due to rounding.

Estimated Size of Wage Increases

We also estimate the additional earnings that affected workers would receive as a result of the proposed minimum wage increase, relative to their earnings under state minimum wage law. Table 3 (page 8) shows the estimated cumulative increase in affected workers' hourly wages, annual earnings, and percentage increase in annual earnings, as well as the cumulative total earnings increase for all affected workers. By full implementation in 2020, we estimate that the wages of affected workers will have risen by about \$2.40 per hour. That amounts to an estimated additional \$3,800 in earnings per year. In total, we estimate that affected workers in Contra Costa will earn an additional \$418 million by 2020. All estimates are listed in 2014 dollars.⁹

Some policymakers have expressed concern that affected workers and their families could ultimately be worse off after the minimum wage increase if they are no longer eligible for means-tested social assistance programs. The vast majority of workers will come out well ahead financially, however, because the benefits from most social assistance programs phase out as recipients' income rises. This means that as the earnings of affected workers rise, the benefits they receive will gradually decline instead of being eliminated all at once.¹⁰ In fact, the Congressional Budget Office (2012) has estimated that the average marginal tax rate for low-and moderate-income workers is 34.8 percent, meaning that affected workers will keep 65.2 cents of each additional dollar they earn. So while taxes and reductions in social assistance benefits will erode some of the additional earnings for affected workers, most families will still see significant gains in income from the proposed minimum wage increase.

Table 3. Cumulative Pay Increases for Workers Affected by the Proposed Minimum Wage Policy (in 2014 dollars)

	2016	2017	2018	2019	2020
Average Cumulative Hourly Wage Increase	\$0.15	\$0.81	\$1.37	\$1.91	\$2.40
Average Cumulative Annual Earnings Increase	\$200	\$1,300	\$2,100	\$3,000	\$3,800
Average Cumulative Percent Annual Earnings Increase	1.7	9.7	16.2	22.4	27.8
Total Aggregate Cumulative Increase In Earnings (millions)	\$14	\$100	\$195	\$301	\$418

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

Note: Results are cumulative across the phase-in years.

Demographics and Job Characteristics of Affected Workers

In Table 4 (page 9), we show the demographic and job characteristics of the affected workers. In the first column, we display the characteristics of all covered workers in Contra Costa County. For example, 51.1 percent of Contra Costa workers are men and 48.9 percent are women. In the second column, we show the *distribution of affected workers* by 2020. For example, we estimate that 48.7 percent of affected workers are men and 51.3 percent are women. In the third column, we present the *share of each demographic group that will receive a wage increase*. For example, 31.1 percent of male workers and 34.4 percent of female workers covered by the proposed increase will receive a raise.

Contrary to the common perception that minimum wage workers are mainly teens, we estimate that 94 percent of affected workers are in their twenties or older and 55 percent are in their thirties or older. The proposed minimum wage increase will benefit workers of color, who make up 67 percent of affected workers. The proposal will be particularly beneficial to Latino/a workers, as more than half of these workers (55 percent) will receive a raise. Workers of all education levels will benefit from the proposed increase, with less educated workers benefitting the most.

Over a third of affected workers have children (35 percent) and 36 percent are married. Affected workers disproportionately live in low-income families, with 45 percent at or below 200 percent of the federal

Table 4. Demographic and Job Characteristics of Workers Affected by the Proposed Minimum Wage Policy by 2020
(all figures are percentages unless otherwise noted)

	Percent of Covered Workers	Percent of Covered Workers Getting Raises	Percent of Group That Is Getting a Raise
Gender			
Male	51.1	48.7	31.1
Female	48.9	51.3	34.4
Median Age	40	32	
Age			
16-19	2.5	6.4	83.6
20-29	22.1	39.0	57.8
30-39	23.1	21.1	29.7
40-54	36.5	23.8	21.3
55-64	15.7	9.7	20.2
Race/Ethnicity			
White	48.5	32.9	22.2
Black	7.6	7.9	34.4
Latino/a	24.2	40.6	54.8
Asian	16.4	15.2	30.3
Other	3.3	3.4	33.3
Education			
Less than High School	10.1	20.8	66.9
High School or G.E.D.	19.6	27.8	46.3
Some College	26.3	30.8	38.4
Associate's Degree	9.2	7.2	25.7
Bachelor's Degree or Higher	34.8	13.4	12.7
Country of Birth			
U.S. Born	69.6	59.9	28.2
Foreign Born	30.4	40.1	43.2
Family Structure			
Married	52.1	36.2	22.7
Has Children	44.1	35.1	26.0
Family Income Relative to Poverty Level (FPL)			
Less than 100% of FPL	5.7	15.6	88.9
100% to 150% of FPL	5.8	14.2	79.4
150% to 200% of FPL	7.1	14.7	67.7
Greater than 200% of FPL	81.4	55.5	22.3
Average Worker Share of Family Income	60.3	47.1	
Median Individual Annual Earnings (2014 Dollars)	\$42,300	\$16,200	
Full-Time / Part-Time Worker			
Full-Time (35 or More Hours per Week)	76.4	57.7	24.7
Part-Time (Fewer than 35 Hours per Week)	23.6	42.3	58.6
Full-Year / Part-Year Worker			
Full-Year (50-52 Weeks per Year)	85.1	78.5	30.2
Part-Year (Fewer than 50 Weeks per Year)	14.9	21.5	47.4
Health Insurance Provided by Employer			
Yes	74.8	52.8	23.1
No	25.2	47.2	61.3

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

Note: Only workers covered by the proposed minimum wage law are included in this table. See note for Table 2.

poverty level. Fully 89 percent of working poor families will receive a pay increase. On average, affected workers bring home 47 percent of their family's income.

We estimate that the median annual earnings of affected workers (\$16,200 in 2014 dollars) is less than half (38 percent) of the median earnings for all workers in Contra Costa. Affected workers are disproportionately employed in part-time or part-year jobs, and are much less likely to have health insurance provided by their employer than the overall Contra Costa workforce.¹¹

4. EFFECTS ON BUSINESSES

To analyze the impact of the proposed minimum wage increase on Contra Costa County businesses, we first identify the industries that will be highly affected by the proposal. In those industries, we then estimate the impact of the proposed law on firms' operating costs, taking into account savings from reduced turnover and higher productivity. We next examine the channels through which business are likely to absorb those increased costs, by estimating price increases in highly affected industries and reviewing the economic research literature on changes in employment and hours.¹²

Industry Distribution of Affected Workers

Minimum wage increases do not affect all industries equally. We therefore begin with an analysis of the impact of the proposed minimum wage increase at the industry level. Table 5 shows the estimated distribution of affected workers across Contra Costa County's industries by 2020. In the first column, we show the percentage of the overall covered Contra Costa workforce in each industry. The second column displays our estimate of *the distribution across industries* of workers getting a raise under the proposed increase. The third column presents our estimate of the percentage of workers getting a raise *within each industry*.

Over half of affected workers are employed in just four service sector industries: retail trade (19.9 percent), food services (17.9 percent), health services (9.4 percent), and administrative and waste management services (8.4 percent), which is comprised mainly of building services contractors and employment agencies. The service sector also dominates the list of industries that have high rates of low-wage work—that is, industries where we estimate a high share of workers will get a raise (for example, 77.8 percent in food services and 50.2 percent in retail trade).

We also examine the sectoral distribution of affected workers in Table 5 (page 11). Our estimates show that affected workers are largely employed in the private, for-profit sector. Nonprofit and public sector workers are less likely to be affected than the overall Contra Costa workforce.

Table 5. Impact Estimates for Major Industries by 2020
(all figures are percentages)

	Percent of Covered Workers	Percent of Covered Workers Getting Raises	Percent of Industry That Is Getting a Raise
All Sectors			
Agriculture, Forestry, Fishing, Hunting, and Mining	1.5	2.0	
Construction	6.5	5.2	26.3
Manufacturing	8.1	4.8	19.3
Wholesale Trade	2.3	1.6	22.5
Retail Trade	12.9	19.9	50.2
Transportation, Warehousing, and Utilities	3.9	2.1	17.6
Information	3.0	0.8	9.0
Finance, Insurance, Real Estate, and Rental and Leasing	11.2	5.7	16.7
Professional, Scientific, and Management	7.8	3.0	12.6
Administrative and Waste Management Services	5.7	8.4	48.3
Educational Services	3.3	3.4	34.3
Health Services	14.0	9.4	22.1
Social Assistance	2.5	3.3	42.2
Arts, Entertainment, Recreation, and Accommodation	3.1	5.4	58.0
Food Services	7.5	17.9	77.8
Other Services (except Public Administration)	4.3	6.6	50.7
Public Administration	2.6	0.6	7.9
Total	100.0	100.0	
By Sector			
Private, For-Profit	84.8	89.1	34.4
Private, Non-Profit	9.5	8.0	27.4
Public	5.7	2.9	17.0
Total	100.0	100.0	

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

Notes: Blank value for "Percent of Group Getting a Raise" indicates insufficient sample size for that category.
Only workers covered by the proposed minimum wage law are included in this table. See note for Table 2.

Adjustments to Higher Costs by Businesses

Effect of Higher Wages on Turnover and Productivity

Economic research suggests that some of the increased labor costs that businesses face as a result of a higher minimum wage can be offset through lower turnover and increased worker productivity. Turnover is high in low-wage industries—up to 75 percent in some restaurant classifications (National Restaurant Association 2010). Workers often leave for higher-wage jobs, or are unable to remain in their jobs because of poverty-related problems such as difficulty with child care, transportation, or health.¹³ These high turnover rates are costly for firms. Boushey and Glynn (2012) find that the median cost to replace a worker earning \$30,000 or less is 16 percent of the worker's salary. Pollin and Wicks-Lim (2015) and Dube, Lester, and Reich (forthcoming) find that 15 to 20 percent of the costs of a minimum wage increase are offset through reductions in turnover resulting from the higher pay.

In our calculations below, we take the midpoint of those estimates and assume that 17.5 percent of increased labor costs are absorbed via turnover savings and increased productivity in the first year.¹⁴ These savings are likely to accrue at smaller rates as wage levels go higher; we therefore assume that by 2020 the marginal increase in earnings relative to 2018 no longer yields any additional turnover savings. As a result, we estimate that the total savings from turnover and increased productivity at a \$15 minimum wage in 2020 would be 9.7 percent of increased labor costs.

Effect of Proposed Law on Restaurant and Retail Operating Costs

Table 6 (page 13) shows our estimates of the increase in business operating costs (net of savings from reduced turnover) in retail and restaurants, the two industries with the largest number of workers receiving a raise under the proposed minimum wage law. By 2020, we estimate that businesses in the restaurant industry will see their payroll costs rise by 18.8 percent and businesses in the retail industry will see their payroll costs rise by 5.2 percent, compared to payroll costs under state minimum wage law; these cost estimates include payroll taxes and workers' compensation insurance expenses.¹⁵ Across the entire Contra Costa economy, we estimate that payroll costs will rise by 2.2 percent by 2020.

However, operating costs will rise by a much smaller amount, because labor costs only make up a portion of the costs that businesses face. Labor costs excluding health benefits currently account for 31 percent of restaurant operating costs, 11 percent of retail operating costs, and 22 percent for the overall economy (these percentages will increase over time as labor costs rise faster than other costs due to the proposed minimum wage increase).¹⁶ We therefore estimate that by 2020, total operating costs will rise by 6.9 percent for restaurants, 0.6 percent for retail, and 0.5 percent for the overall economy.

Table 6. Cumulative Impact of the Proposed Minimum Wage Policy on Business Operating Costs for Select Industries and the Overall Economy

	2016	2017	2018	2019	2020
Food Services					
% Change in Payroll Costs*	0.7	4.8	9.0	13.7	18.8
Labor Costs as % of Operating Costs	30.7	30.8	31.9	33.8	36.7
% Change in Operating Costs	0.2	1.5	2.9	4.6	6.9
Retail Trade					
% Change in Payroll Costs*	0.2	1.2	2.3	3.7	5.2
Labor Costs as % of Operating Costs	10.8	10.8	10.9	11.2	11.5
% Change in Operating Costs	0.0	0.1	0.3	0.4	0.6
Overall Economy					
% Change in Payroll Costs*	0.1	0.5	1.0	1.5	2.2
Labor Costs as % of Operating Costs	22.1	22.1	22.2	22.4	22.6
% Change in Operating Costs	0.0	0.1	0.2	0.3	0.5

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

Note: % Change in Payroll Costs is net of savings from reduced turnover expenses, and includes additional payroll tax and workers' compensation expenses.

Impact on Restaurant and Retail Prices

Economic research suggests that firms may adjust to minimum wage increases by passing on some or all of their increased operating costs to consumers through higher prices. Since the minimum wage applies to all businesses, individual firms such as restaurants that serve the local market may be able to pass costs through to consumers without experiencing a competitive disadvantage within their industry.

Research by Aaronson, French, and MacDonald (2008) found that every percentage point increase in the minimum wage raises restaurant prices by 0.072 percent. A new study (Allegretto and Reich 2015) of San Jose's recent minimum wage increase (from \$8 to \$10 in March 2013) yields a similar estimate. An earlier study (Lee, Schluter, and O'Roark 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). Lee et al., however, do not take into account costs savings resulting from reduced turnover costs. These studies together suggest that at least 80 percent of net cost increases are passed on as higher restaurant prices.

In Table 7 (page 14) we provide our estimates of the impact on restaurant and retail prices under the proposed minimum wage increase for Contra Costa County.¹⁷ For restaurants, we predict a cumulative increase in inflation adjusted prices of 6.0 percent by 2020. The price of a \$10 menu item would thus increase to \$10.60. However, it is important to note that this increase would be spread out over the five year phase-in period; the increase will take the form of five annual prices increases beginning with a 0.2 percent increase in 2016 and eventually rising to a final 1.9 percent price increase in 2020. To put these

Table 7. Percentage Price Increases Under the Proposed Minimum Wage Policy

	2016	2017	2018	2019	2020
Food Services					
Year over Year Price Increase	0.2	1.1	1.2	1.5	1.9
Cumulative Price Increase	0.2	1.3	2.5	4.0	6.0
Retail Trade					
Year over Year Price Increase	0.0	0.1	0.1	0.1	0.2
Cumulative Price Increase	0.0	0.1	0.2	0.4	0.5
Overall Economy					
Year over Year Price Increase	0.0	0.1	0.1	0.1	0.1
Cumulative Price Increase	0.0	0.1	0.2	0.3	0.4

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

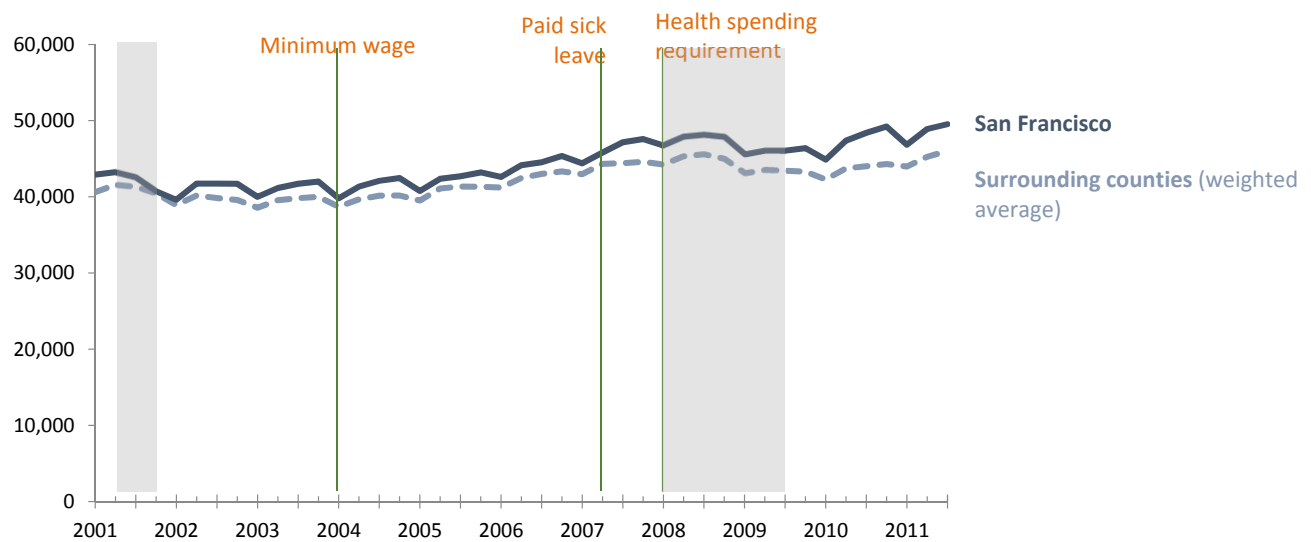
annual prices increases in context, recent inflation in restaurant prices has been 2.1 percent per year. Price increases for retail and the overall economy would be negligible, at 0.5 and 0.4 percent, respectively, spread over five years.

Effect on Employment and Hours

There is an extensive body of economic research on the effects of minimum wage laws on employment and work hours. Belman and Wolfson (2014) provide the most extensive recent summary of the minimum wage research literature, and conclude that employment effects in the U.S. to date have been “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 discernable effect on the employment prospects of low-wage workers.” The above research on prices and turnover helps to explain why existing research has found little impact on employment from minimum wage increases.

Several rigorous studies have analyzed the impact of local minimum wage laws in particular, and found no evidence of negative employment effects.¹⁸ Dube, Naidu, and Reich (2007) studied the impact of San Francisco’s first minimum wage law after it raised the city’s minimum wage from \$6.75 to \$8.50 per hour in 2004. The authors surveyed a sample of restaurants before and after the wage increase, in San Francisco as well as in neighboring East Bay cities that were not covered by the policy. They found no statistically significant effects on either employment or the proportion of full-time jobs as a result of the San Francisco law. This finding held for both full-service and fast-food restaurants (one might expect more sensitivity to a higher minimum wage in the latter). As shown in Figure 1 (page 15), restaurant employment in San Francisco rose slightly faster than in surrounding counties after the minimum wage increase, and again after the implementation of paid sick leave and health spending mandates.

Figure 1. 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 increase from \$5.15 to \$8.50 in 2004 by comparing changes in employment at Santa Fe businesses before and after the increase to changes in employment in nearby Albuquerque over the same time period. Potter found no statistically significant negative impact of Santa Fe's minimum wage increase on total employment in the city. The finding also held for accommodation and food services (industries with the highest proportion of minimum wage workers). Schmitt and Rosnick (2011) studied the impact of city minimum wage laws in San Francisco and Santa Fe on employment in fast-food restaurants, food services, retail trade, and other low-wage industries. They compared employment trends in these cities before and after their minimum wage increases to control groups of surrounding suburbs and metropolitan areas, and found no discernable negative employment effects, even three years after the ordinances were implemented.

Broader studies of state and federal minimum wage increases confirm and strengthen the findings of these local case studies. Dube, Lester, and Reich (2010 and forthcoming) looked at every state and federal minimum wage increase in the U.S. between 1990 and 2011 and identified several hundred pairs of adjacent counties that were located on different sides of a state border with a minimum wage difference. By comparing the employment trends of the most affected groups (teens and restaurants) across adjacent counties that had different minimum wage levels, this research design is an excellent test of whether businesses relocate employment outside county borders to avoid being subject to a higher minimum wage. Following this approach, Dube, Lester, and Reich (2010 and forthcoming) and Allegretto, Dube, Reich, and Zipperer (2013) find no statistically significant effects of minimum wage increases on either employment or hours worked in restaurants and other low-wage industries, nor among teens. Allegretto, Dube, and Reich (2011) use a similar strategy and find no employment effects among teens.

We highlight these studies because they combine state-of-the-art econometric methods with the most detailed datasets available, allowing researchers to control for differences in local economic conditions that

could confound the analysis. These studies therefore produce the most accurate estimates of the effect of previously implemented minimum wage increases on employment.

In summary, the best research on past minimum wage increases does not find statistically significant effects on employment or worker hours. It is important to note, however, that the minimum wage increases studied in this broader literature were generally smaller in magnitude—and affected a smaller share of the workforce—than the laws recently passed in Seattle and California cities as well as the Contra Costa proposal. Therefore, the findings from this body of research cannot be taken as definitive evidence for what will happen at higher wage rates.

Impact on Consumer Spending

A higher minimum wage will boost consumer spending by low- and moderate-income households whose workers receive pay increases, which in turn can act as a modest economic stimulus (Cooper and Hall 2012). Low-wage workers spend a greater share of their income than do other income groups. As with other forms of economic stimulus, the increased spending would have a multiplier effect resulting in additional benefits to economic growth (Aaronson and French 2013; Cooper and Hall 2012). The industries that would gain the most from increased consumer spending include those that are also more highly affected by the minimum wage increase, such as restaurants and retail. While not all of the increased spending would be captured in Contra Costa (because a significant portion of the county's workforce are commuters), it would have a positive impact on consumer demand in the economic region.¹⁹

As discussed above, a higher minimum wage is also likely to lead to price increases, particularly in the restaurant industry. These price increases will tend to diminish consumer spending. A full analysis of the net consumer spending impact in Contra Costa is beyond the scope of this report. However, in their analysis of Los Angeles' proposed minimum wage law, Reich, Jacobs, Bernhardt, and Perry (2015) found that these counterbalancing forces—the stimulus effect of higher incomes for low-wage workers and the reduction in spending from price increases—are of roughly similar size, helping to explain the consistent finding in the literature of no significant net employment effects of minimum wage increases.

5. ASSESSMENT OF CONTRA COSTA COUNTY'S PROPOSED POLICY

Like other recent city minimum wage laws passed in Los Angeles, San Francisco, and Seattle, the Contra Costa County proposal would eventually raise the local minimum wage to \$15 per hour, a level not seen in existing, fully implemented increases. Therefore, we assess how the proposed Contra Costa increase compares to these past city-level increases as well as recently-passed local increases that are still being implemented. We also consider how the economic characteristics of Contra Costa County might affect the outcome of the proposed increase.

Comparison to Other Local Minimum Wage Laws

As shown in Table 8 (page 17), at the point of full implementation in 2020, the proposed law will have raised Contra Costa's minimum wage by 36.2 percent in inflation-adjusted terms. This is just slightly

Table 8. Proposed Contra Costa Minimum Wage Increase Compared to Local Minimum Wage Increases Passed to Date

Proposed Contra Costa Increase (real)	EXISTING LOCAL MINIMUM WAGE LAWS	
	Average Increase (real)	Range of Increases (real)
36.2	35.0	11.7–76.5

Source: Authors' analysis of statutory increases in 27 existing local minimum wage laws.

Note: Wage increases are calculated by deflating the final wage level to the time of the initial increase and then calculating the percentage increase over the existing minimum wage before the law was implemented. Inflation is measured using the index used to calculate cost-of-living increases for each city. If a city does not have cost of living increases, the appropriate geographical index is used.

above the average of the 27 local minimum wage increases passed to date in other cities and counties in the United States (35.0 percent) and lies within the range of those increases (11.7 to 76.5 percent).

The ratio of the minimum wage to the median full-time wage is another measure used by economists to determine the ability of an economy to absorb higher minimum wage levels. The proposed final 2020 wage of \$15 per hour (converted to 2014 dollars) equals 50.1 percent of Contra Costa County's 2014 median full-time wage of \$25.37. This ratio is well within the historical range of the federal minimum wage to median full-time wage ratio, which peaked at 55 percent in 1968 (Dube 2013). Contra Costa's ratio is less than the projected ratio for Seattle's 2014 law (53.3 percent) and Los Angeles' 2015 law (63.8 percent) (Reich, Jacobs, Bernhardt, and Perry 2015). It would be very similar to the ratio for California as a whole after the scheduled state minimum increase to \$10 per hour on January 1, 2016, which is projected to fall just below 50 percent (Allegretto, Reich, and West 2014).

Another way to assess the impact of the proposed law is the share of workers projected to receive wage increases. In Table 2, we estimated that the Contra Costa proposal would raise wages for 32.7 percent of the workers in the county. This is slightly smaller than the projected impact of a \$13 state minimum wage, which would affect an estimated 35.2 percent of the workforce (Allegretto, Reich, and West 2014), and falls in between our estimates of the share of workers receiving increases under the policies passed in San Francisco (23.4 percent) and Los Angeles (41.3 percent).

Finally, Table 9 (page 18) shows the wage increase schedules for the other Bay Area cities that have raised their minimum wages. It also shows the median annual earnings for workers in those cities, the California Budget Project's self-sufficiency wage for a two-working adult, two-child family, and the fair market rent for a one-bedroom apartment in each location.

By 2020, the Contra Costa proposed minimum wage would be higher than the minimum wage levels in Berkeley, Richmond, and Oakland, and below the rates in Emeryville and San Francisco.²⁰ The median earnings and cost-of-living measures in Contra Costa are similar to these East Bay cities, and about 20 percent less than San Francisco.

Table 9. Minimum Wage Increase Schedules, Earnings, and Cost-of-Living in Bay Area Cities

	Minimum Wage Increase Schedule										Projected 2020 Minimum Wage	Median Annual Earnings of Workers (2013 Dollars) ¹	2013 Self- Sufficiency Hourly Wage ²	2015 Fair Market One- Bedroom Monthly Rent ³
	1st Step		2nd Step		3rd Step		4th Step		5th Step					
	New minimum wage	Date of increase	New minimum wage	Date of increase	New minimum wage	Date of increase	New minimum wage	Date of increase	New minimum wage	Date of increase				
Contra Costa County Proposal	\$10.20	1/1/16	\$11.40	1/1/17	\$12.60	1/1/18	\$13.80	1/1/19	\$15.00	1/1/20	\$15.00	\$40,800	\$20.81	\$1,260
Berkeley ⁴	\$10.00	10/1/14	\$11.00	10/1/15	\$12.53	10/1/16					\$12.53	\$39,845	\$20.87	\$1,260
Emeryville <i>large businesses (more than 55 employees)</i>	\$14.44	7/1/15									\$16.30	\$60,043	\$20.87	\$1,260
Emeryville <i>small businesses (55 or fewer employees)</i>	\$12.25	7/1/15	\$13.00	7/1/16	\$14.00	7/1/17	\$15.00	7/1/18	Same rate as large businesses	7/1/19				
Mountain View	\$10.30	7/1/15									\$11.63	\$80,160	\$22.34	\$1,419
Oakland	\$12.25	3/1/15									\$13.83	\$44,625	\$20.87	\$1,260
Richmond ⁵	\$9.60	1/1/15	\$11.52	1/1/16	\$12.30	1/1/17	\$13.00	1/1/18			\$13.64	\$41,581	\$20.81	\$1,260
San Francisco	\$12.25	5/1/15	\$13.00	7/1/16	\$14.00	7/1/17	\$15.00	7/1/18			\$15.74	\$51,990	\$23.48	\$1,635
San Jose	\$10.00	3/11/13									\$11.63	\$45,923	\$22.34	\$1,419
Sunnyvale	\$10.30	1/1/15									\$11.63	\$77,619	\$22.34	\$1,419

Note: All laws except Berkeley's include cost-of-living adjustments after the final legislated step.

¹ American Community Survey 5-Year Estimates 2009-2013 Table 08521, California Budget Project, U.S. Department of Housing and Urban Development

² Self-Sufficiency Wage is determined by the California Budget Project and based on a 2-adult and 2-child family with both adults working full-time.

³ Fair Market Rent is determined by the U.S. Department of Housing and Urban Development and defined as the 40th percentile gross rent (including utilities) in a county.

⁴ Berkeley's minimum wage law exempts nonprofit organizations for the first year.

⁵ Richmond's minimum wage law allows employers that derive more than 50% of their income from transactions where goods and services produced in Richmond are shipped outside the city to pay an "intermediate" minimum wage that is the midpoint between the state and the city minimum wages. In addition, it exempts businesses that pay for less than 800 hours of employee labor during any two-week period.

Characteristics Specific to Contra Costa County

Commuting Patterns of Contra Costa Workers and Residents

As discussed above, the stimulus effect of increased spending from a minimum wage increase (and its effectiveness in mitigating the effects of increased labor costs) will be determined by the share of workers receiving the wage increase who live within the local area. A large majority (72.8 percent) of the workers in Contra Costa County also live within the county, and an even greater percent (79.8) of workers affected by the proposed minimum wage increase live in the county. Thus a majority of the increased spending by these workers and their families is likely to occur within the county's borders, helping to stimulate the Contra Costa economy and offsetting any effects of increased labor costs.

Likewise, businesses in Contra Costa will also benefit from the minimum wage policies in San Francisco, Oakland, Emeryville, and Berkeley, given the large share of Contra Costa residents who work outside of the County. In 2013, 46.4 percent of employed Contra Costa residents commuted to jobs outside of the county.²¹

Income Patterns of Contra Costa Workers and Residents

In the previous section, we estimated that firms in highly-impacted industries—primarily restaurants—would pass on the majority of their cost increases to consumers in the form of modest price increases. It is therefore useful to analyze both the earnings of those who work in the local area and the incomes of area residents who make up the consumer base. As shown in Table 10 (page 20), Contra Costa residents working outside of the County earn more on average than those who work within the county. This pattern holds in all four Census sub-county regions, with Central Contra Costa showing the biggest difference in the incomes of its residents versus its workforce (\$61,800 for residents and \$45,600 for workers). Central Contra Costa also contains the majority of the county's jobs (68.2 percent of total county employment).²² In nine of the ten Contra Costa cities with the largest workforces, the residents of those cities have higher incomes than the workers in the cities. Countywide, of the 26 cities with available income data for both residents and workers, 21 have a residential population that earns more than the workforce. Since demand for local services, especially restaurants, is driven more by the residents of an area than its workforce, this pattern may make it easier for the Contra Costa economy to bear modest price increases.

Table 10. Median Earnings in Contra Costa County Cities of Workers and Residents
(all figures are in 2013 dollars)

	Median Earnings of Workers	Median Earnings of Residents	Employment
Contra Costa County	\$40,800	\$45,900	366,600
East Contra Costa	\$28,500	\$46,300	19,100
Antioch-Pittsburg	\$31,800	\$34,300	31,500
Central Contra Costa	\$45,600	\$61,800	254,100
West Contra Costa	\$37,500	\$39,300	62,000
Alamo CDP	\$39,400	\$81,500	3,300
Antioch city	\$31,500	\$36,200	21,100
Bay Point CDP	\$28,900	\$24,300	1,700
Brentwood city	\$28,000	\$48,700	13,200
Clayton city	\$26,300	\$71,200	1,700
Concord city	\$39,500	\$40,600	55,000
Crockett CDP	\$44,400	\$51,200	1,300
Danville town	\$36,700	\$85,500	13,100
Discovery Bay CDP	\$25,400	\$58,400	1,600
El Cerrito city	\$30,500	\$48,400	6,900
Hercules city	\$47,400	\$54,100	4,700
Kensington CDP	\$36,900	\$75,500	700
Lafayette city	\$35,600	\$81,300	10,100
Martinez city	\$47,700	\$51,100	16,500
Oakley city	\$27,300	\$41,000	3,700
Orinda city	\$44,000	\$97,500	5,200
Pacheco CDP	\$38,600	\$30,000	1,800
Pinole city	\$23,700	\$44,600	4,800
Pittsburg city	\$32,500	\$33,700	14,500
Pleasant Hill city	\$31,200	\$52,200	14,600
Richmond city	\$41,600	\$32,600	37,400
Rodeo CDP	\$53,400	\$36,700	1,700
San Pablo city	\$22,200	\$25,700	6,900
San Ramon city	\$60,800	\$79,400	41,200
Vine Hill CDP	\$62,400	\$35,200	1,300
Walnut Creek city	\$47,300	\$61,100	53,600

Source: American Community Survey 5-Year Estimates 2009-2013 Tables B08521, B08121, and B08406

Effect on Sub-Regions of Contra Costa County

While the ACS does not provide information on place of work at the sub-county level, it does have more detailed data on place of residence. We can therefore estimate where the workers affected by the proposed minimum wage law live in Contra Costa County. However, we emphasize that these estimates only show where workers live, so it is not possible to draw any conclusions about impacts on businesses at the sub-county level.

Table 11 shows the distribution of affected workers by their place of residence, as well as the share of residents in each area that are estimated to receive a raise under the proposed minimum wage increase. Contra Costa workers who live in the western and eastern ends of the county will disproportionately benefit from the proposed increase. In the west, 47.1 percent of Contra Costa workers who live in Richmond, San Pablo, El Cerrito, and Hercules will receive a raise. To the east, 39.4 percent of Contra Costa workers living in Antioch, Brentwood, and Oakley will see their pay rise. Contra Costa workers living in the north-central area of the county are estimated to receive raises roughly in line with the county as a whole. Workers commuting into Contra Costa from other areas are less likely than the average Contra Costa worker to receive a pay increase.

Table 11. Place of Residence of Workers Affected by Proposed Minimum Wage Policy

	Percent of Covered Workers	Percent of Covered Workers Getting Raises	Percent of Region That Is Getting a Raise
Richmond, San Pablo	11.6	16.7	47.1
Concord, Martinez, Pittsburg, Walnut Creek	37.8	39.3	34.0
Danville, San Ramon	6.6	3.6	17.6
Antioch, Brentwood, Oakley	16.7	20.2	39.4
Outside Contra Costa County	27.2	20.2	24.4
Total	100.0	100.0	

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

Why Coordinate Among Cities?

Contra Costa County's authority to set minimum wage standards is limited to unincorporated areas and County employees. Attaining the full workforce coverage assumed by the analysis in this research brief would therefore require action by each of the county's cities as well as the county itself.

Coordination among the county's cities to adopt the same minimum wage law would simplify compliance for businesses and enforcement of the laws. It would also maximize the positive economic effects from increased spending by low-wage workers and their families, as discussed above.

Most of the cities that have passed minimum wage laws to date have been larger cities, or small to mid-sized cities located in proximity to other cities with their own higher wage laws (for example, Mountain View and Sunnyvale, California, near San Jose). Other localities have acted together at the same time. For

example, in 2014, Montgomery County and Prince George’s County in Maryland passed minimum wage laws at the same time as neighboring Washington, DC. And six cities in Santa Clara County, including San Jose, recently agreed to explore coordinating minimum wage increases to \$15 an hour.

Contra Costa already benefits from higher minimum wages in San Francisco and cities in Alameda County, as well as in Richmond. Given the size of the proposed minimum wage increase, cities in Contra Costa County would maximize the economic benefits and minimize the risk of adverse effects by coordinating in passing higher wage standards—if not for the county as a whole, at least within sub-regions of the county.

6. ADDITIONAL POLICY DESIGN QUESTIONS

In addition to setting wage levels and a phase-in schedule, policymakers contemplating a local minimum wage law are typically faced with several other policy design questions. In what follows, we give a brief overview of policy design questions surrounding enforcement, nonprofits and small businesses, treatment of total compensation, and teenage workers.

Enforcement

An essential element of the successful implementation of any local minimum wage law is robust enforcement, given the prevalence of wage theft in low-wage industries. Significant and extensive minimum wage violations have been documented in cities around the country. For example, in a large representative survey of low-wage workers in Los Angeles in 2008, 30 percent were found to have been paid below the minimum wage during the previous week, and 88 percent had at least one pay-related violation in the previous week (Milkman, Gonzalez, and Narro 2010). Effectively raising the minimum wage will require robust enforcement language in the law, creating a local enforcement agency, and implementing good enforcement practices and policies (see Yoon and Gebreselassie [2015] for a more in-depth treatment).

Enforcement-Related Provisions in the Law Itself

A standard set of enforcement provisions has emerged for California local minimum wage laws. This core legal framework commonly includes the following:

Private right of action: This provision allows victims of wage theft to privately pursue their own court cases against employers, supplementing public enforcement resources. In addition, local ordinances include provisions awarding reasonable attorneys’ fees and costs to employees whose rights have been violated, a necessary provision to encourage attorneys to take cases.

Damages and penalties: Employers have little incentive to comply with minimum wage laws if the only consequence of violation is payment of wages due (Meyer and Greenleaf 2011). Citations that carry penalties or fines, as well as “liquidated damages” (sums of money awarded to workers in addition to the underlying wages owed), increase the cost of noncompliance. Penalties that accrue over time can provide an incentive for speedier repayment.

Anti-Retaliation protection: Fear of employer retaliation is a significant reason that violations go unreported (Bernhardt et al. 2009). Most California local minimum wage ordinances include a rebuttable presumption of retaliation if an employer takes broadly defined “adverse action” against an employee who has recently asserted his or her rights (NELP 2011).

Notice posting and record keeping: California local minimum wage laws recognize the importance of informing employers and employees of the minimum wage. Cities must publish the updated minimum wage rates, and employers must post the minimum wage in relevant languages for workers to see. Employers are also required to keep payroll records and provide access to investigators as needed. In the absence of payroll records, an employee’s report of wages and hours is presumed to be correct.

Business license revocation: One strategy to increase compliance and prompt repayment included in most California local minimum wage ordinances is to involve other city and county departments or agencies in revoking or suspending business licenses and permits until any wage violation is remedied (NELP 2011). Consequences for employers convicted of wage theft or with unpaid wage claims can include being barred from winning city contracts, renting city-owned space, or receiving city business permits (Gleeson, Taube, and Noss 2014).

Wage liens: Even when a violation has been found and employers are ordered to provide back pay to workers, actual payment of wages is not guaranteed, and indeed in California only a fraction of wages found due are ever paid (Cho, Koonse, and Mischel 2014). 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 used to secure payment from recalcitrant employers found to owe back wages.

The Creation of an Enforcement Agency

Creating, funding, and staffing a local government office dedicated to enforcement is vital for implementing an effective law; the private bar is not enough to protect the rights of low-wage workers. A dedicated local office serves as a centralized place to educate workers and employers, receive complaints, investigate compliance, issue citations, and collect wages due. State and federal enforcement offices are already understaffed and struggle to provide robust investigations and timely collections (Government Accountability Office 2009; Su 2013), let alone deter wage theft with proactive enforcement and a credible expectation of a compliance check (Fine and Gordon 2010; Ichikawa and Smith 2014).

Cities with sufficient resources and administrative infrastructure should establish a local enforcement agency to realize the economic and social benefits from raising the minimum wage. However, many cities may be too small to create and fund an entire enforcement agency, while still having a vested interest in strong enforcement of their minimum wage law. Few proven models exist to guide small-city enforcement, so this largely unexplored policy terrain needs to be developed as smaller cities increasingly adopt local minimum wage laws. Here we briefly review several options; see Koonse, Dietz, and Bernhardt (forthcoming) for an in-depth discussion.

Small cities can simply choose to rely on state enforcement to investigate, adjudicate, and collect workers’ claims. But experience suggests that localities should not rely solely on state enforcement, both because of state resource constraints and because local knowledge—of businesses, industries, community groups,

and local officials—is a valuable tool in effective enforcement. Functions that small cities can perform include responding to workers’ claims and directing them to legal services groups and/or the state enforcement agency; educating and notifying employers about the city’s minimum wage law; funding and partnering with local community groups to conduct worker outreach and education; coordinating media campaigns to educate the public; and partnering with the state enforcement agency to strategize pro-active enforcement.

Contra Costa policymakers in particular might consider regional collaborations on enforcement. For example, two smaller cities in California (Sunnyvale and Mountain View) have contracted out enforcement of their minimum wage provisions to San Jose. Alternatively, several smaller cities may pool resources to fund a county-wide enforcement agency.²³ Regional collaboration on enforcement will be easier if cities also align the content of their ordinances (i.e., the wage levels, the dates on which increases occur, phase-ins, and any exemptions).

Best Enforcement Practices

As cities and states experiment with increases in minimum wage, enforcement strategies are evolving to meet the challenges of 21st century workplaces given constrained funding. Strategies to consider at the local level include.

Company-wide investigations: When responding to a worker complaint, agencies should investigate the entire workplace on behalf of all workers. This allows the worker who came forward to remain anonymous for longer, which may provide some protection from retaliation. Because violations are rarely concentrated on a single employee, this approach allows investigators to recover back wages for more employees (Dietz, Levitt, and Love 2014).

Proactive investigations: Enforcement of wage and hour laws in many jurisdictions is solely complaint-driven, even though the most vulnerable and exploited workers are among the least likely to complain (Weil and Pyles 2005). In response, federal, state, and city enforcement offices are increasingly moving beyond a complaint-driven approach and engaging in targeted, proactive investigations of industries and employers (NELP 2011).

Community partnerships: Building trust with workers is fundamental to successful enforcement of labor laws. Many of the most vulnerable workers—low-wage workers from immigrant communities and communities of color—are wary of government institutions but do trust organizations within their community (Gleeson 2009). Enforcement agencies can leverage the complementary strengths of community-based organizations (CBOs) in order to increase effectiveness and reach. The linguistic, cultural, and industry knowledge within CBOs make them valuable partners in educating workers about their rights, building trust between workers and investigators, and providing knowledge of the particular industry dynamics at play (Fine 2014). San Francisco, Los Angeles, and Seattle have dedicated resources to fund outreach and education to workers and employers; Oakland and San Diego plan to do the same.

Nonprofits and Small Businesses

Nonprofit Organizations

As shown in Section 4 above, workers at nonprofits are less likely than the overall workforce to be affected by the proposed minimum wage law. However, nonprofits comprise a wide range of organizations. Some are large institutions (universities, hospitals, large services providers) that have sizeable annual budgets with varied funding streams and that are therefore able to absorb minimum wage increases. At the same time, other nonprofits may face real constraints on their ability to adjust to minimum wage increases. These are typically smaller nonprofits dependent on a few public funding streams that are fixed over the short or even medium term, and over which they have little leverage.

Local minimum wage policy offers an opportunity to address the problem of low-wage work in certain nonprofit service-providing sectors—a problem that impacts the well-being of both workers and program clients through the quality of care provided. Exempting groups of nonprofit organizations from a minimum wage increase, conversely, could have negative effects on the quality of care by increasing employee turnover. If certain nonprofits pay lower wages than the rest of the market, it will make it harder for them to attract and retain workers. But requiring higher wages without addressing the need to increase funding streams, or without providing sufficient phase-in time, is likely to result in cuts to services.

Ultimately, the solution is to increase public funding for the services provided by these nonprofits. We recognize that this is a difficult policy challenge, given the complex matrix of local, state, and federal funding streams for social services combined with budgetary constraints and the inevitable time lags involved in moving approval through the governmental process. An innovative solution is San Francisco's C-Wages program, which provides County wage subsidies to child care centers and family child care providers that meet certain quality measures and enroll at least 25 percent of their children from low-income families. Funding for this program was increased to assist providers in meeting the city's higher minimum wage in 2015. Cities can also engage with private philanthropy to help support nonprofit agencies through the transition; this should include both financial aid and technical assistance and management support in adjusting to the higher wage rate.

In the short term, it is likely some nonprofits will need a longer time period to adjust to the proposed minimum wage increase. San Francisco, Berkeley, and Santa Fe's minimum wage laws have provided for slower phase-ins for nonprofit organizations. If Contra Costa policymakers decide to consider a longer phase-in schedule for some nonprofits, a key policy design question will be which nonprofits would qualify for the slower phase-in. We have not identified a robust test that differentiates nonprofit institutions with sufficient margins and diversified funding streams from nonprofits that will struggle to comply on the proposed timeline.²⁴

Small Businesses

Several city minimum wage laws have provided slower phase-ins for small businesses. San Francisco's 2003 law delayed implementation by one year for businesses with fewer than 10 employees. Santa Fe initially exempted small businesses (fewer than 25 employees) from its 2003 law, but in 2007 amended the law to cover all establishments regardless of size. Seattle's 2014 law establishes slower phase-ins for

small businesses (defined as 500 or fewer employees); the phase-in schedule varies depending on total compensation.²⁵ Three local laws exempt some small businesses altogether: Montgomery County’s 2013 law exempts businesses that employ fewer than two employees, Richmond’s 2014 law exempts employers who pay for less than 800 hours of employee labor during a given two-week period, and Kansas City’s 2015 law exempts businesses that employ 15 or fewer employees.

Several policy design questions should be considered if Contra Costa policymakers wish to implement a slower phase-in for small businesses. First, there is a lack of consistent definitions of “small businesses” in public policy, as evidenced in the above examples from other cities. A second consideration is whether to define businesses as firms or establishments. Large firms often operate via multiple small establishments (i.e., retail clothing stores or bank branches); therefore, a small business definition based on establishment size will erroneously include large national or multinational firms. We would therefore recommend a definition based on firm size. The same principle holds in the case of franchises—i.e., all franchises or other businesses owned by a given owner or group of owners should be counted toward firm size. Finally, economic theory suggests that wholesale exemptions based on firm size will result in perverse incentives, and so we generally do not recommend them. An alternative strategy is to seek ways to assist small businesses through the minimum wage implementation, including assisting access to small business loans and technical assistance and training.

Total Compensation

Four localities allow employers to include some or all of their payment of health benefits and child care benefits in the calculation of wages paid. Albuquerque’s and Bernalillo County’s minimum wage laws allow a health care or child care credit of \$1.00 per hour, and Richmond allows a health care credit of up to \$1.50 per hour. Santa Fe’s (2003) law states that the value of health and child care benefits are considered part of wages. Seattle allows certain forms of compensation to be counted during a phase-in period. Four cities (San Francisco, San Jose, Seattle, and Sunnyvale) allow commissions and/or non-discretionary bonuses to be counted as compensation. (Current California state law pre-empts localities from instituting a tip credit or excluding tipped workers, so we do not address tips here).

One rationale for including all or some of the costs of certain benefits in the wage calculation is to avoid creating an incentive for employers to cut benefits in order to meet the higher wage threshold. However, studies of past minimum wage increases have not found associated reductions in fringe benefits (Schmitt 2013), though it is difficult to predict with certainty whether this would change as a greater share of the workforce is affected by the policy. We estimate that just over a quarter (25.2 percent) of the workers who would receive wage increases under the proposal have health insurance through their own employer (see Table 4). More important, crediting health benefits towards a minimum wage creates challenges for policy design and enforcement. This includes determination of which health expenditures are eligible to be credited towards the wage rate and valuation of those expenditures.²⁶

The value of many benefits does not appear on worker’s paychecks, creating another substantial challenge for enforcement. We also know that large firms are more likely to provide benefits than small firms; counting total compensation would therefore mainly assist large firms.

Teens

Local minimum wage laws typically incorporate state definitions of which employees are covered by state minimum wage law. Four of the California cities with local minimum wage laws exempt subsidized summer or short-term youth employment programs. Two local ordinances, Montgomery and Prince George's Counties, go beyond state law and exclude employees under the age of 19 who work no more than 20 hours per week. Bernalillo County exempts employees under age 16 and Kansas City exempts employees under age 18. California regulation allows for youth "learner" employees to be paid 85 percent of the minimum wage during their first 160 hours of employment in occupations in which the employee has no previous similar or related experience.²⁷ When state or federal law has included a subminimum wage for teens, very few employers made use of it (Card and Krueger 1995).²⁸

The goal behind exempting young workers from minimum wage requirements is to avoid creating disincentives for hiring such workers. However, a large body of research suggests that the effect of minimum wage laws on teen employment is either negligible or very small. Moreover, we estimate that teens will constitute only 3 percent of workers affected by the Contra Costa proposal (see Table 4). On the downside, subminimum or training wages for teens may create an incentive to hire middle-class teenagers over low-wage adult workers in high-turnover industries such as food-fast restaurants. To summarize, it appears that differential treatment for teens beyond what is already permissible in California law is not necessary and may be counter-productive.

7. CONCLUSION

Drawing on a variety of government data sources, we estimate that 111,000 workers in Contra Costa County would benefit from the proposed minimum wage increase to \$15.00 by 2020, with the average affected worker earning an additional \$3,800 per year once the proposal is fully implemented. Our analysis of existing economic research suggests that businesses will adjust to increased operating costs mainly through reduced employee turnover, improved work performance, and a moderate increase in restaurant prices spread over five years. While higher prices may reduce consumer demand, economic models suggest that this will be offset on a County level by the increased purchasing power of low-wage workers receiving the pay increase. As a result, potential adverse effects on employment growth are likely to be outweighed by the stimulus benefits of the wage increases.

Any prospective impact study has a level of inherent uncertainty. This uncertainty is greater the farther into the future that we predict. While the proposed minimum wage increase in Contra Costa County lies within the range of other recent city laws, most of the existing economic research is based on state and federal minimum wage increases between 1990 and 2012 that did not reach levels now being considered. Therefore the actual effects of the proposed minimum wage law should be closely monitored during implementation.

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ENDNOTES

- 1 U.S. Census Bureau, Local Area Unemployment Statistics.
- 2 Authors' calculations based on ACS data.
- 3 U.S. Census Bureau, American Community Survey, 2007 and 2013, 1-Year Estimates, Table B08521. For 2007, earnings were adjusted to 2013 dollars using the average annual change for the past ten years of the San Francisco Oakland-San Jose Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).
- 4 U.S. Census Bureau, American Community Survey, 2007 and 2013, 1-Year Estimates, Table B19083.
- 5 Using the ACS allows us to examine the wage distribution based on workers' place of work as opposed to their place of residence. This is important in Contra Costa County, where 46.4 percent of residents worked outside of the county in 2013 (according to our analysis of the ACS data).
- 6 We assume that Medicaid-funded home health care workers would be covered by the proposed minimum wage increase, but the county would need to specifically raise their wages when enacting the proposal in order for them to be covered.
- 7 We assume a nominal wage growth rate of 2.4 percent, which is similar to the mid-range scenario projection we used in our prospective study of Los Angeles' local minimum wage law (Reich, Jacobs, Bernhardt and Perry 2015). If a recession occurs and wage growth stalls, actual effects would be larger; conversely, if wage growth exceeds our projection, the effects of the proposed increase would be smaller.
- 8 U.S. Census Bureau, On The Map , 2011 (<http://onthemap.ces.census.gov>).
- 9 Constant dollar values are calculated using the average annual change for the past ten years of the San Francisco-Oakland-San Jose Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).
- 10 One exception is child care assistance, which does have a maximum income threshold that, once exceeded, results in the immediate loss of benefits. However, there is a substantial waiting list for child care assistance benefits, so any affected workers who lose eligibility are likely to be replaced by lower-wage workers not currently receiving benefits. Workers who are no longer eligible for Medi-Cal will be eligible for subsidized health care through Covered CA. While most families will come out well ahead financially, the change in costs for specific families will depend on income and health care utilization.
- 11 This analysis is based on data gathered before the full implementation of the Affordable Care Act.
- 12 See Reich, Jacobs, and Bernhardt (2014) for a more detailed literature review on the mechanisms by which businesses adjust to minimum wage increases.
- 13 Since workers often increase their wages by moving from one employer to another, we cannot assume that the correlation between wages and turnover indicates that low wages are causing higher turnover. However, policy experiments with living wages and minimum wages have provided the evidence needed to determine that wages do, in fact, affect turnover.
- 14 Hirsch, Kaufman, and Zelenska (2015) and Reich, Hall, and Jacobs (2005) found improvements in worker productivity following higher wage mandates.

15 We use a payroll tax rate of 7.65 percent (6.2 percent for Social Security and 1.45 percent for Medicare). Workers' compensation insurance rates vary by industry (see Table 6: http://www.wcirb.com/sites/default/files/documents/state_of_the_wc_system_report_140815.pdf).

16 To determine the labor share of operating costs in retail trade and grocery stores, we use the [U.S. Census Annual Retail Trade Reports](#), which provide data on retail sales, payroll costs, merchandise purchased for resale, and detailed operating expenses. We add operating expenses and purchases together to determine total operating costs. We add the costs of payroll taxes, employer paid insurance premiums, and employer benefits (excluding health insurance and retirement benefits) to annual payroll to estimate total labor costs. Health and retirement 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 in retail trade. For the restaurant industry, we use industry data on gross operating surplus available from the [Bureau of Economic Analysis Input-Output Account Data](#) (Use Table, 2012, Before Redefinitions, Producer Value). We subtract gross operating surplus from sales to get total restaurant operating costs, and then proceed as was done for retail using the Annual Retail Trade Report to obtain labor cost data.

17 Table 7 shows the average of the low and high estimates. The low estimate uses the estimated increase in operating costs from Table 6, and assumes that 75 percent of those costs are passed through to consumers. The high estimate also uses that estimate for increases in operating costs, but assumes that 100 percent of the costs are passed through to consumers.

18 Aaron Yelowitz of the Employment Policies Institute found an increase in the probability of unemployment for low-skilled workers and evidence of replacement of low-skilled adults by teens in Santa Fe (Yelowitz 2005a, 2005b), as well as a decrease in teen work hours and no discernable effect on overall employment in San Francisco (Yelowitz 2012). There are serious flaws in both analyses, however. Higher wages are likely to increase labor supply, which can mechanically cause the unemployment rate to rise even when more people have jobs. Pollin and Wicks-Lim (2005) replicated Yelowitz's first Santa Fe study and found no negative impact on employment. Furthermore, even if the reported results for each of his studies held, total compensation for teens and low-wage workers still would have increased because any employment or hours reductions would have been more than offset by the increase in hourly earnings (Pollin and Wicks-Lim 2005).

19 Businesses in Contra Costa will also benefit from the increased spending by residents who work in surrounding cities with local minimum wage laws (San Francisco, Oakland, Emeryville, San Jose, Sunnyvale, and Mountain View). For example, 28 percent of Contra Costa residents who do not work in the county are employed in San Francisco, and 47 percent are employed in Alameda County where Oakland, Berkeley, and Emeryville are located.

20 Berkeley is currently considering an increase in its minimum wage rate.

21 Authors' analysis of ACS data.

22 U.S. Census Bureau, On The Map , 2011 (<http://onthemap.ces.census.gov>).

23 Unfortunately, very little research exists to help estimate the ideal number of enforcement staff for a given city or geography. San Francisco, the city with the most robust enforcement regime, has approximately 20,000 low-wage workers per investigator. But this ratio should be treated only as a rough benchmark, because San Francisco has not been able to evaluate what proportion of total violations its agency is able to address.

24 The 2015 Los Angeles minimum wage law delays implementation for small businesses (25 or fewer employees) by one year, and allows nonprofits with more than 25 employees to apply for the delayed schedule. Criteria to qualify are any of the following: the CEO earns a salary less than five times the lowest wage paid by the nonprofit; the nonprofit is a transitional employer; the nonprofit is a childcare provider; or the nonprofit is funded primarily by City, County, State, or Federal grants or reimbursements.

25 See <http://murray.seattle.gov/minimumwage/#sthash.cYmSPbdt.dpbs> for the full implementation schedule.

26 Cities that decide to credit health benefits will need to develop clear regulations governing these matters and should allocate sufficient administrative resources to assist employers and employees in understanding the rules and adjudicating disputes.

27 See Industrial Welfare Commission wage order section 4(A) at <https://www.dir.ca.gov/IWC/IWCArticle4.pdf>.

28 Federal law permits a 90-day subminimum wage for workers under the age of 20.

Institute for Research on Labor and Employment

irle.berkeley.edu

IRLE promotes multidisciplinary research on all aspects of the world of work and conducts numerous outreach programs. Its funding sources include the University of California, research grants and contracts, revenue from programs and publications, and contributions from individuals, businesses, unions, and community-based organizations.

Center on Wage and Employment Dynamics

irle.berkeley.edu/cwed

CWED was established within IRLE in 2007 to provide a focus for research and policy analysis on wage and employment dynamics in contemporary labor markets.

Center on Wage and Employment Dynamics
University of California, Berkeley
2521 Channing Way #5555
Berkeley, CA 94720-5555
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AGENDA BILL

Agenda Item No. 7(B)

Date: November 3, 2015

To: City Council of the City of El Cerrito
El Cerrito Redevelopment Successor Agency

From: Melanie Mintz, Community Development Director
Patrick O'Keeffe, Management Partners

Subject: Adopting a Resolution Approving the Successor Agency Long Range Property Management Plan

ACTION REQUESTED

Adopt a Successor Agency resolution approving and authorizing the submittal of a Long Range Property Management Plan to the Oversight Board and State Department of Finance.

BACKGROUND

ABx1 26 (Dissolution Act) dissolved the El Cerrito Redevelopment Agency (RDA) and established the El Cerrito Redevelopment Successor Agency (Successor Agency) on February 1, 2012. Under the Dissolution Act, the Successor Agency and its Oversight Board are responsible for the disposition of the real property assets that the former Redevelopment Agency held. Currently the only option for managing the disposition of the properties is through a Long Range Property Management Plan (LRPMP) which must be approved by the Oversight Board and the Department of Finance. The Dissolution Act requires that all LRPMPs be approved no later than December 31, 2015. If an LRPMP is not approved by that date, then the properties are required to be sold expeditiously and for maximum value.

Staff recommends the adoption of the LRPMP (Exhibit A to attached Resolution) with the goal of obtaining DOF approval of by the end of the year. The proposed LRPMP creates an orderly transition of development parcels to private ownership, proposes that the City retain the Civic Center parcel to the north of the Public Safety Building complex as a governmental use property, and that the City retain the Cerrito Theater parcel pursuant to a compensation agreement to be entered into between the City and the affected taxing entities. The City has not prepared a LRPMP to date due to the ongoing litigation with the Department of Finance regarding the Due Diligence Review (DDR) dispute over \$1.9 million transfer of assets from the former Redevelopment Agency to the Municipal Services Corporation (MSC). Upon passage of SB 107 in September, which again amended the Dissolution statutes, the Successor Agency can now enter into an Installment Payment Plan for payment of the DDR amount of \$1.9 million and receive a Finding of Completion (FOC), clearing the way for an LRPMP to be approved. Previous to SB 107, a FOC would only be issued upon complete payment of the DDR amount and the issuance of a FOC is required for DOF approval of the LRPMP. Furthermore, under SB 107, the City can enter into the installment payment plan while continuing the litigation regarding the DDR payment. If successful in its litigation,

Agenda Item No. 7(B)

payments made under the Installment Payment Plan would be reimbursable to the Successor Agency via the Reinforceable Obligation Payment Schedule (ROPS) process.

If the City intends to submit a LRPMP for Oversight Board and State approval it must do so in time to be approved by DOF by December 31, 2015 pursuant to the amended Dissolution Act. If it has not done so by that date it must use the “expeditious for maximum value” approach for disposition of all properties, other than governmental use properties. The attached LRPMP sets forth the reasons that the expeditious/maximum value method is not in the best interests of the City.

DISCUSSION

As provided by Health and Safety Code Section 34191.5, the LRPMP (Exhibit A to the Resolution) includes an inventory of properties and describes a Plan for their disposition.

The property inventory (Part 1) of the LRPMP includes information pertaining to the properties’ dates of acquisition, value at acquisition, current property value estimate, purpose of acquisition, parcel level data (including zoning, size, General Plan land use designation etc.), history of environmental contamination, estimate of lease or rental revenues, and potential for transit oriented development and advancement of planning objectives.

Part 2 of the LRPMP creates a process of disposing of the parcels in three separate groups:

- Parcels that will be retained for public ownership (Civic Center parcels)
- Parcels that will be retained for redevelopment purposes (Theater parcel)
- Parcels that are retained for future development pursuant to the City’s development policies (Mayfair and Eastshore Triangle properties)

The LRPMP sets forth in detail how the parcels will be disposed of pursuant to each of these three categories. In summary:

1. Civic Center parcels would be transferred from the MSC to the City for ownership as a future site for expansion of the public safety facility;
2. Theater would be transferred to the City for ownership and continued operation;
3. The Mayfair and Eastshore parcels would be sold to the private market through a Request for Proposals (RFP) process that would provide city controls over consistency of land use with City policies, and assurances of timely development.

LRPMP Adoption Process

The LRPMP has a multistep approval process to navigate in a short period of time. First, the El Cerrito Successor Agency must adopt the attached Resolution approving the Plan.

Second, the Oversight Board must approve the Plan and forward it to the State DOF. The Oversight Board is scheduled to consider the Plan on Tuesday November 10th. Finally, the DOF must review and approve the plan by December 31st. Since the MSC property assets are relatively few in number, staff believes this approval process can be completed by the statutory deadline, but timely approvals by all three bodies are essential.

FINANCIAL CONSIDERATIONS

Approval of the LRPMP does not in itself have any financial implications and no financial action is required. If approved by the Successor Agency, Oversight Board and Department of Finance, execution of the LRPMP, however, will ultimately lead to the City assuming ownership and the ongoing maintenance costs of the public purpose parcels (including the Civic Center parcels and the Theater) and to the City receiving as a taxing entity the increased property tax revenues associated with development of the Mayfair and Eastshore parcels (as estimated in the LRPMP). Property maintenance expenses are currently paid by the MSC. The cost of the Theater maintenance is deducted from the Theater's rental revenue, and will therefore, not impact the General Fund. Furthermore, the terms of the compensation agreement to be developed with the affected taxing entities for the transfer of the Cerrito Theater to City ownership have yet to be worked out. Terms of the Installment Payment Plan are also currently being negotiated with the DOF and will be brought to the City for separate action.

LEGAL CONSIDERATIONS

All actions being requested are consistent with the Dissolution Act, as amended and have been reviewed by the Agency attorney. Once the Plan has been approved by the State Department of Finance, future actions of the Successor Agency to dispose of the property will be approved only by the Oversight Board, and once transferred to the City, by the City provided the disposition method is consistent with the approved LRPMP.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution Approving the Long Range Property Management Plan
 - A. Long Range Property Management Plan

SUCCESSOR AGENCY RESOLUTION 2015-XX

RESOLUTION OF THE SUCCESSOR AGENCY TO THE EL CERRITO REDEVELOPMENT AGENCY APPROVING AND AUTHORIZING SUBMITTAL OF THE LONG RANGE PROPERTY MANAGEMENT PLAN

WHEREAS, pursuant to the California Community Redevelopment Law (the “Redevelopment Law”), the City Council (the “City Council”) of the City of El Cerrito (the “City”) adopted the Redevelopment Plan for the City of El Cerrito Redevelopment Project Area by Ordinance No. 77-17, as amended by Ordinances No. 80-13; No. 89-5; No. 94-4; No. 2004-3; No. 2005-01; and No. 2006-10 (collectively, the “Redevelopment Plan”); and

WHEREAS, the El Cerrito Redevelopment Agency (the “RDA”) was responsible for implementation of the Redevelopment Plan, including the acquisition of real property; and

WHEREAS, as part of the 2011-12 State budget bill, ABx1 26 (the “Dissolution Act”) was enacted significantly modifying the Redevelopment Law to require the dissolution of redevelopment agencies throughout California and the establishment of successor agencies to wind down the former redevelopment agencies’ affairs, including the disposition of properties acquired by the redevelopment agency; and

WHEREAS, on August 15, 2011, pursuant to the Dissolution Act, the City elected to serve as the El Cerrito Redevelopment Agency Successor Agency (the “Successor Agency”), should the RDA be dissolved; and

WHEREAS, California redevelopment agencies were dissolved on February 1, 2012; and

WHEREAS, pursuant to the Dissolution Act, the Successor Agency has prepared a Long Range Property Management Plan to govern the disposition of real properties that were acquired by the former redevelopment agency, pursuant to Health & Safety Code Section 34191.5; and

WHEREAS, pursuant to the Dissolution Act, the Successor Agency is required to approve the Long Range Property Management Plan, and then submit the plan to the Oversight Board for approval, and then to the State Department of Finance for approval.

NOW THEREFORE, BE IT RESOLVED that the Successor Agency to the El Cerrito Redevelopment Agency hereby finds the above recitals to be true and accurate.

BE IT FURTHER RESOLVED that the Successor Agency to the El Cerrito Redevelopment Agency hereby approves the Long Range Property Management Plan incorporated herein as Exhibit A.

BE IT FURTHER RESOLVED the Successor Agency to the El Cerrito Redevelopment Agency hereby authorizes the submittal of the Long Range Property Management Plan to the Oversight Board and the State Department of Finance, as provided for under the Dissolution Act,

Agenda Item No. 7(B)
Attachment 1

subject to such changes as may be necessary to accommodate changes required by the Oversight Board and the State Department of Finance in their respective reviews of the plan.

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

I CERTIFY that at the regular meeting on November 3, 2015, the City Council of the City of El Cerrito acting as the El Cerrito Redevelopment Agency Successor Agency passed this resolution by the following vote:

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

IN WITNESS of this action, I sign this document on November __, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

LONG RANGE PROPERTY MANAGEMENT PLAN



NOVEMBER 3, 2015

**CITY OF EL CERRITO
SUCCESSOR AGENCY TO THE
FORMER REDEVELOPMENT AGENCY**

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INTRODUCTION

The following is an overview of the purpose of this document and the categories of information it contains.

In 2011 the State of California adopted legislation (AB 26) to dissolve local redevelopment agencies. This legislation, and subsequent clarifying legislation (AB 1484), are referred to as the Redevelopment Dissolution Statutes. The statutes provide for the payment of funds previously held by the former El Cerrito Redevelopment Agency to the taxing entities that would have otherwise received property taxes if the redevelopment agency were not created. The Statutes also govern the required disposition of real property assets the Redevelopment Agency acquired for redevelopment purposes.

Pursuant to the Redevelopment Dissolution Statutes the disposition of redevelopment parcels may be governed by a Long Range Property Management Plan. The City's Successor Agency to the former Redevelopment Agency may prepare and adopt such a plan, which then must be adopted by the Oversight Board and approved by the State Department of Finance. This document is the Long Range Property Management Plan (LRPMP) prepared pursuant to Health and Safety Code Section 34191.5.

The Successor Agency is required to submit a LRPMP to the State Department of Finance (DOF) within six months of receiving a Finding of Completion following two Due Diligence Reviews of redevelopment assets to determine unobligated funds that must be transferred to affected taxing entities. The Due Diligence Reviews have been completed but the State DOF has not issued a Finding of Completion as the City Successor Agency and the State are in a dispute regarding whether \$1.9 million of the funds identified in the Due Diligence Reviews are subject to the disposition requirements of AB 1484. As a result the Successor Agency had not previously submitted an LRPMP to the State for approval.

It is the intent of the Successor Agency to meet the requirements for the \$1.9 million payment required by the Due Diligence Review through adoption of an Installment Plan between the Successor Agency and the State DOF, by December 31, 2015. The Installment Plan is authorized by SB 107, which amended Section 34179.7 of the Health & Safety Code. The Installment Plan will allow the State DOF to issue a Finding of Completion thereby allowing approval of this LRPMP. Dispositions of the real property assets can then be made pursuant to this plan.

The properties acquired by the El Cerrito Redevelopment Agency were transferred to the El Cerrito Municipal Services Corporation (MSC). Pursuant to this plan, the MSC will transfer the real property assets to the City for retention for redevelopment and retention as a public use, or to dispose of the parcels pursuant to the limitations and procedures set forth in this plan. In addition to the provisions of this plan, the properties and their use are also subject to the El Cerrito General Plan and the San Pablo Avenue Specific Plan. These land use controls are incorporated into the property disposition limitations set forth in this LRPMP.

This LRPMP was prepared consistent with the requirements of the Dissolution Statutes including Section 34191.5 of the Health & Safety Code, which sets forth the required content of the Plan. The Plan must include two major categories of information: 1) an inventory of all of the properties to be disposed of, and 2) the proposed plan for the disposition of the properties.

The required information for each of the parcels in Part 1 includes:

- Date of acquisition
- The value of the property at date of acquisition
- An estimate of the current property value
- Purpose of the acquisition
- Parcel data including: address, size, current zoning and General Plan land use designations
- Estimate of lease or rental revenues from the properties and contractual disposition of the revenues
- History of any environmental contamination and any remediation activities
- Potential for transit oriented development and advancement of the planning objectives for the property by the Successor Agency
- History of previous development proposals and any rental or lease activity

Part 2 of the plan includes required information about the intended disposition of the properties. Permissible uses pursuant to Health & Safety Code Section 34180(f)(1), and Health & Safety Code Section 34191.5 (c) (2) include:

- Retention of property for redevelopment purposes
- Retention of property for governmental use
- Retention of property for future development
- Sale of the property
- Use of the property to fulfill an enforceable obligation

The LRPMP includes a discussion of property disposition utilizing the first three uses, but does not include property being listed for a simple sale, or used to fulfill an enforceable obligation.

PART ONE – PROPERTY INVENTORY

This section is prepared pursuant to Health & Safety Code Section 34191.5 (c) (1) of the Redevelopment Dissolution Statutes. There are a total of nine parcels acquired by the former Redevelopment Agency that are currently owned by the Municipal Services Corporation. These nine parcels fall into four geographic groups of parcels.

Mayfair Block

Background - The Mayfair block consists of an assemblage of three different parcels near the Del Norte BART station. The land has remained vacant or underutilized for over 20 years and is blighting the Del Norte commercial area, the adjacent Del Norte BART station, and nearby residential areas. The former owners had no intention of utilizing the property to its potential, and the condition of the property was and continues to be a detriment to the area.

Acquisition Purpose - The property was acquired to put a prime vacant site located on a major arterial (San Pablo Avenue) and State highway (SR 123), served by AC Transit bus service, and directly adjacent to a BART station, to a higher and better use consistent with the objectives of the Five Year Implementation Plan, the General Plan and the San Pablo Avenue Specific Plan, which promote higher density transit oriented development.



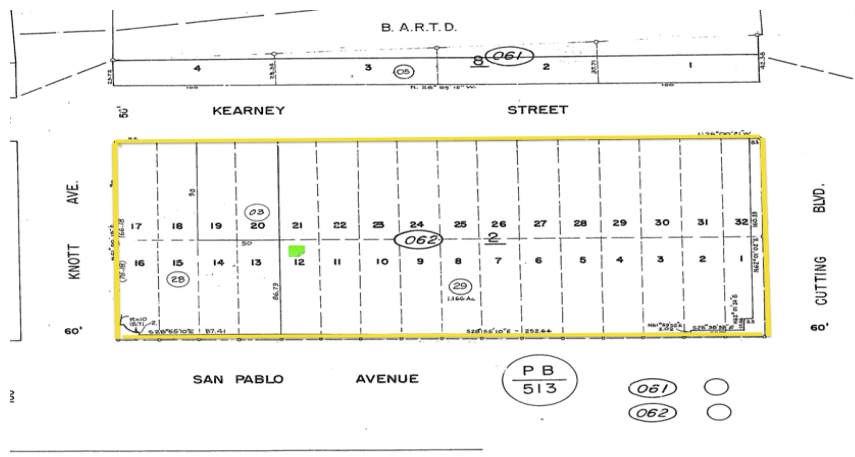
Build Inc. Mayfair Site Development Plan

Parcel Information

TABLE #1 – MAYFAIR PARCEL INFORMATION

ITEM	PARCEL 003	PARCEL 028	PARCEL 029	COMMENTS
Parcel #	502-062-003	502-062-028	502-062-029	One block total
Address	1925 Kearny St.	11690 San Pablo Ave.	11600 San Pablo Ave.	
Parcel Size	4,500 sf	13,199 sf	50,791 sf	Total sf = 68,490
Current Use	Vacant land	Vacant land	Vacant land	
Zoning	Transit Oriented Higher intensity Mixed - Use	Transit Oriented Higher intensity Mixed - Use	Transit Oriented Higher intensity Mixed - Use	Per San Pablo Ave. Specific Plan
Acquisition Date	July-31-2008	May-29-1987	March-4-2009	
Acquisition Value/Cost	\$ 471,491	\$182,000	\$ 3,333,750	\$ 3.99 million total
Assessed Value (FY 2015-16)	\$ 300,216	\$ 811,507	\$ 2,602,562	\$ 3.7 million total
Rental Revenues	None	None	None	
Environmental Condition	None	None	Remediated	
Prior Development Proposals	Yes	Yes	Yes	See summary of prior proposals below

FIGURE #1 - MAYFAIR PARCEL MAP



Discussion

Appraised Value & Assessed Value– An appraisal of the property was completed in September 2014 based on current zoning and one comparable sale of property for a similar mixed-use development project on San Pablo Avenue (See Appendix B for a summary of the appraisal). The appraised value per square foot is \$35.00. The assessed value per the FY 2015-16-tax roll is higher at \$54 per square foot. The higher assessed value is used for this site (and throughout the report) since it is believed to be a better estimate of the current value than the appraisal report.

Acquisition Encumbrances - The largest parcel (# 029) was acquired with a Promissory Note for \$2.6 million for a 15-year term commencing in 2009. The remaining principal balance is approximately \$1.75 million which will be paid off when the parcel is sold for development. Current annual debt service for the Valente note is \$288,215, which is included in the Successor Agency's annual Recognized Obligation Payment Schedule (ROPS).

Environmental Conditions – Per a report prepared in 2005 by SECOR, the site has been analyzed for soils contamination from prior uses consisting of a Chevron station and a small commercial building. The gas station gas tanks leaked and there were remediation activities performed including soils removal and ground water monitoring. The site has received clearance from regulators concerning the contamination caused by the prior use.

Prior Development Proposals – Two proposals have been received for the property. The first was from Olson Urban Housing. Olson and the Redevelopment Agency entered into an Exclusive Negotiating Rights Agreement (ENRA) for development of a transit-oriented mixed-use project on the Mayfair Block, with 15 percent of its units to be affordable to low and moderate income households. The developer elected not to proceed due to economic conditions, and the ENRA expired.

The second proposal was from Build Inc. The Municipal Services Corporation (MSC) entered into an Exclusive Negotiating Rights Agreement (ENRA) for the development of a mixed-use project consisting of 282 units and 18,000 square feet of ground floor retail. (See plans in Figure #5 and Figure #6, and development program in Exhibit C). The project has not proceeded further to the property disposition stage, through the adoption of a Disposition and Development Agreement (DDA), due to the inability of the Municipal Services Corporation to convey the land as a result of pending litigation with the State over redevelopment assets. The existing ENRA has expired.

Potential for Transit Oriented Development - The site is a prime location for transit-oriented development. It is adjacent to the Del Norte BART station, which is a regional serving station due to its proximity to Interstate 80. AC transit, WestCAT, and Golden Gate Transit bus lines serve the site including local serving and express buses to San Francisco. The potential of the site for TOD development is recognized by the General Plan, and the San Pablo Avenue Specific plan, which encourages higher density development near the BART stations through higher floor area ratio maximums, higher height limits and reduced parking requirements.

Eastshore Triangle

Background – The Eastshore Triangle parcels consist of three parcels that were acquired by the Redevelopment Agency, for an assembly to create a larger development site, in a key block across San Pablo Avenue from the Del Norte BART station. Two parcels are contiguous. The properties are now vacant, and adjacent uses include single-family houses and small commercial buildings in various states of condition.

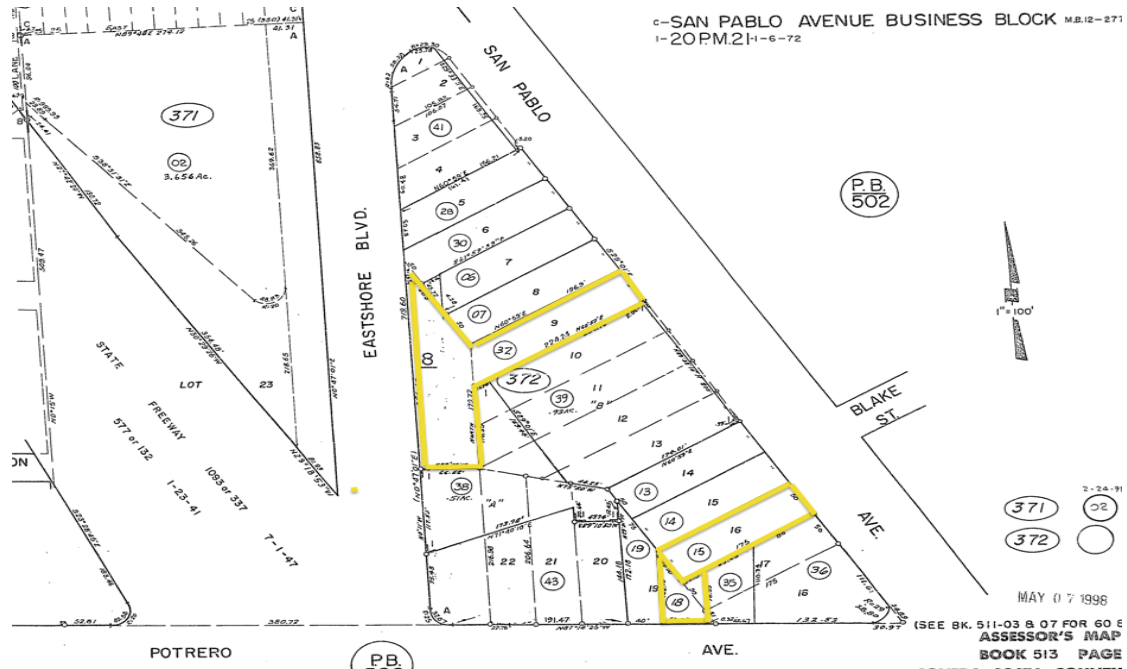
Acquisition Purpose - The long-term plan for this block was a consolidation of the parcels and redevelopment into transit oriented mixed-use development. The surrounding parcels are a collection of older residential and commercial uses, some in poor condition. All of the parcels are relatively small and do not lend themselves to new development without consolidation with other parcels. Similar to the Mayfair block, this block benefits from being located on a major arterial (San Pablo Avenue) and State highway (SR 123), served by AC Transit bus service, and close to a BART station. The block could be put to a higher and better use consistent with the objectives of the Five Year Implementation Plan, the General Plan and the San Pablo Avenue Specific Plan, for higher density transit oriented development.

Parcel Information

TABLE #2 – EASTSHORE TRIANGLE PARCEL INFORMATION

ITEM	PARCEL 015	PARCEL 018	PARCEL 032	COMMENTS
Parcel #	513-372-015	513-372-018	513-372-032	
Address	11335-41 San Pablo Ave.	6111 Potrero Ave.	1718 Eastshore Blvd.	#15 & #18 are contiguous
Parcel Size	8,750	3,612	25,910	Total sf = 38,272
Current Use	Vacant	Vacant	Vacant (lease for temporary storage)	\$500/month lease payments
Zoning	Transit Oriented Higher intensity Mixed - Use	Transit Oriented Higher intensity Mixed - Use	Transit Oriented Higher intensity Mixed - Use	Per San Pablo Ave. Specific Plan
Acquisition Date	Jan-1-1991	Jan - 1- 1991	March -25 -1990	
Acquisition Value/Cost	\$ 589,142	\$ 93,155 (Estimated)	\$ 304,899	\$ 987,196
Estimated Value (FY 2015-16 Assessors Value)	\$ 403,704	\$ 148,570	\$ 796,138	\$ 1,348 million total
Rental Revenues	None	None	\$6,000	12 month lease
Environmental Condition	None	None	Remediated gasoline contamination	
Prior Development Proposals	None	None	None	

FIGURE #2 - EASTSHORE PARCEL MAP



Acquisition Value - The acquisition value/cost of parcel # 018 is unknown. The value is estimated based on the average value of parcel # 015 and parcel # 032 using their average per square foot value applied to the number of square feet of parcel # 018.

Estimated Value - No appraised value information exists for these parcels. The estimated value of the parcels is based on the FY 2015-16 assessor's value, as it is higher than a recent appraisal of San Pablo Avenue property, and believed to be a good estimate of market value.

Potential for Transit Oriented Development - The proximity of the parcels to public transit is similar to the Mayfair parcels, although not as close to the Del Norte BART station since they are across the busy San Pablo Avenue arterial. The parcels are within walking distance of BART and are served by AC Transit including local serving lines and express buses to San Francisco. The potential of the site for TOD development is recognized by the General Plan, and the San Pablo Avenue Specific plan, which encourages higher density development near the BART stations through higher floor area ratio maximums and reduced parking requirements.

Civic Center Site

Background - This property consists of two contiguous parcels that are located adjacent to the El Cerrito Public Safety Building (housing Police and Fire department administrative offices and stations) and near the City Hall offices for the city administration. The parcels were acquired in a trade of property during the redevelopment of an adjacent lumberyard into an apartment complex.

Acquisition Purpose - The parcels were acquired for the purpose of either constructing a new

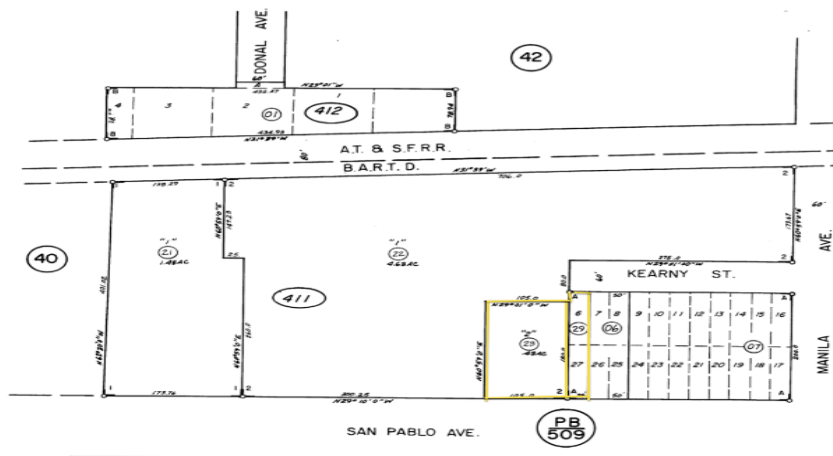
administration building adjacent to the Public Safety building or to allow for the expansion or reconstruction of the Public Safety building. Although a new city administration office building (City Hall) has been constructed on the prior location of the administrative offices, the need remains for a site to allow future expansion of the public safety facilities.

Parcel Information

TABLE #3 – CIVIC CENTER PARCEL INFORMATION

ITEM	PARCEL 023	PARCEL 029	COMMENTS
Parcel #	502-411-023	502-411-029	
Address	10940 San Pablo Ave.	10930 San Pablo Avenue	
Parcel Size	18,730	5,000	Total sf = 23,730
Current Use	Vacant	Vacant	
Zoning	Transit Oriented Medium Intensity Mixed Use	Transit Oriented Medium Intensity Mixed Use	Per San Pablo Avenue Specific Plan
Acquisition Date	August - 25 - 1987	March -9-1992	
Acquisition Value/Cost	\$ 226,800	\$ 75,913	\$ 302,713 total cost
Estimated value per 2015-16 AV	\$ 767,448	\$ 256,157	\$ 1,023 million Total Value
Rental Revenues	None	None	
Environmental Condition	Remediated Gas Contamination	None	
Prior Development Proposals	None	None	

FIGURE #3 - CIVIC CENTER PARCEL MAP



Estimated Value - No appraised value information exists for these parcels. The estimated value of the parcels is based on the FY 2015-16 assessor's value, as it is higher than a recent appraisal of San Pablo Avenue property, and believed to be a good estimate of market value.

Potential for Transit Oriented Development - The parcels are in the center of the City and are not near a BART station. They are however near a linear bike/pedestrian path (Ohlone Greenway) that runs parallel to San Pablo Avenue and connects to both BART stations on either end of the City. The parcels are served by AC Transit including local serving lines and express buses to San Francisco. Their zoning designation reflects their transit orientation.

Cerrito Theatre

Background – This building was acquired by the Redevelopment Agency, rehabilitated and leased to a film theater operator for the screening of contemporary films, live performances and community events in a non-traditional décor that includes the sale of food, beer and wine.

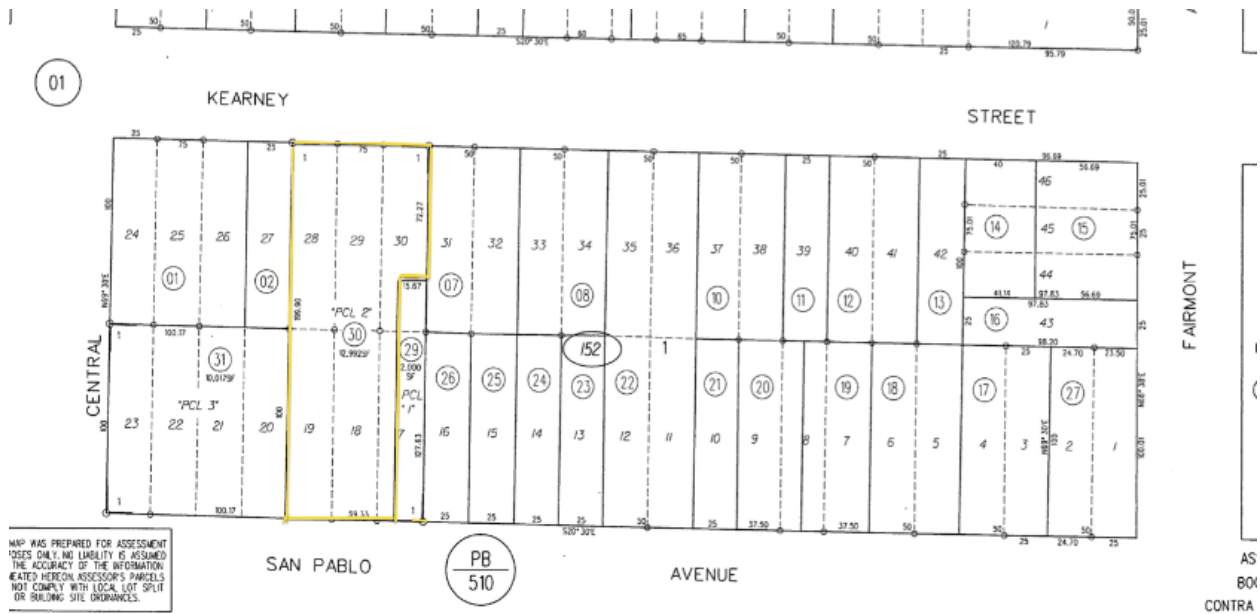
Acquisition Purpose – The acquisition was undertaken to remove a blighting influence on the surrounding area from a vacant building, preserve historic and architecturally significant building elements, create new commercial activity, catalyze adjacent commercial activity and create new public recreation uses.

Parcel Information

TABLE 4 – CERRITO THEATER PARCEL INFORMATION

ITEM	PARCEL 030	COMMENTS
Parcel #	504-152-030	
Address	10066-72 San Pablo Ave.	
Parcel Size	12,981	Bldg. + Pkg. area in rear
Current Use	Public Theater	
Zoning	Public Theater Overlay Dist.	Per San Pablo Ave, Specific Plan
Acquisition Date	August -1- 2002	
Acquisition Value/Cost	\$571,105	
Estimated Value	\$ 891,250	Based on capitalized value of lease income - see discussion
Rental Revenues	\$71,300 Annual	Based on FY 2013-14 revenues
Environmental Condition	No known contamination	Possible building asbestos
Prior Development Proposals	None	Previously vacant after housing a furniture store

FIGURE #4 - CERRITO THEATER PARCEL MAP



Theater Lease - The former Redevelopment Agency entered into a five-year lease ending in July 2014 with an option for an additional five years ending in July 2019. The lease option and extension has been approved and the lease is currently in effect.

Estimated Value - The estimated value of the property is based on a capitalization of the income derived from the lease. The lease provides for a starting monthly base rent of \$4,000 or \$48,000 annually with an annual CPI adjustment. The lease also provides for a 5% additional rent payment on gross income of the business operations above a threshold of \$960,000 annually. Deducted from these rents are annual operating costs the MSC as landlord is responsible for paying. For the last full fiscal year 2013-14, the MSC received an estimated annual base rent of approximately \$ 52,000. Percentage rent of approximately \$ 40,100 was received. From this total rental income approximately \$ 20,800 was deducted for landlord payment of operating expenses. This resulted in a net rental payment (or net operating income) to the MSC of approximately \$ 71,300.

To derive an estimated property value, the net operating income of \$ 71,300 was capitalized at a rate of 8% for an estimated value of \$ 891,250. The cap rate of 8% reflects the higher risk of the income stream since the use is specialized, the operator is not a major theater chain, with credit capacity that would reduce the level of risk associated with receiving the rent over the life of the lease term, and the lease requires the property owner to assume significant maintenance and repair obligations related to the building. It should be noted that the estimated value is less than the assessed value of \$1,127,100. The assessor's value would require a capitalization rate of the lease income stream of 6%, which is not warranted given the financial capacity of the tenant.

Potential for Transit Oriented Development - The property is near the El Cerrito Plaza BART station and if it were to be redeveloped has the potential for a transit oriented development. The building however, is a historic theater with significant historic architectural details that have been

restored for the current use, and it will remain as a historic and architecturally significant structure. As a result the property is not a likely candidate for transit-oriented development. In addition to being small in size, the parcel is within the San Pablo Avenue Specific Plan Theater District Overlay within the Downtown Transit-Oriented Higher Intensity Mixed Use zoning. This theater district overlay zoning is predicated upon the theater remaining a theater for the foreseeable future.

PART TWO – PROPERTY DISPOSITION

This section is prepared pursuant to Health & Safety Code Section 34191.5 (c) (2) and Health & Safety Code Section 34180(f)(1)] of the Redevelopment Dissolution Statutes. The information required for Part 2 of the plan includes information about the intended disposition of the properties. Permissible uses include: retention of the properties for redevelopment purposes; retention of property for governmental use; retention of property for future development; sale of the property; and use of the property to fulfill an enforceable obligation. The following discussion of property disposition utilizes the first three uses, but does not include property for sale, or property being used to fulfill an enforceable obligation.

Properties Retained For Redevelopment

Cerrito Theater Property

Redevelopment Purpose - This property is a public recreational facility and community entertainment resource through its use as a theater for screening contemporary films, a stage and hall for live performances, and a public meeting hall and public event venue for at least 12 events annually. In addition to eliminating the negative influences of a vacant building in a prime commercial area of the City, the City's ownership and redevelopment of this building has allowed it to be restored to its original purpose as a public entertainment amenity, restore its historic and architectural elements that contribute to the character of the community, and expand its public purpose and use as a venue for live productions, public benefit performances and a public community meeting hall.

This facility is operated through a lease with a private entity. The public recreation and entertainment nature of the building's operations are emphasized in the lease with the private operator (Pleasantown Motion Picture Company LLC), whereby the use of the premises is to be "operated in a manner consistent with a publically owned building providing entertainment facilities for the benefit of residents of the City and the general public..." Although the lease is currently in effect, there are only a few years remaining on its term, and sale of this property to the private market could result in the future loss of the public uses and public benefits that make the facility a key part of the community's recreation, commercial core and identity.

Upon Department of Finance approval of this LRPMP, it is proposed that this property be transferred from the Municipal Services Corporation to the City for retention for redevelopment purposes consisting of maintaining the existing building and theatre in its current state of operation.

Compensation Agreement - Upon approval by DOF of this plan, the City will enter into a compensation agreement with the affected taxing entities for acquisition of the property in accordance with Health and Safety Code Section 34180(f).

CERRITO THEATER



Revenue Benefits to the Taxing Entities - The current operation of the property is generating property taxes to the taxing entities as a result of possessory interest taxes. It is assumed that the lease to a private entity will continue to be subject to possessory interest taxes after the transfer from the MSC to the City. The property is generating approximately \$11,270 annually in base property taxes (not including overrides for bond debt), which is shared by the taxing entities. Assuming the building does not lose value due to vacancy, or is demolished by an earthquake or fire, this stream of revenue will continue as base revenue for the property.

Properties Retained For Governmental Use

Civic Center Parcels

Public Purpose - These combined parcels are adjacent to the existing Public Safety Building, which houses the two largest departments of the City: Police and Fire. In addition, a portion of the facility contains one of the City's two fire stations that serves the San Pablo Avenue commercial area and residential areas in the immediate vicinity and citywide. It has long been recognized that both of the current facilities (the Police and Fire stations) are undersized for the existing population they serve which will be exacerbated over time with continued commercial and residential growth, particularly on San Pablo Avenue. Furthermore, in compliance with regional growth projections and objectives of the Association of Bay Area Governments, the City has adopted the San Pablo

Avenue Specific Plan that provides for greater densities. This new growth will need to be supported by modern and expanded public safety facilities to maintain the City's safety standards.

The Public Safety Building was built in 1960 and evaluations have concluded that building a new facility would be more cost effective than retrofitting the existing building. The City's police force has doubled in size since the original facility was built. Rebuilding and expansion of the Public Safety Building is included in the City's adopted Capital Improvement Program (CIP), although funds have not yet been identified.

The site is also currently used by the Police and Fire Departments for staging during Emergency Operations/major incidents, for training purposes and to store a variety of special equipment. The Police Department uses the site to store a special event trailer, an evidence processing trailer, a training equipment trailer, and police vehicles when they are not actively in use. A storage building on the site also houses police motorcycles and bicycles and training equipment. The Fire Department uses the site for permanent storage of vehicles and a fire education trailer. The Police Department has near term plans to add an additional storage building to house a modern police motorcycle garage. Funds for this project have not yet been allocated.

The site is also a staging area for the Police and Fire Department Emergency Operation Centers during major incidents.

CIVIC CENTER PARCELS



Property Disposition - The El Cerrito Municipal Services Corporation (MSC) currently owns the parcels, and it is proposed that upon approval of this plan, they are transferred to the City for long term ownership as a public facility and governmental use.

Properties Retained for Approved Redevelopment Plan - Future Development

This category of disposition is for property that will be held temporarily by the City for ultimate sale pursuant to objectives that are set forth in the previous Redevelopment Plan and Implementation Plan. Development proposals for these properties will also need to be consistent with the San Pablo Avenue Specific Plan.

Mayfair Parcels

Policy Objectives - The following are excerpts of relevant policies from these plans that govern the disposition of the Mayfair parcels:

- To establish the project area as the focus of the community in symbolic, functional and economic terms.
- To improve the human environment, thereby creating a cohesive community.
- To intensify and diversify the existing retail, service and entertainment area surrounding San Pablo Avenue throughout the length of El Cerrito, and to expand the City's employment base by encouraging new commercial and office development in the area along San Pablo Avenue with special emphasis on developing additional retail sales.
- To unify various segments of the project area so that they become functionally and visually one, interrelated focus for a variety of activities.
- To provide new opportunities for living close to BART and to jobs and to guide a major share of the City's future population growth in the mixed-use commercial area.
- To expand the City's employment base by encouraging new commercial development near the BART stations and El Cerrito Plaza.
- Facilitate public/private partnership opportunities to create commercial and residential development at the Del Norte and El Cerrito Plaza BART stations and areas defined in the San Pablo Avenue Specific Plan as priority areas.
- Capitalize on opportunities presented by BART, AC Transit and other transportation agencies to encourage transit-oriented development.
- Strengthen the City's economic base by increasing opportunities to purchase local goods, services, and entertainment as well as opportunities to satisfy the retail and service needs of neighboring communities.
- Ensure a wide range of quality housing choices in El Cerrito, including mixed-use and affordable housing developments.

MAYFAIR PARCELS



Pursuant to these objectives, the former Redevelopment Agency assembled the parcels in the Mayfair block to create a transit oriented development area in proximity to BART and local and regional bus lines serving both the BART station and adjacent San Pablo Avenue. The San Pablo Avenue Specific Plan calls for implementing a TOD development on the block, which has a zoning land use designation of Transit Oriented Higher Intensity Mixed Use.

Development Proposals – Following the Redevelopment Agency’s assembly of the three parcels comprising the block, the Agency received two consecutive proposals for the development of vertically mixed-use projects consisting of ground floor retail with higher density residential above. Both proposals were consistent with the policy objectives for the site. The first proposal by Olson Urban Housing was dropped following the expiration of the Exclusive Negotiating Rights Agreement (ENRA) due to deteriorating economic conditions during the 2007-2010 recession.

The second proposal by Build Inc. was of a similar nature but with a greater density consistent with the City’s current land use policies. The site plans and conceptual elevations are shown in Figure #5 and Figure #6, and the development program is set forth in Appendix C. This proposal also reached the stage of exclusive negotiations (ENRA), but the negotiating term recently expired. Build Inc. and the MSC were unable to proceed to the next step of entering into a Disposition and Development Agreement for the sale of the property to Build Inc., due to the inability of the Municipal Services Corporation to sell the site as a result of the litigation with the State over dissolution of the Redevelopment Agency.

Disposition Process – It is recommended that upon approval by the State of this LRPMP that the property is sold pursuant to the process of issuing a Request for Proposals (RFP). The RFP will set forth the City’s development objectives for the site, the requirements for developers to have appropriate experience, and a requirement for developers to demonstrate their ability to finance the project in a timely fashion. The City will solicit developers to submit proposals that conform to the policy and zoning objectives set forth above and in the San Pablo Avenue Specific Plan. Specific plan policies will include minimum density, reduced parking due to proximity to transit, increased height and active ground floor uses.

Following selection of a single development team from this competitive process, the developer and City will enter into an Exclusive Negotiating Rights Agreement (ENRA) for a relatively short period of time. During the ENRA phase the developer will obtain entitlements from the City, and the City and developer will negotiate a purchase price for the property, and a schedule for the timely acquisition and development of the property. These agreements will be memorialized in a Disposition and Development Agreement (DDA), which is a form of a purchase and sale agreement. The DDA will provide that the property will not be conveyed to the developer until the project is ready to start construction, including City approval of all entitlements through building permits, and final financing commitments in place. In this way the City and the taxing entities will be assured that the property will not be conveyed to a speculator who has no intention of proceeding with development, or to a weak developer who is unable to obtain project financing. This process will also eliminate inappropriate development ideas that would not gain approval and waste time.

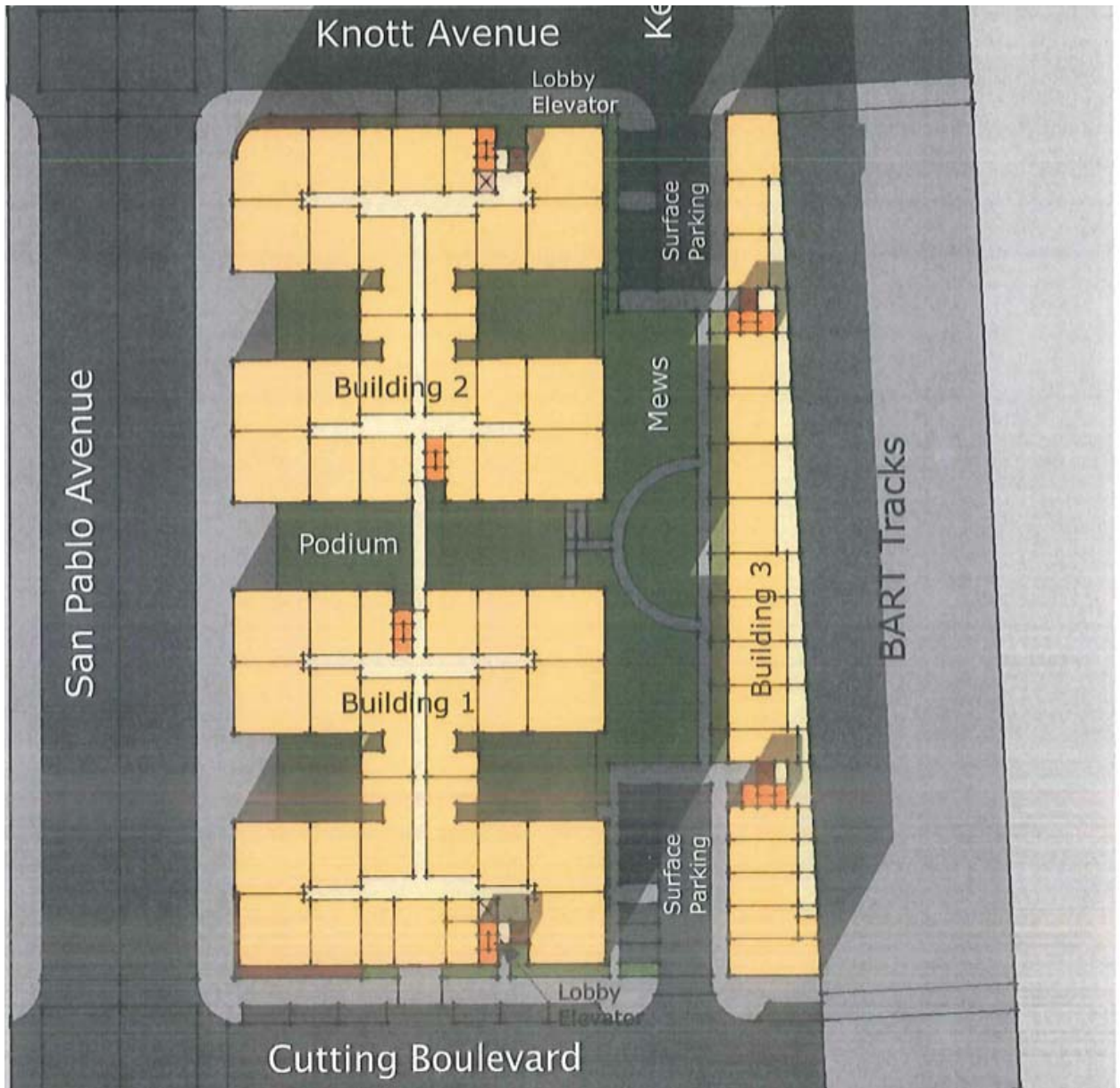
The RFP approach is preferred as it will create more certainty, and yield more property taxes in the long run for the taxing entities, while simultaneously achieving the land use objectives for which the City's Redevelopment Agency acquired the property in the first place. It may also turn out to be the more expeditious method of disposal, as time will not be wasted with development plans that do not match the City's land use policies for the site.

FIGURE #5 - BUILD INC. MIXED-USE PROJECT SAN PABLO ELEVATION



Looking East across San Pablo Boulevard: Podium access stair and roof deck bridge connect the north and south halves of the project.

FIGURE #6 - BUILD INC. MIXED-USE SITE PLAN



Eastshore Triangle Parcels

Policy Objectives – The parcels within the Eastshore triangle are subject to the same policies that govern the re-use of the Mayfair parcel described above.

Size Constraints - The Eastshore parcels will be less attractive for development since they are not part of a larger land assembly that was originally envisioned when they were acquired. Two parcels are contiguous but small even when combined. The third parcel that is larger in size is irregular in shape (see Figure #2 parcel map), and thus not easily developable. The land uses surrounding the Eastshore parcels are a collection of various small parcels containing older residences and commercial buildings. It will be difficult to assemble additional property to create larger, more efficient development sites that would support the higher intensity land uses envisioned for the area. The universe of developers that will be interested in these parcels will also be small.

EASTSHORE TRIANGLE PARCEL – SAN PABLO AVE. FRONTAGE



The MSC parcel is the vacant parcel framed by the privately owned house and commercial building. See parcel map.

Zoning Constraints -The San Pablo Avenue Specific Plan designates the parcels as Transit Oriented Higher Intensity Mixed Use, and allows development for several uses including residential, commercial or a mixture of both. There is a complex set of form based code regulations defining the massing, parking and set backs of a new building design. Although the code allows for and encourages higher intensity uses, given the small size of the parcels the scale of development is likely to be one to three stories. The small 12,000 square foot combination of parcels #015 and #018 might accommodate approximately 10 residential units in a two-story configuration with parking or a 6,000 square foot single story commercial building with parking. The larger irregular shaped parcel # 032 of 26,000 square feet might accommodate 25 – 30 residential units in a two-story configuration with surface parking at Eastshore, or a vertically mixed use building of ground floor retail and residential above fronting on San Pablo avenue with parking on Eastshore.

Pricing - Given the small or irregular shapes of the parcels it is unlikely that they will sell for their assessed values at \$50 per square foot. It is likely that the City will need to be flexible in determining the price for the parcels based on how the market responds when the parcels are offered for sale. Attempts to maximize value for these parcels will work against an expeditious sale.

Disposition Process – Due to their size, the properties will be of interest to smaller, relatively less sophisticated and less capitalized developers. There are two approaches to the sale of the parcels. The recommended approach is to spend some initial time and resources to create a sample development plan for the parcels and then offer them for sale through a City sponsored solicitation of proposals (RFP) as described above for the Mayfair parcels. In addition to the RFP process described for the Mayfair parcels, it is recommended that the City hire a designer to create a sample development plan that meets the form based zoning, and that the price for the land be determined by a re-use appraisal based on the sample plan. The plan will be attached to a Request for Proposals and the Successor Agency will solicit developers to submit proposals that conform to the sample plan. This will require expenditures for professional services that should be considered reimbursable expenses to be repaid from property sales proceeds.

The alternative to undertaking an RFP process would be to hire a broker to list the parcels to all interested parties. Although this might result in an expeditious sale, it would not necessarily result in a sale that leads to a development being constructed, or could produce a development proposal that is inconsistent with City land use policies. Similar to the Mayfair discussion, an investor may acquire property with no intention of developing it, but rather to hold for a period of time and resell as a vacant parcel in the future. The taxing entities would receive their one time payment for the land value but would lose out on the on-going revenues from new development (see Table #5 for an estimate of property taxes from new development).

Although possibly more time consuming than a broker sale, the RFP approach will yield more in the long run for the taxing entities in property taxes, while simultaneously achieving the City's land use objectives.

CONCLUSION

Property Transfer

Upon approval of this LRPMP, the Theater Parcel retained for redevelopment purposes and the parcels retained for government use will be transferred from the Municipal Services Corporation to the City. Parcels that are retained for development per the Redevelopment Plan policies will also be transferred to the City. The City will ultimately sell the development parcels to the developers pursuant to Disposition and Development Agreements.

Use of Sales Proceeds

All proceeds of property sales (net of sales costs including the City's costs associated with the sale) for non governmental public purpose parcels, or parcels subject to compensation agreements, will be distributed to the taxing entities pursuant to their proportionate share as determined by the

Contra Costa County Auditor Controller. Estimates of the gross revenues from property sales and on-going new property tax revenues are set forth in Table 5.

New Revenues To Taxing Entities

The following are estimates of revenues to the taxing entities from land sale proceeds and property tax revenues that result from new development on the Mayfair and Eastshore parcels (buildings only). Property taxes for the land are not included as new revenues as the MSC is currently paying property taxes on all of its parcels. It should also be noted that the MSC is currently paying property taxes on the other parcels, and thus has generated revenue for the benefit of the taxing entities. New on-going annual revenues of \$1,014,400 are estimated, and one time land sales revenues of \$3, 298,000 are projected.

TABLE 5 - ESTIMATED TOTAL REVENUES TO TAXING ENTITIES

ITEM	MAYFAIR	EASTHORE	COMMENTS
New Bldg. Value *	\$ 90,240,000	\$ 11,200,000	@ \$320k/ Unit **
Property Taxes - New Buildings - Annual @ 1% of building value	\$ 902,400	\$ 112,000	\$ 1,014,400 Total Annual
One Time Land Sales Proceeds	\$ 1,950,000 ***	\$ 1,348,000	\$ 3,298,000 Total

* 282 units for Mayfair; 35 units for Eastshore ** 800 sf units average @ \$400 sf cost

*** Net amt. of sale at assessed value of \$3.7m after \$1.75 m note payoff

Land Not Surplus Property

The sale of the properties that are not retained for governmental use are not subject to the disposition requirements and procedures of the Surplus Lands Act (Government Code Section 54220 *et. seq.*) due to the requirements of the Redevelopment Dissolution Statutes that require disposal of the properties to be pursuant to this LRPMP. The properties are not considered surplus and must be disposed of in a manner that is consistent with the Redevelopment Plan and Health and Safety Code Section 34191.5.

APPENDIX A

REDEVELOPMENT AREA PROJECT MAP

Figure 1. Location and Boundaries of the El Cerrito Redevelopment Project Area



APPRAISAL REPORT – COMPLETE APPRAISAL

El Cerrito Municipal Services

Multifamily Redevelopment

OCC 12 CFR 34.42 (g)) (OTS 12 CFR, Part 564.2 (g))

See Exhibit B

\$2,260,000

EXHIBIT C
MAYFAIR BUILD INC. DEVELOPMENT PROGRAM

Tabulations

Building 1 Type III
120 apartments/ 60-2BR/ 45-1BR/ 15 Studios

Building 2 Type III
120 apartments/ 60-2BR/ 45-1BR/ 15 Studios

Podium (under Buildings 1&2) Type I/ fifteen feet high/ one level above grade / optional second level subterranean
13,000sf retail, 5,000sf leasing/ common space, 4,000sf service spaces
254 cars in a single level utilizing hydraulic stackers. An additional 120 spaces possible in a subterranean level.

Building 3 Type V
34 studio and 1BR flats in two levels over 5,000sf retail and 8-10 live/work townhouses fronting onto a common mews over the Kearney Street ROW.
Short term parking in two surface lots at each end of Kearney (16 cars) and within the adjacent garage.

Residential Total: 282 apartments Retail Total: 18,000sf
Parking Total: 270-390 cars

11600 San Pablo Avenue/ El Cerrito, CA

Prepared for Building Inc by Jon Worden Architect

Concept Sketches

- End of Document-