



AGENDA

REGULAR CITY COUNCIL MEETING

Tuesday, October 16, 2012 – 7:00 p.m.

City Council Chambers

SPECIAL CITY COUNCIL – CLOSED SESSION

Tuesday, October 16, 2012 – Immediately following the regular meeting

Hillside Conference Room

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Bill Jones – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Rebecca Benassini

Councilmember Ann Cheng
Councilmember Janet Abelson

ROLL CALL

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

- 1. PLEDGE OF ALLEGIANCE TO THE FLAG** – Councilmember Abelson.
- 2. COUNCIL / STAFF COMMUNICATIONS** (*Reports of Closed Session, commission appointments and informational reports on matters of general interest which are announced by the City Council & City Staff.*)
- 3. ORAL COMMUNICATIONS FROM THE PUBLIC**
All persons wishing to speak should sign up with the City Clerk. Remarks are limited to 3 minutes per person. Please state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.
- 4. PRESENTATIONS** – None.
- 5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5E**

Consent Calendar items are considered to be routine by the City Council and will be enacted by

one motion unless a request for removal for discussion or explanation is received prior to the time Council votes on the motion to adopt the Consent Calendar.

A. Minutes for Approval

Approve the October 2, 2012 Special City Council Meeting – Closed Session and October 2, 2012 Regular City Council meeting minutes

B. Shelter in Place Education Day Proclamation

Approve a proclamation declaring November 7, 2012 as “Shelter in Place Education Day” in the City of El Cerrito and recognizing the importance of preparing for emergencies and encouraging participation in the Contra Costa Community Awareness Emergency Response (CAER) Group’s public education efforts.

C. Freedom From Bullies Week Proclamation

Approve a proclamation declaring October 14-20, 2012 as “Freedom from Bullies Week” in the City of El Cerrito.

D. School Resource Officer Agreement

Adopt a resolution authorizing the City Manager to enter into an agreement with the West Contra Costa Unified School District (WCCUSD) to partially fund three School Resource Officer positions (SROs) in an amount of \$420,000 per year, to be paid by the School District, and rescind Resolution No. 2012–50. Two SROs will continue to be assigned to El Cerrito High School and one will be assigned to Portola Middle School. If authorized, this agreement becomes effective immediately, and will continue through June 30, 2013. The agreement shall automatically renew on July 1, 2013 and on every July 1 thereafter for an additional one-year term.

E. Cancel the November 6, 2012 City Council Meeting

Approve a recommendation to cancel the regular November 6, 2012 City Council meeting due to a conflict with the General Presidential Election that is held on the same date. All Polling Places are open from 7:00 a.m. to 8:00 p.m. on Election Day.

6. PUBLIC HEARING – None

7. POLICY MATTERS

A. Design-Build Agreement for Construction of Solar Photovoltaic Systems at Six City Facilities

Adopt a resolution authorizing the City Manager to execute a contract in a form approved by the City Attorney and RGS Energy Incorporated in an amount not to exceed \$1,587,000 to design and construct solar photovoltaic systems to offset energy use at six municipal sites.

B. Solar Equipment Lease Purchase Financing

Adopt a resolution authorizing the City Manager to enter into the required agreements with Green Campus Partner (GCP) for solar equipment lease purchase financing for the installation of a solar photovoltaic system on various city facilities.

C. Potrero Avenue Intersection Safety Improvements between 55th and 56th Streets, City Project No. C-3045, Federal Project No. HSIP 5239(013)

Adopt a resolution approving plans, rejecting the bid from J.A. Gonsalves & Sons Construction, Inc. as non-responsive and accepting all other bids; and authorizing the City Manager to award a contract, contingent on successfully securing additional grant funding and/or successful negotiations with Redgwick Construction Company (the lowest responsible bidder for the project) for a deductive change order after undergoing a value engineering process which is not inconsistent with the approved budget for the Potrero Avenue Intersection Safety Improvements between 55th and 56th Streets Project, Contract No. C-3045.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Jones Assignments: Contra Costa County Mayors' Conference, Crime Prevention Committee, Design Review Board, Disaster Preparedness Council Delegate, Municipal Service Corporation Chair, Oversight Board of the Successor Agency for the Former El Cerrito Redevelopment Agency, Pension Board Chair, Temporary Permits Committee, Tom Bates Regional Sports Field JPA, Underground Utilities Committee, West County Integrated Waste Management Authority Alternate and West County Mayors' & Supervisors' Association.

B. Mayor Pro Tem Lyman Assignments: Commission/Committee Rules Subcommittee, Contra Costa County Mayors' Conference Alternate, Disaster Preparedness Council Alternate, Economic Development Board, Municipal Services Corporation Vice-Chair, Pension Board Alternate, Planning Commission, Tree Committee, West County Integrated Waste Management Authority Delegate and West County Mayors' & Supervisors' Association Alternate.

C. Councilmember Abelson Assignments: Association of Bay Area Governments (ABAG) General Assembly Alternate, Committee on Aging, Contra Costa Transportation Authority, Environmental Quality Committee, League of California Cities East Bay Division Delegate and West Contra Costa Transportation Advisory Committee Delegate.

D. Councilmember Benassini Assignments: Arts and Culture Commission, Park and Recreation Commission, Redevelopment Agency Vice-Chair, and Tom Bates Regional Sports Field JPA Alternate.

E. Councilmember Cheng Assignments: Association of Bay Area Governments (ABAG) General Assembly Delegate, Commission/Committee Rules Subcommittee, Financial Advisory Board, Human Relations Commission, League of California Cities East Bay Division Alternate, Redevelopment Agency Chair and West Contra Costa Transportation Advisory Committee Alternate.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is scheduled for Tuesday, November 6, 2012 however this conflicts with the General Presidential Election to be held on the same date. If the City Council cancels the November 6 meeting the next regularly scheduled meeting is November 20, 2012. Please contact the City Clerk at 215-4305 for more information. The meeting will take place in the City Council Chambers at City Hall, 10890 San Pablo Avenue, El Cerrito.

10. CONVENE SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

ANNOUNCEMENT OF CLOSED SESSION

Conference with Labor Negotiators (*Pursuant to Government Code Section 54957.6*)

Agency Designated Representatives: Scott Hanin, City Manager, Sky Woodruff, City Attorney, Jennifer Faught, Assistant City Attorney, Sukari Beshears, Employee Services Manager.

Employee Organizations: Service Employees International Union, Local 1021
Unrepresented Employees
El Cerrito Police Employees Association
International Association of Firefighters, Local 1230
Public Safety Management Group

ORAL COMMUNICATIONS FROM THE PUBLIC

Comments are limited to 3 minutes per person and to items listed on this special meeting agenda only.

RECESS INTO CLOSED SESSION

ADJOURN SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

- 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. The meetings are rebroadcast on Channel 28 the following Thursday and Monday at 12 noon, except on holidays. Live and On-Demand Webcast of the Council Meetings can be accessed from the City's website <http://www.el-cerrito.org/ind-ex.aspx?NID=114>. Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (510) 215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 215-4305 Fax: 215-4379, email cmorse@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

Tuesday, October 2, 2012 – 6:00 p.m.

Hillside Conference Room

REGULAR CITY COUNCIL MEETING

Tuesday, October 2, 2012 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Bill Jones – Mayor

Mayor Pro Tem Greg Lyman

Councilmember Rebecca Benassini

Councilmember Ann Cheng

Councilmember Janet Abelson

6:00 p.m.

ROLL CALL

Councilmembers Abelson, Benassini, Cheng, Lyman and Mayor Jones all present.

CONVENE SPECIAL CITY COUNCIL CLOSED SESSION

Mayor Jones convened the Special City Council Closed Session at 6:05 p.m.

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9(b): One potential case

ORAL COMMUNICATIONS FROM THE PUBLIC – No comments.

RECESSED INTO CLOSED SESSION at 6:07 p.m.

POSSIBLE REPORT OUT OF CLOSED SESSION

ADJOURNED SPECIAL CITY COUNCIL MEETING at 7:00 p.m.

ROLL CALL

Councilmembers Abelson, Benassini, Cheng, Lyman and Mayor Jones all present.

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Jones convened the Regular City Council meeting at 7:05 p.m.

1. **PLEDGE OF ALLEGIANCE TO THE FLAG** was led by Councilmember Cheng.

2. **COUNCIL / STAFF COMMUNICATIONS**

Mayor Jones reported that the City Council had just met in closed session and asked City Attorney Woodruff to deliver a report of the Council's action.

Sky Woodruff, City Attorney, stated that the City Council authorized the City Manager to enter into an agreement with the former Building Official allowing him to participate in the City's PERS service credit program in an amount not to exceed \$38,000 which will resolve his appeal pending before the Civil Service Commission.

Councilmember Benassini announced that October is National Arts and Humanities Month. The City has a number of celebrations underway including an art show in the City Hall Gallery, and a celebration on October 26 in the City Hall Plaza from 5-7 p.m. The City will debut the first of its street icons on a light pole in front of City Hall. There is also an art show and sale at the Community Center beginning on October 12.

Councilmember Cheng thanked all staff involved in the Second Annual Alberrito Street Play event and noted that it is actually the City's third street play event. The event is a great use of the City's open spaces.

Councilmember Abelson announced that the Executive Director of the West Contra Costa Transportation Advisory Committee (WCCTAC), Christina Atienza, is leaving to join the Dominican Nuns at the end of December. The WCCTAC Board, of which Councilmember Abelson is the Chair, has formed a search committee for an interim executive director. The Board is hoping to find an engineer to fill the position for approximately six months and on a month to month basis thereafter. Councilmember Abelson said the Board is very sorry to see Ms. Atienza leave.

Mayor Pro Tem Lyman announced that the St. Peters C.M.E. Church has rescheduled its candidate campaign forum from October 3 to October 17 at 7:00-8:00 p.m.

Mayor Jones thanked everyone who participated in the Tip a Cop Special Olympics fundraiser at Macaroni Grill. Mayor Jones also thanked all who attended the Strategic Plan Workshop on September 22 and advised that there will be more opportunities for input in the future. Mayor Jones also thanked Pinole-TV for broadcasting meetings and events and noted the professionalism of their work.

Karen Pinkos, Assistant City Manager, reported that City Staff met with school district staff last week and noted that meetings will become more frequent as school construction projects move along. The demolition of Portola Middle School has begun. Anyone with questions should call the West Contra Costa Unified School District at 510-231-1105.

3. **ORAL COMMUNICATIONS FROM THE PUBLIC**

Alon Ilan, El Cerrito, stated that she is one of the founders of the community organizing group, *Go Portola*. *Go Portola* has raised \$270,000 for education so far. Ms. Ilan spoke in support of the Writer Coach Connection program and asked the City Council to consider funding of the program.

Mary De Shaw, El Cerrito, spoke in support of the Writer Coach Connection and noted the importance of improving technical writing skills and building relationships.

Lynda Frank, El Cerrito, spoke in support of the Writer Coach Connection and asked the City Council for program funding.

Ann Nutt, Albany, spoke in support of the Writer Coach Connection and described the benefits of not only the program but also the personal relationships that are established between students and their coaches.

Christine McGuiness, Communications Director for Writer Coach Connection, Berkeley, described the benefits of the Writer Coach Connection from a teacher's perspective and how the program encourages engagement.

Bobbie Ohs Dowling, Kensington, spoke in support of the Writer Coach Connection.

4. PRESENTATIONS

A. Writer Coach Connection – *Presentation by Robert Menzimer, Executive Director, Community Alliance for Learning.*

Receive a presentation on the Writer Coach Connection Program.

Action: Received presentation.

B. National Public Radio "NewsPoet" Tess Taylor

Receive a presentation by National Public Radio "NewsPoet" and El Cerrito resident Tess Taylor. Approve and present a proclamation, recognizing Ms. Tess Taylor on her many accomplishments in the literary field and celebrating her contributions in the areas of both the Arts and Humanities locally and nationally.

Action: Ms. Taylor recited her poem "El Cerrito." Proclamation approved and presented.

C. Marin Clean Energy Community Choice Aggregation – *Presentation by Dawn Weisz, Executive Director of Marin Clean Energy, and Adam Lenz, Sustainability Coordinator, City of Richmond.*

Action: Received presentation.

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

Moved, seconded (Benassini/Cheng) and carried unanimously to approve Consent Calendar Item Nos. 5A through 5D in one motion as indicated below.

CITY COUNCIL ITEMS

A. Minutes for Approval

Approve the: 1) September 18, 2012 Special City Council meeting; and 2) September 22, 2012 Special City Council meeting minutes.

Action: Approved minutes.

B. Proclamation Celebrating Arts and Humanities Month

Approve a proclamation declaring October 2012 as Arts and Humanities Month in the City of El Cerrito and encouraging all members of the community to enrich their lives by participating in the arts, by being creative, and by supporting local arts and cultural organizations and by celebrating the arts and humanities by attending the City's Arts and Humanities Month Celebration on Friday, October 26, 2012 at City Hall.

Action: Approved proclamation.

C. Conflict of Interest Code Update

Adopt a resolution approving a revised Conflict of Interest Code for the City of El Cerrito, including filing requirements for related agencies, including the Public Financing Authority, Employee Pension Board and Successor Agency to the former Redevelopment Agency and rescinding Resolution No. 2011-54.

Action: Adopted Resolution No. 2012-77

CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY ITEM

D. Bylaws for the El Cerrito Redevelopment Agency Successor Agency and Update on Implementation of the Dissolution Act and Trailer Bill

Adopt a Successor Agency resolution approving bylaws for the Successor Agency consistent with Assembly Bill 1484 and provide an update on implementation of the Dissolution Act and Trailer Bill.

Action: Adopted Successor Agency Resolution No. 2012-05.

[The City Council took a brief recess.]

6. PUBLIC HEARING

Appeal of the Planning Commission's Approval of a Conditional Use Permit at 11858 San Pablo Avenue

Conduct a public hearing and upon conclusion adopt a resolution denying the appeal to the Planning Commission's approval of a Conditional Use Permit to allow the re-use of a vacant auto dealership for an auto sales and auto service use located at 11858 San Pablo Avenue.

Mayor Pro Tem Lyman as liaison to Planning Commission left meeting before this item was discussed. No other contact with applicant or appellant.

Presenter: Noel Ibalio, Senior Planner.

Mayor Jones opened the public hearing.

Steve Kahn appeared on behalf of the appellant, Steve's Auto Sales.

Yi Cheng Xiao appeared on behalf of the applicant, Xiao Motors.

Speakers: None.

Moved, seconded (Cheng/Abelson) and carried unanimously to close the public hearing.

Moved, seconded (Lyman/Benassini) and carried unanimously to extend the meeting to 10:46 p.m.

Action: Moved, seconded (Cheng/Abelson) and carried unanimously to adopt Resolution No. 2012-78 denying the appeal and upholding the Planning Commission's approval of a Conditional Use Permit to allow the re-use of a vacant auto dealership for an auto sales and auto

service use located at 11858 San Pablo Avenue as amended on the floor to include the following two additional conditions of approval: 1) To enhance the physical separation between the two properties with appropriate visual elements to be determined by the Design Review Board; and 2) To add a condition requiring the applicant to comply with all applicable state and federal laws.

Moved, seconded (Lyman/Benassini) and carried unanimously to extend the meeting to 10:50 p.m.

7. POLICY MATTERS

A. Tax Anticipation Note

Adopt a resolution authorizing the City Manager to enter into an agreement with Westamerica Bank for the issuance of \$4,000,000 in Tax Anticipation Notes (TAN), and to appropriate \$17,000 for costs associated with the TAN.

Presenter: Mary Dodge, Administrative Services Director.

Action: Moved, seconded (Lyman/Abelson) and carried unanimously to adopt Resolution No. 2012-79 as revised by staff to include changes recommended by the Financial Advisory Board.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Jones – No report.

B. Mayor Pro Tem Lyman – No report.

C. Councilmember Abelson – No report

D. Councilmember Benassini encouraged everyone to attend the City's Arts Celebration on October 26, from 5:30 to 7:30 p.m. at City Hall.

E. Councilmember Cheng – No report

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:51 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 4(A) Writer Coach Connection Presentation

1. About Writer Coach Connection – *Submitted by Robert Menzimer.*
2. Video presentation – *Submitted by Robert Menzimer.*

Item No. 4(B) National Public Radio "NewsPoet" Tess Taylor

3. New California Writers – *Submitted by Tess Taylor*
4. The Forage House: Poems by Tess Taylor – *Submitted by Tess Taylor.*
5. Envisioning El Cerrito – A Vision Statement for a Sustainable Future – *Submitted by Tess Taylor*
6. Song for El Cerrito – *Submitted by Tess Taylor.*

Item No. 7(A) Tax Anticipation Note

7. Revised resolution. Redlined with new changes marked by strikethrough and underline within the text – *Submitted by Mary Dodge, Administrative Services Director.*

8. Revised resolution. Clean copy – all changes incorporated – *Submitted by Mary Dodge, Administrative Services Director.*

CITY OF EL CERRITO PROCLAMATION

Shelter-in-Place Education Day November 7, 2012

WHEREAS, public and private schools throughout Contra Costa County will be participating in the Shelter-in-Place Drill on November 7th; and

WHEREAS, Contra Costa Community Awareness Emergency Response Group – CAER – is sponsoring the 11th Annual Shelter-in-Place Drill and assisting schools 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, BE IT RESOLVED, the City Council of the City of El Cerrito 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 in the Shelter-in-Place Drill, we do hereby proclaim November 7, 2012 as "Shelter-in-Place Education Day.

Dated: October 16, 2012

William C. Jones III, Mayor



2012 Shelter-in-Place Drill FACT SHEET

- The Shelter-in-Place drill will begin at 11:00 a.m. on November 7th. 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. 7th. 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, e-mail notifications (visit www.incident.com to sign up), 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 receive media coverage and promote further awareness about Shelter-in-Place training and procedures.
- Participating schools and childcare centers that return a "participation sheet" will have their names posted on the CAER Web site at www.cococaer.org.
- City Councils in the County are being asked to proclaim November 7th as "Shelter-in-Place Education Day." The County Board of Supervisors will also proclaim November 7th as Shelter-in-Place Education Day.
- The Shelter-in-Place Drill is an annual event on the first Wednesday in November. Last year, approx. 220 sites participated and even more are expected to practice their Shelter-in-Place procedures this year. CAER sponsors the drill to promote emergency preparedness in our schools and childcare centers.

Sponsored by CCC CAER Group, Inc.
Community Awareness Emergency Response
www.cococaer.org

EL CERRITO CITY COUNCIL PROCLAMATION

Declaring October 14-20, 2012 as "Freedom from Bullies Week"

WHEREAS, the City of El Cerrito has an interest in promoting the social and economic well-being of its citizens; and

WHEREAS, that well-being depends upon the existence of healthy and productive environments that are safe and abuse-free; and

WHEREAS, according to the Department of Health and Human Services, bullying is unwanted, aggressive behavior that involves a real or perceived power imbalance; the behavior is repeated, or has the potential to be repeated, over time. Typically the term is used to refer to behavior that occurs between school-aged kids but adults can be repeatedly aggressive and use power over each other too; and

WHEREAS, bullying happens in many forms, verbally, socially, physically and through the use of technology (cyberbullying), and takes place in many environments such as in schools, workplaces, neighborhoods and in homes; and

WHEREAS, in April 2012, the City Council adopted Resolution No. 2012-24, in recognition of the "Choose Civility Initiative," a campaign which fosters collaboration with organizations throughout the community. The resolution states that concern for the common good and well-being of all citizens is one of the highest virtues of American Democracy. Civility is a core value of a well functioning community and underscores a community's general health, wellness and quality of life and depends in great part on how community members treat each other; and

WHEREAS, bullying is a universal problem that affects people regardless of their age, gender, culture, religion or nationality; and

WHEREAS, "Freedom from Bullies Week" is promoted as a national effort to prevent bullying in the workplace however the City Council wishes to promote freedom from bullying not only in the workplace but also in our schools, neighborhoods, homes and on-line and encourage residents to prevent bullying through education and awareness.

NOW THEREFORE, the City Council of the City of El Cerrito hereby proclaims October 14 – 20, 2012 as "Freedom from Bullies Week" in the City of El Cerrito.

Dated: October 16, 2012

William C. Jones III, Mayor



AGENDA BILL

Agenda Item No. 5(D)

Date: October 16, 2012
To: El Cerrito City Council
From: Sylvia M. Moir, Chief of Police
Michael Regan, Captain
Subject: Agreement with the West Contra Costa Unified School District
Regarding Funding of School Resource Officers

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to finalize and enter into an agreement with the West Contra Costa Unified School District (WCCUSD) to partially fund three School Resource Officer Positions (SROs) in the amount of \$420,000 per year, to be paid by the School District and rescinding Resolution No. 2012-50. Two SRO's will continue to be assigned to El Cerrito High School and one will be assigned to Portola Middle School. If authorized, this Agreement becomes effective immediately, and will continue through June 30, 2013. The agreement shall automatically renew on July 1, 2013 and on every July 1 thereafter for an additional one-year term, unless terminated earlier.

BACKGROUND

In November 2005, the Council authorized the City Manager to enter into an agreement with the West Contra Costa Unified School District to partially fund one School Resource Officer at the El Cerrito High School on a temporary basis. The Police Department added a second SRO at the High School in March 2006. The Department has always believed that it is in the City's best interest to deploy SRO's at the High School. In May of 2009, Portola Middle School experienced a series of events which called into question the safety of students and staff at the school. In an effort to improve the safety of the school, the Police Department temporarily assigned an SRO to the school effective May 19, 2009 until the end of the school year.

Since that time, City and School District Officials have conducted negotiations and agreed that the Police Department should continue to provide the services of the SRO's and to increase the staffing to three positions so that an SRO may be assigned full time to Portola Middle School.

On January 17, 2006, the City Council approved an Amendment to the General Plan, in order to attempt to "Maintain a service level of 1.8 officers per 1,000 population, provided adequate financial resources are available." To ensure compliance with the intent of this amendment to the General Plan, these three SRO positions will not be

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included when accessing the sworn authorized strength necessary to comply with the ratios in the General Plan amendment. School Resource Officers are contractually obligated to provide police services to the approximately 2,072 students and staff of the identified campuses providing a ratio of 1.5 Officers per 1,000 population. Because of this contractual obligation they are not readily available to answer calls for service and therefore should not be considered when assessing the staffing to populous ratio.

On June 19, 2012, the City Council approved Resolution No. 2012-50 as amended by Mayor Pro Tem Lyman to authorize the City Manager to enter into an agreement, in substantially the same form as the agreement attached to the resolution, with the West Contra Costa Unified School District to partially fund three School Resource Officers, two at El Cerrito High School and one at Portola Middle School for the term of July 1, 2012 through July 1, 2015 and every year thereafter unless terminated sooner and rescind Resolution 2009-62.

ANALYSIS

Since the inception of the SRO program, the feedback has been tremendously positive and the increased security in and around the schools is measurable. The SRO's are constantly praised by members of the community, school administration, and students. The program has made a true difference to the City and School. Even though the City does not recover the full costs associated with funding the program, the investment by the City towards this effort is needed and will have a positive impact on the community.

The WCCUSD refused to enter into the agreement as proposed by the Chief of Police and under the terms of the agreement presented at City Council on June 19, 2012. The WCCUSD held firm that the contract could not exceed a one-year term, and the reimbursed rate could not exceed \$420,000 annually. The signed contract is in substantially the same form as the agreement approved by the City Council on June 19, 2012.

One issue still under discussion is the role of the SRO during the summer months (approximate dates of June 15 through August 24) when the officers will be taking their vacations and attending mandated training. If it is the desire of the school district to have an SRO present during "Summer School," the Department believes that this service is not covered in the agreement.

FINANCIAL CONSIDERATIONS

The City will be reimbursed a total of \$420,000 for the Fiscal year of service by the three SRO's. The full cost of a Top Step Police Officer is \$179,409 in fiscal year 2012-2013. The assignment of the three SRO's represents a City contribution to fill the funding gap between the contractual reimbursement from WCCUSD and the salary cost of the officers. The police department has delayed hiring sworn personnel to fill the funding gap as a short term response to minimize financial shortfalls; therefore the gap is covered under the adopted FY 2012-2013 budget. The SRO's are compensated as required under the memorandum of understanding (MOU) and they may receive cost of living or survey increases during the term of this Agreement. In recognition of these future compensation increases while this Agreement remains in effect, WCCUSD's compensation to the City shall increase by the same percentage as the increase in police

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officer salaries for that year. When cost of wage adjustments are forfeited by the officers covered under the MOU, the School District shall be notified by the City.

The Agreement does not however, account for other expenses such as a fully equipped marked patrol vehicle (in excess of \$60,000 including necessary equipment), the technology provided to the SRO's at department expense. These items include: Laptop computers, tablets, additional portable radios, and cellular telephones. These expenses and revenues were included in the adopted fiscal year 2012-2013 budget.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the Memorandum of Understanding between the City and the School District concerning this issue.

Reviewed by:

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

Scott Hanin, City Manager

Attachments:

1. Proposed Resolution
2. Contract between the West Contra Costa Unified School District and the City of El Cerrito

RESOLUTION 2012-XX

A RESOLUTION OF THE EL CERRITO CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT TO PARTIALLY FUND THREE SCHOOL RESOURCE OFFICERS, TWO AT EL CERRITO HIGH SCHOOL AND ONE AT PORTOLA MIDDLE SCHOOL FOR THE TERM OF JULY 1, 2012, THROUGH JULY 1, 2013, AND EVERY YEAR THEREAFTER, UNLESS TERMINATED SOONER AND RESCINDING RESOLUTION NO. 2012-50

WHEREAS, in 2012, the City of El Cerrito continued its partnership with the West Contra Costa Unified School District (WCCUSD), by placing two El Cerrito Police Officers at El Cerrito High School and one EL Cerrito Police Officer at Portola Middle School as School Resource Officers (SRO); and

WHEREAS, on November 7, 2005, the City Council adopted a Resolution authorizing the City Manager to enter into an agreement with the WCCUSD to provide one Police Officer at the El Cerrito High School for the period November 1, 2005, through June 30, 2006; and

WHEREAS, on March 20, 2006, the City received correspondence from WCCUSD, inquiring about the possibility of having an additional SRO at El Cerrito High School. An agreement was reached and that officer began his assignment on March 27, 2006; and

WHEREAS, on September 21, 2009, the City Council adopted a Resolution authorizing the City Manager to enter into an agreement with the WCCUSD to provide two Police Officers at the El Cerrito High School and one Police Officer at Portola Middle School for the period July 1, 2009, through June 30, 2012; and

WHEREAS, on June 19, 2012 the City Council adopted Resolution No. 2012-50 authorizing the City Manager to enter into an agreement with the West Contra Costa Unified School District to partially fund three School Resource Officers, two at El Cerrito High School and one at Portola Middle School for the term of July 1, 2012 through July 1, 2015 and every year thereafter unless terminated sooner and rescinding 2009-62. The agreement that was authorized at that time was not finalized; and

WHEREAS, staff subsequently negotiated an agreement with the WCCUSD whereby the District has agreed to pay to the City the amount of four hundred and twenty thousand (\$420,000) per fiscal year which would partially fund the cost of the three officers to provide police services at the El Cerrito High School and Portola Middle School campuses; and

WHEREAS, this long term agreement was taken into account and approved in the FY 2012-2013 budget; and

WHEREAS, on January 17, 2006, the City Council approved an Amendment to the General Plan, in order to attempt to "Maintain a service level of 1.8 officers per 1,000 population, provided adequate financial resources are available." To uphold the spirit and intent of the General Plan amendment, the three SRO positions will not be included when accessing the requirement of sworn officers necessary to comply with the ratios in the General Plan amendment.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to enter into an agreement with the West Contra Costa Unified School District to partially fund three School Resource Officers, two at El Cerrito High School and one for Portola Middle School for the term of July 1, 2012, through July 1, 2013, and every year thereafter, at a cost of \$420,000 per year, payable by WCCUSD, unless terminated sooner.

BE IT FURTHER RESOLVED that Resolution No. 2012-050 is hereby rescinded.

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

I CERTIFY that at a regular meeting on October 16, 2012, the City Council passed this resolution by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on October -, 2012.

Cheryl Morse, City Clerk

Approved:

William C. Jones III, Mayor

SCHOOL RESOURCE OFFICER AGREEMENT

**BETWEEN
WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT
AND
CITY OF EL CERRITO**

RECITALS

This contract entered into July 1, 2012, between the West Contra Costa Unified School District, hereinafter referred to as "DISTRICT" and the City of El Cerrito, hereinafter referred to as "CITY" (collectively, sometimes hereinafter referred to as the "Parties") who agree as follows:

WHEREAS,

- A. The City is a municipal corporation of the State of California located in the County of Contra Costa, State of California, and has its principal place of business at 10890 San Pablo Avenue, El Cerrito, California 94530.
- B. The District is a public school district in the county of Contra Costa, State of California, and has its administrative offices located at 1108 Bissell Avenue, Richmond, California 94801.
- C. The District desires to engage the services of the City to provide police services as described in this Agreement on El Cerrito High School and Portola Middle School campuses, including at the new location of the latter if the District relocates it, and the City desires to render such services on the terms and conditions set forth in this Agreement.
- D. California Government Code Section 53060 authorizes the legislative body of any public or municipal corporation or district to contract with and employ any persons for the furnishing to the corporation or district special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if such persons are specially trained and experienced and competent to perform the special services required. The authority herein given to contract shall include the right of the legislative body of the corporation or district to contract for the issuance and preparation of payroll checks. The legislative body of the corporation or district may pay from any available funds such compensation to such persons as it deems proper for the services rendered.

- E. The City's Police Department possesses the special experience, knowledge and expertise necessary for the performance of the special services required by this Agreement.

WHEREAS, pursuant to Education Code Section 32261, it is the intent of the Legislature to encourage California public schools to develop comprehensive safety plans that are the result of a systematic planning process that includes strategies aimed at the prevention of an education about potential incidents involving crime and violence on school campuses and that address the safety concerns of local law enforcement and other interests in the prevention of school crime and violence; and

WHEREAS, pursuant to Education Code Section 32261, it is the intent of the Legislature to encourage school districts and law enforcement agencies to develop and implement interagency strategies, service training programs and activities that will improve school attendance and reduce the rates of school crime including vandalism, drug and alcohol abuse, gang membership and gang violence; and

WHEREAS, pursuant to Education Code Section 32262, the Legislature has established School/Law Enforcement Partnership comprising the Superintendent of Public Instruction and the Attorney General which has as its duties the development and administration of programs, policies, procedures and activities in furtherance of campuses which are safe, secure and peaceful; and

WHEREAS, pursuant to Penal Code Section 832.3, it is the intent of the Legislature to ensure the safety of pupils, staff and the public on or near California's public school by providing school peace officers with training that will enable them to deal with the increasing diverse and dangerous situations they encounter.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises and understandings herein, the Parties agree as follows:

1. **Scope of Work.** The scope of work shall be limited to those duties as described in the Scope of Work document attached hereto as Exhibit "A" and incorporated by this reference.
2. **Term.** This Agreement shall commence on July 1, 2012, and shall continue through June 30, 2013. It shall automatically renew on July 1, 2013 and on every July 1 thereafter for an additional one-year term, unless sooner terminated, as set forth in Section 6 of this Agreement.
3. **Payment.** The District shall pay the City, for police officer services provided by School Resource Officers (SROs) rendered under this Agreement, four hundred and twenty thousand dollars (\$420,000) per year, in total, for every year this Agreement is in effect ("Compensation"), as adjusted pursuant to the second paragraph of this section of the Agreement. The City shall provide the District with the presence of appropriate City police

vehicles, operated by the SROs, including mileage, at no additional cost to the District. The City shall submit monthly invoices to the District to the attention of the Superintendent, West Contra Costa Unified School District, 1108 Bissell Avenue, Richmond, California, 94801. Payment shall be made to the City by the District no later than 30 days from receipt of invoice.

Effective the first day of the pay period that includes July 1, 2012 and each July 1st thereafter, pursuant to City's existing contracts with its police officers, including those serving as SROs, the base monthly salary per officer shall be increased by 3.0%. Alternatively, if the April to April San Francisco Bay Area Consumer Price Index for All Urban Wage Earners has increased by 4.0% or more, the base salaries of all officers, including those serving as SROs, will be increased by an additional 0.5%, for a total of 3.5%, effective the first day of the pay period that includes July 1, 2012. In recognition of those future increases in the cost of City providing services under this Agreement, beginning on July 1, 2012 and on each subsequent July 1 that this Agreement remains in effect, the Compensation shall increase by the same percentage as the increase in police officer salaries for that year.

4. **Independent Contractor.** The relationship between the Parties under this Agreement shall be one of independent contractor. The police officers who provide services under this Agreement shall not be employees or agents of the District and are not entitled to participate in any District pension plans, retirement, health and welfare programs, or any similar programs or benefits, as a result of this Agreement.

The police officers rendering services under this Agreement shall not be employees of the District for federal or state tax purposes, or any other purpose. The City shall be responsible for tax withholding as requested by the police officers. The police officers shall be solely responsible for payment of any tax liability arising out of the officers' compensation for services performed under this Agreement.

The District assumes no liability for workers' compensation for assigned police officers. The City shall be responsible for carrying its own workers' compensation insurance and health and welfare insurance for all police officers who render services under this Agreement. The District shall not withhold or set aside income tax, Federal insurance Contributions Act (FICA) tax, unemployment insurance, disability insurance, or any other federal or state funds whatsoever. It shall be the sole responsibility of the City to account for all of the above, and the City agrees to hold the District harmless from all liability for these taxes.

5. **Indemnification.**

A. The City shall defend, indemnify and hold harmless the District, its officers, agents and employees from any and all loss, including attorneys' fees, sustained by the District by virtue of any damage(s) to any person(s), firm or corporation that may be injured by or to any property that may be damaged by the sole fault or negligence of the City, its officers, agents or employees.

B. The District shall defend, indemnify and hold harmless the City, its officers, agents and employees from any and all loss, including attorneys' fees sustained by the

City by virtue of any damage(s) to any person(s), firm, or corporation who may be injured by or to any property that may be damaged by the sole fault of negligence of the District, its officers, agents or employees.

C. The indemnification provisions contained in this Agreement include any violation of applicable law, ordinance, regulation or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful, or criminal acts of any party to this Agreement, or any of their agents, officers or employees or their performance under the terms of this Agreement.

D. It is the intent of the Parties that where negligence is determined to have been shared, principles of comparative negligence will be followed and each party shall bear the proportionate cost of any loss, damage, expense and liability attributable to that party's negligence.

E. Each party shall establish procedures to notify the other party, where appropriate, of any claims or legal actions with respect to any of the matters described in this indemnification section.

6. **Termination.** This Agreement may be terminated by either party at any time after June 30, 2013, with or without cause, upon delivery of a written *Notice of Intent to Terminate* to the other party at least one (1) year prior to the intended termination date. Such notice shall be served by personal delivery or by first-class mail, registered or certified, postage prepaid, and shall be deemed received as provided in Section 8, Notices, of this Agreement. In the event of termination, the District will compensate the City only for service rendered to the date of termination.

7. **Assignment.** This Agreement is for personal services to be performed by the City. Neither this Agreement nor any duties or obligations to be performed by the City under this Agreement shall be assigned without the prior written consent of the District. In the event of an assignment by the City to which the District has consented, the assignee or his, her or its legal representative shall agree in writing with the District to personally assume, perform and be bound by all covenants, obligations and agreements contained in this Agreement.

8. **Notices.** Any notices, requests, demands or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the fifth day of mailing if mailed to the party to whom the notice is to be given, or on the fifth day of mailing if mailed to the party to whom the notice is to be given, by first-class mail, registered or certified, postage prepaid, or on the day after dispatching by Federal Express or another overnight delivery service, and properly addressed as follows:

DISTRICT: West Contra Costa Unified School District
1108 Bissell Avenue
Richmond, California 94801
ATTN: Superintendent of Schools

CITY: City of El Cerrito
10890 San Pablo Avenue
El Cerrito, California, 94530
ATTN: City Manager

With a Copy to: Chief of Police
10900 San Pablo Avenue
El Cerrito, CA 94530

9. **Entire Agreement.** This Agreement shall supersede the "School Resource Officer Agreement between West Contra Costa School District and City of El Cerrito" dated June 14, 2009. This Agreement contains the entire agreement between the Parties and supersedes all prior understandings between them with respect to the subject matter of this Agreement. There are no promises, terms, conditions or obligations, oral or written, between the Parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations under this Agreement be waived, except by written instrument signed by the Parties.

10. **Binding on Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Parties and their successors.

11. **Severability.** Should any term or provision of the Agreement be determined to be illegal or in conflict with any law of the State of California, the validity of the remaining portions or provisions shall not be affected thereby. Each term or provision of this Agreement shall be valid and enforced as written to the fullest extent permitted by law.

12. **California Law.** This Agreement shall be construed in accordance with and governed by the laws and decisions of the State of California.

13. **Ratification of Board of Education.** This Agreement is not enforceable and is invalid unless and until it is approved and/or ratified by the governing board of the West Contra Costa Unified School District, as evidenced by a motion of said board duly passed, and adopted, in compliance with the provisions of Education Code 17604.

WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

BY: _____
Superintendent

CITY OF EL CERRITO

BY: _____
City Manager

ATTEST

City Clerk

APPROVED AS TO FORM:

BY: _____
City Attorney

EXHIBIT A SCOPE OF WORK

PURPOSE

A prosperous future for the citizens of El Cerrito depends, in large measure, upon the District's ability to properly educate its children. Effective schooling requires a safe and orderly environment in which learning can occur. Consequently, the City of El Cerrito (referred to as "City"), in collaboration with the West Contra Costa Unified School District (referred to as "District"), conducts the School Resource Officer ("SRO") Program in order to provide school administrators and staff with law enforcement resources and expertise they need to maintain safety, order, and discipline in the school environment. The SRO Program is intended to ensure that no student's right to receive an education is abridged by violence or disruption.

The program involves the assignment of sworn police officers to a public school as School Resource Officers ("SROs"). In accordance with staffing availability and the demonstrated needs of the school, the City will assign two full-time SROs to El Cerrito High School and one full time SRO to Portola Middle School beginning on July 1, 2012.

With daily interaction between the school's administration and the SROs, it is important to establish, maintain, and update specific guidelines and procedures to be followed by the SROs and individual school administrators. This Memorandum of Understanding clarifies the roles of the SROs and the school administrators, their scope of their authority, and the responsibilities of the District and City in this collaboration. The success of the SRO Program relies on effective communication between the SROs, the principal, and other key staff members in each organization.

ORGANIZATIONAL RELATIONSHIPS

SROs are directly accountable to the Field Operations Watch Commander, and are functionally accountable to any supervisor who has responsibility for the task involved. SROs and Field Operations Watch Commander will work in close contact with the El Cerrito High School principal and Portola Middle School principle in carrying out duties as assigned. SROs have no direct supervisory responsibilities.

DUTIES AND RESPONSIBILITIES

SCHOOL RESOURCE OFFICER

- A. The SROs are sworn City police officers assigned to provide the law enforcement expertise and resources to assist school staff in maintaining safety, order, and discipline within their assigned school. SROs will be maintaining safety, order, and discipline within their assigned school. Although not an employee of the District, SROs will be considered active members of the administrative team at the El Cerrito High School and Portola Middle School.

- B.** The SROs' assigned school buildings, grounds, and surroundings will be the equivalent of the SROs' patrol area, and he/she assumes primary responsibility for handling all calls for service and coordinating the response of the other police resources to the school. All criminal activity that comes to the attention of the principal or school staff shall be reported immediately to the Police Department. In an emergency situation, the school shall call 911 and also notify the SRO. In a non-emergency situation, the school should notify the SRO or call the non-emergency line at the Police Department ((510) 237-3233) if the SROs are not available. Information that is not of an emergency nature may be held for action by the SRO upon his/her return to duty.
- C.** The SROs' duty schedule will be determined by the SRO Supervisor (Special Operations Sergeant), but generally will be arranged to provide coverage throughout the school day including peak arrival and departure times before and after school. Whenever possible, the SROs will be visible patrolling the exterior and interior grounds, particularly during the opening or closing of school and during the lunch periods. SRO's are working a four (4) day work week, ten (10) hour day.
- D.** The SROs shall wear the regulation police uniform and operate a marked police patrol vehicle while on duty unless otherwise authorized by a supervisor for a specific purpose. The SROs provides a visible deterrent to crime and a positive representative of the Police Department to students and staff.
- E.** The SROs shall also assist with training for the school administration in law enforcement and related matters. Information about crime trends and changes in laws relevant to schools shall be disseminated to the school administrative staff to assist them in effectively establishing and maintaining safe school environments.
- F.** The SROs may also become involved, through the school principal, with the school's curriculum and provide instruction that will enhance the students' understanding of the police mission and the responsibilities of citizenship. However, responding to incidents or conducting investigations will always take precedence over instructing in the classroom. Lesson plans for all formal, organized presentations shall be forwarded to the Administrative Division Lieutenant and the school principal for review and approval prior to presentation.
- G.** SROs shall be responsible for monitoring the social and cultural environment to identify emerging youth gangs. All information concerning gangs shall be provided to appropriate Investigative personnel. Gang prevention and early intervention strategies shall be coordinated with the Investigative Division.
- H.** When it is in the best interest of the City and the school and with the approval of the school principal, SROs may make formal presentations to, or participate in, school-based community organization meetings such as Parent Teacher Association and School Advisory Council meetings. Participation in other activities such as panel discussions, mentoring programs, and community coalitions or task forces must be approved, in advance by the SRO Division Commander and the school principal.

- I.** Programs conducted in schools by other Divisions of the City's Police Department shall be coordinated with the SROs and the school principal to avoid redundant services and to ensure equitable distribution of such programs and services.
- J.** A critical element of the SRO program is an open relationship and strong communication between the school principal and the SROs. The SROs shall meet weekly, or more frequently if necessary, with the assigned school principal for the purpose of exchanging information about current crime trends, problem areas, or other areas of concern which have potential for disruption in the school or within the community.
- K.** Other duties and responsibilities of the SROs include proper disposal of illegal substances recovered by the school and not needed for criminal prosecution, maintaining familiarity with the school's student rules and regulations, attending and providing testimony at school disciplinary hearings, upon request.

TRAINING AND SUPERVISION

The SRO supervisor shall ensure that open lines of communication are in place between the schools and the Police Department. A weekly meeting with the SROs shall be arranged, and the SRO Supervisor shall meet with the school principal at least once each semester. To the extent that schedules permit, the initial SRO Supervisor/Principal meeting should be held on the date of the implementation of this agreement and be devoted to reviewing school and City expectations and clarifying any operational procedures. The second meeting should occur mid-year and involve a preliminary evaluation of the SROs' performance as well as the identification and resolution of any developing issues. The SRO Supervisor shall address any concerns regarding the performance of the SROs.

The City shall be solely responsible for the training and related costs unless the School District requests the SROs attend specific District training. The City shall retain full authority to direct and control the activities of the police officers and supervise and discipline the officers in accordance with City policies and procedures.

SCHOOL PRINCIPAL

It is the responsibility of the school principal to facilitate effective communication between the SROs and the school staff. The principal of the school shall meet on a weekly basis with the assigned SROs. This meeting shall not be delegated to other administrative staff on a regular basis.

The school principal will designate a work area for the SROs that is equipped with a telephone. The SROs shall be provided school-based radio communications equipment used by school administrators and monitors. It is recommended that the area have a locked storage area for securing evidence or contraband.

The principal shall meet twice yearly with the SRO Supervisor, and at other times at the request of either party when needed to ensure adequate communication between the school and the

Police Department. Upon request, the principal shall provide information to the SRO Supervisor to assist in preparing for the annual evaluation of the SROs' performance. Principals are encouraged to consult with the SRO Supervisor prior to the selection of a new SRO to share any relevant information on the needs and concerns of the particular school.

POLICE INVESTIGATION AND QUESTIONING

The SROs have been given the authority to stop, question, interview, and take police action without the prior authorization of the principal or contacting parents. With certain exceptions, the investigation and questioning of students during school hours or at school events should be limited to situations where the investigation is related to the school. Investigations and questioning of students for offenses not related to the operation of or occurring at the school would occur in such situations where, for example, delay might result in danger to any person, flight from the jurisdiction by the person suspected of a crime or destruction of evidence. All criminal and non-criminal contact with a student or faculty member during school hours by any investigating officers should be coordinated through the SROs.

The SROs shall provide information to the appropriate investigative sections of any crime(s) or leads that come to the attention of the SROs. The SROs should be kept advised of all investigations that involve students from his/her assigned school.

The school principal shall be notified as soon as practical of any significant enforcement actions taken by an SRO or investigating officer(s).

ARREST PROCEDURES

School Resource Officers are expected to be familiar with school rules and their application with the school. Routinely, rule infractions will not be handled as violations of law, but instead referred to the principal, or his agent, for action. Any questions related to the enforcement of rules versus laws within the school should be discussed with the principal.

The following procedures should be adhered to where arrests of students or staff become necessary:

1. The arrest of a student or school staff member with a warrant or petition should be coordinated through the SROs with prior notification to the principal and accomplished after school hours, when practical.
2. Arrests of students or school staff members during school hours or on school grounds shall be reported to the principal as soon as practical.
3. Persons whose presence on school grounds has been restricted or forbidden, or whose presence is in violation of the law, shall be arrested for trespassing.
4. Discretion and good judgment by an SRO may determine alternative action other than arrest.

SEARCH AND SEIZURE

School officials may conduct searches of students' property or person under their jurisdiction when reasonable suspicion exists that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school. The standard for the search is reasonable suspicion.

The SROs shall not become involved in administrative (school related) searches unless specifically requested by the school to provide security, protection, or for handling of contraband. These searches must be at the direction and control of the school official. At no time shall the SROs request that an administrative search be conducted for law enforcement purposes or have the administrator act as his or her agent.

Any search by an officer shall be based upon probable cause and, when required, a search warrant should be obtained. Stop and frisk will remain an option when there is reasonable suspicion that a criminal act has been committed or may be committed, or that the suspect may be armed.

ADMINISTRATIVE HEARINGS

The SROs shall attend suspension and/or expulsion hearings upon the request of the school principal. The SROs shall be prepared to provide testimony on any actions that were taken by the officer and any personally observed conduct witnessed by the officer. The SROs shall make available any physical evidence that is available. Any evidence presented at any administrative hearing by an SRO is the responsibility of the SRO.

The SROs shall not provide any official Police Department juvenile record to the school during an administrative hearing. As a general rule, release of such information is prohibited by law unless such documents are subpoenaed by the school through the appropriate court.

POLICE SERVICES

The City hereby agrees to provide to the District police services as follows: Two fully uniformed police officers shall be assigned to work as School Resource Officers at El Cerrito High School, 540 Ashbury Avenue, El Cerrito, California, 94530, and one fully uniformed police officer shall be assigned to work as a School Resource Officer at Portola Middle School, 1021 Navellier Street, El Cerrito, California, 94530 beginning on July 1, 2012. If the District moves Portola Middle School to a new location, the police officer assigned to Portola Middle School shall serve at the new location.

The two (2) SRO's main campus and responsibility will be El Cerrito High School. One (1) SRO main campus and responsibility will be Portola Middle School. The SROs assigned to the school shall be present at this site at least 90% of each 40 hour work week, except when subpoenaed for court, attending official police training or business, routine vacation and special time off, school

Agenda Item No. 5(D)
Attachment 2

holidays and other periods the District may designate. Any SRO may perform services outside the time period set forth in this agreement when necessary.



AGENDA BILL

Agenda Item No. 7(A)

Date: October 16, 2012

To: El Cerrito City Council

From: Maria Sanders, Environmental Analyst
Melanie Mintz, Environmental Services Division Manager
Jerry Bradshaw, Public Works Director

Subject: Select and Authorize City Manager to Enter Into Agreement with Design-Build Entity for Construction of Solar Photovoltaic Systems at Six City Facilities

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to execute a contract in a form approved by the City Attorney with *RGS Energy Incorporated* in an amount not to exceed \$1,587,000 to design and construct solar photovoltaic systems to offset energy use at six municipal sites.

BACKGROUND

As part of work being funded under a Climate Showcase Communities grant awarded by the U.S. Environmental Protection Agency in January 2010, the City of El Cerrito is working with the cities of Albany, Piedmont and San Pablo to demonstrate how small cities can implement measures to reduce greenhouse gas (GHG) emissions at both the municipal and community levels. The City Council previously received information about the grant and authorized staff on July 19, 2010 to execute Memorandums of Understanding with the partner cities under a collaboration called the Small Cities Climate Action Partnership (ScCAP).¹

On August 15, 2011, the City Council received the results of a study prepared for ScCAP by Optony, a solar consulting firm, that evaluates the technical and economic feasibility of installing solar photovoltaic (PV) on all facilities in each city's portfolio of buildings.

At that time, the Council adopted Resolution 2011-58 authorizing the City Manager to enter into a Cooperative Agreement with the other ScCAP cities to jointly solicit proposals for the procurement of municipal solar power, for which El Cerrito would act as the lead administrator. Given that all four cities had expressed interest in solar procurement for their own facilities, staff in each of the cities felt that a collaborative procurement strategy would help each city decrease project and administrative costs, while providing a collective process that would help each city negotiate the best possible project terms.

¹ Resolution 2010-41. July 19, 2010.

Agenda Item No. 7(A)

On September 19, 2011, the Council authorized Resolution 2011-65 to release a combined Request for Qualifications/Request for Proposals (RFQ/P) for Design/Build solar services consistent with California Public Contract Code Section 20175.2. In particular, the Design/Build delivery method provided the following advantages:

- Flexibility to award a contract on the basis of the experience of the contractor, the type of technology employed by the Contractor, the financing terms supplied to the agency, and any other relevant consideration.
- Consistency with procurement processes for “works of public improvement” in order to preserve the option for each city to award project contracts based on a direct purchase or traditional loan financing mechanism, if desired.
- Cost-effectiveness of combining the design, construction, and verification of the systems by eliminating the need for costly pre-bid design documents that would be necessary in a standard low-bid process.

The RFQ/P was also consistent with Government Code Section 4217.10 et. seq., which authorizes public agencies to solicit energy conservation and alternative energy proposals from qualified persons and to award a contract on the basis of the experience of the contractor and any other relevant consideration. Under both these statutes, the contractor can be selected based on factors that provide the City with the best value and not solely on the basis of the lowest price.

This Agenda Bill pertains to the results of the solicitation process.

DISCUSSION

Project Scope:

Based on the findings from the solar feasibility report developed by Optony and an internal staff review of the long-term use of each facility, the final RFQ/RFP included a total of twelve El Cerrito facilities (as detailed in *Figure 1, El Cerrito Solar Sites in RFQ/P*). The feasibility report demonstrated that solar at these sites would provide substantial utility bill savings over 30 years. The cost for all 12 systems was estimated to be approximately \$2.5 million. The solicitation also included an additional 16 sites from the other ScCAP cities. In El Cerrito, a key criterion from the onset of this project was to select sites where solar could be installed at a cost savings, e.g. the cost of purchasing or financing the solar array would equal or be less than the cost of PG&E supplied energy.

As a way to attract a variety of firms and financing options, the solicitation divided the 24 sites into three separate bundles according to size, ranging from large systems over 100 kilowatts (kW) to small systems under 10 kW. Proposers were given the option to submit proposals for one, two, or all three bundles, but all sites within each individual bundle had to be included in the proposal. For each proposed bundle, the solicitation required two types of pricing proposals: 1) Contractor Design/Build, with City ownership of PV systems, also called the “Direct Purchase” proposal; and 2) a “Financed Installation” via Solar Lease or Power Purchase Agreement, that would result in minimal to no cash outlay from partner cities. The solicitation also made clear that each City maintained the right to remove some or all sites from consideration and would negotiate the final portfolio of projects with the selected contractor.

Figure 1: El Cerrito Solar Sites in RFQ/P

#	Facility	Current Usage (kWh/Yr)	Install Type	Rec. System Size (kWdc)	Rec. System Output (kWh)
1	Public Safety Building	255,120	Roof, carport	143	182,211
2	Community Center - Offices	212,640	Roof, Carport	128	161,314
3	Community Center - Pools	118,160		72	90,739
4	Fire Station #72	38,640	Roof, carport	27	35,790
5	Public Works Corp Yard	34,793	Carport	24	30,717
6	Recycling Center	16,965	Roof	12	15,340
7	Harding Childcare Center	10,193	Roof	6	7,562
8	Canyon Trail Clubhouse	6,503	Roof	5	6,344
9	Madera Childcare Center	7,084	Roof	5	6,540
10	City Hall	243,840	Roof	4	5,230
11	Castro Park Clubhouse	17,225	Roof	4	5,289
12	Fairmont Childcare Center	5,490	Roof	3	3,877
Total		966,653		433	550,953

Potential Solar Financing Mechanisms: The vendors were asked to propose various financing methods commonly available for solar installations so that the cities might have access to financing alternatives other than direct purchase of the systems. As described below, each method has different advantages. The solicitation was designed to encourage the vendors to offer and price as many of these options as possible.

1. **Direct Purchase** – Each city would purchase the system outright. In this situation, each city would be responsible for all ownership concerns, including operations and maintenance, regular system cleaning, and monitoring of system production. In most situations, this yields the greatest long-term returns, but requires cash up-front and operational costs.
2. **Solar Lease** – Some solar vendors provide terms for lease/purchase of their equipment. Instead of paying for purchase costs up-front, the City would pay a third party on a monthly basis over 7 to 10 years. In some arrangements, the City would be responsible for all ownership concerns, just as with a Direct Purchase.
3. **Power Purchase Agreement (PPA)** – The City would enter into a contract with a third party to purchase all energy produced by a PV system installed on property owned by the City. This third party would own the PV system and would be fully responsible for all

ownership costs, including financing, maintenance, insurance, and system production. This option is more commonly available to large, easily installed commercial projects.

Pre-Qualification, Proposal Solicitation and Selection Process:

The Environmental Services Division, working in conjunction with the Public Works Department, issued the RFQ/P on December 14, 2011. The solicitation included two phases: a RFQ to pre-qualify design-build entities to propose on the project and a RFP with program requirements. Pre-qualification was based on several factors, including demonstrated experience on comparable projects, experience of key personnel, claims, litigation and arbitration history, compliance with statutory requirements and safety record, insurance and bonding requirements, and financial information.

On January 10, 2012, five firms responded to the pre-qualification Questionnaire and four were deemed pre-qualified and invited to submit proposals. Two of the pre-qualified teams dropped out during the proposal phase due to the relatively small size and complicated nature of the sites. On February 23, 2012 two proposals were received from:

- **RGS Energy**, the commercial division of Real Goods Solar, for all 24 sites, regardless of bundle size.
- **Sunwize** for only the 5 sites included in the "Large System Bundle."

Both proposals indicated that they could not secure a compelling PPA proposal for the projects due to their small scale and custom nature. Because of this, the PPA option was eliminated from consideration. Sunwize's proposal, however, did include a lease quote from US Bancorp for a 10-year loan at 3.18%.

Evaluation of the two proposals and subsequent vendor interviews were conducted by a team consisting of staff from each of the other ScCAP cities, El Cerrito's Public Works Director and Environmental Analyst, and the consultant from Optony. In order to assist in evaluating the proposals, the following point system was used:

1. Bidder Experience & Qualifications (30 points)
 - a. Project development approach: realistic, creative, meets needs of the Cities
 - b. Team management qualifications and strengths for all partners: company background and experience; qualifications of key personnel
 - c. Past performance references per RFP submittal requirements
2. Project Design, Technology & Performance Warranties (25 points)
 - a. Total energy production
 - b. Technical design of PV systems, quality of proposed modules, racking, inverter and monitoring systems (including warranties)
 - c. Construction schedule; and
3. Levelized Cost of Electricity over the Project Lifetime (45 points)
 - a. Direct Purchase and 3rd Party Financed Proposal Price (\$/kW and \$/kwh)
 - b. Financial analysis of benefits from proposed system.

The proposals received the following scores:

- RGS: 74 out of 100 points
- Sunwize: 64 out of 100 points

Sunwize's proposal scored lower principally due to a price per kWh that was 23% higher than Real Goods. An analysis of the annual and cumulative cash flow indicated that none of the Sunwize projects would result in a positive annual cash flow during the first 13 years (i.e., the annual cost to pay off the systems would be more than the annual energy bill savings from the systems).

The evaluation team agreed that RGS provided the best value and was the lowest responsible proposer because the RGS proposal

- Included all the sites at competitive costs;
- Specified high-quality equipment;
- Provided an energy production performance guarantee;
- Demonstrated the experience and qualifications; and
- Received good recommendations from other government customers.

Because the pool of proposals was small, staff conducted additional research to verify the competitiveness of RGS's costing. Using the California Solar Initiative (CSI) database, which tracks the installed price of all solar projects receiving a CSI rebate, staff determined that the proposed price of \$4.47/watt was well below the average price for government projects. Government sector projects at that time averaged \$7.04/watt when directly purchased and \$5.04/watt for third-party owned and financed projects.

RGS was selected to receive a non-binding letter of interest and enter into a 45-day exclusive negotiation period (which was later extended by mutual agreement) to work with each city to refine the mix of projects and the pricing and financing strategies so that each city would have a solar portfolio that would result in a positive annual cash flow. The March 19, 2012 letter did not constitute a recommendation for award and was non-binding, as agreed to by RGS. From this point forward, each city began individual negotiations with RGS.

Cash Flows and Recommended Portfolio of Solar Sites

During this exclusive negotiation period, RGS further refined the designs at each site to maximize solar electricity production, while Public Works and Environmental Service staff performed cash flow analyses to determine the most cost-effective mix of facilities to include in the final portfolio. Because the projects would need to be financed through a third party, the goal was to find the mix of projects where the annual utility bill savings would be equal to or greater than the annual debt service. The analysis assumed various lending terms, annual degradation in system performance, and utility bill escalation rates. After extensive research on industry standards, the final model used the following assumptions:

- Solar PV system degradation: 0.5% per year (accepted industry standard)
- Operations and maintenance cost escalation: 3.75% per year

Agenda Item No. 7(A)

- PG&E rate escalation: 4.75% per year (more conservative than historic inflation in energy rates)
- Loan annual percentage rate: 2.75% (final rate received in financial bid)
- Loan years: 15 years (term received in financial bid)
- Available CSI rebates: \$210,866 paid in 5 annual installments during the first five years of energy production

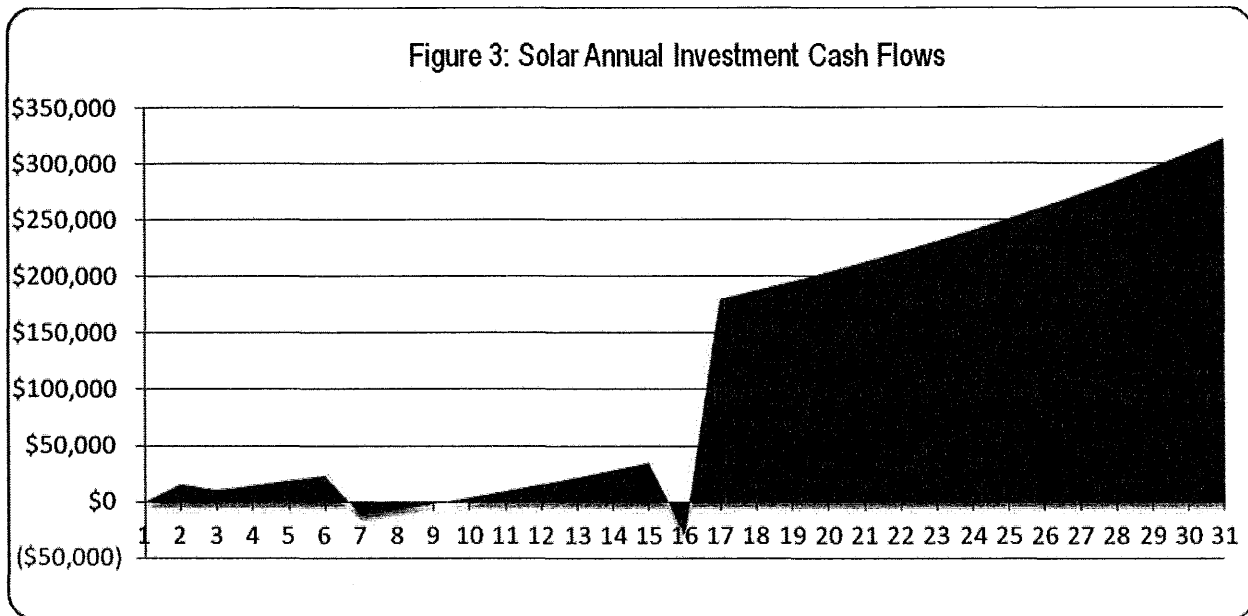
From this process, staff developed a final portfolio of six cash-positive sites that we are recommending for award, as detailed in *Figure 2, Final Portfolio of Solar Sites Recommended for Award*. Solar at the other six sites did not achieve a positive cash flow and were therefore eliminated from the portfolio.

Figure 2: Final Portfolio of Solar Sites Recommended for Award

#	Facility	Install Type	System Size (kWdc)	System Output (kWh)	Project Costs	Cost / kW
1	Public Safety Building	Roof, carport	134.40	184,812	\$ 572,799	\$ 4,261.90
2	Community Center - Offices	Roof, Carport	127.68	172,491	\$ 568,106	\$ 4,449.45
3	Community Center - Pools		60.47	81,706	\$ 279,263	\$ 4,618.21
4	Fire Station #72	Roof	17.92	24,573	\$ 89,600	\$ 5,000.00
5	Public Works Corp Yard	Roof	6.72	30,717	\$ 35,616	\$ 5,300.00
6	Recycling Center	Roof	8.82	11,152	\$ 41,278	\$ 4,680.05
Total			356.01	505,451	\$ 1,586,662	\$ 4,456.79

Solar production at the proposed sites will result in a combined positive annual cash flow of an average of \$10,000 per year during a 15-year loan term. After the debt is retired in Year 15, all utility bill savings will then accrue directly to the City, when the following year's savings (minus O&M costs) are estimated to be approximately \$180,000. Aided in part by the payment of CSI rebates over the first five years, this positive annual cash flow will result in a cumulative balance of \$84,042 by Year 5 and \$151,357 in the last year of the loan term. After the debt is retired in Year 15, the financial benefits of solar are estimated to create approximately \$3.8 million in net energy savings by Year 30, when the system will be nearing the end of its useful life.

Figure 3, Solar Annual Investment Cash Flows, is a graph of the annual cash flow for the entire portfolio of six sites. There are several years when cash flow dips into the negative due to the end of rebate payments in Year 5 and then due to replacement costs for inverters in Year 15. However, cumulative cash flows from previous years can be saved to easily accommodate these dips.



Other Considerations and Benefits

In addition to the long-term financial benefits, installing solar at the recommended sites provides the following benefits:

- Helps Meet the City's GHG Reduction Goals:** The project will assist the City in reducing its greenhouse gas (GHG) emissions. In February of 2011, the City Council passed Resolution 2011-12 adopting GHG emission reduction targets of 15% below 2005 levels by the year 2020 and 30% below 2005 levels by 2035 for both municipal operations and the El Cerrito community. Solar at these sites will reduce the City's annual GHG emissions by 135 tons, or 5% of the 2005 baseline inventory.
- Helps Insulate the City from Changes in Electricity Rate Structures:** As mandated by the California Public Utilities Commission, PG&E is in the process of transitioning all commercial electricity accounts from a flat electric rate to a time-of-use (TOU) rate. TOU rates are higher during summer peak load periods (business days between noon and 6 PM, May through October) and lower than the flat rate during the rest of the year. TOU rates are currently the rate used for solar electricity accounts that are "net metered" because solar offsets grid-supplied electricity precisely during the time when rates will be highest. Solar at municipal sites will be able to take advantage of, rather than be penalized by, these new mandatory rates.
- Demonstrates Environmental Leadership:** To date, the entire community of El Cerrito has installed 900 kWdc of solar capacity, according to the CSI database. By adding another 356 kW of high profile solar projects, the City will be increasing the entire solar capacity of the community by nearly 40% and will provide a valuable case study for other small communities throughout California.

FINANCIAL CONSIDERATIONS

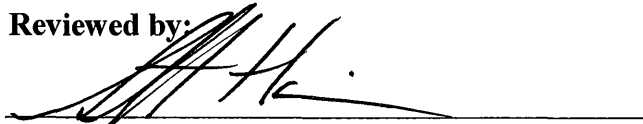
As with most public works projects of this type, this project is financed through the issuance of a debt instrument (see related agenda item No. 7(B)). As discussed above, the loan's fiscal impacts have been integrated into cash flow analyses performed by staff, indicating that the electricity bill savings will support the debt service for the life of the debt. Electricity bills for all facilities in the recommended solar portfolio (except the Recycling Center) are paid for through the General Fund, so debt service for five of the six will come from the General Fund and annual energy bill savings will accrue back to the General Fund. In the case of the Recycling Center, the Integrated Waste Management fund (IWM) will pay for its portion of debt service, while the Center's annual energy savings will accrue back to IWM.

LEGAL CONSIDERATIONS

Rooftop solar and the carports that are used to support solar are generally considered categorically exempt pursuant to the California Environmental Quality Act (CEQA) 15301 as a minor alteration of existing structures and 15303 for new construction of small accessory structures. The carport structures will go through the City's Design Review process and a final CEQA determination will be made by City Staff at that time.

The City Attorney has been consulted throughout the design-build procurement process and the design-build contract documents are being reviewed for final approval by the City Attorney.

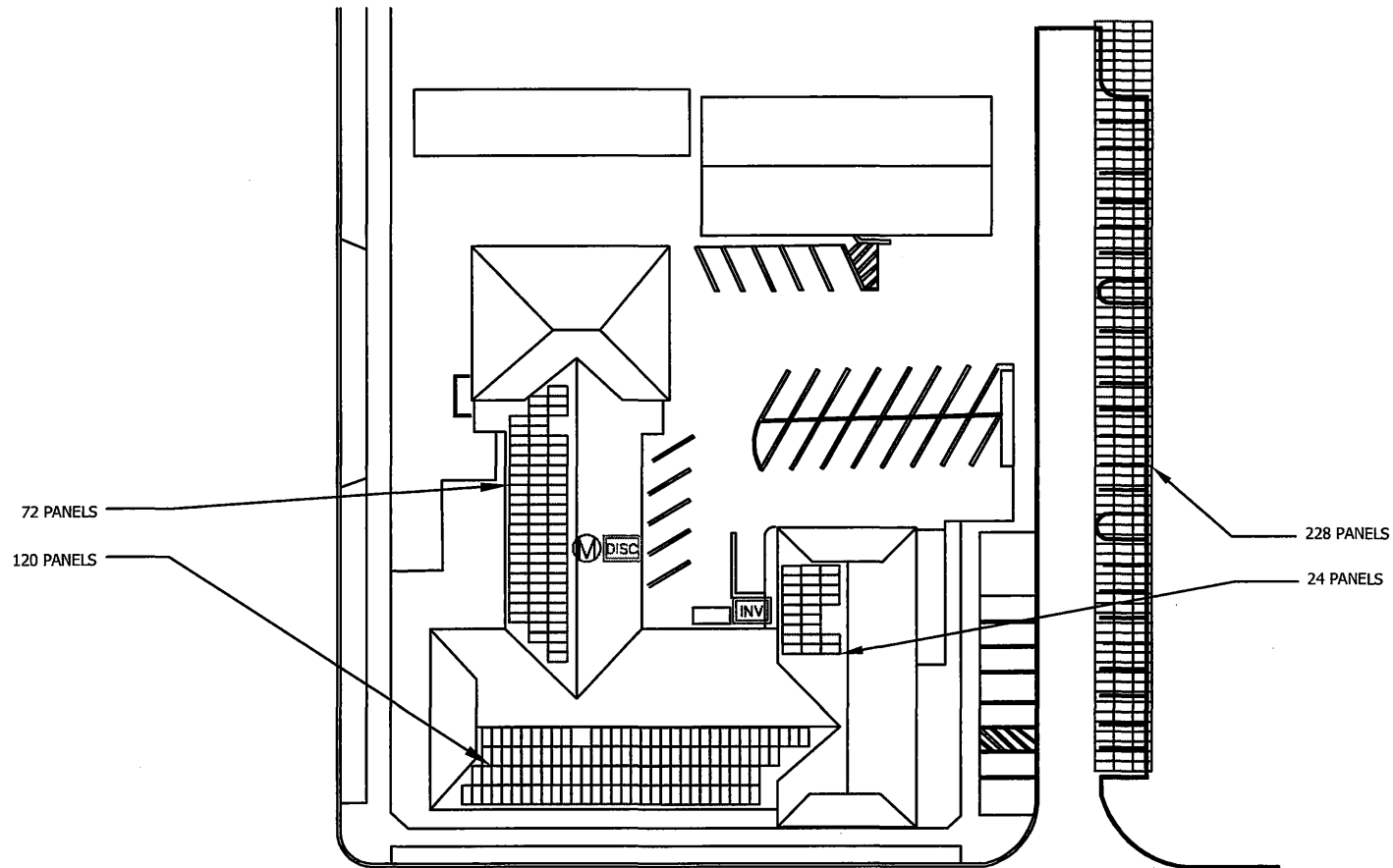
Reviewed by:

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

Scott Hanin, City Manager

Attachments:

1. RGS Energy Solar Site Designs
2. Resolution 2012-XX



PUBLIC SAFETY BUILDING
(444) CANADIAN SOLAR 280 WATT MODULES IN
(37) STRINGS OF 12 MODULES
131 KW-DC



LEGEND OF SYMBOLS AND ABBREVIATIONS

	PHOTOVOLTATIC MODULE		INVERTER(S)
	UTILITY METER		COMBINER BOX
	NETWORK CONNECTION		SYSTEM DISCONNECT SWITCH



LIC #840934 B, C-46
27 SIMMS ST
SAN RAFAEL CA 94901
415-456-2800 ph
415-456-2855 fx
www.realgoods.com

**EL CERRITO
SMALL CITIES
CLIMATE ACTION
PARTNERSHIP**

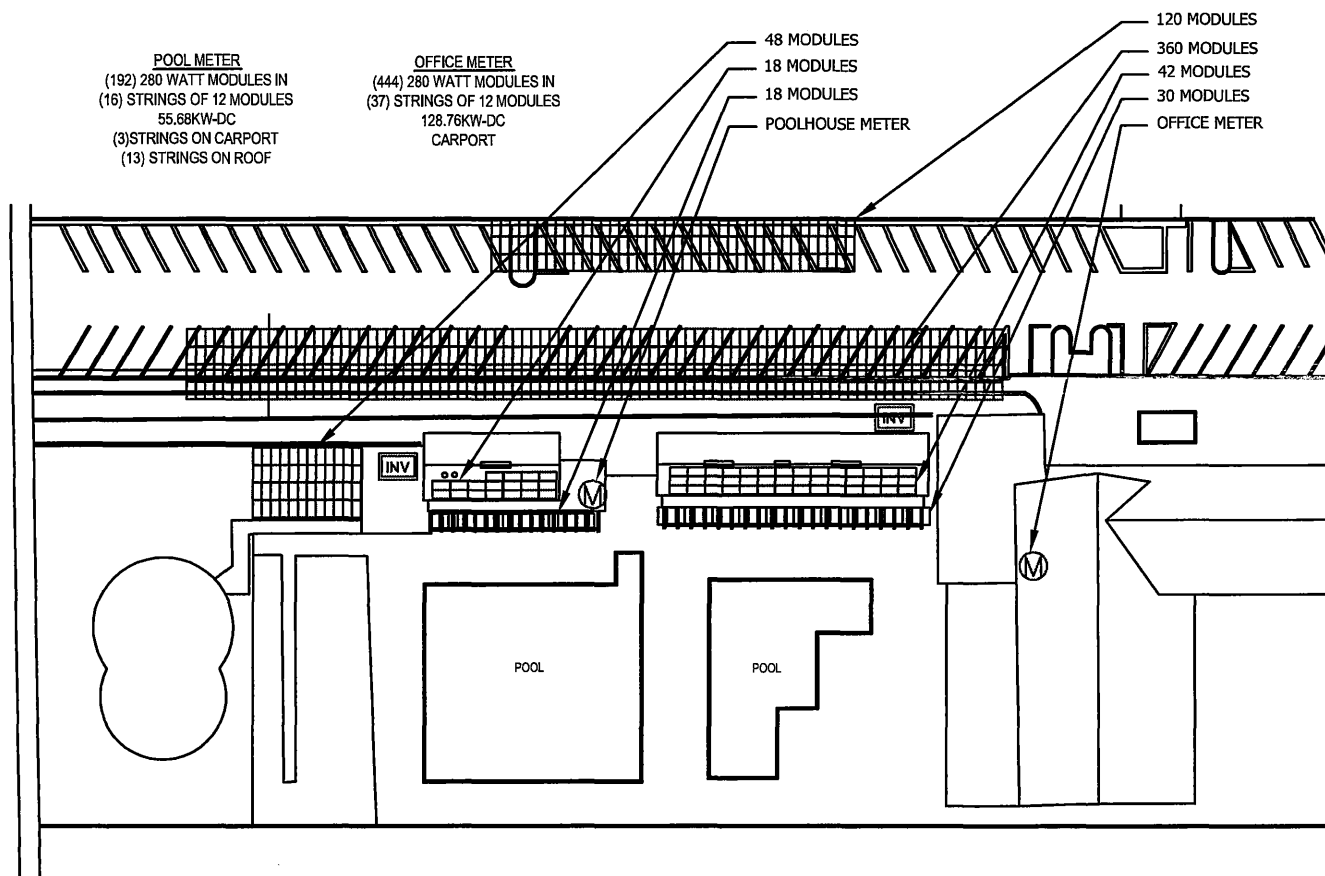
EL CERRITO
PUBLIC SAFETY BUILDING
10900 SAN PABLO AVE., EL
CERRITO, CA 94530

VERSION	DATE
PRELIMINARY DESIGN	10-3-2012

SHEET TITLE

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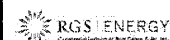
PV0.1



LEGEND OF SYMBOLS AND ABBREVIATIONS

	PHOTOVOLTAC MODULE		INVERTER(S)
	UTILITY METER		COMBINER BOX
	NETWORK CONNECTION		SYSTEM DISCONNECT SWITCH

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EL CERRITO SMALL CITIES CLIMATE ACTION PARTNERSHIP

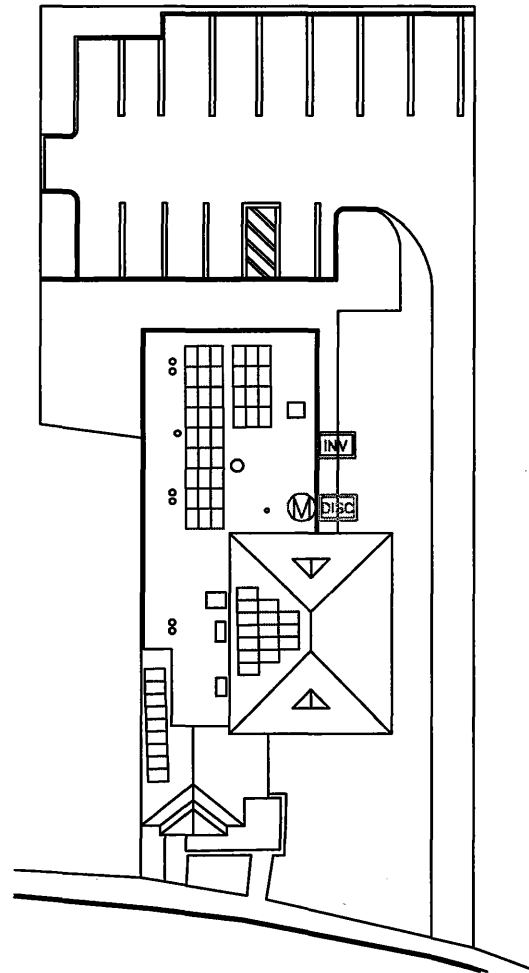
EL CERRITO
COMMUNITY CENTER
7007 MOESNER LN
EL CERRITO, CA 94530

VERSION	DATE
PRELIMINARY DESIGN	10-3-2012

SHEET TITLE

DRAWN: SD	CHECKED:
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PV0.2



FIRE STATION #72
 (63) SUNPOWER 305 WATT MODULES IN
 (9) STRINGS OF 7 MODULES
 19.2KW-DC

LEGEND OF SYMBOLS AND ABBREVIATIONS

- | | | | |
|--|--------------------|--|--------------------------|
| | PHOTOVOLTAC MODULE | | INVERTER(S) |
| | UTILITY METER | | COMBINER BOX |
| | NETWORK CONNECTION | | SYSTEM DISCONNECT SWITCH |



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 SAN RAFAEL CA 94901
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 415-456-2855 fx
 www.realgoods.com

**EL CERRITO
 SMALL CITIES
 CLIMATE ACTION
 PARTNERSHIP**

FIRE STATION #72
 1520 ARLINGTON BLVD.,
 EL CERRITO CA 94530

VERSION	DATE
PRELIMINARY DESIGN	10-3-2012

SHEET TITLE

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PV0.3

EXISTING CARPORT

SCHMIDT LN

DRIVEWAY

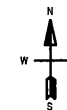
TILT UP ARRAY

INV

DISC

STORAGE CONTAINER

EL CERRITO CORPORATE YARD
(24) 280 WATT MODULES IN
(2) STRINGS OF 12 MODULES
6.7 KW-DC



**LEGEND OF SYMBOLS AND
ABBREVIATIONS**

	PHOTOVOLTAGIC MODULE		INVERTER(S)
	UTILITY METER		COMBINER BOX
	NETWORK CONNECTION		SYSTEM DISCONNECT SWITCH



LIC #840934 B, C-46
27 SIMMS ST
SAN RAFAEL CA 94901
415-456-2800 ph
415-456-2855 fx
www.realgoods.com

EL CERRITO
SMALL CITIES
CLIMATE ACTION
PARTNERSHIP

FIRE STATION #72
1520 ARLINGTON BLVD.,
EL CERRITO CA 94530

VERSION	DATE
PRELIMINARY DESIGN	10-3-2012

SHEET TITLE

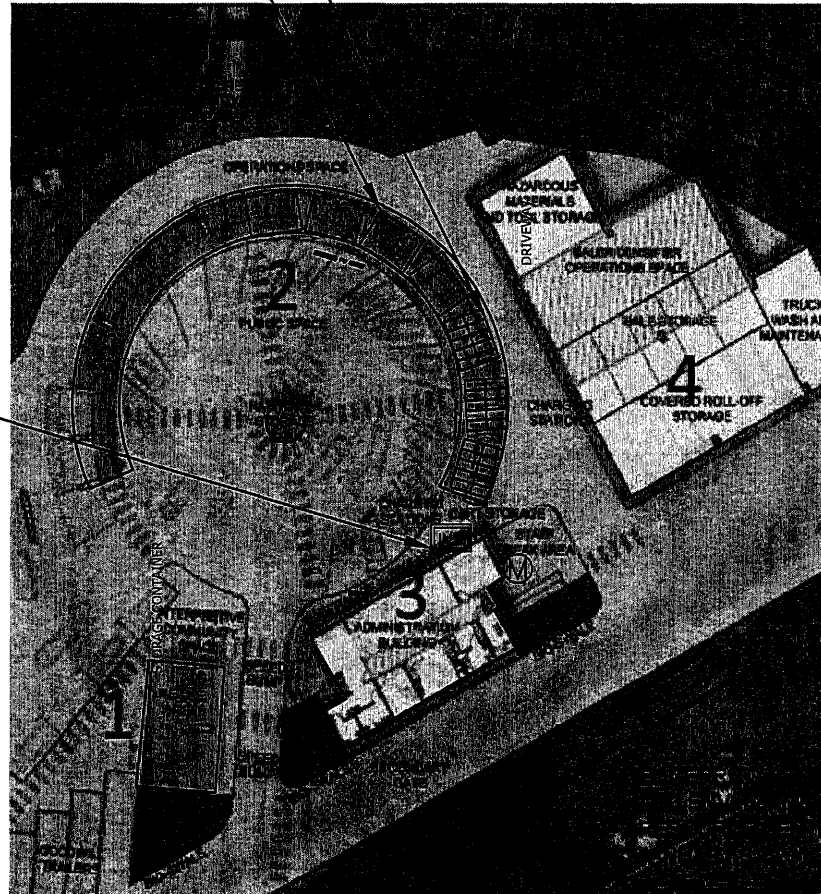
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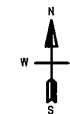
NEW PV ARRAY ON EXISTING CARPORT

EXISTING PV ARRAY ON CARPORT

NEW INVERTER WALL-MOUNTED
WITH EXISTING (2) INVERTERS



EL CERRITO RECYCLING CENTER
(30) 280 WATT MODULES IN
(3) STRINGS OF 10 MODULES
8.8 KW-DC



LIC #840934 B, C-46
27 SIMMS ST
SAN RAFAEL CA 94901
415-456-2800 ph
415-456-2855 fx
www.realgoods.com

EL CERRITO SMALL CITIES CLIMATE ACTION PARTNERSHIP

EL CERRITO
RECYCLING CENTER
7501 SCHMIDT LN
EL CERRITO, CA 94530

LEGEND OF SYMBOLS AND ABBREVIATIONS

	PHOTOVOLTAGIC MODULE		INVERTER(S)
	UTILITY METER		COMBINER BOX
	NETWORK CONNECTION		SYSTEM DISCONNECT SWITCH

VERSION	DATE
PRELIMINARY DESIGN	10-3-2012

SHEET TITLE

DRAWN: SD CHECKED:

PV0.5

RESOLUTION 2012-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT IN A FORM APPROVED BY THE CITY ATTORNEY WITH RGS ENERGY INC. IN AN AMOUNT NOT TO EXCEED \$1,587,000 TO DESIGN AND CONSTRUCT SOLAR PHOTOVOLTAIC SYSTEMS AT SIX MUNICIPAL SITES

WHEREAS, the City Council of the City of El Cerrito passed Resolution 2011-12 adopting both community and municipal greenhouse gas (GHG) emissions reduction targets of 15% below 2005 emissions levels by 2020 and 30% below 2005 levels by 2035; and

WHEREAS, the City of El Cerrito, in conjunction with the cities of San Pablo, Albany, and Piedmont, was awarded a Climate Showcase Communities grant for their proposal entitled the Small Cities Climate Action Partnership, in which the cities would aggregate climate action planning and energy management resources to overcome the barriers that small communities face in implementing greenhouse gas reduction measures; and

WHEREAS, the Small Cities Climate Action Partnership jointly assessed the solar potential of their municipal facilities and determined that procurement of solar energy for each city could result in significant long-term economic and environmental benefits, including energy cost savings and GHG emissions reductions; and

WHEREAS, Resolution 2011-58 authorized the City Manager to execute cooperative agreements with the cities of San Pablo, Albany, and Piedmont, in which El Cerrito would lead a joint solicitation process for the purpose of purchasing solar energy for their mutual facilities; and

WHEREAS, Resolution 2011-65 approved the use of the design-build project delivery method for the Joint Municipal Solar Power Procurement project per California Public Contract Code Section 20175.2; and

WHEREAS, the City issued a Prequalification Questionnaire on December 14, 2011 and prequalified four solar Design-Build Entities to submit proposals; and

WHEREAS, two proposals were received from prequalified solar Design-Build Entities by the City on February 23, 2012; and

WHEREAS, the proposal evaluation team determined that the solar Design Build Entity of RGS Energy's proposal provided the best value to the City because it included high-quality solar equipment at cost-effective rates, including an energy production performance guarantee; and

WHEREAS, the City issued a non-binding Letter of Intent to exclusively negotiate with RGS Energy on March 19, 2012 so that RGS Energy could develop a final portfolio of solar projects for the City; and

WHEREAS, the RGS Energy's final proposal includes solar photovoltaic systems that will provide enough energy savings at the Public Safety Building, the Community Center, Fire Station 72, the

Recycling Center, and the Corporation Yard to support the annual costs of debt service on the equipment;
and

WHEREAS, this project will provide both short-term and long-term economic and environmental benefits for the City, including positive annual cash-flows and significant GHG emissions reductions.

NOW THEREFORE, be it resolved by the City Council of the City of El Cerrito, that it hereby authorizes the City Manager to enter into an agreement with RGS Energy Incorporated in an amount not to exceed \$1,587,000 to design and construct solar photovoltaic systems to offset energy at six municipal sites.

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

I CERTIFY that at a regular meeting on October 16, 2010, the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on October XX, 2012.

Cheryl Morse, City Clerk

APPROVED:

William C. Jones III, Mayor



AGENDA BILL

Agenda Item No. 7(B)

Date: October 16, 2012
To: El Cerrito City Council
From: Mary Dodge, Administrative Services Director/City Treasurer
Subject: Solar Equipment Lease Purchase Financing

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to enter into the required agreements with Green Campus Partner (GCP) for Solar Equipment Lease Purchase Financing for the installation of a Solar Photovoltaic System on six City facilities.

BACKGROUND

As discussed in Agenda Item No. 7(A), Selection of Design Build for Solar installations, through grant funding from the EPA's Climate Showcase Communities program, the City completed a municipal solar feasibility study in April 2011 and released a solicitation for proposals to install solar on municipal facilities. Based on the results of the solicitation process, City staff, with input from solar consultants developed a cost-effective portfolio of six municipal solar projects that would provide a positive annual cash flow when financed at the current low interest rates. In order to proceed with the solar photovoltaic (PV) program an equipment lease is needed to fund the project.

After the amount needed for implementation of the project was determined, the firm of Brandis Tallman, LLC was contacted to assist in the solicitation of bids from qualified financial institutions. The final financing amount of \$1,595,300 includes costs of issuance of approximately \$8,300 and \$1,587,000 for project implementation.

ANALYSIS

For a variety of reasons six of the seven banks contacted declined to bid, however the bid that was received was at a rate and term that exceeded the minimum requirement for the project to achieve savings as calculated in the feasibility study. The firm of Green Campus Partners (GPS) presented the attached bid to finance the project at a rate of either 2.75% for the 15 year option or 2.60% at the 10 year option. After reviewing the data, staff recommends spreading the costs over the 15 year period in order to maximize the positive cash flow. The complex cash flow analysis shown below was designed by Real Goods Solar and reviewed by Optony, Inc. and City staff; the company recommended by staff for the contract award. The estimated debt service amounts, as provided by Brandis Tallman, have been incorporated into the schedule to substantiate the annual cash flow. As shown on the schedule there is a negative cash flow for years 6 through 8 as the offsetting credits are completed and then one in year 15, the final year of the financing. These minor cash reductions are greatly offset by a cumulative cash flow of \$180,266 by year 14.

Agenda Item No. 7(B)

Prepared For		SMALL CITIES CLIMATE ACTION PARTNERSHIP SOLAR PHOTOVOLTAIC										
Index	Current Use	System Size, kWdc	Pre -Solar Rate Schedule	Post-Solar Rate Schedule	Annual Usage (kWh)	Annual PV kWhs	Year 1 Utility Savings	System Price				
ELC01	All	356.01	E19SV	A6	722,158	483,881	\$99,888	\$1,586,662				
					0.67004866	135.2447395	\$119,529.64	2011 utility costs for all 6 facility				
System Degradation, %/yr		0.50%				5.20%		84% renewable offset of utility costs				
PG&E Rate Escalator		4.75%										
Percent Down Payment		0%										
Down Payment		\$0		kw	\$4,456.79							
Loan Principle		\$1,595,300		kwh	\$3.28							
Loan APR		2.75%										
Loan Term, yrs		15										
Total Rebate Amount		\$210,866										
Investment Snapshot												
Total Revenues:						\$5,852,472						
Total Expenses						(\$2,028,880)						
Total Profit						\$3,823,592						
kWhs over 30 years						13,511,487						
Real Goods Solar, Commercial Division												
27 Simms Street, San Rafael CA, 94901												
Main: 415 456-2800 Fax: 415-456-2855												
www.RealGoodsSolar.com												

System Net Down Payment	Annual PV Generated kWhs	Federal Tax Credit + MACRS	CSI PBI Payments, \$0.088/kWh	O&M	Loan Principal Payments	Loan Interest Payments	Interest Tax Deduction	Net System Expenses	Utility Savings (After Tax)	Total Annual Cash Flow	Cumulative Cash Flow	Year
\$0	0									\$0	\$0	0
	483,881		\$49,715	(\$3,292)	(\$87,237)	(\$43,275)	\$0	(\$84,089)	\$99,888	\$15,799	\$15,799	1
	481,462		\$40,591	(\$3,415)	(\$89,652)	(\$40,860)	\$0	(\$93,336)	\$104,110	\$10,773	\$26,573	2
	479,054		\$40,388	(\$3,544)	(\$92,135)	(\$38,377)	\$0	(\$93,667)	\$108,509	\$14,842	\$41,415	3
	476,659		\$40,186	(\$3,676)	(\$94,686)	(\$35,826)	\$0	(\$94,002)	\$113,095	\$19,093	\$60,508	4
	474,276		\$39,985	(\$3,814)	(\$97,308)	(\$33,204)	\$0	(\$94,341)	\$117,875	\$23,534	\$84,042	5
	471,904		\$0	(\$3,957)	(\$100,002)	(\$30,510)	\$0	(\$134,469)	\$122,857	(\$11,612)	\$72,430	6
	469,545		\$0	(\$4,106)	(\$102,771)	(\$27,741)	\$0	(\$134,618)	\$128,049	(\$6,569)	\$65,861	7
	467,197		\$0	(\$4,260)	(\$105,616)	(\$24,895)	\$0	(\$134,772)	\$133,461	(\$1,311)	\$64,551	8
	464,861		\$0	(\$4,419)	(\$108,541)	(\$21,971)	\$0	(\$134,931)	\$139,101	\$4,170	\$68,720	9
	462,537		\$0	(\$4,585)	(\$111,546)	(\$18,966)	\$0	(\$135,097)	\$144,980	\$9,883	\$78,603	10
	460,224		\$0	(\$4,757)	(\$114,635)	(\$15,877)	\$0	(\$135,269)	\$151,107	\$15,838	\$94,441	11
	457,923		\$0	(\$4,935)	(\$117,809)	(\$12,703)	\$0	(\$135,447)	\$157,493	\$22,046	\$116,487	12
Inverter Replacement	455,633		\$0	(\$5,121)	(\$121,071)	(\$9,441)	\$0	(\$135,632)	\$164,149	\$28,517	\$145,004	13
	453,355		\$0	(\$5,313)	(\$124,423)	(\$6,088)	\$0	(\$135,824)	\$171,087	\$35,262	\$180,266	14
(\$71,202)	451,088		\$0	(\$5,512)	(\$127,869)	(\$2,643)	\$0	(\$207,226)	\$178,317	(\$28,909)	\$151,357	15
	448,833		\$0	(\$5,718)	\$0	\$0	\$0	(\$5,718)	\$185,853	\$180,135	\$331,492	16
	446,589		\$0	(\$5,933)	\$0	\$0	\$0	(\$5,933)	\$193,708	\$187,775	\$519,267	17
	444,356		\$0	(\$6,155)	\$0	\$0	\$0	(\$6,155)	\$201,894	\$195,739	\$715,006	18
	442,134		\$0	(\$6,386)	\$0	\$0	\$0	(\$6,386)	\$210,427	\$204,041	\$919,046	19
	439,923		\$0	(\$6,626)	\$0	\$0	\$0	(\$6,626)	\$219,320	\$212,694	\$1,131,741	20
	437,724		\$0	(\$6,874)	\$0	\$0	\$0	(\$6,874)	\$228,589	\$221,715	\$1,353,456	21
	435,535		\$0	(\$7,132)	\$0	\$0	\$0	(\$7,132)	\$238,250	\$231,118	\$1,584,574	22
	433,358		\$0	(\$7,399)	\$0	\$0	\$0	(\$7,399)	\$248,319	\$240,919	\$1,825,493	23
	431,191		\$0	(\$7,677)	\$0	\$0	\$0	(\$7,677)	\$258,813	\$251,137	\$2,076,630	24
	429,035		\$0	(\$7,965)	\$0	\$0	\$0	(\$7,965)	\$269,752	\$261,787	\$2,338,416	25
	426,890		\$0	(\$8,263)	\$0	\$0	\$0	(\$8,263)	\$281,152	\$272,888	\$2,611,305	26
	424,755		\$0	(\$8,573)	\$0	\$0	\$0	(\$8,573)	\$293,034	\$284,461	\$2,895,766	27
	422,631		\$0	(\$8,895)	\$0	\$0	\$0	(\$8,895)	\$305,419	\$296,524	\$3,192,289	28
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	418,416		\$0	(\$9,574)	\$0	\$0	\$0	(\$9,574)	\$331,780	\$322,205	\$3,823,592	30
(\$71,202)	13,511,487	\$0	\$210,866	(\$177,107)	(\$1,595,300)	(\$362,377)	\$0	(\$1,995,121)	\$5,818,713	\$3,823,592	\$3,823,592	

FINANCIAL CONSIDERATION

The value of installing solar photovoltaic equipment at six sites in the city is only part of the consideration for doing a project of this type. While providing a \$3,823,592 net savings over the 30 year period makes this lease a fiscally sound issue, promoting the use of solar energy and acting as a leader for the community in the reduction of greenhouse gas emissions is also of significant importance.

Although the timeliness of the project made it impossible to get the final numbers to the Financial Advisory Board (FAB) in advance, a draft of this report was discussed with

Agenda Item No. 7(B)

them at their regular meeting on October 9, 2012. The consensus of the FAB is that all debt includes some element of risk and that the estimates identified in the staff report appear to substantiate the validity of the project. The FAB recommended that the project go forward including the issuance of the Solar Equipment Lease as recommended in an amount not to exceed \$1,595,300.

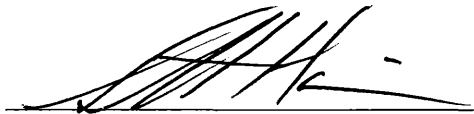
The discussion on the item included the procurement process (which was consistent with the Public Contracts Code), the structure of risk being more on the side of the City, cash savings being on a monthly basis with rebates and debt being annually and semi-annually, the possibility of movement of the Public Safety building equipment if the building is replaced and whether the CPUC will change requirements and pricing in the future. The FAB's expertise and analysis is appreciated in reviewing the assumptions and presentation material for this transaction.

Regarding project development and the bid process, staff explained that there had been multiple presentations to Council on various aspects of this project.

LEGAL CONSIDERATIONS

Legal documents are being drafted by municipal bond attorneys at Meyers Nave. Standard opinions of counsel respecting the validity and tax-exempt nature of the obligations will be provided to the City as part of the closing.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Solar Photovoltaic Equipment Lease Purchase Financing Resolution
2. Green Campus Partners Proposal

RESOLUTION 2012-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE EXECUTION OF A LEASE PURCHASE AGREEMENT BY AND BETWEEN THE CITY OF EL CERRITO AND GREEN CAMPUS PARTNERS, LLC FOR THE PURPOSE OF PURCHASING SOLAR EQUIPMENT TO PROVIDE FOR ENERGY COST SAVINGS FOR THE CITY

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

WHEREAS, the City desires to provide for energy cost savings through the acquisition and installation of solar equipment (the "Equipment") to be located at six facilities throughout the City; and

WHEREAS, the City issued a request for proposals dated September 26, 2012 for the purchase of the Equipment and costs of issuance, and received one proposal from Green Campus Partners, LLC ("Green Campus") in the amount of \$1,595,300; and

WHEREAS, the City desires to enter into a lease purchase agreement (the "Agreement") and an escrow agreement (the "Escrow Agreement") with Green Campus, each substantially in the form on file with the City Clerk, for the purchase of the Equipment and cost of issuance, in an amount not to exceed \$1,595,300 at an interest rate not to exceed 2.75% for 15 years; and

WHEREAS, over the life of the 15 year Agreement, the City anticipates energy savings of approximately, \$2,034,077, which are desirable to, and in the best interest of, the City.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of El Cerrito does hereby resolve as follows:

Section 1. The foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. The Agreement and the Escrow Agreement are hereby approved, substantially in the form on file with the City Clerk.

Section 3. The City Manager (or his designee) is hereby authorized and directed, on behalf of the City, to execute the Agreement, including but not limited to all exhibits attached to and required under the Agreement, substantially in the form on file with the City Clerk with such changes that are approved by the City Attorney, and to make all approvals and take all actions necessary or appropriate to carry out and implement the terms of the Agreement and to administer the City's obligations, responsibilities and duties to be performed under the Agreement.

Section 4. The City Manager (or his designee) is hereby authorized and directed, on behalf of the City, to execute the Escrow Agreement, substantially in the form on file with the City Clerk with such changes that are approved by the City Attorney, and to make all approvals and take

all actions necessary or appropriate to carry out and implement the terms of the Escrow Agreement and to administer the City's obligations, responsibilities and duties to be performed under the Escrow Agreement.

Section 5. This Resolution will take effect immediately upon its adoption.

I CERTIFY that at a regular meeting on October ___, 2012 the City Council passed this resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on October ___, 2012.

Cheryl Morse, City Clerk

Approved:

William C. Jones, III, Mayor



Neal E. Skiver
Senior Vice President
Green Campus Partners, LLC
215 Lincoln Avenue
Santa Fe, NM 87501
(732) 917-2311 office
(505) 690-3335 mobile
neal.skiver@greencampuspartners.com

October 8, 2012

Nicki Tallman
Brandis Tallman LLC
22 Battery Street
Suite 500
San Francisco, CA 94111

RE: Equipment Lease Purchase Financing Proposal for the City of El Cerrito

Dear Nicki:

Green Campus Partners, LLC is pleased to present the following Summary of Terms and Conditions dated October 8, 2012 (collectively, the "*Financing Proposal*"), to the City of El Cerrito.

SUMMARY OF TERMS AND CONDITIONS

DATE: October 8, 2012

LESSEE: City of El Cerrito

PLACEMENT AGENT: Brandis Tallman LLC

LESSOR: Green Campus Partners, LLC, and/or its assigns

ESCROW AGENT: To Be Determined

CONTRACTOR: RGS Energy

PURPOSE: The purpose of this transaction is to provide tax-exempt equipment lease purchase financing for 6 solar photovoltaic electricity generation systems (collectively, the "*Equipment*") to be installed by the Contractor.

STRUCTURE: This transaction will be structured as an Equipment Lease Purchase Agreement (the "*Agreement*") between the Lessee and the Lessor. The Lessor is offering the Lessee the choice of 10 year or 15 year financing term options.

**PAYMENT
OBLIGATION:** The obligation to make Rental Payments under the Agreement will be an abatement lease obligation of the Lessee payable from any lawfully available

funds. Regardless of the status of installation or performance of the Equipment, the Lessee's obligation to make payments commence on that certain date as set forth in the Agreement. Legal title to the Equipment will be vested in the Lessee. The Agreement will be a net financial contract of the Lessee, and all expenses (including, but not limited to, insurance, maintenance, taxes and administrative costs) will be the responsibility of the Lessee.

ESCROW: At closing, proceeds from the Agreement will be deposited into an Acquisition Fund established pursuant to an Escrow Agreement (the "*Escrow*") by and among the Lessee, the Lessor and the Escrow Agent. The Escrow Agent will be selected by the Lessee, subject to the Lessor's approval. The Lessor has a relationship with Deutsche Bank National Trust Company, under which escrow services for these types of transactions are provided at a cost of \$1,000 (which can be included in the Financed Amount, if desired).

DISBURSEMENT MECHANISM: During the installation period, the Lessee will requisition funds from the Escrow Fund in the manner outlined in the Agreement and the Escrow. Funds will be disbursed only upon the written approval of the Lessee that each distinct portion of the Equipment has been delivered, installed, functioning and accepted by the Lessee. The Lessee will direct the investments in the Escrow Fund and all interest earnings will accrue to the Lessee's benefit.

SECURITY INTEREST: The Lessor will retain a security interest in the Equipment, evidenced by filing of a UCC-1 Financing Statement (personal property) with respect to the Equipment with such office as is required by Article 9 of the Uniform Commercial Code and recording a UCC-1 Financing Statement (fixture filing) in such office as is required by Article 9 of the Uniform Commercial Code, and in all cases treating governmental transfers by the Lessee as subject to such Article 9. Prior to closing, the Lessee will be required to provide legal descriptions (as applicable) for the property locations at which the Equipment will be installed in order to enable the Lessor to record the fixture filings in the appropriate recording offices.

RENTAL INTERRUPTION INSURANCE: The Lessee will be required to maintain rental interruption insurance at all times to mitigate the risk of the Equipment not being available for use due to damage or destruction. Such insurance will provide for payments in an amount not less than the aggregate lease payment amount for 24 months.

BANK QUALIFIED: The Lessee will designate the Agreement as a Qualified Tax Exempt Obligation pursuant to Section 265(b)(3) of the IRS Code.

TERM: The Lessee's option of 10 or 15 years

FINANCED AMOUNT: \$1,595,300 (estimated)

CLOSING DATE: November 30, 2012 (estimated)

INTEREST RATE: 10 Year Term Option 2.60%
15 Year Term Option 2.75%

Interest Rate Adjustment: The Interest Rate above is based upon the 10-Year U.S. Treasury Swap Interest Rate (the "*Index*") as reported on the October 2, 2012 Federal Reserve H.15 Daily Update of 1.70% and is locked through November 4, 2012. Thereafter, the final interest rate will be subject to adjustment until approximately 15 business days prior to the Commencement (the "*Interest Rate Set Date*"), based on the following formula:

10 Year Term Option = (the Index on the Interest Rate Set Date) * .65 + 1.50%
15 Year Term Option = (the Index on the Interest Rate Set Date) * .65 + 1.65%

PAYMENTS: The Lessee will make level semi-annual principal and interest over the Term as selected by the Lessee.

PREPAYMENT: The Lessee will have the option to prepay its obligations under the Agreement in whole on any payment date upon payment of the then-current Purchase Price (which includes a prepayment premium of 2%).

CLOSING COSTS: The Lessor is not charging an origination fee. The Lessee will be responsible for paying its costs related to review/negotiation of documents, delivery of a legal opinion satisfactory to the Lessor (bond counsel tax opinion is not required), costs related to the Escrow and CDIC fees.

DOCUMENTS: All documentation will be provided by the Lessor and will include all documents, certificates and opinions as are reasonably necessary to evidence and carry out the transaction. All documents must be acceptable to all parties.

**PERFORMANCE
BONDS:**

The Lessor requires to be listed as dual obligee on the payment and performance bonds provided by the Contractor. No draws from Escrow will be permitted until such bonds are in place.

ASSIGNMENT: The Lessor will agree that the Agreement will not be re-offered publicly. The Lessor reserves the right to assign, sell or otherwise transfer the Agreement (or interests therein) to an institution that the Lessor reasonably believes is either a Qualified Institutional Buyer, an Institutional Accredited Investor or to a trust, partnership, custodial arrangement or similar entity, interests in which are offered and sold in a private placement or limited offering only to Qualified Institutional Buyers or Institutional Accredited Investors within the meaning of the applicable federal securities law.

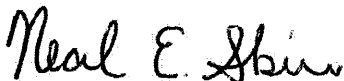
CREDIT APPROVAL: The transaction is subject to final credit approval by the Lessor.

FINANCING PROPOSAL

EXPIRATION: Unless accepted by the Lessee or extended in writing by the Lessor (at its sole discretion), this Financing Proposal will expire on October 19, 2012. Once accepted, this Financing Proposal will expire if the transaction has not funded by December 31, 2012.

Capitalized terms used but not defined herein will have the meaning given such terms in the transaction documents (i.e. the Agreement, Escrow, etc.). Upon receipt of the signed Financing Proposal, the Lessor will endeavor to provide you with a timely commitment, and will use good faith efforts to negotiate and finance the Agreement based on the terms & conditions provided herein. It is a pleasure to offer this Financing Proposal to the City of El Cerrito and we look forward to your review and response.

Very truly yours,



Neal E. Skiver
Senior Vice President

Agreed to and Accepted by:
City of El Cerrito

_____ (Name)

_____ (Title)

_____ (Date)

_____ 10 Year Term Option

_____ 15 Year Term Option

Index	Current Use	System Size, kWdc	Pre -Solar Rate Schedule	Post-Solar Rate Schedule	Annual Usage (kWh)	Annual PV kWhs	Year 1 Utility Savings	System Price
ELC01	All	356.01	E19SV	A6	722,158	483,881	\$99,888	\$1,586,662

System Degradation, %/yr0.50%

PG&E Rate Escalator4.75%

Percent Down Payment0%

Down Payment\$0

Loan Principle\$1,595,300

Loan APR2.75%

Loan Term, yrs15

Total Rebate Amount\$210,866

Total Revenues:\$5,852,472

Total Expenses(\$2,028,880)

Total Profit\$3,823,592

kWhs over 30 years13,511,487

\$119,529.64

2011 utility costs for all 6 facility

84% renewable offset of utility costs

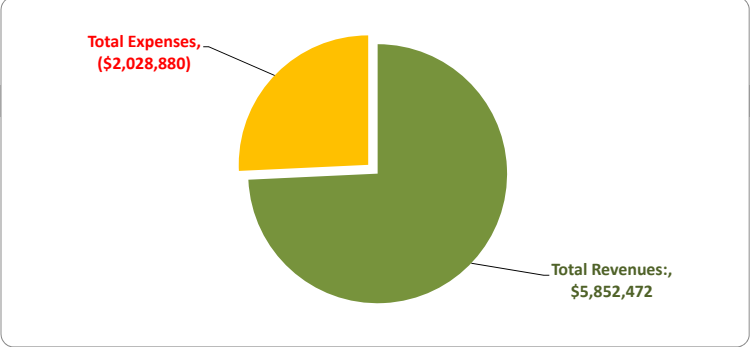
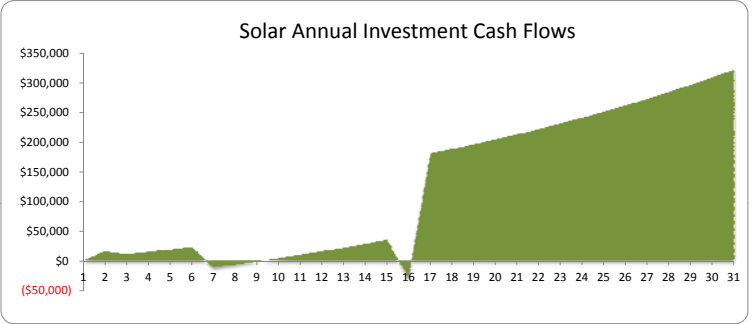
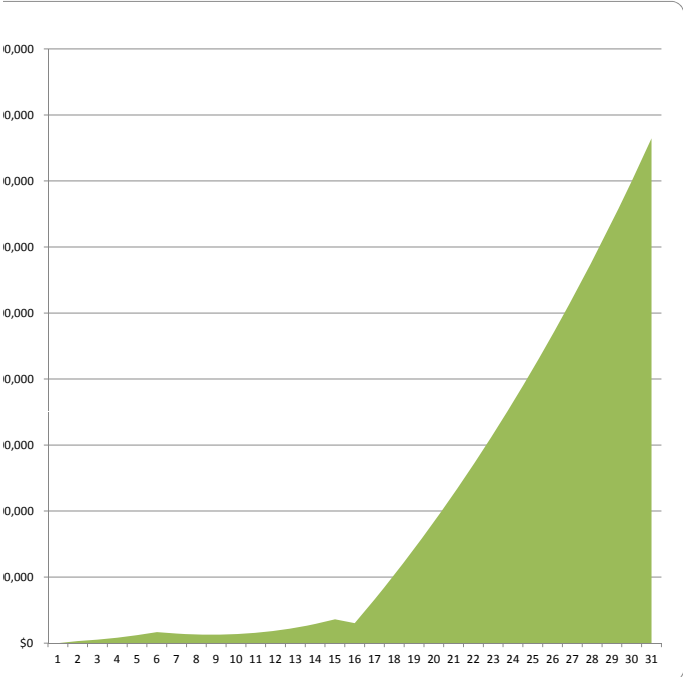
Real Goods Solar, Commercial Division

27 Simms Street, San Rafael CA, 94901

Main: 415 456-2800 Fax: 415-456-2855

www.RealGoodsSolar.com

System Net Down Payment	Annual PV Generated kWhs	Federal Tax Credit + MACRS	CSI PBI Payments, \$0.088/kWh	O&M	Loan Principal Payments	Loan Interest Payments	Interest Tax Deduction	Net System Expenses	Utility Savings (After Tax)	Total Annual Cash Flow	Cumulative Cash Flow	Year
\$0	0								\$0	\$0	\$0	0
	483,881		\$49,715	(\$3,292)	(\$87,237)	(\$43,275)	\$0	(\$84,089)	\$99,888	\$15,799	\$15,799	1
	481,462		\$40,591	(\$3,415)	(\$89,652)	(\$40,860)	\$0	(\$93,336)	\$104,110	\$10,773	\$26,573	2
	479,054		\$40,388	(\$3,544)	(\$92,135)	(\$38,377)	\$0	(\$93,667)	\$108,509	\$14,842	\$41,415	3
	476,659		\$40,186	(\$3,676)	(\$94,686)	(\$35,826)	\$0	(\$94,002)	\$113,095	\$19,093	\$60,508	4
	474,276		\$39,985	(\$3,814)	(\$97,308)	(\$33,204)	\$0	(\$94,341)	\$117,875	\$23,534	\$84,042	5
	471,904		\$0	(\$3,957)	(\$100,002)	(\$30,510)	\$0	(\$134,469)	\$122,857	(\$11,612)	\$72,430	6
	469,545		\$0	(\$4,106)	(\$102,771)	(\$27,741)	\$0	(\$134,618)	\$128,049	(\$6,569)	\$65,861	7
	467,197		\$0	(\$4,260)	(\$105,616)	(\$24,895)	\$0	(\$134,772)	\$133,461	(\$1,311)	\$64,551	8
	464,861		\$0	(\$4,419)	(\$108,541)	(\$21,971)	\$0	(\$134,931)	\$139,101	\$4,170	\$68,720	9
	462,537		\$0	(\$4,585)	(\$111,546)	(\$18,966)	\$0	(\$135,097)	\$144,980	\$9,883	\$78,603	10
	460,224		\$0	(\$4,757)	(\$114,635)	(\$15,877)	\$0	(\$135,269)	\$151,107	\$15,838	\$94,441	11
	457,923		\$0	(\$4,935)	(\$117,809)	(\$12,703)	\$0	(\$135,447)	\$157,493	\$22,046	\$116,487	12
Inverter Replacement	455,633		\$0	(\$5,121)	(\$121,071)	(\$9,441)	\$0	(\$135,632)	\$164,149	\$28,517	\$145,004	13
	453,355		\$0	(\$5,313)	(\$124,423)	(\$6,088)	\$0	(\$135,824)	\$171,087	\$35,262	\$180,266	14
(\$71,202)	451,088		\$0	(\$5,512)	(\$127,869)	(\$2,643)	\$0	(\$207,226)	\$178,317	(\$28,909)	\$151,357	15
	448,833		\$0	(\$5,718)	\$0	\$0	\$0	(\$5,718)	\$185,853	\$180,135	\$331,492	16
	446,589		\$0	(\$5,933)	\$0	\$0	\$0	(\$5,933)	\$193,708	\$187,775	\$519,267	17
	444,356		\$0	(\$6,155)	\$0	\$0	\$0	(\$6,155)	\$201,894	\$195,739	\$715,006	18
	442,134		\$0	(\$6,386)	\$0	\$0	\$0	(\$6,386)	\$210,427	\$204,041	\$919,046	19
	439,923		\$0	(\$6,626)	\$0	\$0	\$0	(\$6,626)	\$219,320	\$212,694	\$1,131,741	20
	437,724		\$0	(\$6,874)	\$0	\$0	\$0	(\$6,874)	\$228,589	\$221,715	\$1,353,456	21
	435,535		\$0	(\$7,132)	\$0	\$0	\$0	(\$7,132)	\$238,250	\$231,118	\$1,584,574	22
	433,358		\$0	(\$7,399)	\$0	\$0	\$0	(\$7,399)	\$248,319	\$240,919	\$1,825,493	23
	431,191		\$0	(\$7,677)	\$0	\$0	\$0	(\$7,677)	\$258,813	\$251,137	\$2,076,630	24
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	422,631		\$0	(\$8,895)	\$0	\$0	\$0	(\$8,895)	\$305,419	\$296,524	\$3,192,289	28
	420,518		\$0	(\$9,228)	\$0	\$0	\$0	(\$9,228)	\$318,326	\$309,098	\$3,501,387	29
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(\$71,202)	13,511,487	\$0	\$210,866	(\$177,107)	(\$1,595,300)	(\$362,377)	\$0	(\$1,995,121)	\$5,818,713	\$3,823,592	\$3,823,592	



** The above data are estimations, not guarantees, based on reasonable system performance and stated assumptions.



AGENDA BILL

Agenda Item No. 7(C)

Date: October 16, 2012
To: El Cerrito City Council
From: Jerry Bradshaw, Public Works Director / City Engineer
Subject: Potrero Avenue Intersection Safety Improvements between 55th and 56th Streets, City Project No. C-3045, Federal Project No. HSIP 5239 (013)

ACTION REQUESTED

Adopt a resolution approving plans, rejecting the bid from J.A. Gonsalves & Sons Construction, Inc. as non-responsive and accepting all other bids; and authorizing the City Manager to award a contract, contingent on successfully securing additional grant funding and/or successful negotiations with Redgwick Construction Company (the lowest responsible bidder for the project) for a deductive change order after undergoing a value engineering process which is not inconsistent with the approved budget for the Potrero Avenue Intersection Safety Improvements between 55th and 56th Streets Project, Contract No. C-3045.

BACKGROUND

In 2008, Public Works staff applied for Highway Safety Improvement Program grant funds through Caltrans for the Potrero Avenue, between S. 55th and S. 56th Streets, Safety Improvements Project. The City was fortunate in being awarded a grant in the amount of \$584,910.

Potrero Avenue has four closely spaced intersections within approximately 500 feet from west to east as follows: unsignalized at S. 55th Street and the I-80 Westbound On-Ramp, signalized at Eastshore Boulevard/I-80 Eastbound Off-Ramp and unsignalized at S. 56th Street. This area has a disproportionately high collision rate, which was confirmed by a Traffic Safety Audit conducted by the City in 2006. The project improvements include:

- Remove the right-turn island at the I-80 Eastbound Off-Ramp. Eliminating the free ("uncontrolled") right-turn movement is expected to address safety concerns created by the limited sight distance and short merging distance between the I-80 Off-Ramp and S. 56th Street. This change is also anticipated to improve safety for pedestrians crossing the off-ramp. A marked crosswalk and pedestrian signals will also be added on the west leg of Potrero Avenue as a pedestrian accommodation.
- Modify and upgrade the traffic signals at this intersection to provide protected left-turn phasing for the I-80 Eastbound Off-Ramp, Eastshore Boulevard, and

Agenda Item No.7(C)

Potrero Avenue approaches. The new left-turn phasing will assign right of way as well as address sight distance problems created by the existing roadway alignment.

- Add signing and pavement markings to emphasize the existing I-80 Westbound On-Ramp entrance at the signalized Eastshore Boulevard/I-80 Eastbound Off-Ramp intersection, install a narrow median to prohibit left-turns onto the I-80 Westbound On-Ramp at the unsignalized location near S. 55th. These changes are expected to address safety concerns created by drivers on eastbound Potrero Avenue who have difficulty assessing if westbound cars are turning onto I-80 Westbound on-ramp or onto S. 55th Street.
- Modify the median on Potrero Avenue at S. 56th Street and prohibit parking at the very end of northbound S. 56th Street. The current shape of the median obstructs northbound left turns from S. 56th Street to westbound Potrero Avenue. The three existing parking spaces along the east curb of E. 56th Street obstruct and delay northbound drivers turning right to eastbound Potrero Avenue. This delay causes drivers to become frustrated and accept less than optimum gaps in traffic. Prohibiting on-street parking from 3 to 6 p.m. on weekdays and striping a right-turn lane is expected to facilitate the left turns as well.

In addition to the major components outlined above, the project will also include:

- Installation, removal and replacement of traffic signal standards, including mast arm poles and foundations, vehicle and pedestrian signal heads, and pedestrian push buttons.
- Traffic signing, striping and pavement markings.
- Modification of storm drains.
- Resurfacing of the intersection.

The project is expected to result in the reduction of the predominant collision patterns along this roadway segment, for motorists and bicyclists. The project will bring all elements of the intersection to the latest requirements of the Americans with Disabilities Act (ADA) and make accommodations for pedestrians and bicyclists. The project involves State right of way under the I-80 freeway, and requires a Caltrans Encroachment Permit.

The project was advertised for bid in the West County Times on August 2 and 8, 2012. Notices were mailed directly to all contractors on our bidders list and several plan rooms.

ANALYSIS

Three bids were received on August 28, 2012 with the following results:

<u>Name</u>	<u>Location</u>	<u>Bid</u>
<i>J.A. Gonsalves & Sons Construction</i>	<i>Napa</i>	\$ 509,868.00
<i>Redgwick Construction Company</i>	<i>Newark</i>	\$ 560,764.00
<i>W.R. Forde Associates</i>	<i>Richmond</i>	\$ 659,324.00
<i>Engineer's Estimate</i>		\$ 534,235.00

The low bid submitted by J.A. Gonsalves & Sons Construction, Inc did not acknowledge receipt of Addendum No. 1 and the bid was not submitted in the prescribed form. Since the Addendum made significant changes to the project's contract documents, including the Bid Proposal form itself, waiver of the resulting irregularities in their bid would not provide for a level playing field for all the project bidders. As such, Staff recommends rejection of J.A. Gonsalves & Sons Construction's bid as non-responsive.

The next low bidder is Redgwick Construction Company (contractor's license # 140057, Class A). Their bid of \$560,764.00 for the Base Bid and Additive Alternate One is 4.9% above the engineer's estimate. Their bid of \$531,964.00 for the Base Bid work only is, 2.6% over the Engineer's Estimate for this work.

The original 2009 Engineer's Construction Estimate was \$460,000 which provided for \$189,900 for construction contingency and all soft costs. As the project has developed from the initial planning phase through the design and bidding phases over the last 3 years, construction costs have risen. For this reason, staff developed the bid document to include a bid alternate to enable scaling down of the project after bidding. However, the extent to which costs have increased was not anticipated. In comparing the lowest responsive bid to the original 2009 Engineer's Estimate the cost of construction of the project has risen by approximately 22%. This is a trend being experienced by other Local Agencies in the Bay Area as well.

The City has several options:

1. Reject all bids, redesign the project, and go out to bid again. With prices rising, staff does not recommend this option as it would take longer and expose the City to even higher prices.
2. Secure additional funding. This may involve infusing new grant funds, diverting existing El Cerrito grant funds from other approved projects to this project, and/or increasing the current grant allocation for this project. Work continues.
3. Award the project and rely on the value engineering process to reduce the total project costs through deductive change orders. Staff has worked with the designers on several value engineering options to bring the project within the current budget without jeopardizing any of the safety elements of the project or the intent of the original federal grant application.

Agenda Item No.7(C)

If no additional funding can be secured, staff feels confident that a deductive change order can be negotiated with the contractor in an amount to fit within budget.

FINANCIAL CONSIDERATIONS

This project is funded through the HSIP grant with matching funds from Measure J return-to-source and Proposition 1B for a total project budget of \$649,900. The expenditure budget is shown below for both the base budget scenario and the full funding budget scenario. The difference in the construction contract amount is \$97,919. Other differences are in the construction contingency amounts (10% for each case), and the construction management/administration costs, which would be commensurately lower with a reduced construction scope.

	<u>Base Budget</u>	<u>Full Funding Budget</u>
<i>Design</i>	83,000	83,000
<i>Construction</i>	462,845	560,764
<i>Construction Contingency</i>	46,285	56,076
<i>Const Mgt/Admin</i>	57,770	66,000
<i>Total</i>	<u>649,900</u>	<u>765,840</u>
 <i>Surplus (Shortfall)</i>	 0	 (115,940)

The final construction cost (and associated project cost) will depend on the extent to which staff can secure additional funding.

Reviewed by:



Scott Hanin, City Manager

Attachment:

1. Accompanying Resolution

RESOLUTION 2012 – XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ADOPTING A RESOLUTION APPROVING PLANS; REJECTING THE BID FROM J.A. GONSALVES & SONS CONSTRUCTION, INC. AS NON-RESPONSIVE AND ACCEPTING ALL OTHER BIDS; AND AUTHORIZING THE CITY MANAGER TO AWARD A CONTRACT, CONTINGENT ON SUCCESSFULLY SECURING ADDITIONAL GRANT FUNDING AND/OR SUCCESSFUL NEGOTIATIONS WITH REDGWICK CONSTRUCTION COMPANY (THE LOWEST RESPONSIBLE BIDDER FOR THE PROJECT), IN AN AMOUNT TO BE DETERMINED AFTER UNDERGOING A VALUE ENGINEERING PROCESS WHICH IS NOT INCONSISTENT WITH THE APPROVED BUDGET FOR THE POTRERO AVENUE INTERSECTION SAFETY IMPROVEMENTS BETWEEN 55TH AND 56TH STREETS PROJECT, CONTRACT NO. C-3045

WHEREAS, City Council previously authorized bids for this project as part of the Capital Improvement Program; and

WHEREAS, the project was advertised for bids on August 2 and 8, 2012 and three bids were received on August 28, 2012; and

WHEREAS, the bid received by J.A. Gonsalves and Sons, Inc. is determined to be non-responsive; and

WHEREAS, the lowest responsive, responsible bidder's total bid, in the amount of \$560,796.00, was Redgwick Construction Company; and

WHEREAS, the lowest responsive, responsible bid was 4.9% above the engineer's estimate and 22% over the original 2009 grant application engineer's estimate and corresponding project budget; and

WHEREAS, staff intends to pursue value engineering options to bring the project within the current budget without jeopardizing any of the safety elements of the project or the intent of the original federal grant application; and

WHEREAS, staff also intends to pursue additional grant funding to supplement the project budget which may involve infusing new grant funds, diverting existing El Cerrito grant funds from other approved projects to this project, and/or increasing the current grant allocation for this project; and

WHEREAS, the current funding for this project is provided through the Highway Safety Improvement Program, Measure J return-to-source, and Proposition 1B; and

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

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito approves plans; rejects the bid from J.A. Gonsalves & Sons Construction, Inc. as non-responsive and accepts all other bids; and authorizes the City Manager to award a contract, contingent on successfully securing additional grant funding and/or successful negotiations with Redgwick Construction Company (the lowest responsible bidder for the project), in an amount to be determined after undergoing a value

Agenda Item No. 7(C)

Attachment 1

engineering process which is not inconsistent with the approved budget for the Potrero Avenue Intersection Safety Improvements between 55th and 56th Streets Project, Contract No. C-3045.

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

I CERTIFY that at a regular meeting on October 16, 2012 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on October XX, 2012.

Cheryl Morse, City Clerk

APPROVED:

William C. Jones III, Mayor