



## AGENDA

### CONCURRENT MEETING OF THE EL CERRITO CITY COUNCIL/ EL CERRITO MUNICIPAL SERVICES CORPORATION

Monday, April 4, 2011 – 7:30 p.m.  
City Council Chambers

#### Meeting Location

El Cerrito City Hall  
10890 San Pablo Avenue, El Cerrito

Ann Cheng – Mayor

Mayor Pro Tem Bill Jones  
Councilmember Rebecca Benassini

Agency Chair/Councilmember Janet Abelson  
Councilmember Greg Lyman

#### ROLL CALL

7:30 p.m.

#### CONVENE CONCURRENT CITY COUNCIL/MUNICIPAL SERVICES CORPORATION MEETING

1. **PLEDGE OF ALLEGIANCE TO THE FLAG** – led by 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.*

### A. **Earth Day Proclamation**

Adopt a Proclamation proclaiming April 16, 2011 as Earth Day in the City of El Cerrito and encourage all residents and businesses to help make El Cerrito a greener, healthier, more sustainable place for all.

### B. **Ordinance Establishing the Measure A Swim Center Parcel Tax Rate for Fiscal Year 2011–2012**

*First Reading March 21, 2011. Vote: Ayes – Councilmembers Abelson, Jones, Lyman, Benassini, and Mayor Cheng; Noes – None*

Waive second reading and adopt Ordinance No. 2011–02 setting a reduced tax rate only for Fiscal Year 2011–12 for the special tax imposed pursuant to Chapter 4.56 of the El Cerrito Municipal Code.

### C. **Temporary Recycling Labor Services Contract with Workers.com**

Adopt a resolution authorizing the City Manager to execute a contract in an amount not to exceed \$30,000 per fiscal year with Workers.com, to provide temporary labor to assist in recyclable materials collections.

### D. **Appointment to Environmental Quality Committee**

Approve an Environmental Quality Committee recommendation to appoint Michael Huang to the Environmental Quality Committee, effective April 5, 2011.

### E. **Application for Beacon Award**

Adopt a resolution approving participation in the Institute for Local Government's Beacon Award: Local Leadership toward Solving Climate Change Recognition Program.

## 6. **POLICY MATTERS**

### **MUNICIPAL SERVICES CORPORATION ITEM**

#### A. **Commercial Rehabilitation Loan Program**

Adopt a Resolution of the Municipal Services Corporation Establishing a Commercial Rehabilitation Loan Program To Establish The Program For Businesses Within El Cerrito Redevelopment Project Area

## 7. **COUNCIL ASSIGNMENTS/LIAISON REPORTS**

A. Mayor Cheng Assignments: Association of Bay Area Governments (ABAG) General Assembly Delegate, Arts and Culture Commission, League of California Cities East Bay Division Alternate, Contra Costa County Mayors' Conference, Disaster Preparedness Council Alternate, Human Relations Commission, Pension Board, Temporary Permits Committee, and West Contra Costa Transportation Advisory Committee Alternate.

B. Councilmember Abelson Assignments: Association of Bay Area Governments (ABAG) General Assembly Alternate, League of California Cities East Bay Division

Aging, Environmental Quality Committee, Temporary Permits Committee, West Contra Costa Transportation Advisory Committee Delegate.

- C. Councilmember Benassini Assignments: Economic Development Board, Financial Advisory Board, San Pablo Avenue Area Specific Plan Committee, Tom Bates Regional Sports Field JPA Alternate, West County Regional Library Board Alternate.
- D. Mayor Pro Tem Jones Assignments: Contra Costa County Mayors' Conference Alternate, Pension Board Alternate, Planning Commission, San Pablo Avenue Area Specific Plan Committee, Disaster Preparedness Council Delegate, Tom Bates Regional Sports Field JPA; Underground Utilities Committee, West County Mayors' & Supervisors' Association Alternate, West County Integrated Waste Management Authority Delegate, West County Library Board Delegate.
- E. Councilmember Lyman Assignments: Crime Prevention Committee, Design Review Board, Park and Recreation Commission, and West County Integrated Waste Management Authority Alternate.

## 8. ADJOURN CONCURRENT CITY COUNCIL /MUNICIPAL SERVICES CORPORATION MEETING

The next scheduled City Council meeting is Saturday, April 9, 2011 at 9:00 a.m. in the Council Chambers, 10890 San Pablo Avenue, El Cerrito.

- 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/gov/>. 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](http://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 seven 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](mailto: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.

**CITY COUNCIL OF THE CITY OF EL CERRITO  
EARTH DAY PROCLAMATION**

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

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

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

WHEREAS, in furtherance of this objective the City is planning a variety of activities in which residents and businesses will have an opportunity to donate their time and money including: cleaning up City parks, facilities, greenways, creeks, and schools; picking up litter along streets and in commercial areas; sharing a community lunch and celebrating becoming more "green."

NOW THEREFORE, the City Council of the City of El Cerrito hereby proclaims April 16, 2011 as EARTH DAY in the City of El Cerrito and encourages all residents and businesses to help make El Cerrito a greener, healthier, more sustainable place for all.

Dated: April 4, 2011

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Ann Cheng, Mayor

ORDINANCE NO. 2011-02

AN ORDINANCE OF THE CITY OF EL CERRITO SETTING A REDUCED TAX RATE ONLY FOR FISCAL YEAR 2011-12 FOR THE SPECIAL TAX IMPOSED PURSUANT TO CHAPTER 4.56 OF THE EL CERRITO MUNICIPAL CODE

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

WHEREAS, the Special Tax was approved by the voters at the March 7, 2000 election as Measure A; and

WHEREAS, by prior resolution, the City Council authorized staff to enter into a lease financing transaction to fund the renovation and reconstruction of the Swim Center (the "Lease Financing Transaction"); and

WHEREAS, the City has completed each of the Authorized Improvements, but must continue to fund the Authorized Improvements through the Lease Financing Transaction; and

WHEREAS, the City Council has determined that the City will be able to meet its Fiscal Year 2011-12 obligations in connection with the Lease Financing Transaction by levying the Special Tax at a rate lower than the maximum rate; and

WHEREAS, Section 4.56.040 of the El Cerrito Municipal Code provides that the City Council may reduce the amount of the annual Special Tax for any classification of property if the City Council determines that it is in the public interest to do so; and

WHEREAS, the City Council has determined that it is in the public interest to impose the Special Tax at a rate for Fiscal Year 2011-12, which is lower than the maximum rate.

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

SECTION 1. That Sections 4.56.020 (B) of the El Cerrito Municipal Code is hereby amended to read as follows (additions in underline; deletions in ~~strikethrough~~):

- B. For Fiscal Year ~~2010-11~~, 2011-12, the Special Tax imposed pursuant to Chapter 4.56 of the El Cerrito Municipal Code shall be imposed in the amount of \$38.61 per single family residential Unit, \$29.73 per multifamily residential unit, and \$270.66 per acre of non-residential property. Thereafter, unless the Council adopts a further amending ordinance, the Special Tax shall be imposed at the Maximum Rate for each type of property.

**Agenda Item No. 5(B)**

SECTION 2. It is the intent of the City Council that, if any tax imposed under this Ordinance is for any reason held to be unconstitutional or contrary to state law, the tax which would have been imposed had this ordinance not been adopted shall remain effective.

SECTION 3. This ordinance shall take effect thirty days after passage and within fifteen days after passage, a summary of this ordinance shall be posted in accordance with Section 36933 of the Government Code of the State of California with the names of those City Council members voting for and against it.

THE FOREGOING ORDINANCE was introduced and first read at a regular meeting of the El Cerrito City Council on March 21, 2011, and adopted by the following vote on \_\_\_\_\_ of \_\_\_\_\_, 2011:

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

APPROVED:

\_\_\_\_\_  
Ann Cheng, Mayor

ATTEST:

\_\_\_\_\_  
Karen Pinkos, Deputy City Clerk



## AGENDA BILL

### Agenda Item No. 5(C)

**Date:** April 4, 2011  
**To:** El Cerrito City Council  
**From:** Garth Schultz, Environmental Analyst  
Melanie Mintz, Environmental Services Division Manager  
**Subject:** Temporary Recycling Labor Services Contract with Workers.com

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#### **ACTION REQUESTED**

Adopt a resolution authorizing the City Manager to execute a contract in an amount not to exceed \$30,000 per fiscal year with Workers.com, to provide temporary labor to assist in recyclable materials collections. The contract will expire on June 30, 2012 with an option for a one year extension through June 30, 2013, if necessary.

#### **BACKGROUND**

In September 2008 the City of El Cerrito executed an Agreement for Services with Workers.com to provide temporary labor to assist in recyclable materials collections as a part of the City's recycling collection program. Temporary labor was needed to replace work previously performed by interns employed by the East Bay Conservation Corps, whose contract was cancelled in August 2008. The Environmental Services Division (ESD) had previously planned to hire a permanent employee to perform this work (as approved in the Fiscal Year 08/09 Budget) but the position was not filled due to several factors, including recent changes to the curbside program and upcoming reconstruction of the new Center. Staff determined it would be more prudent to wait until both changes were in effect long enough to reevaluate permanent staffing needs.

Currently, the temporary labor is still needed to assist the curbside collection program, especially on its commercial and heavier routes. Upon completion of the new Recycling Center, and given adequate time to adjust to and assess new work requirements, staff will recommend whether to hire a City employee, continue with a temporary labor service, or use existing City staff to perform all necessary duties.

#### **ANALYSIS**

Since it has been over two years since the City initially solicited for temporary labor services, staff solicited new quotes from several temporary labor service companies. Three quotes were received; each quote includes an \$11.00/hour labor rate as well as taxes, workers compensation and other insurance coverage, and company overhead costs. The quoted hourly rates are as follows:

- Workers.com \$18.68/hour
- Labor Ready – Oakland \$20.64/hour
- Labor Ready – Richmond \$21.13/hour

Based on their competitive rate and excellent performance over the past two and a half years, staff recommends granting the new contract for temporary labor services to Workers.com. Per the terms of the contract, Workers.com will provide one temporary laborer to assist with recycling collection operations for a maximum of thirty (30) hours per week. The temporary worker will assist in curbside collection of commercial and residential recyclable materials, with duties to change over time as needed.

**FINANCIAL CONSIDERATIONS**

The costs of providing the needed temporary labor service was included in the FY 2010-11 Budget and will be requested in the upcoming FY 2011-12 Budget. All expenses will be covered by the City's Integrated Waste Management Fund, and are accounted for in the 15-Year Financial Plan for that Fund.

**Reviewed by:**



**Scott Hanin, City Manager**

Attachments:

1. Resolution



RESOLUTION 2011-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH WORKERS.COM TO PROVIDE TEMPORARY LABOR TO ASSIST IN RECYCLABLE MATERIALS COLLECTIONS

WHEREAS, the City of El Cerrito initially executed an Agreement for Services in September 2008 with Workers.com to provide temporary laborers to assist in recyclable materials collection; and

WHEREAS, due to continued need for temporary labor resulting from the implementation of new recycling programs, the City Council extended that Agreement on December 15, 2008 and March 1, 2010; and

WHEREAS, the Environmental Services Division (ESD) has determined that it will continue to need temporary labor help to ensure safe and efficient collection of curbside recyclables until after the completion of the new Recycling Center in 2012; and

WHEREAS, the ESD has solicited competitive quotes to provide temporary labor services, with Workers.com providing the most competitive quote; and

WHEREAS, all contract expenses will be paid from the Integrated Waste Management Fund and are accounted for in that fund's 15-year Plan.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of El Cerrito, that it hereby authorizes the City Manager to appropriate and execute a contract with Workers.com in an amount not to exceed \$30,000 per fiscal year, terminating June 30, 2012, with an option to extend through June 30, 2013.

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

I CERTIFY that at a regular meeting on April 4, 2011 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 April X, 2011.

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Karen Pinkos, Deputy City Clerk

APPROVED:

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Ann Cheng, Mayor



## AGENDA BILL

Agenda Item No. 5(D)

**Date:** April 4, 2011  
**To:** El Cerrito City Council  
**From:** Garth Schultz, Environmental Analyst  
**Subject:** Environmental Quality Committee Membership Recommendation

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### **ACTION REQUESTED**

Approve an Environmental Quality Committee recommendation to appoint Michael Huang to the Environmental Quality Committee, effective April 5, 2011.

### **BACKGROUND**

An application to the Environmental Quality Committee was recently received as a result of community notification regarding Board, Commission and Committee vacancies. This application was distributed to all Committee members in advance of a Special Ad Hoc Membership Subcommittee Meeting held on March 8, 2011. During the Special Meeting, four members of the Committee interviewed Mr. Huang and agreed that Mr. Huang should be considered for membership recommendation. During the Regular Committee Meeting on March 8, which immediately followed the Special Meeting, the Committee voted unanimously to recommend to the Council that Michael Huang be appointed to the Environmental Quality Committee.

Mr. Huang demonstrated through his application and his interview that he is committed to environmental quality and the mission of the Committee; he has also attended more than three regular Committee meetings during the past few months.

If the Council approves this recommendation, the number of Committee members will be 13 of a total possible membership of 15, as established by Resolution 2008-13.

Reviewed by:

Scott Hanin, City Manager



## AGENDA BILL

Agenda Item No. 5(E)

**Date:** April 4, 2011

**To:** El Cerrito City Council

**From:** Maria Sanders, Environmental Analyst  
Melanie Mintz, Environmental Services Division Manager  
Karen Pinkos, Assistant City Manager

**Subject:** Participation in the Institute for Local Government's Beacon Award:  
Local Leadership toward Solving Climate Change Recognition Program

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### ACTIONS REQUESTED

Adopt a resolution approving the City of El Cerrito's participation in the Beacon Award program.

### BACKGROUND

The Beacon Award: Local Leadership toward Solving Climate Change is a newly established program of the Institute for Local Government (ILG) recognizing and celebrating cities and counties that reduce greenhouse gas emissions and energy use; adopt policies and programs to address climate change; and promote sustainability. ILG is the non-profit research and education affiliate of the League of California Cities and the California State Association of Counties.

The Beacon Award program is funded by the California utility ratepayers and administered by Pacific Gas and Electric Company, San Diego Gas and Electric Company, Southern California Edison and Southern California Gas Company, under the auspices of the California Public Utilities Commission.

In order to participate in the Beacon Award, cities and counties must complete a simple application and do the following:

- Adopt a resolution by the governing body committing the agency to participate in the program
- Designate a lead staff person as a point of contact
- Prepare, or commit to prepare, a baseline greenhouse gas emissions inventory for agency facilities and the community as a whole (previously completed inventories using a commonly accepted methodology will be accepted)
- Prepare, or commit to prepare, a climate action plan that includes actions in each of the Best Practice Areas based upon ILG's Climate Action and Sustainability Best Practices Framework
- Demonstrate compliance with AB 939, the California Integrated Waste Management Act of 1989

## Agenda Item No. 5(E)

- Achieve specified measurable greenhouse gas reductions and energy savings in agency facilities, and achieve measurable greenhouse gas reductions and promote energy conservation activities in the community

Participating cities and counties will be recognized with Silver, Gold and Platinum Beacon Awards for achieving specified measurable reductions. The program will also recognize participants for interim accomplishments. Awards are achieved through a tiered scale of criteria based on different achievable levels for GHG Reduction, Energy Savings and Best Practice Areas in both Agency Facilities and Operations and in the community at large.

Once a city or county is accepted as a Beacon Award participant, it will work towards achieving one or more of the three award levels at its own pace. There is no deadline or timeline for meeting award level criteria; awards will be given out on an ongoing basis. However, participants will be asked to provide periodic information about their efforts to reduce greenhouse gas emissions and save energy and as well as progress in completing a greenhouse gas inventory, climate action plan and undertaking activities in the ten best practice areas.

Participants will receive special recognition at League of California Cities and California State Association of Counties events, be highlighted on the Beacon Award website, and receive certificates and other materials to display in agency facilities. They may also receive other appropriate and visible public tributes acknowledging their accomplishments. Additional detailed information about the program can be found at [www.ca-ilg.org/BeaconAward](http://www.ca-ilg.org/BeaconAward).

### ANALYSIS

Since 2006, the El Cerrito City Council has consistently supported local, regional and state initiatives to cut the pollution that causes global warming and climate change. The following Council resolutions laid the groundwork for developing a Climate Action Plan (CAP):

- Resolution 2006-61 endorsed the U.S. Mayors Climate Protection Agreement, in which local governments agree to take greenhouse gas (GHG) reduction measures, including the development of a Climate Action Plan.
- Resolution 2006-93 endorsed the reduction targets of the California Global Warming Solutions Act (AB 32).

For the past year, Environmental Services Division staff has been preparing a Climate Action Plan. The purpose of the CAP is to provide a roadmap for the City in pursuing both community-wide and municipal reductions in GHG emissions. Development of the CAP is based on a methodology advanced by ICLEI Local Governments for Sustainability and further refined by the Bay Area Air Quality Management District (BAAQMD). This methodology investigates the potential of reducing local GHG emissions from transportation, energy consumption, water use, and waste generation at the local level by:

## Agenda Item No. 5(E)

- Establishing a baseline inventory of emissions from these activities
- Setting a percentage reduction target in comparison to the baseline inventory
- Outlining the potential of reducing annual GHG emissions through existing and proposed policies, programs, and projects that can be enacted by the City
- Implementing the Plan and monitoring the results through subsequent inventories and adjustments

In 2008, the City developed an inventory of both community-wide and municipal sources of GHG emissions, using 2005 as the baseline year. This inventory was updated in 2010 to reflect new guidelines established by BAAQMD for counting emissions. On February 22, 2011 the City Council adopted a resolution adopting greenhouse gas emissions 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 as a part of the El Cerrito Climate Action Plan.

Because of these actions already taken by the City, staff believes that participation in the Beacon Award program is a compatible and natural fit for the City's climate action efforts. The award levels are achievable, and allows the City an additional venue to showcase its leadership in climate action in our region and throughout the state.


### FINANCIAL CONSIDERATIONS

Program participation is voluntary, and intended to "piggyback" on existing efforts that the City is currently undertaking for our climate action goals. Participating in the program may increase the City's competitiveness for future state or other grant funding.

### LEGAL CONSIDERATIONS

None.

Reviewed by:



Scott Hanin, City Manager

Attachments:

- A. Resolution

RESOLUTION 2011-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING PARTICIPATION IN THE INSTITUTE FOR LOCAL GOVERNMENT'S BEACON AWARD: LOCAL LEADERSHIP TOWARD SOLVING CLIMATE CHANGE RECOGNITION PROGRAM

WHEREAS, the City of El Cerrito is undertaking policies, programs and activities to reduce greenhouse gas emissions and save energy; and

WHEREAS, these policies, programs and activities conserve natural resources, save energy and money, and promote sustainable land use and transportation planning in the community; and

WHEREAS, cities and counties statewide are leading by example by adopting innovative sustainability programs and policies, including working with community residents, business groups and others; and

WHEREAS, the City of El Cerrito wishes to expand these activities, share its experiences with other communities, and be recognized for its accomplishments; and

WHEREAS, the Beacon Award: Local Leadership Toward Solving Climate Change is a voluntary program of the Institute for Local Government, the non-profit research and education affiliate of the California State Association of Counties and the League of California Cities; and

WHEREAS, the Beacon Award recognizes and celebrates achievements of cities and counties that reduce greenhouse gas emissions and save energy; and

WHEREAS, participating in the Beacon Award is an opportunity for the City of El Cerrito to be recognized for its efforts to promote sustainability, reduce greenhouse gas emissions and save energy.

NOW THEREFORE BE IT RESOLVED, that the City of El Cerrito agrees to participate in the Beacon Award: Local Leadership Toward Solving Climate Change; and directs staff to work toward achieving the designated Beacon Award levels.

I CERTIFY that at a regular meeting on April 4, 2011 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 April X, 2011.

\_\_\_\_\_  
Karen Pinkos, Deputy City Clerk

APPROVED:

\_\_\_\_\_  
Ann Cheng, Mayor



## AGENDA BILL

### Agenda Item No. 6(A)

**Date:** April 4, 2011

**To:** El Cerrito Municipal Services Corporation Board

**From:** Dwayne Dalman, Senior Economic Development Program Manager  
Mitch Oshinsky, Economic Development Director

**Subject:** Establish a Commercial Rehabilitation Loan Program for Businesses Within the El Cerrito Redevelopment Area

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### **ACTION REQUESTED**

Adopt a Municipal Services Corporation Resolution to establish a Commercial Rehabilitation Loan Program as an incentive to help fund improvements and new investment by property owners and prospective tenants, assist in converting existing buildings to a higher and better use, and allow for seismic hazard abatement.

### **BACKGROUND**

In 2005, the City of El Cerrito engaged Chabin Concepts, Inc., an economic development marketing firm, to create an economic development strategy and action plan for the city. While the Economic Development Strategy addressed overall economic development issues, it also addressed retail attraction. A final recommendation of the Action Plan was to be “product ready” for development opportunities in order to make the City a more desirable location for stronger retail development. This included:

1. Producing marketing information needed for the development community
2. Identifying potential development sites
3. Identifying retail uses consistent with available sites

To help with this effort, in 2007 the City entered into a contract with The Buxton Company to assess the potential for El Cerrito to recruit and expand its retail sector and to identify specific retail targets.

Since that time, Economic Development staff has been working to match retailers and restaurants identified by Buxton and other sources to specific locations in El Cerrito. The challenge for built out cities such as El Cerrito is finding suitable sites. Many potential sites for restaurant or retail users would involve substantial tenant improvements to convert a building from a previous use. In the case of restaurants, there are specific, often extensive infrastructure improvements necessary for a restaurant to operate. These improvements are typically not in place, and under current economic conditions, property owners are reluctant to fund an entire costly conversion themselves.

## **Agenda Item No. 6(A)**

On October 19, 2009, the City Council adopted an Ordinance 2009-05 establishing the Seismic Hazards Identification and Mitigation Program. At that time staff noted they would review the possibility of linking retrofit work financial assistance to programs such as façade improvement as future finances may allow.

### **ANALYSIS**

In order to help fund new investment by property owners and prospective tenants, as well as to allow for seismic hazard abatement, the Commercial Rehabilitation Loan Program is being proposed. The Program is intended to facilitate new investment in the City, and would provide forgivable loans to tenants and property owners within targeted segments of the Redevelopment Project Area as an incentive for converting existing buildings to a higher and better use for an approved new tenant.

Initially, preference will be given to projects located in the area surrounding the Cerrito Theater and El Cerrito Plaza Shopping Center. This priority area is based on the Redevelopment Agency's investment in the Cerrito Theater, with the two-fold goal of stimulating new complementary business investment and strengthening this area as an entertainment and dining destination. However, any commercial business in the entire Redevelopment Project Area is eligible and encouraged to apply.

Acceptable uses of funds would include architectural design services, signage and facades, seismic retrofit, accessibility improvements, fixtures, as well as general rehabilitation and infrastructure improvements.

### **Loan Terms**

The loan term will be for 4 years at zero percent interest. Annual loan payments will be forgiven at 25% per year provided an approved tenant occupies and continues to operate the space as proposed. If the property benefited by the loan ceases to be used for the approved purposes, the remaining balance of the loan will be immediately due and payable. However, if the loan is to a building owner and the property is re-tenanted within six months with an approved user, the original loan terms will be reinstated.

### **Loan Amount**

The Program may provide up to \$20,000 in total project assistance to any one approved tenant or property owner. Due to the limited availability of funds and the number of buildings identified under the Seismic Hazards Identification Program, applicants who are only completing seismic retrofits will only be eligible to receive \$10,000 under the Commercial Rehabilitation Loan Program. However, if in addition to seismic improvements, an applicant also completes exterior improvements to a building and/or improvements needed for an approved tenant, they will be eligible to receive the full \$20,000 under this program. The Program may not be used to fund non-seismic work on a building identified under the Seismic Hazards Identification Program unless the required seismic retrofit work is also completed.



**Eligible Improvements**

Loan funds can be used for the following general purposes:

- Architectural Design: preliminary design and construction cost estimates that include site plans, design concept, colored building elevations, signs, and interior layouts.
- Signage & Façade Improvements: signage and façade improvements, such as exterior signs, exterior lighting, exterior windows and doors, painting and awnings.
- Accessibility (ADA) Improvements: Federal and State Law require that whenever renovations or additions are made to a commercial structure, the property owner must also improve access to and within their building for persons with disabilities, or show why these improvements are not feasible. Improvements provided to help comply with these requirements would be eligible.
- Fixtures: necessary fixtures that are permanent modifications to the subject property, and used in the normal operation of the business enterprise.
- Seismic Retrofit: seismic retrofit work to buildings that contain seismic hazards, and are identified as subject to the El Cerrito Seismic Hazards Identification and Mitigation Program.
- General Rehabilitation and Infrastructure: assistance for the renovation and rehabilitation of existing buildings for new uses. Improvements could include parking lot, landscaping, tenant and infrastructure renovations needed to convert from one tenant use to another, as well as upgraded electrical, sewer, and water systems.

**Disbursement**

Loan funds will be dispersed to applicants for approved building rehabilitation costs that fall into any of the previously described building rehabilitation categories. The loan funds dispersed under the program are not to exceed more than 50% of the total costs of improvements paid for by the applicant or property owner. In order for loan funds to be disbursed under the program, the applicant must provide the following:

1. Valid business license with the City of El Cerrito
2. Evidence of all necessary permits and approvals for the work
3. Invoices and contracts for material and/or work to be completed
4. Proof of payment for building rehabilitation costs already completed in an amount that matches or exceeds funds requested under loan program
5. Building department sign off on all improvements installed
6. Signed application and loan agreement

A building tenant must also provide the following:

1. Proof of building owner consent
2. Signed lease for a term of at least five years including information on any tenant improvement allowance paid by the landlord

**Security**

Loans disbursed to a property owner will be secured by a deed of trust against the subject property. Loans disbursed to a tenant for the purpose of permanent fixtures or tenant improvements will be secured by a Uniform Commercial Code filing as security against non-real estate assets. Security will be released at the end of the four year period provided the property continues to operate in accordance with the loan requirements.

**Application Evaluation Criteria**

Loans will be disbursed on a first-come, first-served basis to eligible applicants until all funds in the program have been disbursed annually. Applications will be evaluated based on the following criteria:

- Location: Is the project located in the initial targeted area of the Cerrito Theater/ El Cerrito Plaza area?
- Economic Vitality: Will the improvements increase economic vitality in the City, such as provided for in the Economic Strategy?
- Exterior Improvements: Does the existing exterior of the property/business contribute to economic or physical blight?
- Tenant: Will the project bring a needed tenant to the community identified in the Buxton study or approved by Economic Development staff?
- Prior Assistance: Has the property/business owner received prior assistance from the City or the Agency? Applicants that have not received prior assistance will be given priority over those who have received prior assistance.

**Restrictions**

- Eligibility in the program is restricted to tenants or property owners approved by Economic Development staff and/or identified by the Buxton study.
- Loan funds will be dispersed to reimburse applicant for approved project costs.
- Loan funds dispersed under the program are not to exceed more than 50% of the total costs of rehabilitation in approved categories.
- If the building is vacated by the original approved tenant, or if the building is sold prior to the end of the four year period, the loan will be due in full immediately, provided however, loans may be assumed by new tenants meeting the criteria of the program.
- All improvements must conform to the Uniform Building Code, City of El Cerrito ordinances and design regulations, and any other City guidelines.
- Loan recipients will be subject to the general requirements applicable to public assistance including the payment of prevailing wages for construction work performed.

**FINANCIAL CONSIDERATIONS**

\$100,000 in funds will be made available for this Loan Program from the Municipal Services Corporation (MSC). There are sufficient funds available for this program in the current fiscal year budget. The funds from the MSC are pursuant to the Public Improvements and Cooperation Agreement entered into between the El Cerrito Redevelopment Agency and the City per Resolution No. 603 on February 7, 2011, which the City subsequently assigned to the MSC. The Commercial Rehabilitation Loan Program was included as one of the projects funded under the Public Improvements and Cooperation Agreement.

**LEGAL CONSIDERATIONS**

The El Cerrito City Council adopted Resolution No. 2011-16 on March 7, 2011 partially assigning the City's rights and responsibilities under the Public Improvements and Cooperation Agreement for the City of El Cerrito Redevelopment Project Area to the El Cerrito Municipal Services Corporation. Through the agreement, the MSC is authorized and responsible to undertake certain projects and programs. This Program is consistent with the El Cerrito Redevelopment Plan and the Implementation Plan, and is of benefit to the Project Area. The Program has been reviewed by the City Attorney and Agency Counsel.

Attachments:

1. Municipal Services Corporation Resolution

RESOLUTION NO. 2011-04

A RESOLUTION OF THE EL CERRITO MUNICIPAL SERVICES CORPORATION ESTABLISHING A COMMERCIAL REHABILITATION LOAN PROGRAM FOR BUSINESSES WITHIN THE CITY OF EL CERRITO REDEVELOPMENT PROJECT AREA

WHEREAS, a final recommendation of the City of El Cerrito Economic Development Strategy was to be “product ready” for development opportunities in order to make El Cerrito a more desirable location for retail development; and

WHEREAS, Economic Development staff is working to match retailers and restaurant users to spaces in El Cerrito; and

WHEREAS, many potential sites for restaurant or retail users would involve substantial tenant improvements to convert a building from a previous use; and

WHEREAS, in relation to City Ordinance 2009-05, “Seismic Hazards Identification and Mitigation Program”, staff has reviewed the possibility of linking financial assistance for seismic retrofit work to loan programs as future finances may allow; and

WHEREAS, the typical rehabilitation of an existing building often results in unforeseen costs; and

WHEREAS, in current economic conditions, property owners are reluctant or unwilling to fund the entire cost of improvements themselves; and

WHEREAS, a forgivable loan program can help fund improvements and new investment by property owners and prospective tenants; and

WHEREAS, the El Cerrito Municipal Services Corporation (MSC) has previously entered into that certain Public Improvements and Cooperation Agreement with the El Cerrito Redevelopment Agency whereby the MSC agreed to undertake certain redevelopment activities on behalf of the Agency and the Agency provided or will provide funding for such activities.

NOW, THEREFORE, BE IT RESOLVED that the El Cerrito Municipal Services Corporation establishes the Commercial Rehabilitation Loan Program with the following parameters:

1. The Commercial Rehabilitation Program is being established to facilitate new investment in the City of El Cerrito Redevelopment Project Area.
2. Property owners and tenants are eligible for the loan program provided that they are investing money into converting existing commercial buildings to a higher and better use for an approved new tenant.
3. Initial targeted area of preference is the area surrounding the Cerrito Theater and the El Cerrito Plaza Shopping Center.
4. Loan funds can be used for the following purposes: architectural design services, signage and facades, seismic retrofit, accessibility improvements, fixtures that constitute a permanent modification to the building, as well as general rehabilitation and infrastructure improvements.

5. The loan term will be for a period of four years at zero percent interest.
6. Annual loan payments will be forgiven at 25% per year provided an approved tenant continues to occupy the space.
7. If the building is vacated by the original approved tenant or if the building is sold prior to the end of the four year period, the remaining portion of the loan will be immediately due in full, provided, however, eligible successor tenants meeting the criteria of the program may assume the Loan with approval of the MSC.
8. Loan funds dispersed under the program are not to exceed more than 50% of the total costs of improvements paid for by the applicant or the property owner.
9. Loan funds are not to exceed \$20,000 in total project assistance to any one approved tenant or property owner.
10. In the case of seismic retrofit work to buildings that contain seismic hazards, and are identified as subject to the El Cerrito Seismic Hazards Identification and Mitigation Program, loans for seismic hazard retrofit will be in a maximum loan amount of \$10,000. If an applicant completes exterior improvements or building rehabilitation in addition to the seismic retrofit improvements, \$20,000 in loan funds will be available. The Program may not be used to fund non-seismic work on a building identified under the Seismic Hazards Identification Program unless the required seismic retrofit work is also completed.
11. Loan funds will be dispersed to eligible applicants on a first-come, first-served basis, until the total available loan funds have been exhausted.
12. Loans disbursed to a property owner will be secured by a deed of trust against the subject property. Loans disbursed to a tenant for the purpose of permanent equipment or fixtures will be secured by a Uniform Commercial Code filing. Security will be released at the end of the four year period, provided the loan remains in compliance with the loan terms.

BE IT FURTHER RESOLVED that as the majority of loan funds are anticipated to be disbursed within the first year of the program, program funding amounts and restrictions for subsequent years will be determined at a future date, as deemed necessary.

I CERTIFY that at a regular meeting on April 4, 2011, the El Cerrito Municipal Services Board passed this Resolution by the following vote:

AYES:	BOARD MEMBERS:
NOES:	BOARD MEMBERS:
ABSENT:	BOARD MEMBERS:

IN WITNESS of this action, I sign this document on April \_\_, 2011.

\_\_\_\_\_  
Scott Hanin, Corporation Secretary

APPROVED:

\_\_\_\_\_  
Ann Cheng, Chair