RESOLUTION 2018–46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO CALLING AND GIVING NOTICE OF THE HOLDING OF THE GENERAL MUNICIPAL ELECTION ON NOVEMBER 6, 2018; SUBMITTING TO THE VOTERS OF THE CITY A MEASURE BOTH TO ADOPT A CITY CHARTER AND TO AUTHORIZER A REAL PROPERTY TRANSFER TAX; APPROVING AN ORDINANCE ENACTING A REAL PROPERTY TRANSFER TAX; ORDERING THE SUBMITTAL OF THE CHARTER AND ORDINANCE TO THE VOTERS AT THE ELECTION; AND REQUESTING THAT THE CONTRA COSTA COUNTY BOARD OF SUPERVISORS CONSENT TO THE CONSOLIDATION OF THIS ELECTION WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE AND DIRECT THE REGISTRAR OF VOTERS TO CONDUCT THE ELECTION

WHEREAS, the City of El Cerrito was incorporated as a general law city in 1917 by residents seeking to manage local affairs; and

WHEREAS, since then, the authority of general law cities has been diminished through State mandates and State law regarding use of local resources: and

WHEREAS, the power of home rule granted by the California Constitution makes available to charter cities a variety of tools to construct local policy and address local concerns; and

WHEREAS, becoming a charter city would allow El Cerrito to reclaim more local autonomy and expand the economic and fiscal independence of our city to promote the health, safety, and welfare of all residents; and

WHEREAS, El Cerrito does not have the authority to institute a property transfer tax on commercial property owners, so our residents lose out on millions of dollars in funds that could be used for city services. By becoming a Charter City, El Cerrito can collect its fair share; and

WHEREAS, establishing El Cerrito as a charter city like Oakland, Alameda, Richmond, Emeryville, Albany, and Berkeley gives us more local control over City affairs and local funding needs, money that cannot be taken by the State; and

WHEREAS, the voters of each charter city get to decide which tools to put in their tool box. Being a charter city allows for more options for funding important local services or capital projects. Potentially, the biggest impact for El Cerrito would be the ability to implement a real property transfer tax like its neighboring cities; and

WHEREAS, because we do not have a real estate property transfer tax, in 2017 El Cerrito lost more than half a million dollars in potential revenue from commercial sales; and

WHEREAS, to address these issues, in November 2017, the City Council created and provided direction to a volunteer Charter Committee to prepare a draft charter for the
City Council to consider submitting to the voters of El Cerrito to change El Cerrito to a charter city, which would also empower the voters to approve a real property transfer tax; and

WHEREAS, after five well noticed public meetings, the Charter Committee recommended to the City Council a draft El Cerrito City Charter; and

WHEREAS, the City Council held two noticed public hearings to receive comments from the public and to consider the proposed draft El Cerrito City Charter; and

WHEREAS, at the conclusion of the hearing process, after considering all testimony, evidence, and comments from the public, the City Council directed the preparation of a ballot measure to submit to the voters of El Cerrito the approval of the El Cerrito City Charter and an ordinance that would authorized a real property transfer tax; and

WHEREAS, the measure provides a protected and reliable source of local revenue to maintain critical resident services; and

WHEREAS, revenue from the measure could be used to maintain police, fire protection and emergency medical services, city parks, paths, playfields, and open space, rapid 9-1-1 emergency response times, programs for children, adults, and families, library programs, earthquake and disaster preparedness programs, and create an emergency reserve for natural disasters and emergencies like the recent North Bay fires; and

WHEREAS, the measure requires independent citizen oversight, annual independent financial audits, and yearly reports to the community to ensure that all funds are spent as directed; and

WHEREAS, the proposed Charter would authorize the City to levy a real property transfer tax and exercise the other powers of a charter city to raise revenue. It would authorize the City to exercise the powers of a charter city but retains the existing form of government and the existing Municipal Code and directs that the City will follow State law in a number of areas, including the payment of prevailing wages for public works projects and relations with represented bargaining units of City employees; and

WHEREAS, the tax to be submitted to the voters, if approved, would authorize a tax on the sale of property. Payment of the tax could be negotiated between buyer and seller. The tax would not be an annual tax on property, only a tax on the sale of property. The tax rate would be twelve dollars ($12.00) per each one thousand dollars ($1,000.00), or fraction thereof, of the consideration paid for real property. The tax would be owed at the time of sale of real property. The tax would collected by the City. Both the El Cerrito City Charter and the tax would be approved if the measure receives at least a simple majority vote of affirmative votes; and

WHEREAS, the City Council has the authority to submit this measure to the voters of the City of El Cerrito pursuant to Article XI, Sections 3 and 5 of the California Constitution and Elections Code Section 9255.
NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito as follows:

Section 1. Declaration of Findings. The foregoing recitals are true and correct and incorporated by reference.

Section 2. Election Called. Pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of El Cerrito, California, on Tuesday, November 6, 2018, an election for submitting to the voters the El Cerrito a measure that would make El Cerrito a Charter City and approve a real property transfer tax.

Section 3. Measure To Be Submitted To Voters. The full text of the measure, attached to this Resolution as Exhibit A and Exhibit B, including the proposed Charter of the City of El Cerrito and an ordinance authorizing a Real Property Transfer Tax, shall be completely printed in the voter pamphlet. The measure shall not take effect unless and until it is approved by a vote of at least a simple majority of affirmative votes of the voters voting on the question at the election. If the measure is approved, both the Charter and the Real Property Transfer Tax shall be approved. The City Council, pursuant to its right and authority, does order the following measure to be submitted to the voters which shall appear and be printed on the ballot as follows:

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<th>CITY OF EL CERRITO</th>
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<td>To better maintain emergency 911 fire, medical and police services and response times; city parks, paths, playfields, and open space; programs for children, adults, and families; library programs; earthquake and disaster preparedness programs and reserves; other general services, shall a measure be adopted establishing El Cerrito as a Charter City and an ongoing real estate property transfer tax of $12 per $1,000, paid by buyers or sellers of property, providing $2,700,000 annually, all benefiting El Cerrito?</td>
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Section 4. Approval of Ordinance. The City Council hereby approves the proposed ordinance to be submitted to the voters, attached hereto as Exhibit B. The proposed tax is a general tax and shall not take effect unless and until the proposed measure, including the Charter, is approved by a vote of at least a simple majority of affirmative votes of the voters voting on the question at the election. The ordinance specifies that the rate of the Real Property Transfer Tax shall be twelve dollars ($12.00)
per each one thousand dollars ($1,000.00), or fraction thereof, of the consideration paid for real property. The tax is owed at the time of sale of real property. The tax shall be collected by the City.

Section 5. Ballot Format. The ballots to be used at the election shall be in the same form and content as required by law.

Section 6. Impartial Analysis. The City Attorney is hereby directed to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280 which shall be filed no later than August 17, 2018.

Section 7. Ballot Argument. The City Council hereby authorizes the Mayor to submit a ballot argument in favor of the measure, pursuant to Elections Code Section 9282. The last day for filing of primary arguments is 4:00 p.m. on August 22, 2018. At the Mayor's discretion, the argument may also be signed by members of the City Council or representatives of bona fide associations or by individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure, the Mayor is also authorized to submit a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or representatives of bona fide associations or by individual voters who are eligible to vote on the measure, which may be different from those who signed the primary argument.

Section 8. Requesting the Consolidation of Elections. Pursuant to Elections Code Section 10400 et seq., the City Council of the City of El Cerrito hereby requests that the Contra Costa County Board of Supervisors consent and agree to the consolidation of the municipal election with the general election to be held on November 6, 2018 and provide all services necessary to conduct the election and print a measure on the ballot as described in Section 3 of this resolution. The county election department is authorized to canvass the returns of the special municipal election. Within the City of El Cerrito, the election precincts, election officers, hours of voting, polling places and voting booths shall in every case be the same as those selected and designated by the Contra Costa County Registrar of Voters; provided that no person not a qualified elector of the City of El Cerrito shall be permitted to vote for the measure placed on the ballot by the City Council. The City Council recognizes that the County will incur additional costs in conducting the election called by this resolution, agrees to reimburse the County for those costs, and authorizes and directs the City Manager or his designee to expend the funds necessary to pay for the costs of conducting the election.

Section 9. Provisions For Rebuttal Arguments. The provisions of Elections Code Section 9285 shall apply to this election. The last day for filing of rebuttal arguments is 4:00 p.m. on August 27, 2018.

Section 10. Hours of Polling. The polls for the election shall be open at 7:00 a.m. of the day of the election and shall remain open continuously from that time until 8:00 p.m. of the same day when the polls shall be closed except as provided in Elections Code Section 14401.
Section 11. Other Procedures. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections. The City Council acknowledges that the consolidated election will be conducted in the manner prescribed in Elections Code section 10418.

Section 12. Notice. The City Clerk is authorized and directed to give notice of the election as required by law. The City Clerk shall file a copy of this resolution with the County Elections Official and the Clerk of the Board of Supervisors forthwith.

Section 13. Compliance with the California Environmental Quality Act. Approval of this resolution is exempt from review under the California Environmental Quality Act (Public Resources Code §§ 21000 et seq. (“CEQA”) and 14 Cal. Code Reg. §§ 15000 et seq. (“CEQA Guidelines”)). The tax to be submitted to the voters by this resolution is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have such effect, the City would undertake the required CEQA review for that particular project at the earliest feasible time prior to approval of the project, consistent with CEQA Guidelines Sections 15004 and 15352. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

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

I CERTIFY that at the regular meeting on July 17, 2018 the El Cerrito City Council passed this resolution by the following vote:

AYES: Councilmembers Abelson, Fadelli, Lyman, Pardue-Okimoto, and Mayor Quinto
NOES: None
ABSTAIN: None
ABSENT: None

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on July 18, 2018.

Sherry M. Kelly, Acting City Clerk

APPROVED:

Gabriel Quinto, Mayor