



Public Works Department

# AGENDA

## REGULAR MEETING OF THE CITIZEN STREET OVERSIGHT COMMITTEE

**Monday, January 27, 2014, 7:00 p.m.**  
**El Cerrito City Hall**  
Hillside Conference Room  
10890 San Pablo Avenue

1. **Roll Call**
2. **Comments from the Public**  
*(Each speaker is limited to a maximum of 2 minutes.)*
3. **Approval of Minutes**  
Review and approve minutes from November 4, 2013 Meeting. *(Action Requested: Approval)*
4. **Discussion of Non-Pavement Expenditures**  
Continued discussion of Measure A funds used for non-pavement projects. *(No Action Requested; the Committee may provide possible direction to staff)*
5. **Staff Liaison Report**
  - Report on MTC's recent Pothole Report; El Cerrito wins the Most Improved Streets Award again  
*(Information only)*
6. **Committee Standing Rules**  
A copy of the latest Standing Rules (2012 – 2, dated September 24, 2012) is attached. *(Action Requested: Review and consider adopting revisions to Standing Rules)*
7. **Election of Committee Officers**  
Nominate and elect Committee Chair and Vice Chair *(Action Requested: Elect Officers)*
8. **Future Agenda Items and Meeting Schedule**  
Set agenda for next meeting *(Action Requested: set agenda and confirm date)*
9. **Adjournment**

*Any writings or documents provided to a majority of the Citizen Street Oversight Committee regarding any item on this agenda will be made available for public inspection in the Public Works Department located at 10890 San Pablo Avenue during normal business hours.*

### COMMUNICATION ACCESS INFORMATION

*To request a meeting agenda in large print, Braille, or on cassette, or to request a sign language interpreter for the meeting, call Jerry Bradshaw, Staff Liaison at 215-4382 (voice) at least FIVE (5) WORKING DAYS NOTICE PRIOR TO THE MEETING to ensure availability.*

10890 San Pablo Avenue, El Cerrito, CA 94530 Tel: 510.215.4382  
E-mail: [jbradshaw@ci.el-cerrito.ca.us](mailto:jbradshaw@ci.el-cerrito.ca.us)



Public Works Department

**Draft Minutes**  
**SPECIAL MEETING**  
**OF THE**  
**CITIZEN STREET OVERSIGHT COMMITTEE**

**Monday, November 04, 2013, 7:00 p.m.**

**El Cerrito City Hall**  
Hillside Conference Room  
10890 San Pablo Avenue

**Call to Order** at 7:00 p.m.

**1. Roll Call**

Present: Vice Chair Lynne Kessler, Committee Members Al Miller, Thomas Miller and Liz Ozsalcuk

Absent: none

Other Attendees: Staff Liaisons Jerry Bradshaw, Interim Senior Engineer, and Yvetteh Ortiz, Public Works Director / City Engineer, Daniel Emerling, resident

**2. Comments from the Public**

None.

**3. Approval of Minutes**

Comment by Committee Member Al Miller – page 3-3, Item 5-c, second to last line, the word “if” should be “is”. The grammar will be modified to make the sentence clearer.

The Roll Call item (#1) incorrectly referred to Al Miller as the Chair; he is no longer an officer.

**Action taken:** M/S Al Miller/Ozsalcuk to approve minutes as corrected. Approved unanimously.

**4. Review Use of Measure A Funds for non-Pavement Projects**

Liaison Bradshaw summarized the packet items, which were listed in the brief staff report on page 4-1. That report also quoted the Measure A ballot language.

- The ordinance is contained in pages 4-3 through -11; attention is directed to page 4-8 where the Section 4.60.150 spells out the use of tax proceeds.
- The Expenditure Plan, which was attached to the ordinance, begins on page 4-12. The Expenditure Plan did not itemize specific projects, but rather set out the process for an

annual plan of expenditures to be approved by the City Council in the annual capital budgeting process. The phrase “and Citizens’ Oversight Committee” was struck through since the Committee does not set priorities per the ordinance.

- Beginning on page 4-15 is a staff report written for the City Council meeting of August 21, 2012 that recommends the use of \$100,000 of Measure A funds for a Traffic Safety and Management Program. This was the first time any Measure A funds were approved for non-pavement work. On the bottom of page 4-16 was a sentence that reinforced that pavement improvements were considered by staff to be the first priority for Measure A money, but that significant improvements had been made such that a modest amount of funding would be appropriate for secondary aspects of the fund.
- Beginning on page 4-21 are other documents that accompanied the original Measure A when presented to the Council in November 2007.

Two committee members, Kessler and Thomas Miller, believe that funding traffic projects goes against the spirit of Measure A; that which was presented to voters in the run-up to the 2008 election where pavement condition was paramount. The authorization to use the funding for “other such projects as are deemed necessary by the City Council for the benefit of the residents of the City” is “fine print” that should not determine the correct course.

Thomas Miller feels that an incorrect action has been taken and the ordinance should be rescinded. Voters approved the money to “fix the streets”; they didn’t vote for that money to be used for anything other than that. Al Miller feels that the Committee was created to review financial records to ensure that all the money received from the State for Measure A was spent on projects approved by the City Council within Measure A. Thomas Miller disagreed saying the Council has nothing to do with it – the committee’s loyalty is owed to the voters at large. He has a strong perception of why they voted for the measure, and must see to it that these “raids” on the funds are not allowed.

Al Miller relies on the work by staff, the City Attorney, and the City Manager to write a valid ordinance where all the provisions are legal. Thomas Miller stated those people are bureaucrats, and why was an oversight committee put in to place if the voter has such wonderful confidence in the staff. Al Miller answered that it was a layer of transparency afforded to the public. Thomas Miller responded that, although Mr. (Al) Miller’s point may prevail, he would have no part in it.

Kessler believes that the Measure was explicit in what the money could be used for (inferring a narrow interpretation), and no authority was given to transfer money to other traffic-related projects. But it has been done, and the Committee should protest it and make sure it doesn’t happen again. Al Miller again refers to page 4-8 (ordinance language), “...and other such improvements as are deemed necessary by the City Council for the benefit of the residents of the City.” Kessler stated that could mean anything. Al Miller responded, Yes, as long as a majority of the Council approves it. Kessler: then why are we (the Committee) here?

29.22 Bradshaw asked for clarification from Thomas Miller: he suggested that the ordinance be “rescinded”; what did he mean by that? The only ordinance was the Measure A approved by

voters; that cannot be rescinded by Council. He meant the action to move money to the traffic projects (Resolution 2012-61, August 2012).

Kessler thinks that the most the Committee can do is to note the action and report that they do not think it complies with Measure. Thomas Miller stated it should be publicized as much as possible and is a blatant violation of what was presented to the voters. They both felt that there may be no end to fund diversions away from pavement work. Bradshaw restated staff's commitment to pavement condition maintenance as a first priority; staff did not take these actions lightly and continue to verify that sufficient monies for that effort are preserved. Thomas Miller argued that this was precisely the mission of the Committee – to ensure that fund diversions are not done. If there's too much money, the City should not simply find other ways to spend it; what's wrong with reducing the tax measure?

Al Miller reminded the group of Ordinance section 2.04.320, C.3 (page 4-10); "The Committee is not charged with decision-making on spending priorities, schedules, project details, funding source decisions, financing plans or tax rate assumptions. The Committee shall serve in an advisory-only role to the City Council." The Council is not looking to the Committee for advice on which projects to include. The Council is depending on the Committee to make sure that Measure A money is used to fund those approved projects. Thomas Miller believes that the definition of an oversight body is to reach conclusions as to whether the funds were spent pursuant to Measure A. All agreed with that assessment, and Al Miller went on to say that if the Council stepped outside Measure A to fund a project, then the Committee should state so, but that is not the case here. Kessler agreed with Thomas Miller that this violated the spirit of Measure A.

Thomas Miller reiterated what a wonderful job the City and its staff has done on the street conditions so far. But he thinks that funds have been misappropriated, and unless something is done, he cannot remain on the committee.

Ozselcuk stated that as a member of the voting public the traffic and other safety projects are worthy for Measure A funds if there's enough money.

Kessler asked if there might be other projects that would get Measure A funds. Bradshaw stated that there have been other projects. These were shown at the prior meeting when the expenditures for the past year were reviewed, and the Capital Improvement Program for the current year was discussed. Most are individual, one-time projects. The Traffic Safety and Management Program is set up to be possibly an annual program. However, this would be incumbent on several things; primarily the budget needs of the pavement program. Ortiz added that pavement is the priority; the pavement condition status is checked every two years and the financial needs of that program would be assessed annually.

**Action taken:** Motion made by Thomas Miller: notify the City Council that the Committee is of the opinion that Measure A funds have been misappropriated. Motion died for lack of a second.

Mr. Emerling stated that the word “misappropriated” implies something illegal was done. He stated that Al Miller had made a good case that nothing illegal was done. Thomas Miller stated that he wanted his motion to be strongly worded.

Thomas Miller asked to whom he should address his letter of resignation. Bradshaw advised him to submit to the City Clerk.

Al Miller asked a few follow-up questions about the language in the Ordinance:

- Section 4.60.150, (b) at the bottom of page 4-8 and on to page 4-9: indebtedness is limited such that the annual debt service is not in excess of 75% of the projected annual tax proceeds. Question: is that something the Committee should be reviewing? Answer: That was assessed at the beginning as debt was incurred. The debt incurred resulted in an annual debt service of \$750,000 and the projected annual revenue was \$1.3 million. That was about 60%. No further review is necessary.
- Expenditure Plan, top of page 4-13, “In addition, approximately 15% of the [tax] would be set aside to improve the non-vehicular mobility and accessibility (curb ramps, improved striping) and significant drainage problems associated with the City’s street system.” Question: How is that tracked? Answer: That is not tracked per se, however staff did compute the share of curb ramps after the major work at 9%.
- Expenditure Plan, top of page 4-14, first paragraph: the phrase “... and the Citizen Oversight Committee” should be struck out the same as it was on page 4-12.
- Expenditure Plan, page 4-14, Administrative costs. Question: are these the administrative costs discussed each year on the expenditure report? Answer: Yes, except for the bullet 1, which should be struck out. As discussed in 2008, those administrative costs are disallowed by the ordinance.

## 5. Staff Liaison Report

- a. Committee Terms: Page 5-1 is a chart showing the terms of committee members. Al Miller and Kessler were initially put into 4-year terms beginning in 2008. Those would be up in 2016. The other two (Thomas Miller and Ozselcuk) were put into 3-year terms initially. Those would be up in 2015. Terms are limited to 2 full terms. For the latter group that began with a 3-year term, the initial term is not considered a full term for term limits purposes.
- b. Distribution of Maddy Act List: This list shows all current or upcoming vacancies for any boards, commissions or committees. The Citizens’ Street Oversight Committee is shown with one vacancy.

## 6. Future Agenda Items and Meeting Schedule

The next regular meeting is scheduled November 11<sup>th</sup>; however that has already been cancelled due to the Veterans Day Holiday. The following regular meeting is set for January 27<sup>th</sup>.

Agenda items include the normal January meeting. If there are any new members appointed, the Standing Rules could be put on the agenda.

Desired items for the November 4<sup>th</sup> agenda include:

- Discussion of the practice of allocating Measure A money to non-pavement/curb/gutter projects.

**7. Adjourned** at approximately 8:05 p.m.



## STAFF REPORT

**Date:** January 27, 2014  
**To:** El Cerrito Citizen Street Oversight Committee  
**From:** Jerry Bradshaw, Interim Senior Engineer, Staff Liaison  
Yvetteh Ortiz, Public Works Director/City Engineer, Staff Liaison  
**Subject:** Continued Discussion of Measure A Funds Used for Non-Pavement Projects

---

At the November 4, 2013 special meeting of the Committee staff presented several documents illustrating the authority for the City Council to allocate Measure A funds to projects that were not strictly pavement-related. Two Committee members were opposed to such projects being funded by Measure A, and each wrote letters subsequent to the Meeting. Copies of those letters plus the City's response to one letter and a related newspaper article are attached (Attachment A):

- November 11, 2013; from Thomas Miller to the City Council
- November 23, 2013; from Lynne Kessler to staff

Mr. Miller's letter was also sent to the Contra Costa Times, which printed an article on two occasions about the questions of how Measure A money was spent (copy attached). Staff sent a response to Ms. Kessler, and that letter is also attached for your reference.

Ms. Kessler requested in her letter that several items be placed on the agenda for this meeting:

1. **Description of the Traffic Safety & Management Program, and an accounting for expenditures of Measure Funds.** A copy of the Project Information Sheet for this CIP Program is attached (Attachment B-1). Also attached is a summary of expenditures to date for this program (Attachment B-2).
2. **Summary of Measure A funds allocated for non-pavement projects.** A summary with supporting documentation is attached (Attachment C)
3. **Committee's Annual Report with certain exceptions noted.** The City's auditor has not yet concluded the audit of Fiscal Year 2012-13. As a result staff is unable to present the normal audit documentation and Agreed Upon Procedures Report at this meeting for the Committee's review. Therefore the Annual Report could not be agendaized for this meeting. Staff requests that a special meeting be scheduled by the Chair and staff liaison for a later time once the final audit documents are available. The annual report would be placed on that agenda.

4. **Amend Measure A to allow for non-pavement projects.** Staff's position is that no amendments are necessary for Measure A; non-pavement projects are already allowable pursuant to the Ordinance. No attachments, discussion only.
5. **Justification for continued existence of the Committee.** Staff's position is that the Measure A Ordinance is clear as to the role of the Committee as discussed previously. No attachments, discussion only.

No action is requested by staff. The Committee has been provided with information that it requested and may discuss that information and provide possible direction to staff.

Attachments:

- Attachment A
  - Letter from Thomas Miller dated 11/11/13
  - Letter from Lynne Kessler dated 11/23/13
  - El Cerrito Journal Article dated 1/3/14
  - Letter from Jerry Bradshaw dated 1/9/14
- Attachment B – Information for Traffic Safety & Management Program
  - Project Information sheet
  - Project Transaction Report
- Attachment C – Summary of Measure A Non-Pavement Projects
  - Excerpt from FY 2101-11 Budget
  - Council Agenda Bill & Resolution 2013-01 from 2/5/13
  - Council Agenda Bill & Resolution 2012-61 from 8/21/12
  - Excerpt from FY 2013-14 Budget
  - Council Agenda Bill & Resolution 2012-87 from 11/20/12
  - Council Agenda Bill & Resolution 2013-21 from 5/7/13
  - Excerpt from FY 2013-14 Budget

ATTACHMENT A

Thos. N. Miller

2700 Tulare Avenue  
El Cerrito, California 94530-1439  
Telephone: 510-233-1047  
FAX: 510-233-2720  
e-mail: schwabbi@aol.com

RECEIVED

NOV 18 2013

CITY OF EL CERRITO  
CITY CLERK

El Cerrito City Council  
C/o Cheryl Morse – City Clerk  
El Cerrito City Hall  
10940 San Pablo Avenue  
El Cerrito, CA 94523-3034

11/11/13

Dear Council members,

Very shortly after moving to El Cerrito in 1993 I became painfully aware of the deplorable state of the streets in El Cerrito. Upon inquiring about this to City Staff I recall being informed that the City had very limited funds for street repair and that I should expect to wait at least ten years before anything could be done about my complaint.

Some years later I heard that there was a proposed Measure A which would result in adequate funding to repair our streets. This seemed to me something I should support so I attended every public event that came up and learned as much as I could about the Proposal. What particularly sold me on the Measure was that it provided for the establishment of an oversight committee to make sure that the funds derived from Measure A would only be spent on the streets themselves i.e. Asphalt paving, concrete gutters and curbs and necessary painted striping and nothing else. Accordingly I did all I could to move this matter forward including speaking to the City Council when it was meeting on Moeser Lane. Apparently most of the voters agreed with my view and the Measure passed by a wide margin. Little did I or the voters know that in the "fine print" there was a provision that allowed diversion of Measure A funds to purposes other than what we thought we were voting for.

Since I had been such a strong supporter of Measure A I thought I should apply for appointment to the El Cerrito Street Repair and Maintenance Citizens Oversight Committee which was mandated by Measure A. Mayor

Jones announced my appointment to that committee in June 2008. Matters proceeded in conformance with what I thought the was the voters' intent for about five years during which time all the Measure A funds were spent on the streets and thanks to City Staff we now have very good streets. This has been a great accomplishment.

It appeared that all Measure A funds were being spent on streets as the voters intended until a meeting of the Oversight Committee on September 23, 2013 at which time the Committee detected that a substantial diversion of Measure A funds had occurred. This appeared to be a gross deviation of past practice and so a Special Meeting of the Committee was arranged for November 4, 2013 to examine this matter. At this meeting documents revealed that on August 21, 2012 City Staff requested that the City Council divert \$100,000.00 of Measure A funds to some unheard of entity not subject to Committee oversight to be followed by an ongoing diversion of 14% of Measure A funds, apparently forever. This request seems to have resulted in the City Council passing "RESOLUTION 2012-XX" implementing this substantial diversion of existing and future Measure A funds.

No doubt what has been done is entirely legal but certainly does not comport with voter intent. At this point it is easy to conclude that all this is water over the dam and my perception of voter intent does not stack up with the "fine print" which was never advertised.

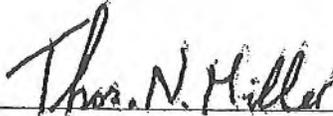
These actions by City Staff and City Council bring up the question of what good is an "Oversight Committee" when it has little or nothing to oversee? This diversion of Measure A funds was not revealed to the Oversight Committee at the time of the Proposal or the subsequent adoption of "RESOLUTION 2012-XX" when Staff and one must presume since you appointed the Committee, both knew or should have known that the Committee belonged in the decision making loop. There is little doubt that this matter would have gotten diligent scrutiny had the proper course been followed.

It is now obvious that the function of the Oversight Committee as to oversight of the use of Measure A funds does not in reality exist and if it exists at all it is the form of a delusion. The only remaining function of the Committee is related to the receipt of funds. This matter is well and adequately handled by City Financial Staff.

In view of the forgoing I request that the City Council proceed to immediately abolish the "Oversight Committee". This is the only reasonable thing to do because the Committee serves no useful purpose as proven when it is not even consulted when its core responsibility is usurped by Staff and City Council. I realize that there may be a few voters with long memories and sense of intent who may be made a bit unhappy by this abolishment but there has never been any need to worry about them.

It is with profound regret that I write this letter because I put a lot of heart into this and to have to realize that it was all an illusion is a bitter pill and not what I expected of public service,

Very Truly Yours,

  
Thomas N. Miller

November 23, 2013

RECEIVED

Mr. Jerry Bradshaw  
City of El Cerrito  
Public Works Engineer, Staff Liaison  
Citizen Street Oversight Committee

NOV 25 2013

City of El Cerrito  
Public Works

Yvetteh Ortiz  
City of El Cerrito  
Public Works Director/City Engineer, Staff Liaison  
Citizen Street Oversight Committee

Re: Citizen's Oversight Committee – Agenda Items for January 2014 Meeting

Dear Mr. Bradshaw and Ms. Ortiz:

The Oversight Committee meeting on November 4 was disturbing to me. Background:

- 1) Because of surgery I missed the September 24, 2012 Oversight meeting so do not know if a copy of Mr. Bradshaw's "8/12/12 Agenda Bill to the El Cerrito Council recommending the transfer of funds from Measure A Funding" was given to the Committee for discussion.
- 2) The Agenda for the January 28, 2013 meeting included the September meeting minutes for approval. At that time the Oversight Committee asked for clarification of "the City Council recently approved re-allocation of paving budget to neighborhood traffic projects" (page 3-2 of Draft Summary Minutes). A special meeting for November 4, 2013 was called to review this item.
- 3) The meeting packet sent by the City for the November 04 special meeting included a copy of the 8/21/12 Agenda Bill, submitted by Mr. Bradshaw to the City Council, which recommended the transfer of \$100,000 of Measure A Street Improvement Funding from the Street Improvement Project to the Traffic Safety and Management Program. This Agenda Bill was approved by the City Council in 2012.
- 4) When asked at the 11/04/2013 meeting, Mr. Bradshaw advised that there may be recurring transfers from Measure A funds, over and above the \$100,000 already transferred, to the Traffic Safety and Management Program. When I asked if there were other transfers from the Measure A funds Mr. Bradshaw indicated there has been 3 other transfers.
- 5) Please note that the Oversight Committee spends an average of 1.5 to 2 hours at each meeting – during which we view slide shows and review pages of charts and financial reports prepared by the City's Liaisons and their staff. I do not recall any overt disclosures for transfers from the Measure A funds at any of 2012 or 2013 meetings.

I voted for the ½% Sales Tax increase proposed by Measure A because the El Cerrito streets were in deplorable condition. As an El Cerrito resident for more than 40 years I've watched the decline of the streets because funds were not available for replacement/repairs. With the Citizens Oversight Committee as a part of the Measure A, I felt assured that the Measure A funds would be reserved and available when the City streets need to repaved in the future (thus avoiding another large bond issue). I applaud Mr. Bradshaw and the Dept. of Public Works. They did a fantastic job of transforming the El Cerrito streets using the Measure A funds – and, I understand, under budget.

The 4 fund transfers mentioned in #4 above, I am certain, were for worthwhile projects benefitting the City and People of El Cerrito. On the other hand, the ballot stated that Measure A funds would be used "exclusively for street improvements". Accordingly, I feel that, as a member of the Oversight Committee it is my duty to publicly disclose and object to the fund transfers.

If the City Council deems it necessary to use the Measure A funds for purposes other than street improvements it is suggested that an Amendment to Measure A, allowing for the funds to be diverted to other worthy projects, be presented to the people of El Cerrito in the next municipal election.

**As Vice Chair I request that, at the next scheduled Oversight meeting on January 27, 2014, the following be included in the Agenda: (If it is not allowable to include on the agenda of the regular meeting, I request that a Special Meeting be called before January 27, 2014):**

- 1) The nature of the entity "Traffic Safety and Management Program" including an accounting for any expenditure of Measure A funds.
- 2) Disclosure by Staff Liaison of all funds diverted from Measure A funds to projects other than street improvements;
- 3) The Committee's written Approval of the Annual Report Memorandum for year 2013 to City Council with exceptions (itemized) of the 4 (or more) diversion of funds to other projects;
- 4) Suggest that Amendment to Measure A, allowing for funds to be diverted to other projects, be put on the ballot of the next Municipal Election for approval of the Voters.
- 5) Justification for the continued existence of the "Citizens Street Oversight Committee". If continued, what is our function?

I am not sending this communication to the other committee members because of the Brown Act.

Please let me know if the Brown Act allows me, as Vice Chair, to contact Mr. Thomas Miller with the request that he not resign the Committee until after the January, 2014 meeting.

Respectfully submitted,



Lynne Kessler

Vice Chair

Citizens Street Oversight Committee

Email: [lynne1035@gmail.com](mailto:lynne1035@gmail.com)

Phone: (510) 524-0883

# THE JOURNAL

Friday, January 3, 2014 • 50 cents (tax included)

404 An edition of the San Jose Mercury News

**PAGE A2**  
**GARDEN CLUB ASSISTS CULINARY PROGRAM**



**PAGE A3**  
**PET OF THE WEEK: CLARK IS AT THE HUMANE SOCIETY**

**GD TODAY'S DAILY DEAL**  
 gotdailydeals.com/eb  
**Silicon Valley International Auto Show**  
**50% off**  
 \$5.50 for one regular admission ticket

**EL CERRITO**

## Use of road repair funds questioned

Committee will hold a special meeting on issue

**By Rick Radin**  
*Correspondent*  
 EL CERRITO — A couple of members of a committee that oversees a 2008 sales tax measure are protesting the City Council's use of funds from the measure for purposes other than street repairs.

Thomas Miller and Lynn Kessler of the Citizen Street Over-

sight Committee say the council overstepped by diverting money from the permanent half-cent sales tax away from fixing potholes and paving streets to doing traffic safety, landscaping and other improvements at specific sites.

For example, the city used Measure A money to re-stripe the street, install new signs and build

a railing, among other improvements at Arlington Boulevard and Brewster Drive after a woman was hit and killed by a cyclist at the intersection in 2012, according to Jerry Bradshaw, interim senior engineer for the city.

Bradshaw noted that Measure A was passed to pay for a backlog of street maintenance and repairs after a survey determined that El Cerrito streets were among the worst in the region.

Thirty-year bonds were sold based on income from the measure to repair or resurface about 70 percent of the city's streets over four years, lifting El Cerrito streets into the top tier in the Bay Area, according to the city website.

She said the committee will hold a special meeting on Jan. 27 "to verify the diversion of funds."

See MEASURE A, Page 8

**ALBANY BULB**

**City will review**

**SOUTH PARK DRIVE**

**Newt p**

4-8

**ons have**

**ALBANY SCHOOLS**

**Board wants**

# Measure A

Continued from Page 1

"The funds were diverted for a good project, but against the Measure A specifications that it has to be used for street repairs," Kessler said.

Miller said he was unhappy with the condition of city streets when he moved to El Cerrito in 1993. He said he was an early supporter of Measure A and joined the oversight committee in part to make sure the money was used exclusively to repave streets and fix potholes and curbs.

He said the city has made a number of "minor attempts" to apply Measure A money to other uses while he's been on the committee, including disposing of trailers that were used to house city

"The funds were diverted for a good project, but against the Measure A specifications that it has to be used for street repairs."

— *Lynne Kessler*

offices before the current City Hall opened in 2008.

"Measure A was presented as a source of funds, 100 percent of which would go to pay for pavement, gutters and curbs with no administrative costs at all," Miller said. "No doubt what has been done is entirely legal but it does not conform with voter intent."

Bradshaw, the retired public works director who

is serving as a liaison between the council and the committee, said there is apparently a disagreement over the Measure A wording that appeared on the ballot.

The measure states that the money is to be used "to improve neighborhood streets; enhance road safety citywide by fixing potholes; maintaining, repairing and repaving streets; sealing cracks; improving handicap ramps; crosswalks, bicycle lanes; and maintaining road markings and signage."

It received 71 percent of the vote in exceeding the supermajority needed to pass.

"It was written fairly broadly although the primary motivation was to fix the pavement," Bradshaw said. "There is no bait and switch (going on), it is exactly what was offered (to the voters)."

# Bulb

Continued from Page 1

However, the release leaves open the possibility of citing or arresting those individuals for other reasons.

The City Council voted in May to begin enforcing the city's anti-camping ordinance beginning in October. Actual enforcement, however, didn't begin until December, when police began issuing warnings to campers and arrested some on outstanding warrants and drug charges. It is believed that about 60 people are currently living on the Bulb.

The City Council also allocated funding to help residents of the Bulb secure housing. The city has said three formerly homeless Bulb residents have been placed in housing.

scientific data while just taking a redwood-forest walk, 7 to 9 p.m. Jan. 6. Albany Community Center, Edith Stone Rm., 1249 Marin Ave. Free. Seating limited. 510-848-9358, www.fivecreeks.org.

**El Cerrito Garden Club.** The January meeting of the El Cerrito Garden Club features speaker Lindsey Jones, Certified Aesthetic Pruner, Aesthetic Pruners Association, speaking on "Demystifying Fruit Tree Pruning," 9:30 a.m. Jan. 9. El Cerrito Community Center, 7007 Mooser Lane. Free members. \$3 guests. 510-233-9365, 510-559-7000, www.el-cerrito.org/recreation.

**Albany Library Storytime.** Stories, crafts and songs for 3- to 5-year-olds and their families. 11 a.m. Saturdays. Albany 510-524-3043, ccclib.org.

necessary. Yarn and needles provided for charity projects. 3:30 to 5 p.m. Mondays. Albany Library, 1247 Marin Ave. Free. 510-526-3720.

**Stories and Song.** Stories, songs, lullabies and more for young children and their families to cuddle to and get ready for bedtime. 6:30 p.m. Tuesdays. Kensington Library, 61 Arlington Ave. Free. 510-524-3043, ccclib.org.

**Babies & Toddlers Storytime.** Two 20-25 minute long story times are packed full of lively stories, songs, and action rhymes for young children and their parents/caregivers. 10:15 and 11:15 a.m. Thursdays. Kensington Library, 61 Arlington Ave., Kensington. Free. 510-524-3043, ccclib.org.

Like The Journal on

Facebook: [www.facebook.com/ElCerritoJournal](http://www.facebook.com/ElCerritoJournal)

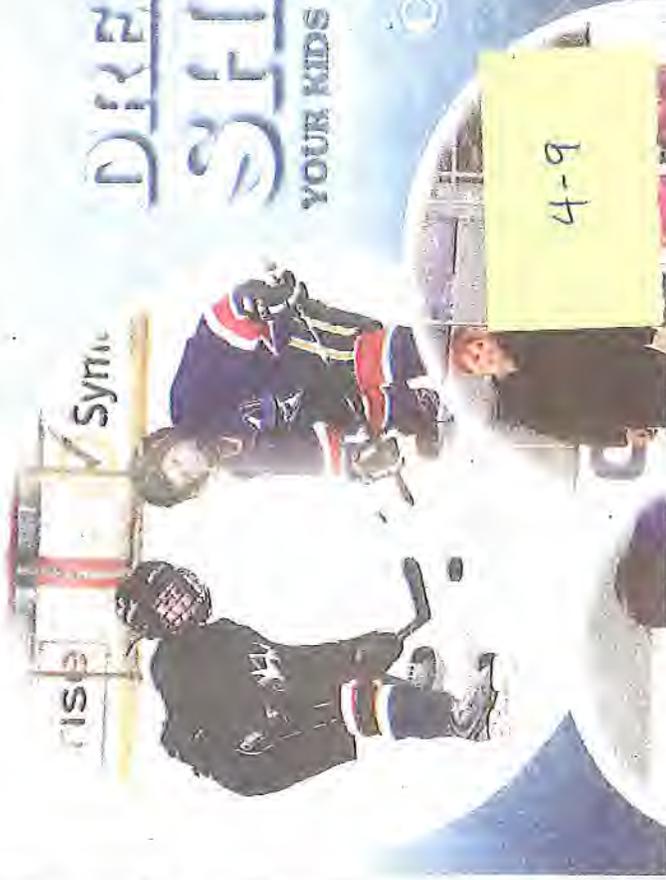
ElCerritoJournal

**THE FARMERS' MARKET**  
at EL CERRITO PLAZA

Voted #1  
Farmers' Market  
in West Contra  
Costa

Tuesday & Saturday  
9 am - 1 pm  
Open Year-Round

January is  
Orange Month



**DREAMS BEGIN AT  
SEVEN  
YOUR KIDS CAN LEARN TO SKATE LIKE THE PROS**

**CLASS BEGINNING  
ON JANUARY 6TH**

For more information or to register online, visit [oaklandice.com](http://oaklandice.com) and click the "Skating Lessons" tab today!



**PUBLIC WORKS DEPARTMENT**  
**(510) 215-4382**

January 9, 2014

Lynne Kessler  
Vice Chair, El Cerrito Citizen Street Oversight Committee  
1035 Liberty Street  
El Cerrito, CA 94530

Subject: Response to Letter dated November 23, 2013

Dear Ms. Kessler:

We have reviewed your letter of November 23<sup>rd</sup> and have prepared this response. First and foremost, please note that City staff puts the highest value on ethics and integrity, and transparency and open communications in all our dealings. We also adhere to other core values articulated by the City Council including fiscal responsibility, inclusiveness, innovation and creativity, professional excellence, and responsiveness.

After the two most recent Committee meetings, it is clear that you and another Committee member are displeased that the City Council, through the adoption of the prior years' budgets and mid-year resolutions, has allocated some of the Measure A funds to projects other than pavement maintenance. You also implied that information was withheld from the Committee on the actions of staff and the City Council. I will address the latter issue first.

As you point out, the first mention to the Committee of Measure A monies going to non-pavement projects was at the September 2012 meeting (which you were unable to attend). Although a copy of the agenda bill from the August 21, 2012 Council meeting was not distributed to the Committee at that meeting, I felt it was important to apprise the Committee of the Council's action. This was relatively timely considering that the Committee only meets in January, September and sometimes November each year.

That it was "after the fact" stems from the structure of Measure A and the Committee. That is to say that the City Council has the sole authority to determine the projects to be included in Measure A funding on an annual basis. As you will recall, during the formative years of the Committee, members discussed and agreed that, consistent with the Measure A ordinance, the Committee's role would be to review the expenditures approved by the Council; not to weigh in on the priorities for Measure A either ahead of time or after the fact.

The other issue you address in your letter is whether the non-pavement projects are an appropriate use of Measure A funds. This was discussed at length at the recent

Committee meetings, and it was clearly shown that the Measure A allocations and expenditures did not violate the Measure A ordinance, nor do we believe the spirit of the Measure.

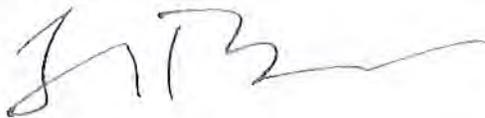
Your letter cites the wording in the Measure A ballot question, "*a sales tax used exclusively for street improvements*". However, the question also defined examples of those improvements a few lines before: "...*improve neighborhood streets; enhance road safety citywide by fixing potholes; maintaining, repairing and repaving streets; sealing cracks; improving handicap ramps, crosswalks, bicycle lanes; and maintaining road markings and signage...*" The first item is broad enough to encompass the projects that you and the other member of the Committee questioned. Of the seven other items, three deal with pavement work while four expand into non-pavement items typically contained in neighborhood traffic improvements and streetscape work. Beyond the ballot language, the ordinance enumerates other work items that further support use of Measure A funds for non-pavement work. All of these work items, and many more, fall within the meaning of "street improvements" as commonly used by municipalities and Measure A as a whole.

While non-pavement work is an appropriate use of Measure A funding, staff understands that improving and maintaining pavement condition was the first priority. We have ensured that maintaining the excellent pavement condition index (mid-80s) will not be sacrificed by funding these other projects. That was reinforced in the August 2012 report to Council and was again confirmed in drafting subsequent Measure A budgets.

As requested in your letter, we will prepare an agenda for the regular January meeting to allow discussion to address your concerns. We will perform the appropriate staff work so that the Committee will have the information necessary to discuss the issues and take any action deemed appropriate by the Committee.

Please call if you have any questions. I can be reached at 510-215-4382 or by email at [jcb@ci.el-cerrito.ca.us](mailto:jcb@ci.el-cerrito.ca.us).

Sincerely,



Jerry Bradshaw  
Interim Senior Engineer

cc: El Cerrito City Council  
Cheryl Morse, City Clerk  
Scott Hanin, City Manager  
Yvettch Ortiz, Interim Public Works Director  
Sky Woodruff, City Attorney

# ATTACHMENT B

## CITY OF EL CERRITO CAPITAL IMPROVEMENT PROJECT INFORMATION SHEET

Project Name:	Traffic Safety & Management Program	Proponent:	Public Works
Project Number:	C3070	Project Mgr:	PW - Engineering Division
Funding Sources:	Measure A (211), Unidentified 211, B	User Dept:	General Public
		Location:	various

Fiscal Year	Capital Costs				Other Costs		
	Measure A (211)	Unidentified			Operating	Energy	Misc
Prior Years	89,524	-	-	-	-	-	-
2013-14	110,476	-	-	-	-	-	-
2014-15	100,000	-	-	-	-	-	-
2015-16	100,000	200,000	-	-	-	-	-
2016-17	100,000	200,000	-	-	-	-	-
2017-18	100,000	200,000	-	-	-	-	-
2018-19	100,000	200,000	-	-	-	-	-
2019-20	100,000	200,000	-	-	-	-	-
2020-21	100,000	200,000	-	-	-	-	-
2021-22	100,000	200,000	-	-	-	-	-
2022-23	100,000	200,000	-	-	-	-	-
Unidentified		-	-	-	-	-	-
<b>Subtotal</b>	<b>1,100,000</b>	<b>1,600,000</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
	Total Capital Costs: <u>2,700,000</u>				Total Other Costs: <u>-</u>		
<b>TOTAL ALL COSTS:</b>	<b><u>\$2,700,000</u></b>						

**Statement of Need, Service Level, and Issue:**

**Project Description:** This program would contain various capital projects that would improve safety for motorists, pedestrians and bicyclists traveling on city streets and implement various improvements under the Neighborhood Traffic Management Program consisting of educational, engineering and enforcement measures to address speeding, high traffic volumes, pedestrian and bicycle access and livability on residential streets.

**General Plan Objective:** Goal T1: A transportation system that allows safe and efficient travel by a variety of modes and promotes the use of alternatives to the single-occupant vehicle. Goal T3: A transportation system, including safe and adequate streets, signals, sidewalks, pathways, curbs, gutters, street trees, signage, and streetlights, that maintains and improves the livability of the City.

**Need:** A 2006 traffic safety audit evaluated 14 street segments that had significantly higher collision rates than other arterial and collector streets in the City, and provided recommendations for improvements to mitigate collision rates. An increasing number of El Cerrito residents are concerned about vehicular speeds, traffic volumes and pedestrian and bicycle obstacles in their neighborhoods. The City has responded to community concerns by installing standard traffic control devices (warning and regulatory signs, pavement markings, striping and curb markings) and speed humps, deploying the speed feedback trailer, and enforcement of traffic and parking regulations. Generally, the City addressed resident requests on a case-by-case basis – with each request becoming a unique process and involving extensive City resources. The problem became how to place these requests in context – which have priority, which represent "normal" traffic conditions on residential streets, and what types of measures would provide equitable, effective and timely solutions.

**Service Level:** The targeted street segments in the traffic safety audit were generally on arterial and collector streets which carry most of the City's traffic. The NTMP program will serve all streets in neighborhoods throughout the City.

**Pertinent Issue:** Funding has been secured and improvements implemented for several of the corridors. Public Works will continue to seek state and federal funding opportunities, and combine this program with others such as the PDA Streetscape Improvements Program to maximize funding opportunities as they arise.

**Status:** Planning Phase: Implementation pending funding.

<b>Capital Cost Estimate:</b>	Admin:	35,000	Design:	255,000	Constr Mgt:	255,000
	Equipment:	-	Constr:	1,700,000	Other:	100,000
	Contingency:	355,000			<b>TOTAL:</b>	<b>\$2,700,000</b>



# Project Transaction Report

G/L Date Range 01/01/02 - 01/31/14  
 Include Sub Ledger Detail  
 Sorted By Project - G/L Account - Date

G/L Date      Journal      Sub      Journal      Description      Source/Reference      Revenue      Debit Amount      Credit Amount      Actual Balance

C3070.1 - Traffic Safety & Management Program, Planning & Engineering      Life-to-Date      \$0.00  
 211-90-50 52190 - Miscellaneous Prof Svcs

02/25/2013      2013-00000767      JE      GL      FEHR&PEERS AMENDMT#3-      9,500.00      9,500.00

Invoice Number	Vendor	AP Description	A/P Invoice Entry	Accounts Payable Invoice Date	Payment Type	Payment Number	Amount	Dist. Amount
14497	WHITLOCK & WEINBERGER	Engineering Design Proposal for Radar	09/10/2013	Check	46210	2,137.50	2,137.50	2,137.50
Total							\$2,137.50	\$2,137.50

Invoice Number	Vendor	AP Description	A/P Invoice Entry	Accounts Payable Invoice Date	Payment Type	Payment Number	Amount	Dist. Amount
14589	WHITLOCK & WEINBERGER	Engineering Design Proposal for Radar	10/11/2013	Check	46599	3,645.00	3,645.00	3,645.00
Total							\$3,645.00	\$3,645.00

211-90-50 52190 Total      \$15,282.50      \$15,282.50  
 C3070.1 Total      \$15,282.50      \$15,282.50

C3070.3 - Traffic Safety & Management Program, Construction  
 211-90-50 53810 - Construction Services

Invoice Number	Vendor	AP Description	A/P Invoice Entry	Accounts Payable Invoice Date	Payment Type	Payment Number	Amount	Dist. Amount
3632	BAYSIDE STRIPE & SEAL,	TRAFFIC SAFETY MGMT-CIVIC	02/08/2013	Check	43412	6,109.50	6,109.50	6,109.50
3606	BAYSIDE STRIPE & SEAL,	Traffic Safety & Management Program-	11/21/2012	Check	43412	23,953.00	23,953.00	23,953.00
3606*	BAYSIDE STRIPE & SEAL,	TRAFFIC SAFETY MGMT-	11/21/2012	Check	43412	1,070.00	1,070.00	1,070.00
Total							\$31,132.50	\$31,132.50

211-90-50 53810 Total      \$31,132.50      \$31,132.50  
 C3070.3 Total      \$31,132.50      \$31,132.50  
 Grand Totals      \$46,415.00      \$46,415.00

4-13

Attachment C

Summary of Measure A Non-Pavement Projects

<u>Project</u>	<u>Date</u>	<u>Page</u>	<u>Meas A \$\$</u>	<u>Other \$\$</u>	<u>TOTAL</u>
Moeser-Ashbury	FY 11 Budget	4-15	30,000	977,000	1,085,000
	2/5/13	4-16	78,000		
Traffic Safety & Mgt Program	8/21/12	4-22	100,000		200,000
	FY 14 Budget	4-28	100,000		
Central-Liberty	11/20/12	4-29	160,000	1,020,000	1,280,000
	5/7/13	4-36	100,000		
Arlington Safety	FY 14 Budget	4-43	50,000	238,000	288,000
TOTAL Non-Pavement			618,000	2,235,000	2,853,000
TOTAL Pavement			14,800,000	2,800,000	17,600,000
TOTAL All Measure A			15,418,000	5,035,000	20,453,000

The above projects are listed chronologically in order of the first Council action for each project.

The following pages contain documents supporting the Council actions shown above. The page numbers are listed for each action.

FY 2010-11

Table 12-3 (continued)

Description	Project Number	Estimated Revenue					
		General Fund	Measure C	RDA	Park In-Lieu	Inter-gov'l Revenue	Interest & Other Rev
		101	204	Various	210		
<b>Swim Center Capital Fund (206 - Measure A 2001)</b>							
Swim Center Capital Enhancements		-	-	-	-	-	50,000
SUBTOTAL Swim Center Capital Fund		-	-	-	-	-	50,000
<b>Park-in-Lieu Fund (210)</b>							
Central Park Playground		-	-	-	-	-	5,000
SUBTOTAL Swim Center Capital Fund		-	-	-	-	-	5,000
<b>Street Improvement Capital Fund (211 - Measure A 2008)</b>							
City-Funded Projects	C3027	-	180,000	-	-	924,000	490,000
Federally-Funded Projects	varies	-	-	-	-	500,000	105,000
Moesser-Ashbury Bike-Ped	tbd	-	-	-	-	-	30,000
SUBTOTAL Street Impr Fund	C3061	-	180,000	-	-	1,424,000	625,000
<b>Integrated Waste Capital Fund (501)</b>							
New Recycling Center		-	-	-	-	-	2,840,000
SUBTOTAL Integrated Waste Capital		-	-	-	-	-	2,840,000
<b>Redevelopment 2004 Series A Bond Fund (811)</b>							
Facilities Improvements		-	-	-	-	-	-
SUBTOTAL Swim Center Capital Fund		-	-	-	-	-	-
<b>TOTAL Activity</b>		<b>\$0</b>	<b>\$235,000</b>	<b>\$0</b>	<b>\$5,000</b>	<b>\$7,371,980</b>	<b>\$3,549,300</b>



## AGENDA BILL

### Agenda Item No. 5(B)

**Date:** February 5, 2013  
**To:** El Cerrito City Council  
**From:** Jerry Bradshaw, Public Works Director / City Engineer  
Yvetteh Ortiz, Engineering Manager  
**Subject:** Moeser Lane and Ashbury Avenue Pedestrian and Bicycle Corridor  
Improvements Project, City Project No. C-3061, Federal Project No.  
RSTP-5239 (018)

---

### **ACTION REQUESTED**

Adopt a resolution approving the following actions:

- 1) Approve plans for the Moeser Lane and Ashbury Avenue Pedestrian and Bicycle Corridor Improvements Project;
- 2) Accept all submitted bids;
- 3) Amend the Capital Improvement Program to appropriate an amount not to exceed \$78,000 of Measure A Street Improvement Funds for the Moeser Lane and Ashbury Avenue Pedestrian and Bicycle Corridor Improvements Project; and
- 4) Authorize the City Manager to execute a contract in the amount of \$803,221.36 with Golden Bay Construction, Inc. and to approve change orders in an amount not to exceed \$96,386 (12%) for the construction of the Moeser Lane and Ashbury Avenue Pedestrian and Bicycle Corridor Improvements Project.

### **BACKGROUND**

The Moeser Lane and Ashbury Avenue Pedestrian and Bicycle Corridor Improvements Project will close sidewalk gaps, install pedestrian safety measures, and install bicycle facilities along two key routes in El Cerrito. In December 2009, the El Cerrito City Council approved Resolution 2009-79 authorizing the application for federal and state funds from the State Transportation Improvement Program - Transportation Enhancement (STIP-TE) Program for construction of this project. The City was subsequently awarded a grant in the amount of \$977,000.

The El Cerrito Circulation Plan for Bicyclists and Pedestrians and ADA Transition Plan place high priorities on the Moeser Lane and Ashbury Avenue corridors. Additionally, a Citywide Pedestrian Safety Assessment conducted by the Institute of Transportation Studies Technology Transfer Program (UC Berkeley) highlighted the necessity for improvements along these corridors, and recommended improvements consistent with those to be installed by the City. Combined, these two corridors provide access to the following facilities: Community Center, Contra Costa Civic Theater, Cerrito Vista Park,

Portola Middle School, Prospect Sierra School, El Cerrito High School, Harding Elementary School and Albany High School. Students, parents, and others frequently bike and walk between these facilities. Completion of these two corridors will also provide important connections to regionally significant routes including San Pablo Avenue and the Ohlone Greenway, and two BART Stations.

The specific project improvements are described below.

**New Sidewalk and Curb Ramps**

Ashbury Avenue - New four feet wide sidewalk and curb ramps will be added on the west side of Ashbury Avenue between Waldo Avenue and Moeser Lane.

Moeser Lane - New four feet wide sidewalk and curb ramps will be added to the north and south sides of Moeser Lane from Shevlin Drive to Terrace Drive. On the south side of Moeser Lane, between Sea View Drive and Shevlin Drive, new four feet wide decomposed granite walkway will be added. Decomposed granite was used in this segment at the request of PG&E who has superior property rights.

**Pedestrian Safety Measures**

Ashbury Avenue at Moeser Lane - New intersection bulb-outs are added along the frontage of the Community Center and at the south-west corner of the intersection.

Ashbury Avenue at Stockton Avenue – The existing raised island on the south side of the intersection is reconstructed to provide wheelchair accessibility and a pedestrian refuge area.

Ashbury Avenue at Hotchkiss Avenue – A pedestrian refuge area is provided within a new four feet wide raised median island at the south leg of the intersection.

Ashbury Avenue at Eureka Avenue (north) – A pedestrian refuge area is provided within a new four feet wide raised median island at the north leg of the intersection.

Ashbury Avenue at Eureka Avenue (south) – The existing sidewalk at the south-east corner fronting El Cerrito High School is reconstructed, reducing the length of the pedestrian crosswalk at the east leg of the intersection. The existing median on Eureka Avenue is reconstructed with standard curb improvements and a crosswalk is marked on the north leg of the intersection where none exists now.

Ashbury Avenue at Lincoln Avenue – A new raised crosswalk is added across Ashbury Avenue at the south leg of the intersection servicing El Cerrito High School.

Ashbury Avenue at C Street – New intersection bulb-outs are added at the north-west corner fronting Harding Elementary School and at the east side of the intersection. Also, the raised median island is reconstructed to provide wheelchair and pedestrian accessibility.

Ashbury Avenue at A Street/Lynn Avenue – A new raised crosswalk is added across Ashbury Avenue at the south leg of the intersection. Also, the raised median island is reconstructed to provide wheelchair and pedestrian accessibility.

**Bicycle Facilities**

Ashbury Avenue – From Moeser Lane to Fairmount Avenue, a Class III bikeway (signs and striping indicating shared use of an existing vehicular travel lane) will be provided. From Fairmount Avenue to the South City Limits, a Class II bikeway (signs and striping indicating a dedicated bike lane adjacent to an existing vehicular travel lane) will be provided.

Moeser Lane – From San Pablo Avenue to Pomona Avenue, a Class II bikeway will be provided.

A general meeting soliciting public input on the project was held in April 2011. A smaller block meeting was held in May 2011 with neighbors of the 900 Block of Norvell Street to address concerns regarding the new sidewalk on the west side of Ashbury Avenue between Waldo Lane and Moeser Lane. Given the varying conditions along the block and comments received at the block meeting, City staff revised the proposed sidewalk design to provide a safe and convenient path for pedestrians, a more direct and accessible path for persons with disabilities, and at the same time address resident concerns about security and privacy along their back fences.

**ANALYSIS**

Six bids were received on January 23, 2013 with the following results:

<u>Name</u>	<u>Location</u>		<u>Bid</u>
Golden Bay Construction, Inc.	Hayward	\$	803,221.36
J.J.R. Construction, Inc.	San Mateo	\$	870,770.00
Redgwick Construction Company, Inc.	Newark	\$	892,099.20
Ghilotti Bros., Inc.	San Rafael	\$	898,217.50
FBD Vanguard Construction, Inc.	Livermore	\$	906,913.87
Sposeto Engineering, Inc.	Livermore	\$	1,049,373.00
Engineer's Estimate		\$	850,000.00

The low bid of \$803,221.36 is approximately 5.5% below the engineer's estimate of \$850,000.

Staff recommends award of the project to Golden Bay Construction, Inc.

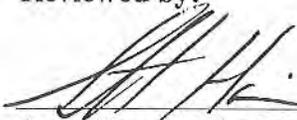
**FINANCIAL CONSIDERATIONS**

This project is included in the current Capital Improvement Program. The primary funding for this project is provided by a Federal Transportation Enhancement (STIP-TE) Grant of \$977,000 with an initial allocation of \$30,000 of Measure A funds for a total original funding budget of \$1,007,000. The expenditure budget below shows a shortfall of \$78,392.93. Staff had alerted the Council to the recent erratic nature of construction bids as we braced ourselves for very large bid results. Our engineer's estimate had been adjusted somewhat to that reality, so staff is pleased to see this come in under the latest estimate. All things considered, staff believes the low bid to be a good value worthy of full funding. As with other recent road projects, staff is recommending an additional appropriation of Measure A funds of up to \$78,000 to fully fund the project. Measure A began the fiscal year with a surplus of approximately \$350,000. There is sufficient funding available in Measure A for this appropriation without diminishing the annual paving program.

Staff is also recommending change orders slightly above the usual 10% level (12% or \$96,386) in order to allow for some modest design enhancements to the work around the medians on lower Moeser to correct some road crown and drainage issues.

	<u>Full Funding Budget</u>
<i>Design</i>	\$63,300.00
<i>Construction</i>	\$803,221.36
<i>Construction Contingency (12%)</i>	\$96,386.00
<i>Const Mgt/Admin</i>	\$122,430.00
<i>Total</i>	<u>\$1,085,397.92</u>
<i>Surplus (Shortfall)</i>	(\$78,397.93)

Reviewed by:

  
 \_\_\_\_\_  
 Scott Hanin, City Manager

Attachment:

1. Accompanying Resolution

RESOLUTION 2013 - ~~XX~~<sup>01</sup>

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AWARDING A  
CONTRACT IN THE AMOUNT OF \$803,221.36 WITH GOLDEN BAY CONSTRUCTION, INC.  
FOR THE CONSTRUCTION OF THE MOESER LANE AND ASHBURY AVENUE  
PEDESTRIAN AND BICYCLE CORRIDOR IMPROVEMENTS PROJECT

CITY PROJECT NO. C-3061

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

WHEREAS, the project was advertised for bids on November 30, 2012 and on December 10 and 17, 2012 and six bids were received on January 23, 2013; and

WHEREAS, the lowest responsive, responsible bidder was Golden Bay Construction, Inc. whose total bid, in the amount of \$803,221.36, was 5.5 percent below the Engineer's Estimate; and

WHEREAS, Measure A Street Improvement funds are eligible for roadway projects such as this.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito approves the following:

- 1) Approve plans for the Moeser Lane and Ashbury Avenue Pedestrian and Bicycle Corridor Improvements Project;
- 2) Accept all submitted bids;
- 3) Amend the Capital Improvement Program to appropriate an amount not to exceed \$78,000 of Measure A Street Improvement Funds from the Annual Street Improvement Program to the Moeser Lane and Ashbury Avenue Pedestrian and Bicycle Corridor Improvements Project; and
- 4) Authorize the City Manager to execute a contract in the amount of \$803,221.36 with Golden Bay Construction, Inc. and to approve change orders in an amount not to exceed \$96,386 (12%) for the construction of the Moeser Lane and Ashbury Avenue Pedestrian and Bicycle Corridor Improvements Project.

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

I CERTIFY that at a regular meeting on February 5, 2013 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

\* \* \* \* \*

4-20

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on February XX, 2013.

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Gregory B. Lyman, Mayor



## AGENDA BILL

Agenda Item No. 5(D)

**Date:** August 21, 2012  
**To:** El Cerrito City Council  
**From:** Jerry Bradshaw, Public Works Director / City Engineer  
**Subject:** Amend Capital Improvement Program to Fund Neighborhood Traffic Programs

---

### **ACTION REQUESTED**

Adopt a resolution amending the 2012-13 Capital Improvement Program as follows:

- 1) Combine the "Traffic Safety Improvement Program" and the "Neighborhood Traffic Management Program (NTMP)" projects into a new project entitled for "Traffic Safety and Management Program;" and
- 2) Transfer \$100,000 of Measure A Street Improvement Funding from the Street Improvement Project to the Traffic Safety and Management Program.

### **BACKGROUND**

The Street Improvement Capital Fund (Fund 211) was created in 2008 after El Cerrito voters approved Measure A, as described in the El Cerrito Municipal Code, Chapter 4.60, "Pothole Repair and Local Street Improvement and Maintenance Transaction and Use Tax". The Measure was a half-cent sales tax to be used primarily to improve the condition of the City's street pavement. To that end, the City engaged in an aggressive three-year street improvement program that succeeded in improving the City's average pavement condition index (PCI) from a low of 49 to 85 (out of 100) – second among cities in the Bay Area. The backlog of pavement work was reduced from \$21 million to approximately \$500,000, which equates to a single year's work.

Measure A included other street-related work items besides pavement. Code Section 4.60.150, *Use of Tax Proceeds and Expenditure Plan*, (a) (1) includes "...crosswalk and pedestrian improvements on or adjacent to City streets; other related services such as lane line, crosswalk and bicycle lane striping and other necessary pavement markings; and other such improvements as are deemed necessary by the City Council for the benefit of the residents of the City." This section also establishes the Measure's Expenditure Plan, which is updated annually in the Capital Improvement Program (CIP) budget under the Street Improvement Capital Fund section. That section includes specific projects and appropriations as shown in Table 11-3 and supporting Project Information Sheets in the Budget Book.

**Neighborhood Traffic Management Plan** – Traffic concerns have increasingly become a concern in El Cerrito. In September 2010 the City Council adopted the

Neighborhood Traffic Management Plan (NTMP), which was intended to establish an objective method by which neighborhood traffic concerns are addressed and, if necessary, prioritized. The NTMP did not, however, establish any funding to evaluate and implement NTMP projects. The resources for this were to be considered in the annual budgeting process. Since the NTMP was adopted, no new funding has been appropriated for neighborhood traffic issues.

**Speed Surveys** – On June 19, 2012 the City Council adopted speed limits on several streets in town. That action item included three street segments on which the speed limit was not supported by an Engineering and Traffic Survey (speed survey). The result was that the speed limit on those segments cannot be enforced using electronic means (e.g. radar or lidar). Staff stated during that meeting that it would explore traffic calming measures that might affect the prevailing speeds such that a future speed survey would support the adopted speed limits. These measures would focus primarily in the residential areas along Arlington Blvd (Thors Bay to Cutting), Barrett, and Potrero (west of San Pablo Avenue).

**Arlington Traffic Issues** – Following a tragic accident that claimed the life of an El Cerrito resident on June 6<sup>th</sup> on Arlington Blvd at Brewster Drive (near Arlington Park), staff engaged in a renewed dialog with Arlington residents about traffic issues in their neighborhood. Staff has developed both a near-term plan and a long-term plan for improvements in the vicinity that focus on pedestrian safety, vehicle speeds and sight lines.

## **ANALYSIS**

While the community's focus on traffic issues and their expectations have risen in the past few years, the resources of the City have diminished. These resources consist of staff members of the Public Works and Police Departments and funding for traffic consultants, contractors, and supplies. In the Engineering Division, one of the two staff engineers has retired, and the position isn't slated to be refilled in the foreseeable future.

Currently, the Engineering Division has five NTMP applications at some stage in the process. A few of the simple traffic solutions can be implemented using existing Gas Tax appropriations, but some of the projects may end up requiring more complicated, and more expensive, solutions. In addition, the desire to implement traffic systems to improve the Arlington/Brewster area and to address the three speed zones that are not supported by a speed survey is widening the gap between community expectations and available resources.

Staff is recommending amending the current CIP to shift approximately 14% of the annual appropriation from the paving project to a new project that would address various traffic problems. This would also constitute an amendment of the Measure A Expenditure Plan. While neighborhood traffic problems were not the first priority for Measure A funds as it was presented to the community in 2007 and 2008, the City has made such significant progress in the area of pavement improvements (the first priority for Measure A funds), that it would not be inappropriate to authorize a modest level of funding for some of the secondary aspects of the fund. The rising expectations for

improved traffic conditions is evidenced by the response to the NTMP roll-out, individual requests to Engineering Division, and comments received in other public venues such as the most recent National Night Out event.

By approving this action, the City Council would be reinforcing its commitment to neighborhood traffic solutions that was stated in the adoption of the NTMP in 2010. At the same time, the funding available for pavement work will remain strong.

The 2012-13 CIP includes two projects in the Street Improvement Capital Fund (211): The Street Improvement Program (C3027) and the Moeser Ashbury project (C3061). The former is a catchall project used for capital maintenance of the streets. It is focused on pavement treatments and includes traffic control systems only as they pertain to pavement work. Therefore, it would not be appropriate to use this project directly for neighborhood traffic solutions in the absence of paving work. The latter project is specific to certain bicycle and pedestrian improvements along Moeser Lane and Ashbury Avenue.

Further, the CIP also identifies two traffic related programs; both of which remain unfunded:

- “Traffic Safety Improvement” – this project is targeted toward high-accident locations on arterial and collectors identified in a traffic safety audit several years ago.
- “Neighborhood Traffic Management Plan” – this project was created to fund the NTMP program.

These two projects are relatively narrow in scope, and neither applies to staff-generated traffic projects that may come to light outside of the NTMP requests or the existing traffic audit. Examples include the current desire for traffic calming near Arlington Park and in the three speed zones identified above. Therefore, staff is recommending combining these two projects into a single project called “Traffic Safety and Management Program.” This would afford the City more flexibility in applying any annual funding to traffic projects including possible matching funds for future grant opportunities.

### **FINANCIAL CONSIDERATIONS**

The Street Improvement Program (C3027) is budgeted for an expenditure of \$725,000 for fiscal year 2012-13. Staff is recommending re-allocating \$100,000 of that to a new project, Traffic Safety and Management Program.

If approved, the funding will be allocated to the three pending priorities:

- Near-Term Improvements near Arlington Park (approximately \$25,000)
- NTMP requests (approximately \$40,000)
- Speed Zone traffic calming (approximately \$35,000)

Reviewed by:



Scott Hanin, City Manager

Attachment:

1. Accompanying Resolution

61  
RESOLUTION 2012-~~XX~~

RESOLUTION OF THE EL CERRITO CITY COUNCIL AMENDING THE 2012-13 CAPITAL IMPROVEMENT PROGRAM TO INCLUDE A TRAFFIC SAFETY PROJECT AND TRANSFER FUNDS FROM THE MEASURE A PAVING PROJECT

WHEREAS, the Street Improvement Capital Fund (Fund 211) was created in 2008 after El Cerrito voters approved Measure A, as described in the El Cerrito Municipal Code, Chapter 4.60; and

WHEREAS, Measure A was primarily focused on pavement improvements but also included other types of work including crosswalk and pedestrian improvements; lane line and bicycle lane striping and other necessary pavement markings; and other such improvements as are deemed necessary by the City Council for the benefit of the residents of the City; and

WHEREAS, the Measure A Expenditure Plan is updated annually through the Capital Improvement Program; and

WHEREAS, the City's aggressive three-year street improvement program successfully reduced the value of the paving backlog from \$21 million to \$500,000; and

WHEREAS, traffic issues have increasingly become a concern in the City as evidenced by the 2010 adoption of the Neighborhood Traffic Management Program (NTMP) and by the five NTMP requests currently being processed by staff; and

WHEREAS, speed limits adopted by the City Council on June 19, 2012 included three street segments where the engineering and traffic survey did not support the speed limit thereby eliminating the City's ability to utilize electronic enforcement (radar) on those segments; and staff promised to explore traffic calming measures to bring prevailing speeds more in line with posted speed limits; and

WHEREAS, the City has developed near- and long-term proposals for traffic improvements on Arlington Blvd near Arlington Park following neighborhood reaction to a tragically fatal accident in the vicinity; and

WHEREAS, no funding is currently identified in the Capital Improvement Program for the NTMP, the speed zone traffic calming, or any improvements near Arlington Park; and

WHEREAS, two existing CIP projects, Traffic Safety Program and Neighborhood Traffic Management Program are relatively narrow in focus and are currently unfunded; and staff is recommending that they be combined into a new project entitled Traffic Safety and Management Program.

NOW, THEREFORE, BE IT RESOLVED that the El Cerrito City Council hereby amends the 2012-13 Capital Improvement Program to:

- 1) Combine the "Traffic Safety Improvement Program" and the "Neighborhood Traffic Management Program" projects into a new project entitled "Traffic Safety and Management Program;" and
- 2) Transfer \$100,000 of Measure A Street Improvement Funding from the Street Improvement Project to the Traffic Safety and Management Program.

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

I CERTIFY that at a regular meeting on August 21, 2012 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

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

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
William C. Jones III, Mayor

**TABLE 12-3**  
**CITY OF EL CERRITO**

**2013-14 Capital Improvement Program Activity**

Description	Project Number	Estimated Revenue					
		General Fund	Measure J (CCTA)	Street Impr Fund	Park In-Lieu	Inter-gov'l Revenue	Interest & Other Rev
		101	204	211	210		
<b>General Capital Fund (301)</b>							
<b>Administration</b>							
Energy & Water Efficiency Program	C3043	-	-	-	-	-	23,462
Recreation Software Upgrade	n/a	22,600	-	-	-	-	-
<b>Facilities</b>							
None in Fund 301		-	-	-	-	-	-
<b>Parks</b>							
Huber Park Improvements	C3054	-	-	-	-	135,000	-
<b>Creeks &amp; Trails</b>							
Ohlone Nature Area & Rain Gardens	C3067	-	-	-	-	720,000	-
Ohlone Greenway Impr - Blako to Hill	C3069	-	-	-	-	-	-
<b>Streets</b>							
Annual Street Improvement Program	C3027	-	-	35,145	-	-	-
Access Mod (Streets)	C3024	-	35,000	-	-	-	-
Del Norte BART Circulation Study	C4014	-	-	-	-	9,986	-
Ohlone Greenway Major Street Crossin	C3046	-	-	-	-	484,100	-
Moeser & Ashbury Ped/Bike Improvem	C3061	-	-	-	-	722,000	-
Central & Liberty Streetscape Improver	C3063	-	-	-	-	875,000	-
Arlington Curve at Brewster Dr Safety	C3071	-	-	50,000	-	47,952	-
		-	-	-	-	-	-
		-	-	-	-	-	-
SUBTOTAL General Capital Fund		22,600	35,000	85,145	-	2,994,038	23,462
<b>Swim Center Capital Fund (206 - Measure A 2001)</b>							
Swim Center Capital Enhancements		-	-	-	-	-	200,000
SUBTOTAL Swim Center Capital Fund		-	-	-	-	-	200,000
<b>Street Improvement Capital Fund (211 - Measure A 2008)</b>							
Annual Paving Project	C3027	-	-	(35,145)	-	-	185,145
Arlington Curve at Brewster Dr Safety	C3071	-	-	(50,000)	-	-	50,000
Traffic Safety & Management Program	C3070	-	-	-	-	-	100,000
State Paving - Prop 1B	C3072	-	-	-	-	354,000	478,000
Federal Paving - OBAG	C3073	-	-	-	-	630,000	311,000
SUBTOTAL Street Impr Fund		-	-	(85,145)	-	984,000	1,124,145
<b>TOTAL Activity</b>		22,600	35,000	-	-	3,978,038	1,347,607



## AGENDA BILL

Agenda Item No. 7(D)

**Date:** November 20, 2012  
**To:** El Cerrito City Council  
**From:** Jerry Bradshaw, Public Works Director / City Engineer  
**Subject:** Central Avenue & Liberty Street Streetscape Improvements Project, City Project No. C-3063, Federal Project No. CML-5239 (020)

---

### **ACTION REQUESTED**

Adopt a resolution for the following:

- 1) Approve plans for the Central Avenue & Liberty Street Streetscape Improvements Project;
- 2) Reject the bid from California Constructores, Inc. as non-responsive and accept all other bids;
- 3) Amend the Capital Improvement Program to transfer an amount not to exceed \$160,000 of Measure A Street Improvement Funds from the Annual Street Improvement Program to the Central Avenue & Liberty Street Streetscape Improvements Project; and
- 4) Authorize the City Manager to award a contract, contingent on 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 revised budget for the Central Avenue & Liberty Street Streetscape Improvements Project, City Project No. C-3063.

### **BACKGROUND**

#### *Project Description*

The Central Avenue and Liberty Street Streetscape Improvements Project is intended to improve walking and biking routes to transit, support high-density infill development, and enhance the sense of place and quality of life in the El Cerrito Plaza BART Station Area. This project arose out of various efforts in the City of El Cerrito. Through its General Plan policies, Circulation Plan, and Draft San Pablo Specific Plan, the City has identified the El Cerrito Plaza area as a high-activity node and has identified the need for streetscape improvements to enhance pedestrian and bicycle facilities to businesses and transit. Central Avenue and Fairmount Avenue play key roles in the Plaza Area as the primary east-west corridors for travel. Liberty Street, bordering the main BART parking lot, connects these corridors and leads directly into the Plaza shopping center.

## Agenda Item No.7(D)

The project is located on four blocks of Central Avenue from San Pablo Avenue to the Ohlone Greenway and one block of Liberty Street from Central Avenue to Fairmount Avenue. The project is within El Cerrito's San Pablo Avenue Priority Development Area approved by the Association of Bay Area Governments (ABAG). The scope of the project includes sidewalk replacement, decorative concrete on median noses, pedestrian-level lighting, curb bulb-outs, curb ramps, high-visibility crosswalk signing and striping, bike route signing and striping, a speed table, street trees, and street furniture. The estimated cost for planning, design and construction of the Central Avenue and Liberty Street Streetscape Improvements Project is \$1,020,000.

### *Grant Funding*

The project is funded by two separate Transportation for Livable Communities Programs. The first is a Congestion Mitigation and Air Quality, federal grant in the amount of \$816,000 from the Contra Costa County Portion of the Metropolitan Transportation Commission's (MTC's) Transportation for Livable Communities (TLC) Program. The second is a Measure J, countywide half-cent sales tax grant in the amount of \$204,000. Public Works staff applied for the two competitive grants in early 2010, and the City was fortunate in being awarded both of them in the summer of 2010. In October 2010, the City Council approved Resolution 2010-64 authorizing the City Manager to execute a Cooperative Agreement between the Contra Costa Transportation Authority (CCTA) for the use of Measure J funds on this project. In April 2011, the City also received authorization to proceed with the use of the federal grant on the design phase of the project.

### *Coordination with BART*

City staff has closely coordinated the scope of sidewalk and tree work around the El Cerrito Plaza BART Station with BART, due to a pending transfer of sidewalk ownership from BART to the City. The tree roots located within the sidewalk areas around the El Cerrito Plaza BART Station have displaced the sidewalk, curb, gutter and street surface in numerous locations and many trees are close to the end of their safe and useful life expectancy. BART and the City were both able to secure different funding sources for various pedestrian, bicycle, accessibility, landscaping and lighting improvements around the BART Station. Sidewalk and tree replacement on Richmond Street, Willow Street and Central Avenue, between Richmond Street and the Ohlone Greenway, is part of BART's Sidewalk and Wayfinding Improvements Project, which is currently under construction and anticipated to be completed by the end of this year. The work on Liberty Street and the remaining section of Central Avenue will be part of the City's project.

The project was advertised for bid in the West County Times on August 16 and 22, 2012. Notices were mailed directly to all contractors on our bidders list and several plan rooms.

**ANALYSIS**

Five bids were received on September 25, 2012 with the following results:

<u>Name</u>	<u>Location</u>	<u>Bid</u>
<i>California Constructores</i>	<i>San Pablo</i>	\$ 853,596.00
<i>Redgwick Construction Company</i>	<i>Newark</i>	\$ 997,635.00
<i>McGuire &amp; Hester</i>	<i>Oakland</i>	\$ 1,176,242.00
<i>J.A. Gonsalves &amp; Sons Construction</i>	<i>Napa</i>	\$ 1,314,464.00
<i>W.R. Forde Associates</i>	<i>Richmond</i>	\$ 1,352,564.50
<hr/>		
<i>Engineer's Estimate</i>		\$ 789,388.38

Numerous irregularities were present in the low bid submitted by California Constructores, including: (1) several illegible unit prices, (2) alterations, interlineations and erasures in bid schedule made without the required initialed acknowledgement, (3) mathematical errors, (4) amount of bid bond provided was less than required, (5) incomplete forms, and (6) unendorsed forms. As such, Staff recommends rejection of California Constructores' bid as non-responsive. The next low bidder is Redgwick Construction Company (contractor's license # 140057, Class A). Their bid is \$997,635.00 for the Base Bid and Additive Alternate One.

The original construction cost estimate was \$839,000 including contingencies. As the project was put out to bid, the Engineer's Estimate was \$789,400 plus 10% contingencies. Because of the increase in estimated costs, 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 Engineer's Estimate the cost of construction of the project has risen by approximately 26%. This is a trend being experienced by other Local Agencies in the Bay Area as well.

This is the second project in recent months that has come in significantly over budget (reference the Potrero Safety Project at the 10/16/12 Council meeting) – an indication of a trend that shows no sign in abating. As with the previous project award, staff has considered three options:

1. Reject all bids, redesign the project, and go out to bid again. With prices rising, staff does not recommend this option as it would take longer and expose the City to even higher prices.
2. Award the project and rely on the value engineering process to reduce the total project costs through deductive change orders. Staff has worked with the designers on several value engineering options to lower the project costs without jeopardizing any of the major elements of the project or the intent of the original

federal grant. However, we do not anticipate achieving enough savings to make the existing budget work.

3. Secure additional funding. Staff contacted the Contra Costa Transportation Authority (CCTA), this county's congestion management agency through which federal transportation grants are passed, and found that the upcoming One Bay Area Grant (OBAG) funding might be eligible for this project. In the draft OBAG process, each municipality in the county will be allocated an amount of funding for street paving. For El Cerrito, this amount is set at \$630,060. CCTA staff indicated that if we desired to use this money for other federal-eligible projects, we could apply to redirect it accordingly. City staff began the application process, but pulled back as we learned that the timing would not match the timing of this project. Based on this, staff is recommending that El Cerrito Measure A Street Improvement funds be used instead to make up any shortfall. Since both our local Measure A money and the OBAG funding would ultimately be used for street paving, either source would have the same net effect with one exception: by preserving OBAG funding for street paving, that money can only be used on arterial and collector streets whereas Measure A funds may be used on local streets as well. However, that does not pose a disadvantage since arterials and collectors are being planned for paving work in the coming few years.

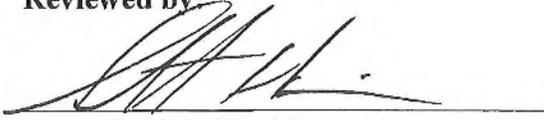
As with the Potrero project last month, staff is recommending a combination approach of value engineering and additional funding. Because we are still in the competitive bidding process, the City cannot negotiate with any bidder. Therefore, we cannot know the actual value of a deductive change. Staff has conservatively estimated that approximately \$200,000 can be deducted from the project budget through a reduction in project scope. This would be done primarily by omitting the sidewalk replacement on the west side of Liberty Street, omitting the permanent irrigation system for the new landscaping, and omitting a rain garden, which was one of the additive alternates. To accommodate the elimination of the permanent irrigation system, the planting plan will also need to be modified to consist of drought-tolerant tree species that will be irrigated for a two-year period using portable watering systems, such as slow-release water bags. Based on these proposed deductions and modifications, based on that, approximately \$110,000 of Measure A funds would be needed to cover the remaining shortfall. Staff is requesting authorization for up to \$160,000 of additional funding to allow for the uncertainty of the negotiation process that lies ahead.

### **FINANCIAL CONSIDERATIONS**

This project is originally funded through the TLC grant with matching funds from the Measure J TLC program for a total project budget of \$1,020,000. With the additional \$160,000 from Measure A, the amended project budget would be \$1,180,000. If staff is successful in deducting more from the project through the value engineering process, a corresponding lower amount of Measure A funds would be transferred. Below is a summary of the original and estimated revised budgets. This also includes revisions to the estimated costs for design administration and construction phase soft costs.

	<u>Original Budget</u>	<u>Estimated Revised Budget</u>
<i>Design</i>	110,000	150,000
<i>Construction</i>	725,000	783,000
<i>Construction Contingency</i>	114,000	78,300
<i>Const Mgt/Admin</i>	71,000	117,400
<i>Total</i>	<u>1,020,000</u>	<u>1,128,700</u>
<i>Surplus (Shortfall)</i>		(108,700)

Reviewed by:



**Scott Hanin, City Manager**

Attachments:

1. Accompanying Resolution

87  
RESOLUTION 2012 - ~~XX~~

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING THE CAPITAL IMPROVEMENT PROGRAM TO TRANSFER AN AMOUNT NOT TO EXCEED \$160,000 OF MEASURE A STREET IMPROVEMENT FUNDS FROM THE ANNUAL STREET IMPROVEMENT PROGRAM TO THE CENTRAL AVENUE AND LIBERTY STREET STREETScape IMPROVEMENTS PROJECT AND AUTHORIZING THE CITY MANAGER TO AWARD A CONTRACT TO REDGWICK CONSTRUCTION COMPANY IN AN AMOUNT TO BE DETERMINED AFTER UNDERGOING A VALUE ENGINEERING PROCESS FOR THE CENTRAL AVENUE AND LIBERTY STREET STREETScape IMPROVEMENTS PROJECT, CONTRACT NO. C-3063

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 16 and 22, 2012 and five bids were received on September 25, 2012; and

WHEREAS, the lowest apparent bid received by California Constructores is determined to be non-responsive; and

WHEREAS, the lowest responsive, responsible bidder was Redgwick Construction Company whose total bid, in the amount of \$997,635, was 26 percent above the Engineer's Estimate; and

WHEREAS, staff intends to pursue value engineering options to reduce project costs without jeopardizing any of the critical elements of the project or the intent of the original federal grant application; and

WHEREAS, the current funding for this project is provided through the Contra Costa County Portion of the Metropolitan Transportation Commission's (MTC's) Transportation for Livable Communities (TLC) Program and the Measure J - TLC Program; and

WHEREAS, Measure A Street Improvement funds are eligible for roadway projects such as this; 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 hereby approves the following:

- 1) Approves plans the Central Avenue & Liberty Street Streetscape Improvement Project;
- 2) Rejects the bid from California Constructores as non-responsive and accepts all other bids;
- 3) Amends the Capital Improvement Program to transfer an amount not to exceed \$160,000 of Measure A Street Improvement Funds from the Annual Street Improvement Program to the Central Avenue & Liberty Street Streetscape Improvements Project; and

**Agenda Item No. 7(D)  
Attachment 1**

- 4) Authorizes the City Manager to award a contract, contingent on 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 revised budget for the Central Avenue & Liberty Street Streetscape Improvements Project, City Project No. C-3063.

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

I CERTIFY that at a regular meeting on November 20, 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 November XX, 2012.

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
William C. Jones III, Mayor



## AGENDA BILL

Agenda Item No. 5(F)

**Date:** May 7, 2013  
**To:** El Cerrito City Council  
**From:** Yvetteh Ortiz, Engineering Manager  
Jerry Bradshaw, Public Works Director/City Engineer  
**Subject:** Central Avenue & Liberty Street Streetscape Improvements Project, City Project No. C-3063-A, Federal Project No. CML-5239 (020)

---

### **ACTION REQUESTED**

Adopt a resolution which will result in the following actions:

- 1) Approve plans for the Central Avenue & Liberty Street Streetscape Improvements Project;
- 2) Reject the bid from Sposeto Engineering, Inc. as non-responsive and accept all other bids;
- 3) Amend the Capital Improvement Program to appropriate an amount not to exceed \$100,000 of available Measure A Street Improvement Funds for the Central Avenue & Liberty Street Streetscape Improvements Project; and
- 4) Authorize the City Manager to award a contract, contingent on successful negotiations with McGuire and Hester Corporation (the lowest responsible bidder for the project) for a deductive change order after undergoing a value engineering process which is not inconsistent with the revised budget for the Central Avenue & Liberty Street Streetscape Improvements Project, City Project No. C-3063-A.

### **BACKGROUND**

#### *Project Description*

The Central Avenue and Liberty Street Streetscape Improvements Project is intended to improve walking and biking routes to transit, support high-density infill development, and enhance the sense of place and quality of life in the El Cerrito Plaza BART Station Area. This project arose out of various efforts in the City of El Cerrito. Through its General Plan policies, Circulation Plan, and Draft San Pablo Specific Plan, the City has identified the El Cerrito Plaza area as a high-activity node and has identified the need for streetscape improvements to enhance pedestrian and bicycle facilities to businesses and transit. Central Avenue and Fairmount Avenue play key roles in the Plaza Area as the

primary east-west corridors for travel. Liberty Street, bordering the main BART parking lot, connects these corridors and leads directly into the Plaza shopping center.

The project is located on four blocks of Central Avenue from San Pablo Avenue to the Ohlone Greenway and one block of Liberty Street from Central Avenue to Fairmount Avenue. The project is within El Cerrito's San Pablo Avenue Priority Development Area approved by the Association of Bay Area Governments (ABAG). The primary project elements include sidewalk replacement, decorative concrete on median noses, pedestrian-level lighting, curb bulb-outs, curb ramps, high-visibility crosswalk signing and striping, bike route signing and striping, and street trees.

*Grant Funding*

The project is funded by two separate Transportation for Livable Communities Programs. The first is a Congestion Mitigation and Air Quality, federal grant in the amount of \$816,000 from the Contra Costa County Portion of the Metropolitan Transportation Commission's (MTC's) Transportation for Livable Communities (TLC) Program. The second is a Measure J, countywide half-cent sales tax grant in the amount of \$204,000. Public Works staff applied for the two competitive grants in early 2010, and the City was fortunate in being awarded both of them in the summer of 2010. In October 2010, the City Council approved Resolution 2010-64 authorizing the City Manager to execute a Cooperative Agreement between the Contra Costa Transportation Authority (CCTA) for the use of Measure J funds on this project. In April 2011, the City also received authorization to proceed with the use of the federal grant on the design phase of the project.

*Coordination with BART*

City staff has closely coordinated the scope of sidewalk and tree work around the El Cerrito Plaza BART Station with BART, due to a pending transfer of sidewalk ownership from BART to the City. The tree roots located within the sidewalk areas around the El Cerrito Plaza BART Station have displaced the sidewalk, curb, gutter and street surface in numerous locations and many trees are close to the end of their safe and useful life expectancy. BART and the City were both able to secure different funding sources for various pedestrian, bicycle, accessibility, landscaping and lighting improvements around the BART Station. Sidewalk and tree replacement on Richmond Street, Willow Street and Central Avenue, between Richmond Street and the Ohlone Greenway, is part of BART's Sidewalk and Wayfinding Improvements Project, for which construction was completed earlier this year. The work on Liberty Street and the remaining section of Central Avenue will be part of the City's project.

*Prior Negotiations and Project Re-bidding*

The Central Avenue & Liberty Street Streetscape Improvements Project was originally bid in the summer of 2012. The bids received were significantly over the project budget. The City Council, at its November 20, 2012 meeting approved Resolution No.

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

2012-87 transferring an amount not to exceed \$160,000 of Measure A Street Improvement Funds to the Central Avenue & Liberty Street Streetscape Improvements Project; and authorized the City Manager to award a contract if a value engineering deductive change order could be negotiated with the low bid contractor to bring the project within the new budget. Staff met several times with the low bid contractor and discussed various approaches to reducing project costs; including minor reductions in scope that would not compromise grant goals, less constrictive construction staging, minor design changes, alternate construction methods and bid item unit price reductions. Both parties exchanged various proposals but were not able to agree on a change order that would bring the project within budget. Negotiations were concluded in early February 2013.

Soon after negotiations were concluded, Public Works staff re-bid the project with minor changes to the project plans and significant restructuring of the bid proposal to include additional alternative items. The restructured bid proposal was intended to facilitate reducing project costs if the new bids were again outside the project budget.

The project was re-advertised for bid in the West County Times on February 19 and 25, and March 4, 2013. Notices were also mailed directly to plan rooms on our bidders list.

**ANALYSIS**

Three bids were received on March 14, 2013 with the following results for the Base Bid plus Additional Bid Items One through Four:

<u>Name</u>	<u>Location</u>	<u>Bid</u>
<i>McGuire &amp; Hester</i>	<i>Oakland</i>	\$ 1,066,907.00
<i>Redgwick Construction Company</i>	<i>Newark</i>	\$ 1,096,940.50
<i>Sposeto Engineering</i>	<i>Livermore</i>	\$ Rejected
<hr/>		
<i>Engineer's Estimate</i>		\$ 1,086,001.68

The bid from Sposeto Engineering was received after 2:00 p.m., the time bids were advertised to be received. As such, staff recommends rejection of Sposeto Engineering's bid as non-responsive.

As specified in the bid documents, the low bid is determined by the total of the Base Bid plus Additional Bid Items One through Four. The lowest responsive, responsible bidder was McGuire and Hester Corporation (Contractor's License # 95879, Class A) with a total bid of \$1,066,907. This amount, as well as, the various combinations of the Base Bid and additive and deductive items are outside the approved project budget.

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

1. Reject all bids, redesign the project, and go out to bid again. With prices rising, staff does not recommend this option as it would take longer and expose the City to even higher prices.
2. Award the project and rely on the value engineering process to reduce the total project costs through deductive change orders. Staff has worked with the designers on several value engineering options to lower the project costs without jeopardizing any of the major elements of the project or the intent of the original federal grant. However, we do not anticipate achieving enough savings to make the current budget work.
3. Secure additional funding. As before, staff contacted the Contra Costa Transportation Authority (CCTA), this county's congestion management agency through which federal transportation grants are passed, and found that the upcoming One Bay Area Grant (OBAG) funding was still eligible for this project. OBAG is allocating to municipalities in the county an amount of funding for street paving. For El Cerrito, this amount is set at \$630,060. CCTA staff indicated that if we desired to use this money for other federal-eligible projects, we could apply to redirect it accordingly. Again, however, the timing of the grant combined the federal processing requirements does not work well with the timing of this project and could delay it for several months. Based on this, staff is recommending that an additional amount of Measure A Street Improvement Funds be used to make up the current funding shortfall. Since both our local Measure A funding and the OBAG funding would ultimately be used for street paving, either source would have the same net effect with one exception: by preserving OBAG funding for street paving, that money can only be used on arterial and collector streets whereas Measure A funds may be used on local streets as well. However, that does not pose a disadvantage since arterials and collectors are being planned for paving work in the coming few years.

As with the prior Council action in November 2012, staff is recommending a combined approach of value engineering and additional funding. Because we are still in the competitive bidding process, the City cannot negotiate with any bidder. Therefore, we cannot know the actual value of a deductive change. Staff has conservatively estimated that approximately \$225,000 can be deducted from the low bid through elimination of additive bid items, value engineering changes, and other deductions similar to those considered during the prior negotiations. Staff is estimating that approximately \$52,000 of additional Measure A funds would be needed to cover the remaining shortfall. Staff is requesting authorization for up to \$100,000 of additional funding to allow for the uncertainty of the negotiation process that lies ahead.

### **FINANCIAL CONSIDERATIONS**

This project is originally funded through the federal TLC grant with matching funds from the Measure J TLC program for a total original project budget of \$1,020,000. The

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

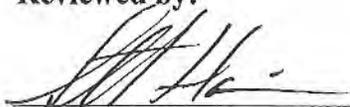
additional \$160,000 from Measure A awarded by Council in November 2012 brought the total current project budget to \$1,180,000. With an additional \$100,000 from Measure A, the proposed project budget is \$1,280,000. If staff is successful in deducting more from the project through the value engineering process, a corresponding lower amount of Measure A funds would be transferred.

Impact to Measure A Paving Program: The Measure A Street Improvement fund (211) began the fiscal year with available funds of approximately \$350,000. Since then, Council appropriated \$78,000 for the Moeser-Ashbury project (C3061), leaving ample funds this fiscal year for this requested appropriation with no negative impact on the City's paving program.

Below is a summary of the original costs, costs revised in November 2012, and currently estimated costs. This also includes revisions to the original estimated costs for design and construction phase soft costs.

	<u>Original Cost</u>	<u>Revised Cost – November 2012</u>	<u>Currently Estimated Costs</u>
<i>Design</i>	\$110,000	\$150,000	\$156,000
<i>Construction Contract</i>	\$725,000	\$783,000	\$842,847
<i>Construction Contingency</i>	\$114,000	\$78,300	\$84,825
<i>Construction Management</i>	\$71,000	\$117,400	\$148,427
<i>Total</i>	<u>\$1,020,000</u>	<u>\$1,128,700</u>	<u>\$1,232,099</u>
<i>Approved Budget</i>			1,180,000
<i>Surplus (Shortfall)</i>			(\$52,099)

**Reviewed by:**



\_\_\_\_\_  
**Scott Hanin, City Manager**

**Attachments:**

1. Accompanying Resolution

21  
RESOLUTION 2013-~~XX~~

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING THE CAPITAL IMPROVEMENT PROGRAM TO APPROPRIATE AN AMOUNT NOT TO EXCEED \$100,000 OF MEASURE A STREET IMPROVEMENT FUNDS FOR THE CENTRAL AVENUE & LIBERTY STREET STREETScape IMPROVEMENTS PROJECT AND AUTHORIZING THE CITY MANAGER TO AWARD A CONTRACT TO MCGUIRE AND HESTER CORPORATION IN AN AMOUNT TO BE DETERMINED AFTER UNDERGOING A VALUE ENGINEERING PROCESS FOR THE CENTRAL AVENUE & LIBERTY STREET STREETScape IMPROVEMENTS PROJECT, CONTRACT NO. C-3063A

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

WHEREAS, the project was advertised for bids on February 19 and 25, and March 4, 2013 and three bids were received on March 14, 2013; and

WHEREAS, the bid received by Sposeto Engineering is determined to be non-responsive; and

WHEREAS, the lowest responsive, responsible bidder was McGuire and Hester Corporation whose total bid, in the amount of \$1,066,907, was above the Engineer's Estimate; and

WHEREAS, staff intends to pursue value engineering options to reduce project costs without jeopardizing any of the critical elements of the project or the intent of the original federal grant application; and

WHEREAS, the current funding for this project is provided through the Contra Costa County Portion of the Metropolitan Transportation Commission's (MTC's) Transportation for Livable Communities (TLC) Program, the Measure J – TLC Program, and Measure A Street Improvement Funds; and

WHEREAS, Measure A Street Improvement funds are eligible for roadway projects such as this; 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 hereby:

- 1) Approves plans for the Central Avenue & Liberty Street Streetscape Improvement Project;
- 2) Rejects the bid from Sposeto Engineering as non-responsive and accepts all other bids;
- 3) Amends the Capital Improvement Program to appropriate an amount not to exceed \$100,000 of available Measure A Street Improvement Funds for the Central Avenue & Liberty Street Streetscape Improvements Project; and
- 4) Authorizes the City Manager to award a contract, contingent on successful negotiations with McGuire and Hester Corporation (the lowest responsible bidder for the project) for a deductive change order after undergoing a value engineering process which is not

inconsistent with the revised budget for the Central Avenue & Liberty Street Streetscape Improvements Project, City Project No. C-3063A.

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

I CERTIFY that at a regular meeting on May 7, 2013 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 May XX, 2013.

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Gregory B. Lyman, Mayor

**TABLE 12-3  
CITY OF EL CERRITO**

**2013-14 Capital Improvement Program Activity**

Description	Project Number	Estimated Revenue					
		General Fund 101	Measure J (CCTA) 204	Street Impr Fund 211	Park In-Lieu 210	Inter-gov'l Revenue	Interest & Other Rev
<b>General Capital Fund (301)</b>							
<b>Administration</b>							
Energy & Water Efficiency Program	C3043	-	-	-	-	-	23,462
Recreation Software Upgrade	n/a	22,600	-	-	-	-	-
<b>Facilities</b>							
None in Fund 301		-	-	-	-	-	-
<b>Parks</b>							
Huber Park Improvements	C3054	-	-	-	-	135,000	-
<b>Creeks &amp; Trails</b>							
Ohlone Nature Area & Rain Gardens	C3067	-	-	-	-	720,000	-
Ohlone Greenway Impr - Blake to Hill	C3069	-	-	-	-	-	-
<b>Streets</b>							
Annual Street Improvement Program	C3027	-	-	35,145	-	-	-
Access Mod (Streets)	C3024	-	35,000	-	-	-	-
Del Norte BART Circulation Study	C4014	-	-	-	-	9,986	-
Ohlone Greenway Major Street Crossin	C3046	-	-	-	-	484,100	-
Moeser & Ashbury Ped/Bike Improvem	C3061	-	-	-	-	722,000	-
Central & Liberty Streetscape Improver	C3063	-	-	-	-	875,000	-
Arlington Curve at Brewster Dr Safety	C3071	-	-	50,000	-	47,952	-
		-	-	-	-	-	-
		-	-	-	-	-	-
SUBTOTAL General Capital Fund		22,600	35,000	85,145	-	2,994,038	23,462
<b>Swim Center Capital Fund (206 - Measure A 2001)</b>							
Swim Center Capital Enhancements		-	-	-	-	-	200,000
SUBTOTAL Swim Center Capital Fund		-	-	-	-	-	200,000
<b>Street Improvement Capital Fund (211 - Measure A 2008)</b>							
Annual Paving Project	C3027	-	-	(35,145)	-	-	185,145
Arlington Curve at Brewster Dr Safety	C3071	-	-	(50,000)	-	-	50,000
Traffic Safety & Management Program	C3070	-	-	-	-	-	100,000
State Paving - Prop 1B	C3072	-	-	-	-	354,000	478,000
Federal Paving - OBAG	C3073	-	-	-	-	630,000	311,000
SUBTOTAL Street Impr Fund		-	-	(85,145)	-	984,000	1,124,145
<b>TOTAL Activity</b>		<b>22,600</b>	<b>35,000</b>	<b>-</b>	<b>-</b>	<b>3,978,038</b>	<b>1,347,607</b>



METROPOLITAN  
TRANSPORTATION  
COMMISSION

Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607-4700  
TEL. 510.817.5700  
TTY/TDD 510.817.5769  
FAX 510.817.5848  
EMAIL: info@mtc.ca.gov  
WEB www.mtc.ca.gov

December 5, 2013

*Adrienne J. Tissier, Chair*  
San Mateo County

*Amy Rein Worth, Vice Chair*  
Cities of Contra Costa County

*Tom Azambrodo*  
U.S. Department of Housing  
and Urban Development

*Tom Bates*  
Cities of Mendocino County

*David Campos*  
City and County of San Francisco

*Dave Cortese*  
Santa Clara County

*Bill Dodd*  
Santa County and Cities

*Dorene M. Giacomini*  
U.S. Department of Transportation

*Federal D. Glover*  
Contra Costa County

*Mark Green*  
Association of Bay Area Governments

*Scott Haggerty*  
Mendocino County

*Anne W. Hahnel*  
City of Colusa

*Steve Kinsey*  
Alameda County and Cities

*Sam Liccardo*  
City and State of Santa Clara County

*Jake Markovitch*  
Sonoma County and Cities

*Kevin Mullin*  
City of San Mateo County

*Bijan Sartipi*  
State Business, Transportation  
and Housing Agency

*James P. Spering*  
Solano County and Cities

*Scott Wiener*  
San Francisco Mayor's Appointee

*Steve Heminger*  
Executive Director

*Ann Flemer*  
Deputy Executive Director, Policy

*Andrew B. Fremier*  
Deputy Executive Director, Operations

Ms. Yvettch Ortiz  
Interim Public Works Director/City Engineer  
City of El Cerrito  
10890 San Pablo Ave  
El Cerrito, CA 94530

RE: 2012 Pavement Management Award

Dear Ms. Ortiz:

We are pleased to announce that the city of El Cerrito has been awarded the 2012 Most Improved Roads award.

MTC's Regional Streets and Roads Program reports annually on the pavement conditions of the region's local streets and roads. We do this to build awareness among the general public and elected officials as to the state of repair of our region's streets and roads, as well as to recognize agencies that employ sound pavement management practices.

This award recognizes the City of El Cerrito for having the most improved roads, with the greatest increase in pavement condition index (PCI) over a three-year period. The 2012 results show that the City has a PCI of 84, which is an improvement of over 11 points from 2011. This is a direct result of the significant investment the City has made in street maintenance in recent years.

Congratulations on your award.

Sincerely,

Theresa Romell  
Principal Program Manager

TR: ST

Attachment: Plaque

Citizen Street Oversight Committee

Standing Rules

2012 – 2

Adopted September 24, 2012

1. Regular meetings shall be held on the following dates:
  - a. 4<sup>th</sup> Monday in January
  - b. 4<sup>th</sup> Monday in September
  - c. 2<sup>nd</sup> Monday in November
2. Regular and special meetings shall be held in the El Cerrito City Hall at 7:00 pm in a room designated on the agenda.
3. Regular meetings may be canceled by a majority vote of the Committee at a previous meeting or by the Chair, at anytime that a quorum cannot be attained.
4. Special meetings may be scheduled by the Chairperson or by a majority vote of the Committee at a previous meeting.
5. A quorum is 3 committee members.
6. Summary minutes shall be kept by the staff liaison or delegate. In the event the staff liaison is not present another person shall be designated as acting secretary by majority vote. Minutes shall reflect all key discussion points, indicate all motions made and by whom, including seconders, and the results of any votes.
7. The Committee shall utilize source documents in its review of Street Fund revenues and expenditures (e.g. report from the State Board of Equalization, expense reports, contractor invoices).
8. The Committee may request that the auditor provide any underlying documents examined for the audit.
9. Administrative services to implement the provisions herein shall be provided by city staff as per ordinance 2.04.320, paragraph F.
10. In the event that the City liaison fails to appear at any properly called meeting the Chair shall report to the City Manager that the Committee is unable to perform its designated function and the reason for that failure seeking corrective action. If no corrective action is taken, the Chair shall notify the City Council.
11. All aspects of the conduct of the Committee shall be in compliance with the Brown Act or any other governing authority. In the event that any member has a question as to the legality of a procedure, that member shall pose that question to the chair who shall then seek a clarification from the staff liaison.
12. Should any portion of these rules be deemed to be illegal, that portion shall be deleted from these rules; the remainder remaining full force and effect. In such an event the intent of the deleted rule shall be reinstated in legal form, with

minimum alterations, and such modified provision shall be incorporated in these rules. It shall be the duty of the Chair to implement this rule subject to a majority vote to approve said implementation at the next regular or special meeting.

13. The election of the chairperson and vice chairperson shall be done at the first regular meeting of each calendar year. The term of office shall be for the next period terminating at the anniversary of the current meeting. Only the members of the Committee shall have a vote.
14. No individual shall hold any one elective office for more than two successive terms. When one intervening term shall have elapsed any member may again hold any office from which service was denied by the limitations imposed by this rule. In the event that new officers cannot be selected, the incumbents may serve for an additional term.
15. These rules shall be reviewed and possibly modified at the September meeting. Members may propose revisions any time, preferably in writing. Any such proposal shall be voted upon at the following meeting. Versions shall be numbered and bear the date of the meeting at which they were adopted. Only Members shall have a vote as to the matter covered in this rule.