

**Request for Qualifications (RFQ)  
Planning Consultant Services  
for  
Albany Waterfront Planning  
of the Golden Gate Fields property**

**City of Albany**

**Release Date: August 15, 2006**

**Pre-Submittal Public Hearing by the Consultant Selection Group:  
October 4, 2006**

**Response Due Date: ~~September 15~~October 18, 2006 at 5:00 p.m.**

## **I. Introduction**

The City of Albany is seeking qualifications from planning consultants to assist the City and community in the preparing land use alternatives for the privately owned property of Golden Gate Fields located within Albany's waterfront area. The City prefers to collaborate with the selected consultant in the identification of necessary sub-consultants.

The following attachments provide background summary information on the property and various actions leading up to the present:

- Resolution #06-50 – *A Resolution of the Albany City Council Endorsing and Directing Staff to Proceed with a City Directed Waterfront Planning Process*<sup>1</sup> **(Final version of Resolution #06-50 is attached.)**

<sup>1</sup> Since the adoption of Resolution #06-50, Caruso Affiliated indicated they no longer intend to file a development application for the Golden Gate Fields property. In addition, a court ruling determined that the Albany Shoreline Initiative proponents had not taken the appropriate steps to publish and post the initiative, thereby prohibiting the initiative from appearing on the November ballot.

- Map #1 - depicts the planning area boundaries and acreage (i.e., Albany portion of Golden Gate Fields)
- Map #2 - Eastshore State Park plan map depicting surrounding planned land uses
- Summary of General Plan policies and Zoning Ordinance regarding the subject property (including Measure C language). (Note: The text of Measure C was inadvertently not included in the original release of the RFQ)

For further information, you may wish to refer to:

- [www.albanyca.org](http://www.albanyca.org) "Waterfront Planning for Golden Gate Fields property" for a fact sheet and maps, text of the Albany Shoreline Protection Initiative, City's 9212 Report regarding the initiative, and the 2003-04 City Visioning process;
- [www.albanyshoreline.org](http://www.albanyshoreline.org) for information on the Albany Shoreline Protection Initiative efforts
- [www.albanywaterfrontcoalition.org](http://www.albanywaterfrontcoalition.org) to view Caruso Affiliated's proposal

It is intended the level of detail of the land use alternatives created by this planning process would be adequate for a project description for future environmental impact review purposes.

## II. Statement of Qualifications

The City welcomes a response to the RFQ in any format that best expresses the qualifications of the respondent. In general, lengthy responses are discouraged. Proposals submitted in response to the RFQ must include the following items:

### A. Qualifications

Identify the individuals who would be primarily responsible for directly preparing the land use alternatives, if different from the entity's principals. Describe the background and experience (including relevant professional license numbers) of the individuals who have actually performed the services, in preparing land use plans in the San Francisco Bay Area, with particular emphasis on projects:

With locations:

- Adjacent to waterfront areas
- Within a community similar in size and character to Albany (17,000 population; primarily residential with support commercial)
- Adjoining a major highways

With land uses featuring:

- Existing development, proposed to remain

- Undeveloped or underutilized lands
- Open space and park areas
- Development compatible with the waterfront, community, and surrounding uses

With traffic and circulation features including:

- Bicycle and pedestrian access to and within the project area
- Designs to minimize impacts on constrained freeway segments

Which address economic and fiscal challenges such as:

- Assuring economical viability
- Not diminishing existing commercial district conditions
- Retaining fiscal health of local governmental services
- Capital and operating support for public amenities

For each such project, provide:

- Project name, location, description of size and composition, and photograph or site plan;
- Detailed description of the services performed, the time period in which they were performed;
- The name and telephone number of at least one reference for each such project that can attest to the quality and effectiveness of the Respondent's work.

## ***B. Disclosure***

State whether Respondent has ever been employed by or worked for: the current property owner, Magna Entertainment, or any of its affiliates or partners, including Caruso Affiliated; previous property owners Catellus/Santa Fe Realty; or gaming interests. State whether Respondent has ever been employed by or worked for the Sierra Club, Citizens for Eastshore State Park (CESP), or Citizens for an Albany Shoreline (CAS).

Such disclosure does not disqualify Respondents.

## ***C. Methodological Approach for Planning Process***

Describe, in no more than two pages, the organizational approach the Respondent would recommend/use to carry out this planning process, including special methodologies that the team uses to ensure a fair and open process while meeting budget and schedule expectations.

## **D. Compensation Terms**

Please provide a complete list of current hourly rates for all billable staff positions, and an estimate of the distribution of hours assigned to various staff positions. Also indicate reimbursement provisions for sub-contractors and reimbursable expenses.

## **III. Selection Criteria and Process**

The City is forming a Consultant Selection Group that is expected to consist of:

- Two members of the Planning and Zoning Commission;
- Two members of the Parks and Recreation Commission;
- Two members of the Waterfront Committee; and
- One representative of City Management staff.

The Consultant Selection Group is planning to hold a public hearing on October 4, 2006 at 7:30 pm at Albany City Hall to receive public input on the selection process. Interested consultants are invited to attend the public hearing in order to hear directly from the public about the selection process and the attributes of a consultant that that public believes are important.

The City will evaluate qualifications based upon these criteria:

- Responsiveness to the RFQ.
- Experience and demonstrated success of the Respondent in preparing land use plan on projects described in this RFQ. Experience with projects in the Bay Area environs, having waterfront areas, will be given greater weight than experience with projects elsewhere.
- Evidence that the Respondent is familiar with land use entitlement processes.
- Compensation rates.
- Evidence of the Respondent's ability to prepare a well-written document with well drafted graphics that may become the project description or alternative(s) for a future environmental impact report, in a cost effective and timely manner.
- Evidence of the Respondent's ability to facilitate an open and productive community planning process.

- Other extraordinary elements or creative approaches to assisting the City in preparing land use alternatives for the waterfront area. This particular selection criterion is intended to allow the City to expressly consider creative aspects of statements of qualifications that do not necessarily fall into other selection criteria.

As a part of its evaluation, the City may request additional information or data from Respondents, and may request Respondents to make in-person presentations of their qualifications and response to a panel of City representatives.

### ***To Submit a Proposal***

Proposals are due by 5:00 p.m., ~~September 15~~ October 18, 2006. Proposals must be sent to:

Jeff Bond  
Planning and Building Manager  
City of Albany  
1000 San Pablo Avenue  
Albany, CA 94706  
510-528-5769  
[jbond@albanyca.org](mailto:jbond@albanyca.org)

### ***Registration***

Interested parties are requested to contact Jeff Bond by email at [jbond@albanyca.org](mailto:jbond@albanyca.org) to register their intent to respond to the RFQ. Registration ensures that any modification to the RFQ process can be transmitted as quickly as possible to all interested parties. A written confirmation of registration will be sent by email within two business days. If you do not receive a written confirmation, or have any questions regarding the RFQ, please contact Jeff Bond at 510-528-5769. It is the responsibility of the respondents, before submitting a response to the RFQ, to ascertain if the City has issued any notices,

clarifications, addenda, or other communications to responders. Oral explanations or instructions from City staff shall not be considered binding on the City.

### ***Format and Number of Copies***

Respondent teams must submit seven (7) copies of their qualifications. Submissions on 8½ by 11-inch paper or 8½ by 14-inch paper are preferred to simplify copying. Submission packages also should include an electronic copy of the Statement of Qualifications in Adobe Acrobat PDF format. The City reserves the right to make all submissions available to the public pursuant to legal requirements.

The City anticipates that a consultant will be selected in October 2006, and that a contract for services will be negotiated and executed within a month thereafter. The consultant will be expected to commence its services immediately upon contract execution.

## **IV. General Conditions**

1. Any material clarifications or modifications to the RFQ or the selection process will be made in writing and provided to all recipients of the RFQ.
2. The City reserves the right to:
  - Waive minor irregularities.
  - Modify or cancel the selection process or schedule at any time.
  - Negotiate with the second choice Respondent if it is unable to negotiate an acceptable contract with the first choice Respondent within a reasonable period of time.
  - Reject any and all proposals, and to seek new qualifications when it is in the best interest of the City to do so.
  - Seek any clarification or additional information from Respondents as is deemed necessary to the evaluation of a response.

- Judge the veracity, substance, and relevance of the Respondents' written or oral representations, including seeking and evaluating independent information on any of the Respondents' work cited as relevant experience.
- Contract with separate entities for various components of the services.

3. All expenses related to any Respondent's response to the RFQ, or other expenses incurred during the period of time the selection process is underway, are the sole obligation and responsibility of that Respondent. The City will not, directly or indirectly, assume responsibility for such costs except as otherwise provided by written agreement.

4. The City will negotiate a final scope of services and terms of compensation following the consultant's selection. As such, Respondents should expect their statement of qualifications to constitute a point of departure for such negotiations rather than fixed offers to be accepted or rejected.

5. The contract for the performance of these services will provide that: (i) the consultant will perform its services at the direction of the City in a manner consistent with State law and City policies; and (ii) the consultant will be subject to the State law and the City's conflict of interest policies, including disclosing any work for the property owner or its affiliates or partners in other communities.

End

1 **RESOLUTION NO #06-50**

2 **A RESOLUTION OF THE ALBANY CITY COUNCIL ENDORSING AND**  
3 **DIRECTING STAFF TO PROCEED WITH A CITY DIRECTED WATERFRONT**  
4 **PLANNING PROCESS**

5 **WHEREAS**, the Albany Waterfront includes both privately held lands and lands  
6 owned by public agencies.

7 **WHEREAS**, the lands owned by the public agencies are dedicated for open space  
8 and parkland recreational uses.

9 **WHEREAS**, the privately held lands have been zoned for waterfront related uses,  
10 permitting Golden Gate Fields and other water related commercial uses.

11 **WHEREAS**, the racetrack has been in operation for about sixty years and the  
12 property has not undergone significant changes in appearance or use over this time frame.

13 **WHEREAS**, approximately once every decade the community has focused  
14 attention on land use policies and changes at the waterfront.

15 **WHEREAS**, over the last several decades, the community and City have made no  
16 determinations to change the General Plan and zoning regulations for the waterfront area.

17 **WHEREAS**, in the 1980s, when the property was owned by Catellus  
18 Corporation, the City undertook an environmental review for the privately owned lands.  
19 This review was processed under the California Environmental Quality Act (CEQA) as a  
20 program EIR. The study included assessments of environmental impacts of potential  
21 projects that ranged from a "park only" alternative to a build-out of approximately 4.2  
22 million square feet of mixed use development. After preparation and certification of the  
23 EIR, Catellus did not submit any applications, but, instead, extended the lease to allow  
racing to continue. Thereafter, Catellus sold the property to Ladbroke.



1           **WHEREAS**, in 1990, in part due to citizens' concerns about changes in use and  
2 development at the waterfront, a citizen initiative (Measure C) was approved by the  
3 voters of the City of Albany. Measure C reserves to the voters the final approval of any  
4 changes in waterfront General Plan and zoning regulations. In passing Measure C, the  
5 voters determined that the waterfront is a unique community asset that is special.

6           **WHEREAS**, in 1994 Ladbroke Racing proposed a change in use to allow for card  
7 room gaming at the racetrack. This proposal included provisions to provide the City with  
8 additional revenues, a Bay Trail, funds to develop the Bay Trail, and other benefits. The  
9 card room proposal was controversial. It narrowly won voter approval by the voters, but  
10 was legally challenged and the voter approval was set aside.

11           **WHEREAS**, since 1994 and until recently, there has been no planning process  
12 designed and completed to review present zoning regulations and to discuss potential  
13 changes.

14           **WHEREAS**, within the last two years, the present owner of the private property,  
15 Magna Entertainment, has expressed interest in exploring changes to the regulations that  
16 apply to the Waterfront lands and most recently entered into a joint venture agreement  
17 with Caruso Affiliated to prepare an application for a predominately retail development  
18 on the waterfront

19           **WHEREAS**, the Albany Shoreline Specific Plan Initiative, if approved by the  
20 voters, would require the City to establish a special task force to prepare a specific plan in  
21 accordance with specified guidelines and procedures. The specific plan that would be  
22 created under the initiative would have to follow specified policies and guidelines and  
23

1 would not allow for community viewpoints differing from those policies or guidelines to  
2 be considered.

3       **WHEREAS**, a process that provides technical analysis and community dialogue  
4 on a full spectrum of possible land use configurations is the most desirable way to address  
5 the competing factors that arise when contemplating significant regulatory changes at the  
6 waterfront.

7       **WHEREAS**, City staff recommends to the City Council that it authorize a City  
8 planning process in a format to be developed by the Planning and Zoning Commission in  
9 consultation with other City commissions and committees.

10       **WHEREAS**, Caruso Affiliated representatives and Albany staff have discussed  
11 for several months formulating a process that includes review of the Caruso project in  
12 conjunction with a City planning process designed to study other alternative proposals  
13 appropriate for the Albany Waterfront area;

14       **WHEREAS**, a joint process would have included the preparation of an EIR to  
15 analyze the Caruso project along with other alternatives:

16       **WHEREAS**, Caruso Affiliated recently indicated in a letter dated July 7, 2006  
17 that it believed the proposed City process might create added legal exposure to Caruso  
18 Affiliated if the Caruso project was adopted;

19       **WHEREAS**, Caruso Affiliated requested that the Albany City Council adopt a  
20 resolution prepared by Caruso that would require the City Council to agree to the  
21 preparation of an EIR for their project at this time prior to even submitting its application;

1           **WHEREAS**, the City Council indicated that it was not comfortable with  
2 approving the Caruso drafted resolution prior to the submission of an application in order  
3 to understand and to review the types of approvals being requested;

4           **WHEREAS**, the City Council wishes to assure Magna that the City would  
5 process an application in accordance with City standard processing protocols and in  
6 conformity with the laws and regulations of the City of Albany and the State of  
7 California;

8           **WHEREAS**, staff has summarized to the City Council the basic steps included in  
9 the standard manner in which applications are reviewed;

10           **NOW, THEREFORE, THE ALBANY CITY COUNCIL DOES HEREBY**  
11 **RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:**

12           1.     The community would be best served if the City commenced its own  
13 planning process;

14           2.     A range of viewpoints for the future of the waterfront would be included  
15 in a City-initiated planning process, including the property owner, potential developer,  
16 proponents of the initiative, and other community members to generate a range of plans;

17           3.     Staff is authorized to identify funding for the costs of the City-initiated  
18 planning process and explore the possibility with the land owner of participating in the  
19 funding;

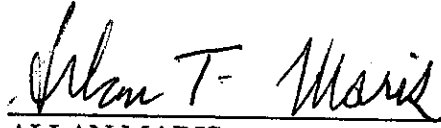
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1           4.     Staff is authorized to facilitate Planning and Zoning Commission  
2 sponsorship of the City-initiated process in consultation with other City commissions and  
3 committees, including soliciting qualifications and/or proposals from consultants to  
4 undertake a City-initiated planning process.

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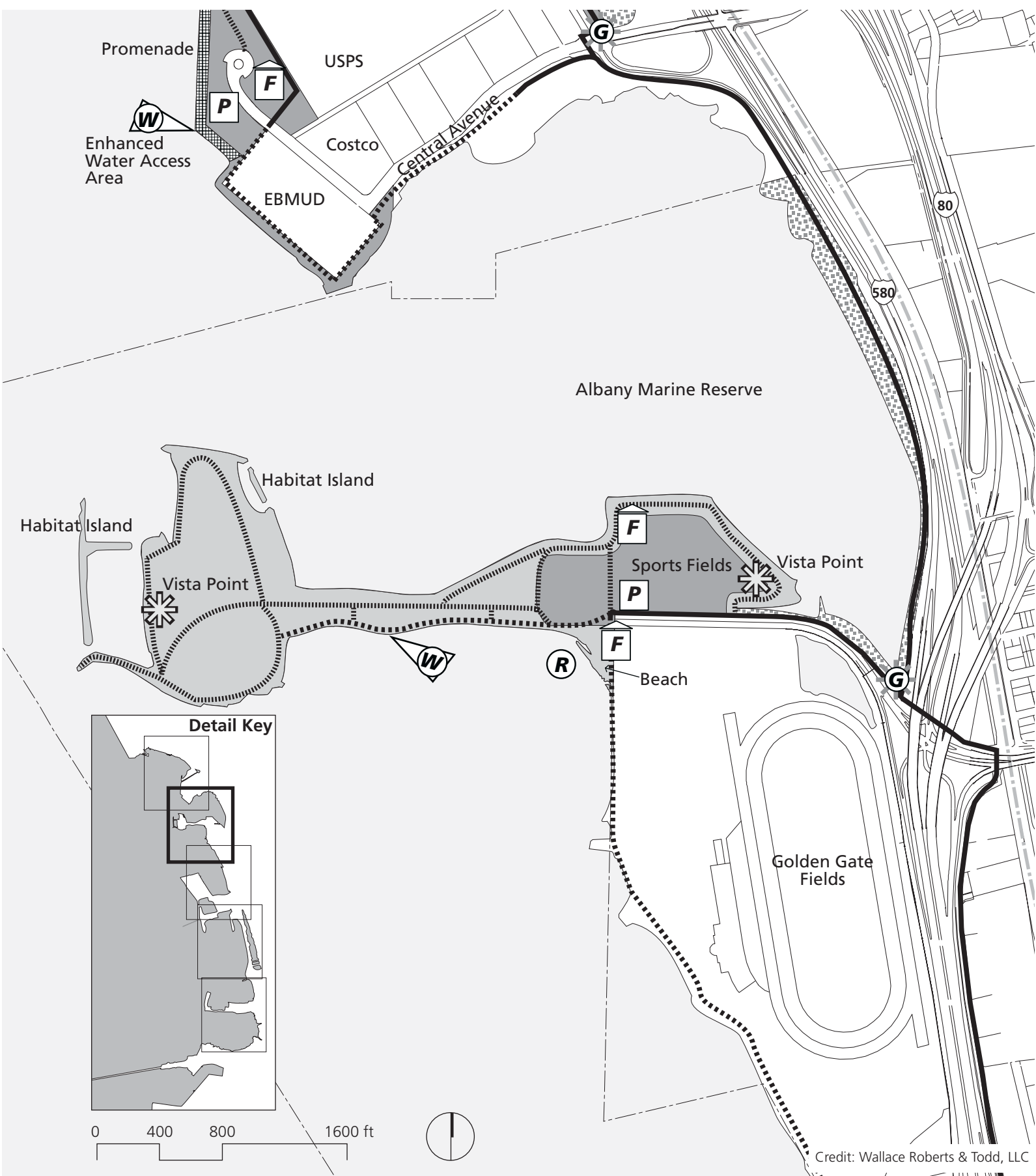


Eastshore State Park  
General Plan

**Figure I-2: PROJECT BOUNDARIES & KEY FEATURES**

- Upland Parklands
- Aquatic Parklands
- City Boundaries
- Proposed Marine Reserves

Credit: Wallace Roberts & Todd, LLC



Credit: Wallace Roberts & Todd, LLC

Eastshore State Park  
General Plan

**Figure III-8:  
ALBANY SHORELINE**

Recreation	Bridge	Bay Trail-Exist
Conservation	Restoration Area	Bay Trail-Prop'd
Promenade	Parking	Park Trail
Constructed Wetland	Gateway	Facility
	Vista Point	Water Access

**Figure 1**  
**Planning Area**

Note regarding graphic:

Ladbroke Land Holdings is a subsidiary of Magna Entertainment.  
Total land area within planning is approximately 108 acres.



## Summary of Existing General Plan

The City's current General Plan is discussed in two of the Plan's five elements. In the land use element, the Land Use Plan Map (Figure 5) includes a Park and Recreation designation along the shoreline and Commercial Recreation designation for the remainder of the Golden Gate Fields property. The Land Use Plan Map also indicates a Creek Conservation Zone for Codornices Creek running north-south next to the freeway. The land use element contains the following statements that related to the Commercial Recreation designation:

*"The Golden Gate Fields Racetrack is under a lease agreement with Catellus [the owner of the property at that time] through at least December 31, 2001. This commercial recreation use is consistent with the current Waterfront zoning. A 0.5 FAR standard has been assigned to this area.*

*"The Plan also anticipates development of public parks and public access at the Waterfront. These opportunities are further described in the Conservation, Recreation, and Open Space Element."*

Currently, there are no specific waterfront-related goal or policy statements contained in the land use element. The land use element, however, describes the status of ownership at the time of preparation of the General Plan and contains the following statement that relate specifically to development of the racetrack property.

*"The Waterfront land will continue to be operated as a racetrack at least until 2002. If the owners of the land wish to develop their property in uses other than those allowed by the Waterfront Commercial Recreation use, a series of general plan amendments must be submitted, considered, and approved by the City and the Albany voters prior to final adoption."*

The Conservation, Recreation and Open Space (CROS) element briefly describes the natural environment of the waterfront. It also describes the community amenities and public facilities. The element includes the following policies that relate directly to the Golden Gate Fields property:

*CROS 5.1 – Consider the scenic and visual importance of the waterfront area in any future private and public development.*

*CROS 5.2 – Further preserve the scenic value of the Albany shoreline by prohibiting construction of any building or structure within a 100-foot minimum of the shoreline.*

*CROS 7.1 – Implement the Bay Trail Plan along the Albany shoreline. Work with the landowner, the track operator, appropriate citizen and environmental groups, the State Department of Parks and Recreation, Caltrans, the East Bay Regional Park District, the Coastal Conservancy and ABAG to achieve this goal.*



*CROS 7.2 – Consider the important, surrounding wildlife and vegetation resources that must be adequately protected when developing the alignment of the Bay Trail.*

*CROS 7.3 – Require that public access to the shoreline and to Albany Point be a part of any future waterfront development plans, and that future automobile, pedestrian and bicycle access be consistent with and coordinated with future State and regional park and open space plans at the Waterfront.*

The Conservation, Recreation and Open Space element also contains a Conservation/Open Space Plan Map (Figure 6). For the Golden Gate Fields property, there is “Proposed Parks and Open Space” designation along the shoreline and a Creek Conservation Zone for Codornices Creek running north-south next to the freeway. The remainder of the Golden Gate Fields property is not designated in the Conservation/Open Space Plan Map.

## **Summary of Existing Zoning**

In contrast to the General Plan, the Zoning ordinance presents specific requirements on individual parcels. The Golden Gate Fields property is zoned Waterfront District (Figure 7), which permits the following uses, subject to a conditional use permit. The definitions of the uses are taken verbatim from the text of the City zoning ordinance.

Park and Recreation Facilities - Noncommercial parks, playgrounds, recreation facilities, and open spaces. This classification includes community centers, boat launching ramps and marinas.

Utilities, Major - Generating plants, electrical substations, electrical transmission lines, switching buildings, refuse collection and transfer stations, processing, recycling or disposal facilities, major flood control or drainage facilities, water or wastewater treatment plants, or transportation, and all similar facilities.

Utilities, Minor - New utility facilities that are necessary to support established uses and involve only minor structures such as electrical distribution lines and aboveground cabinets.

Utilities, Underground - Public or regulated underground utility that provides water, sewage collection, electricity, natural gas, telephone, cable television or other public service or goods to the public.

Bars - An establishment the primary function of which is to prepare and serve alcoholic beverages for onsite consumption. Such establishment is distinguished from an “eating place” for purposes of licensing by the California Department of Alcoholic Beverage Control. Such establishment may or may not provide live entertainment.

Commercial Recreation/Entertainment in the Waterfront District. Includes live horse racing which exceeds one hundred twenty (120) days in any calendar year (irrespective of whether conducted by one or more operators at the facility), golf, tennis, swimming and other commercial or spectator or participatory activities and uses which, in the opinion of the Planning and Zoning Commission, are of a similar nature.

Marinas and boat launching ramps - A facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews and guests.

Parking facility, nonresidential - Any area or structure, other than within a public street, which is used for the parking of two (2) or more vehicles, but not including the storage of vehicles for sale or repair.

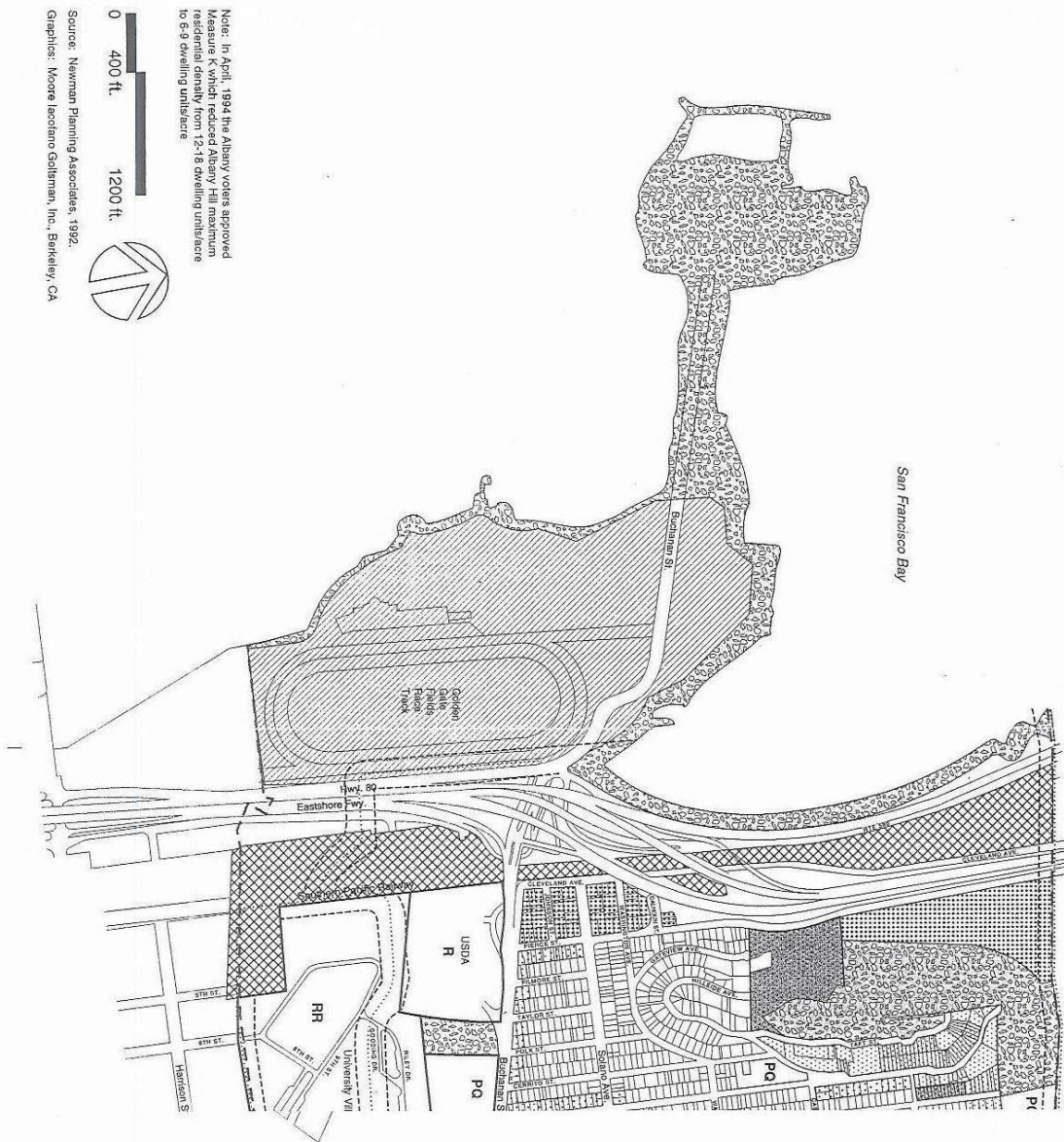
Restaurant - Businesses serving prepared food or beverages for consumption on or off the premises.

#### Waterfront and Waterfront-Sports-related Commercial Sales and Service

In addition to the Waterfront District requirements, the portion of the property adjacent to Codornices Creek is subject to the requirements of the Watercourse Overlay District. This overlay district is intended to promote the preservation and restoration of Albany's creekside areas and protect property from damage due to floodwaters.

In addition to overlay district requirements, the areas adjacent to Codornices Creek are located into the FEMA flood zone, and thus are subject to the City's Flood Damage Prevention section of the zoning ordinance.

**Figure 5  
General Plan Land Use Map**



Note: In April, 1994 the Albany voters approved Measure K which reduced Albany Hill maximum residential density from 75-10 dwelling units/acre to 9-9 dwelling units/acre.

0 400 ft. 1200 ft.



Source: Newman Planning Associates, 1992.  
Graphics: Moore Jacobino Goldstein, Inc., Berkeley, CA

**LAND USE DESIGNATIONS**

- RESIDENTIAL**
  - Low Density (1-17, Av. 12 du/acre)
  - Medium Density (18-34, Av. 27 du/acre)
  - High Density (35-63, Av. 39 du/acre)
  - Planned Residential/Commercial (63 dwelling units/acre, FAR: 1.5)
  - Planned Development (9 du/acre)
- COMMERCIAL**
  - General (FAR: 0.95)
  - Community (FAR: 1.25)
  - Planned Residential/Commercial (63 dwelling units/acre, FAR: 1.5)
  - Commercial Recreation (FAR: 0.5)
- INDUSTRIAL**
  - Commercial/Service/Light Industrial (FAR: 0.5)
- OPEN SPACE**
  - Park and Recreation
  - Creek Conservation Zone
- INSTITUTIONAL**
  - PQ Public/Quasi Public
  - R Research
  - RRR Residential/Recreational/Commercial (18-34, Av. 27 du/acre, FAR: 0.95)
  - RR Residential/Commercial
  - RRR Residential/Recreational
  - A City Property
  - C Churches
  - X Gateway

CITY OF ALBANY  
**Land Use  
Plan Map**  
1990 - 2010

**Figure 6**  
**General Plan Open Space Map**

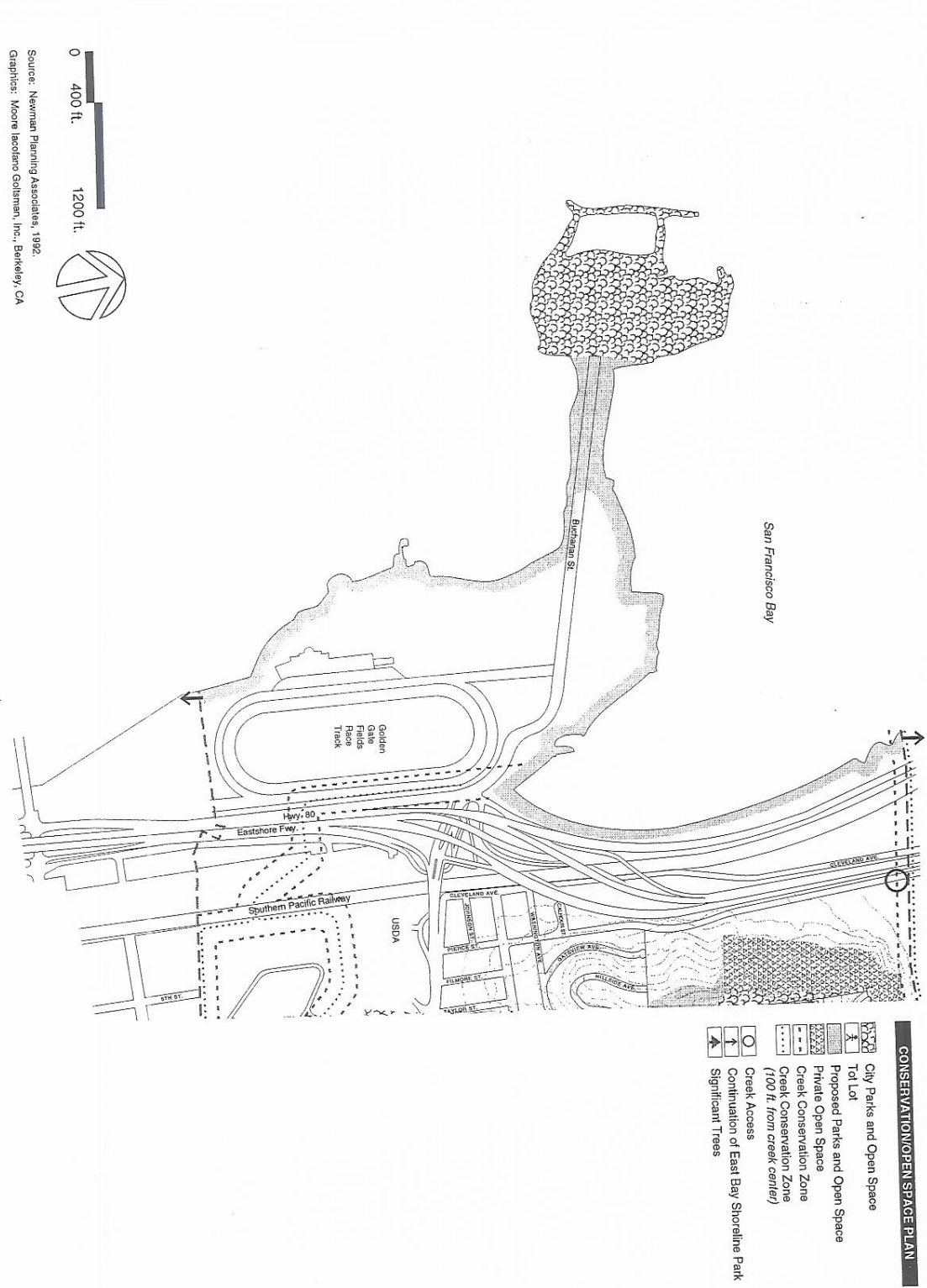
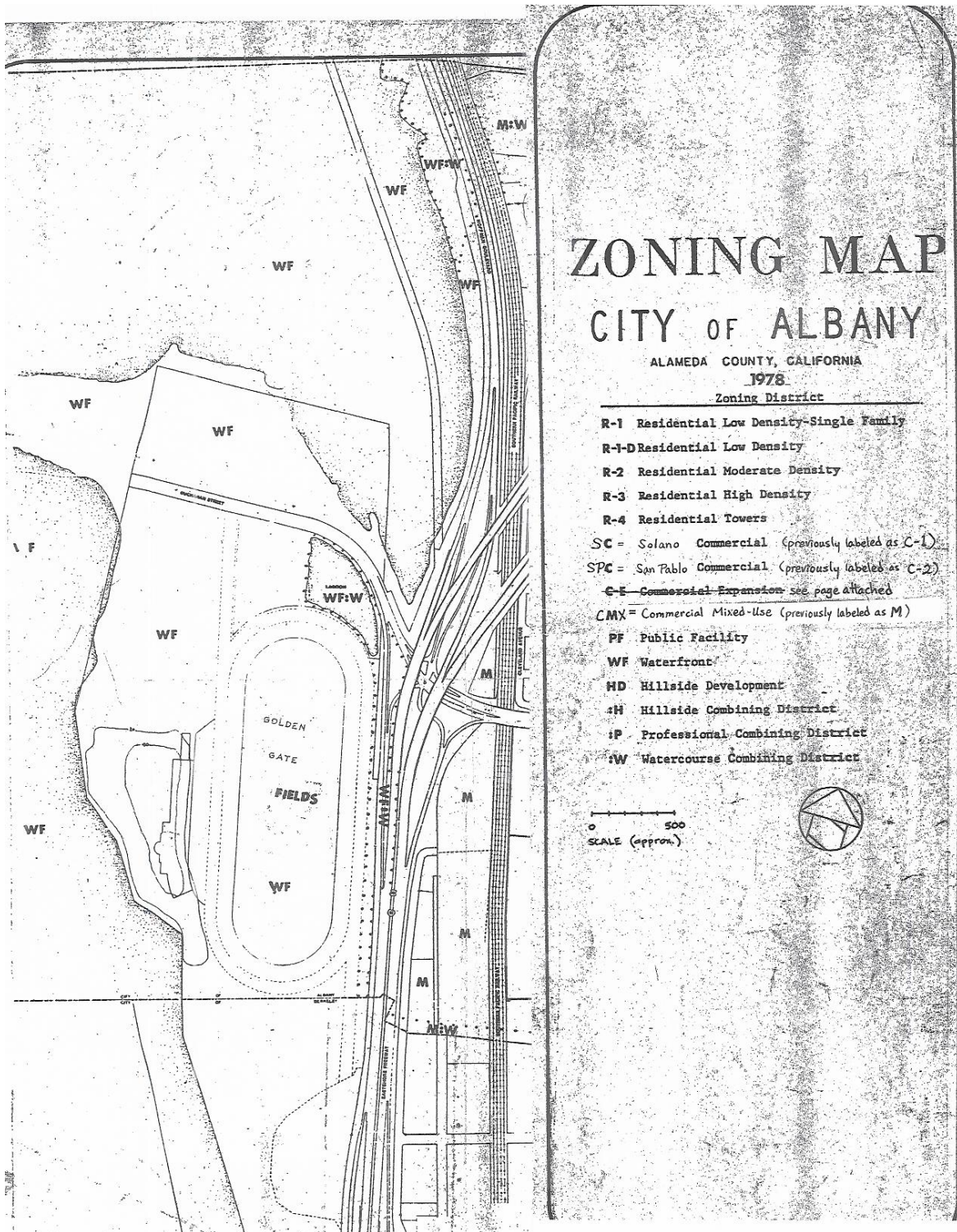


Figure 7  
Zoning Map



Appendix B: Measure C

CITY OF ALBANY VOTER INITIATIVE MEASURE	
<b>C</b> MEASURE C: Do you vote to adopt an Initiative proposing an ordinance requiring voter approval of Waterfront planning decisions as it is set forth in the Voter Pamphlet?	YES
	NO

FULL TEXT OF MEASURE C

CITIZENS WATERFRONT APPROVAL INITIATIVE

SECTION 1. TITLE

This ordinance shall be known as and may be cited as the Citizens Waterfront Approval Initiative.

SECTION 2. FINDINGS AND PURPOSE.

The people of the City of Albany find that:

- a. Major changes are proposed for the Albany Waterfront;
- b. Any potential change in the use of the Albany Waterfront is of great significance to the future revenues and financial obligations of the City, as well as to the enjoyment of the City by its citizens;
- c. The Waterfront lands comprise the largest and most significant remaining tract of land in the City suitable for development—approximately 15% of the total area of the City. Due to its large size, unique setting and environmental significance, any change in its use may irreversibly alter the character and composition of the City;
- d. The Waterfront is so important to the welfare of the City as a whole, that an additional step of voter approval should be added to the City's regular processes of Waterfront planning and approval.

SECTION 3. BOUNDARY.

As used in this ordinance, the "Waterfront", "Waterfront Lands", "Waterfront District" or "Waterfront Area" is defined as all the land within the city limits of Albany, that is on the west side of Interstate Highway 580.

SECTION 4. CITIZEN'S RIGHT TO VOTE.

A new Subsection 20-2.16(c) is hereby added to the Albany Municipal Code, Zoning Ordinance, and shall read as follows:

The following actions, if they authorize any use not authorized by the zoning ordinance for the Waterfront District as of the effective date of this ordinance, shall only be taken by passage of a ballot measure approved by a majority of voters voting.

1. Any amendment to the land use designations for the Waterfront Area in the City's General Plan;
2. The establishment of, or any material amendment to, the Waterfront Master Plan or other specific plan for the Waterfront area. The meaning of the phrase "material amendment" shall be defined in the Waterfront Master Plan itself or other specific plan for the Waterfront area itself;
3. Any amendment to the zoning ordinance for the Waterfront area including changes to the text and changes to the map of the Waterfront Area;

## Appendix B: Measure C, continued

4. The entry into any development agreement and/or any material amendment to a development agreement for the Waterfront Area. The meaning of the phrase "material amendment to a development agreement" shall be defined in the development agreement itself. A development agreement or an amendment to a development agreement shall be deemed "entered into" on the date that the election results approving the agreement or amendment are certified in the manner provided by the Elections Code.

## SECTION 5. SEVERABILITY.

If any section, subsection, part, subpart, paragraph, subparagraph, clause or phrase of this ordinance, or any amendment or revision of this ordinance is for any reason held to be invalid, the remaining portions shall not be affected, but remain in full force and effect.

## SECTION 6. AMENDMENT.

No part of this ordinance shall be amended or repealed except by passage of a ballot measure approved by a majority of voters voting.

## SECTION 7. COSTS/COST SAVINGS.

When a development proposal or a developer requested amendment requires a ballot measure pursuant to this ordinance, then all costs related to that ballot measure shall be paid by the applicant developer.

When an action requires a ballot measure pursuant to this ordinance and the text of the related documents is longer than 2,000 words, then the City Attorney may draft a summary, and the city may mail that summary to the voters, in lieu of a full text.

## SECTION 8. EFFECTIVE DATE.

If adopted, this ordinance shall be effective January 1, 1990.

## CITY ATTORNEY ANALYSIS OF MEASURE C

This Measure, if approved by the voters, and if it receives more votes than Measure D, becomes an Ordinance and would add new sections to the City Code. The new sections would create an additional step of voter approval of City Council decisions made in the Waterfront Planning process.

Existing State and City laws require that land use decisions pertaining to the Waterfront only be made after a series of required public hearings before the Planning Commission and City Council. This planning process will take at least 15 months from the time development applications are submitted. If citizens were dissatisfied with these decisions, then present State Laws provide citizens with a right to require a vote through the referendum process. The passage of this Measure would automatically require voter approval of City Council decisions related to the Waterfront, without the requirement to submit a referendum petition.

A 'yes' vote on this Measure would mean that any decision to amend the General Plan or Zoning Ordinance, or any decision to enter into a development agreement or to create a specific plan or Waterfront Master Plan would require voter approval if such decisions authorized a change in use different than what was allowed in the Zoning Ordinance on December 31, 1989.

Revotes would be required for any subsequent amendments to the General Plan or Zoning Ordinance which authorized a change in use other than those permitted on December 31, 1989. Revotes would be required for 'material amendments' to a development agreement, specific plan, or Master Plans. The term 'material amendment' shall be defined in the particular document. The revote requirements are different than the revote requirements in Measure D.

This Measure also provides that any developer will pay for the costs of an election if the proposal requires a vote.