



AGENDA

CONCURRENT MEETING OF THE CITY COUNCIL and PUBLIC FINANCING AUTHORITY
Tuesday, December 6, 2016 – 7:00 p.m.
City Council Chambers

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Jan Bridges

Councilmember Mark Friedman
Councilmember Gabriel Quinto

ROLL CALL

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

- 1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE** – *Councilmember Gabriel Quinto.*
- 2. COUNCIL / STAFF COMMUNICATIONS** (*Reports of Closed Session, commission appointments and informational reports on matters of general interest which are announced by the City Council & City Staff.*)

Update on Regulation of Marijuana Related Businesses

City staff will provide an update on the project concerning local regulation of marijuana related businesses.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

4. PRESENTATION – None

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5(A) through 5(E)

A. Approval of Minutes

Approve the November 15, 2016 Special City Council Meeting – Closed Session and Regular City Council Meeting minutes.

B. Human Rights Day and Month Proclamation

Approve a proclamation declaring December 10, 2016 as Human Rights Day and the entire month of December as Human Rights Month in the City of El Cerrito and encouraging all residents to study and promote the ideas contained in the Universal Declaration of Human Rights to the end that freedom, justice, and equality will flourish and be made available to all.

C. Replacement Police Motorcycle Purchase

Adopt a resolution authorizing the of purchase a 2015 Honda Police Motorcycle in an amount not to exceed \$29,464.88 to replace a 2010 Harley-Davidson Police Motorcycle from the current motorcycle fleet.

D. Comprehensive Financial Policy Review

Adopt a resolution approving the City's Comprehensive Financial Policy and rescinding Resolution No. 2015-70.

E. Tree Committee Reappointment Recommendation

Approve a Tree Committee recommendation to re-appoint Cathy Bleier to the Tree Committee effective January 1, 2017.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS

CITY COUNCIL ITEMS

A. Agreement with James Chan for Information Technology Services

Adopt a resolution authorizing the City Manager to enter into an agreement with James Chan, as a CalPERS retired annuitant, to provide Information Technology services to the City of El Cerrito.

B. Refinancing of 2006 Lease Revenue Bonds (City Hall Project)

Adopt a resolution authorizing: 1) The execution, sale and delivery of refunding certificates of participation; 2) and Directing the execution of related lease financing documents; 3) Approving a purchase contract and an official statement; and 4) Authorizing all other associated official actions.

CONCURRENT CITY COUNCIL and PUBLIC FINANCING AUTHORITY ITEM

C. Refinancing of 2008 Sales Tax Revenue Bonds (Street and Sidewalk Improvements)

Staff recommends the City Council adopt a resolution authorizing the issuance and sale of sales tax revenue refunding bonds to refinance an outstanding installment payment obligation and approving related agreements and actions.

Staff also recommends that the Board of Directors of the El Cerrito Public Financing Authority adopt a resolution authorizing execution and delivery of any documents required to accomplish the proposed refinancing.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

Mayor and City Council communications regarding local and regional liaison assignments and committee reports.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, December 20, 2016 at 7:00 p.m. in the City Council Chambers, 10890 San Pablo Avenue, El Cerrito.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

- Council Meetings can be heard live on FM Radio, KECG – 88.1 and 97.7 FM and viewed live on Cable TV - KCRT- Channel 28 and AT&T Uverse Channel 99. The meetings are rebroadcast on Channel 28 the following Thursday and Monday at 12 noon, except on holidays. Live and On-Demand Webcast of the Council Meetings can be accessed from the City's website <http://www.el-cerrito.org/ind-ex.aspx?NID=114>. Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (510) 215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 215-4305 Fax: 215-4379, email cmorse@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

Tuesday, November 15, 2016 – 6:30 p.m.

Hillside Conference Room

REGULAR CITY COUNCIL MEETING

Tuesday, November 15, 2016 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Jan Bridges

Councilmember Mark Friedman
Councilmember Gabriel Quinto

6:30 p.m. ROLL CALL

Councilmembers Abelson, Bridges, Friedman, Quinto and Mayor Lyman all present.

CONVENE SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

Mayor Lyman convened the Special City Council – Closed Session meeting at 6:30 p.m.

ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler, Richmond, expressed his support for the City Attorney.

ANNOUNCEMENT OF CLOSED SESSION

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (*Pursuant to Government Code Section 5497*)

Title: City Attorney

RECESSED INTO CLOSED SESSION at 6:32 p.m.

POSSIBLE REPORT OUT OF CLOSED SESSION – No report.

ADJOURNED SPECIAL CITY COUNCIL CLOSED SESSION at 7:02 p.m.

ROLL CALL

Councilmembers Abelson, Bridges, Friedman, Quinto and Mayor Lyman all present.

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

Mayor Lyman convened the regular City Council meeting at 7:05 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF

MOMENT OF SILENCE was led by Mayor Pro Tem Abelson.

2. COUNCIL / STAFF COMMUNICATIONS

Councilmember Quinto reported that he attended the 63rd Anniversary of the El Cerrito Branch of St. Peter's Christian Methodist Episcopal Church and presented proclamations from Mayor Lyman and Supervisor John Gioia commemorating the occasion.

Mayor Lyman stated that the City Council had just met in closed session regarding the City Attorney's performance evaluation. There is nothing to report. At the November Contra Costa Mayors Conference, the Mayors received an informative presentation from the Greenbelt Alliance. The Alliance is very supportive of Transit Oriented Development projects. Mayor Lyman also stated that the election is an adversarial process and now that the election is over everyone needs to begin the hard work of re-building relationships, trust and cooperation. Goals the El Cerrito Community shares in common are public safety, prosperity, economic vibrancy and happiness. Mayor Lyman said that he hopes all agree that civil discourse and incorporating values and compromises from all sides of an issue is the best way to arrive at these goals. One of the themes he heard repeatedly is that many people do not feel heard. Mayor Lyman encouraged staff to work on a series of public meetings this coming year to provide El Cerrito residents an opportunity to be heard and revisit city goals in 2017. Mayor Lyman said it is his hope that the City Council and the community will listen to each other and work toward a better El Cerrito.

Karen Pinkos, Assistant City Manager, stated that the Arts & Culture Commission has invited artists to submit proposals by November 28 to display their work in the City Hall Gallery. Currently, the El Cerrito High School Photography Club's work is on display.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler, Richmond, encouraged all to attend the Contra Costa play "You Can't Take it With You," praised the Crime Prevention Committee presentation that occurred at the November 1 City Council meeting and said he enjoyed the work on view in the City Hall Gallery.

Michelle Fadelli, El Cerrito, thanked the City Council and city staff for their work on Measure B/New Library. Ms. Fadelli stated that El Cerrito wants a new library, 62% percent of the voters supported it. The City could have done better outreach in conveying more information about cost estimates, how the project would be paid for, and options for a location. Ms. Fadelli also suggested that the community could have benefited from a Town Hall prior to the vote and that the City Council and City work with all residents to bring the library back to the community soon.

Howdy Goudey, El Cerrito, stated that as the City works on the Eden Hana Gardens project it is potentially a good opportunity to increase electric vehicle charging stations. Mr. Goudey suggested that as the City celebrates its 100th Anniversary that all city utility accounts be 100% deep green with Marin Clean Energy. Mr. Goudey said he is also anxiously awaiting thoughts from the City Council regarding mitigation of housing impacts resulting from the El Dorado condominium development project.

Al Miller, El Cerrito, stated on behalf of Stege Sanitary District, that the sewer lateral identified in Consent Calendar Item No. 5(D) will be maintained by Eden Housing.

4. PRESENTATION – None**5. ADOPTION OF THE CONSENT CALENDAR – Item No. 5(A) and 5(L)**

Moved, seconded (Abelson/Friedman) and carried unanimously to approve Consent Calendar Item Nos 5(A) through 5(C) and 5(E) through 5(L) in one motion as indicated below. Item No. 5(D) was removed from the consent calendar at the request of Councilmember Bridges and voted on separately as indicated below.

CITY COUNCIL ITEMS**A. Approval of Minutes**

Approve the November 1, 2016 Regular City Council meeting minutes.

Action: Approved minutes.

B. Set Schedule for January City Council Meetings

Cancel the January 3, 2016 regular City Council meeting due to a lack of business.

Action: January 3, 2016 City Council meeting cancelled.

C. Agreement with West Coast Arborists, Inc. for Tree Pruning, Removal and Maintenance Services

Adopt a resolution authorizing the City Manager to execute an agreement with West Coast Arborists, Inc. to provide tree pruning, removal, and maintenance services of City trees for a period of three years, with the option to annually extend the contract for three years thereafter, in an amount not to exceed \$115,300 for each of Fiscal Years 2016-17 and 2017-18 and thereafter contingent upon future City budgets and City Council approval of annual appropriations.

Action: Adopted Resolution No. 2016–83.

D. Grant of Access and Utility Easement to Eden Housing

Adopt a resolution granting El Cerrito Senior, L.P., an affiliate of Eden Housing, a perpetual non-exclusive access and utility easement and authorizing the City Manager to execute the Easement Deed and Maintenance Agreement (“Easement Agreement”) for Sewer Line Improvements for the Hana Gardens Apartments to be located at 10860 San Pablo Avenue.

Presenter: Melissa Tigbao, Senior Engineer.

Action: Removed from the Consent Calendar at the request of Councilmember Bridges for the purpose of discussing maintenance of the sewer lateral by Eden. Moved, seconded (Friedman/Abelson) and carried unanimously to adopt Resolution No. 2016–84.

E. Participation in the California Uniform Public Construction Cost Accounting Act

Adopt a resolution confirming that the City has elected to become subject to the uniform public construction cost accounting procedures set forth in the California Uniform Public Construction Cost Accounting (“Act”) and to the California Uniform Construction Cost Accounting Commission’s policies and procedures manual and cost accounting review procedures, as they may each from time to time be amended, and directing that the City Clerk notify the State Controller forthwith of this election.

Action: Adopted Resolution No. 2016–85.

F. Amendment of Professional Services Agreement with TRB + Associates

Adopt a resolution authorizing the City Manager to amend the Professional Services Agreement between the City of El Cerrito and the TRB + Associates in an amount not to exceed \$75,000 bringing the total contract to an amount not to exceed \$100,000 and extending the term of the Agreement through June 30, 2017.

Action: Adopted Resolution No. 2016–86.

G. Service Agreement for NEOGOV

Adopt a resolution authorizing the City Manager to enter into an agreement with GovernmentJobs.com, Inc., doing business as NEOGOV, for human resources software services in an amount not to exceed \$37,363.33 for a term of twelve months with an annual renewal option.

Action: Adopted Resolution No. 2016–87.

H. Annual Review of Investment Policy

Adopt a resolution approving the City's Investment Policy.

Action: Adopted Resolution No. 2016–88.

I. Economic Development Committee Appointment

Approve an Economic Development Committee recommendation to appoint Bill Kuhlman to the Economic Development Committee, effective January 1, 2017.

Action: Approved recommendation.

J. Economic Development Committee Appointment

Approve an Economic Development Committee recommendation to appoint Ashley James to the Economic Development Committee, effective November 15, 2016.

Action: Approved recommendation.

K. Quarterly Investment Report

Receive and file the City's Quarterly Investment Report for the period ending September 30, 2016.

Action: Approved recommendation.

SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY ITEMS

L. Approval of Revised First Amendment to the Disposition Development and Loan Agreement with Eden Housing, Inc., for City Housing Property Located at 10848 and 10860 San Pablo Avenue. Approval of an Agreement with Eden Housing Regarding California Department of Housing and Community Development (HCD) Affordable Housing and Sustainable Communities Grant and Approval of HCD Infill Infrastructure Grant

Staff requests that the City Council, acting as Housing Successor to the Former Redevelopment Agency adopt the following resolutions:

1. Authorizing the City Manager to execute a Revised First Amendment to the Disposition Development and Loan Agreement with Eden Housing, Inc. and making findings and approvals pursuant to the California Community Redevelopment Law in connection with redevelopment of 10848 and 10860 San Pablo Avenue in the City of El Cerrito Redevelopment project area;
2. Authorizing the Execution of a Standard Agreement with the State of California Housing and Community Development for an Infill Infrastructure Grant for the Hana Gardens Project; and

3. Authorizing the City Manager to execute an Affordable Housing and Sustainable Communities ("AHSC") Co-Applicant Agreement with Eden Housing related to the AHSC Grant and Loan received from the State of California Housing and Community Development Department for the Hana Gardens Project.

Actions: Adopted Resolution Nos. 2016–89 and 2016-90.

6. PUBLIC HEARINGS

Proposed Integrated Waste Management Fees and East Bay Sanitary Garbage & Green Waste Collection and Processing Rates – Effective January 1, 2017

Staff requests that the City Council take the following actions: 1) Conduct a public hearing and upon conclusion adopt a resolution setting Integrated Waste Management (IWM) Fees, effective January 1, 2017; and 2) Conduct a public hearing and upon conclusion adopt a resolution setting maximum allowable East Bay Sanitary (EBS) garbage and green waste collection and disposal and processing rates, effective January 1, 2017.

Presenter: Maria Sanders, Environmental Services and Operations Manager.

Mayor Lyman opened the public hearing regarding Integrated Waste Management fees.

Speakers: Cordell Hindler, Richmond, expressed support for the rate increase.

Moved, seconded (Quinto/Bridges) and carried unanimously to close the public hearing.

Action: Moved, seconded (Friedman/Quinto) and carried unanimously to adopt Resolution No. 2016–91 setting Integrated Waste (IWM) Fees, effective January 1, 2017.

Mayor Lyman opened the public hearing regarding East Bay Sanitary Company rates.

Speakers: None

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

Action: Moved, seconded (Bridges/Friedman) and carried unanimously to adopt Resolution No. 2016–92 setting maximum allowable East Bay Sanitary (EBS) garbage and green waste collection and disposal and processing rates, effective January 1, 2017.

7. POLICY MATTERS

A. Centennial Celebration Task Force Recommendations

Adopt a resolution making a mid-year budget adjustment and appropriating \$8,000 in Fiscal Year 2016/2017 and appropriate \$23,000 in Fiscal Year 2017/2018 to carry out the events and activities proposed by the Centennial Celebration Task Force to celebrate El Cerrito's 100 year history as an incorporated city.

Presenters: Suzanne Iarla, Assistant to the City Manager and Joann Steck-Bayat, Chair, Centennial Celebration Task Force.

Speakers: Cordell Hindler, Richmond, spoke in support of the centennial events.

Action: Moved, seconded (Friedman/Quinto) and carried unanimously to adopt Resolution No. 2016–93. Mayor Lyman requested that all staff liaisons be informed that they should place a discussion item regarding ideas for centennial events on

December Board, Commission and Committee agendas.

B. Exclusive Negotiating Rights Agreement with Mona and Kanti Patel for 1718 Eastshore Boulevard

Adopt a resolution authorizing execution of an Exclusive Negotiating Rights Agreement with Mona and Kanti Patel for the disposition of 1718 Eastshore Boulevard.

Presenter: Melanie Mintz, Community Development Director.

Speaker: Cordell Hindler, Richmond, urged the City Council to adopt the resolution.

Action: Moved, seconded (Quinto/Friedman) and carried unanimously to adopt Resolution No. 2016–94.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

Mayor Pro Tem Abelson reported that Contra Costa Transportation Authority (CCTA) Measure X failed. This will impact funding for a variety of projects ranging from paratransit service to BART cars, “return to source” funds used for repaving roads and other projects. Projects that would’ve been funded by the measure will not be going forward.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 8:31 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 6 Proposed Integrated Waste Management Fees and East Bay Sanitary Garbage & Green Waste Collection and Processing Rates – Effective January 1, 2017

1. Powerpoint presentation – *Submitted by Maria Sanders, Environmental Services and Operations Manager.*

Item No. 7(A) Centennial Celebration Task Force Recommendations

2. Powerpoint presentation – *Submitted by Suzanne Iarla, Assistant to the City Manager.*

Item No. 7(B) Exclusive Negotiating Rights Agreement with Mona and Kanti Patel for 1718 Eastshore Boulevard

3. Last two pages of Exhibit A to Attachment 2. Legal description – Submitted by Cheryl Morse, City Clerk.

EL CERRITO CITY COUNCIL PROCLAMATION

Human Rights Month, December 2016

Human Rights Day, December 10, 2016

WHEREAS, on December 10, 1948, the member States of the United Nations signed the Universal Declaration of Human Rights and countries of different political, economic and social systems unanimously agreed on the fundamental rights that all people share solely on the basis of their common humanity; and

WHEREAS, the Universal Declaration of Human Rights asserts recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace; and

WHEREAS, disregard for human rights has resulted in acts which have offended the conscience of humankind, and where the advent of the world in which human beings shall enjoy freedom of speech and belief and freedom from fear has been proclaimed as the highest aspiration of the common people; and

WHEREAS, the Universal Declaration is referred to as the primary definition of human rights standards and is increasingly referred to as customary international law, by which all countries should abide; and

WHEREAS, the primary responsibility to promote respect for these rights and freedoms lies with each individual in the City of El Cerrito, and each of us can play a major role in enhancing human rights; and

WHEREAS, the people of El Cerrito reaffirm their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby proclaim December 10, 2016 as Human Rights Day and December as Human Rights Month in the City of El Cerrito, and we encourage all residents to study and promote the ideas contained in the Universal Declaration of Human Rights to the end that freedom, justice, and equality will flourish and be made available to all.

Dated: December 6, 2016

Gregory B. Lyman, Mayor



AGENDA BILL

Agenda Item No. 5(C)

Date: December 6, 2016
To: El Cerrito City Council
From: Paul Keith, Chief of Police
Subject: Replacement Police Motorcycle Purchase

ACTION REQUESTED

Adopt a resolution authorizing the of purchase a 2015 Honda Police Motorcycle in an amount not to exceed \$29,464.88 to replace a 2010 Harley-Davidson Police Motorcycle from the current motorcycle fleet.

BACKGROUND/ANALYSIS

The El Cerrito Police Department maintains a fleet of Police Motorcycles for traffic enforcement operations. Historically, these motorcycles have been purchased from Harley-Davidson by use of a price negotiated by state bid. The department wants to purchase a 2015 Honda Police Motorcycle which currently does not have a price set by the state bid process. The Department's desire to purchase a Honda instead of a Harley-Davidson is due to its substantially lighter comparison weight and approximately 15% better fuel economy.

The purchase of a new 2015 Honda Police Motorcycle is necessary as the 2010 Harley-Davidson has reached the end of its service life due to its high mileage and high maintenance costs. The new 2015 Honda is less expensive than a 2016 model. There are no significant changes between model years.

The City of Santa Clara conducted an open bid process to purchase 2015 Honda Police Motorcycles for their use and selected Hollister Power Sports as the winning vendor in their bid process. The City's Procurement Policy provides for purchases of equipment through cooperative purchasing arrangements with other governmental agencies that have competitively bid to establish a vendor list. The \$29,464.88 quoted to the El Cerrito Police Department by Hollister Power Sports is based on Santa Clara's bid process and is adjusted as needed to meet the specific operational needs of the City of El Cerrito Police Departments Traffic Unit.

STRATEGIC PLAN CONSIDERATIONS

Approval of this purchase fulfills the following City of El Cerrito Strategic Plan goals:

- Ensure the Public's Health and Safety
- Deliver Exemplary Government Services

FINANCIAL CONSIDERATIONS

The expenditure for the purchase is \$29,464.88. This purchase will be made from the vehicle fund included in the City's Fiscal Year 2016-2017 Adopted Biennial Budget.

LEGAL CONSIDERATIONS

None

Reviewed by:



Karen Pinkos, Assistant City Manager

Attachments:

1. Resolution

RESOLUTION NO. 2016-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE PURCHASE OF A 2015 HONDA ST1300 POLICE MOTORCYCLE IN AN AMOUNT NOT TO EXCEED \$29,464.88

WHEREAS, the El Cerrito Police Department maintains a fleet of Police motorcycles for traffic enforcement operations; and

WHEREAS, the Police Department has determined that the purchase of a 2015 ST1300 Honda Police motorcycle is necessary to replace an existing Police motorcycle that is near the end of its service life; and

WHEREAS, the City's Procurement Policy allows purchases of equipment through cooperative purchasing arrangements with other governmental agencies that have competitively bid to establish a vendor list; and

WHEREAS, the City of Santa Clara conducted an open bid process to purchase 2015 Honda Police motorcycles and the resulting bid price of \$29,464.88 per motorcycle has been quoted to the El Cerrito Police Department by Hollister Power Sports; and

WHEREAS, funds are available in the current Fiscal Year 2016-17 Adopted Biennial Budget.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the purchase and equipping of a 2015 Honda ST1300 Police Motorcycle from Hollister Power Sports in an amount not to exceed \$29,464.88.

I CERTIFY that at a regular meeting on December 6, 2016 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 December __, 2016.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor



AGENDA BILL

Agenda Item No. 5(D)

Date: December 6, 2016
To: El Cerrito City Council
From: Mark R. Rasiah, Finance Director/City Treasurer
Subject: Annual Review of Comprehensive Financial Policy

ACTION REQUESTED

Adopt a resolution approving the City's Comprehensive Financial Policy and rescinding Resolution No. 2015-70.

BACKGROUND

A financial policy serves as the foundation of a local agency's financial goals and priorities. If the financial policy is carefully researched, effectively drafted, and reviewed regularly to assure that it continues to meet the agency's fiscal goals/priorities, it can help protect the assets of the organization. The existence of an approved financial policy demonstrates that the governing body is performing its fiduciary responsibilities, thereby, inspiring trust and confidence among the public that it serves.

It has been the practice of City staff to bring the City's Comprehensive Financial Policy to the City Council for review and approval annually. Each year the policy is reviewed by City staff and the Financial Advisory Board (FAB). Any recommended changes to these policies are brought to the City Council for review and approval. The Comprehensive Financial Policy was reviewed and discussed by the FAB at their November 10, 2016 meeting; FAB passed a motion to approve the policy with a few minor changes that have been incorporated into the final document.

The policy was last reviewed by the City Council at its November 17, 2015 Council meeting.

ANALYSIS

The Comprehensive Financial Policy, which includes debt management policies, is intended to provide financial direction to staff and greater assurance to the City Council on the processes and procedures taken to assure financial responsibility of the City. A fiscally prudent debt policy is required in order to: maintain the City's sound financial position; ensure the City has the flexibility to respond to changes in future service priorities, revenue levels, and operating expenses; protect the City's credit-worthiness; ensure that all debt is structured in order to protect both current and future taxpayers, ratepayers and constituents of the City; and also ensure that the City's debt is consistent with the City's planning goals and objectives and capital improvement program or budget, as applicable.

At a Special Meeting of the FAB on November 10, 2016, staff presented a draft Debt

Management Policy to FAB and proposed replacing Section 8 of the current policy in its entirety with the exception of debt limits which are unchanged. The proposed revisions are intended to bring the policy into compliance with Government Code Section 8855(i) and shall govern all debt undertaken by the City.

The FAB reviewed the proposed debt policy changes and unanimously approved the draft subject to a few changes, which primarily include the addition or deletion of words to improve understanding, and these have all been incorporated into the attached document. FAB also reviewed additional Disclosures to the Financial Policies as presented by staff. However, as these disclosures are recommended but not legally required, staff has decided to defer those changes to a later time.

FAB has reviewed the changes proposed by staff to the Debt Management Section 8.0 of the Comprehensive Financial Policy and recommends that City Council approve the replacement of that section with the revised Debt Management Policy section attached herewith.

STRATEGIC PLAN CONSIDERATIONS

Adoption of the City's Comprehensive Financial Policy will help fulfill City of El Cerrito Strategic Plan Goal B: Achieve Long-term Financial Sustainability, specifically the objective of "Ensure policies, procedures and systems represent best practices in financial management."

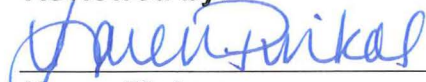
FINANCIAL CONSIDERATIONS

City staff will continue to explore options to reduce the weighted average cost of debt, improve cash flow and build general fund reserves. There is no fiscal impact of adopting this policy.

LEGAL CONSIDERATIONS

Annual approval of the Comprehensive Financial Policy by the City Council is not required by California Government Code, but constitutes best practice in public finance. The proposed revisions are intended to bring the policy into compliance with Government Code Section 8855(i) and shall govern all debt undertaken by the City.

Reviewed by:



Karen Pinkos
Assistant City Manager

Attachments:

1. City Resolution
Exhibit A – Comprehensive Financial Policy

RESOLUTION NO. 2016-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING THE COMPREHENSIVE FINANCIAL POLICY AND RESCINDING RESOLUTION NO. 2015-70

WHEREAS, the purpose of the Comprehensive Financial Policy is to provide guidelines for operational and strategic decision making related to financial matters; and

WHEREAS, the Comprehensive Financial Policy was last amended in November 2015 as a part of the annual review; and

WHEREAS, the Comprehensive Financial Policy has been reviewed by the Financial Advisory Board; and

WHEREAS, revisions to the policy proposed by City staff and changes recommended by the Financial Advisory Board have been incorporated in the attached document.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito, that it hereby approves the City of El Cerrito Comprehensive Financial Policy effective December 6, 2016 incorporated by reference and attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that Resolution No. 2015-70 is hereby rescinded and superseded by this resolution.

I CERTIFY that at a regular meeting on December 6, 2016 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2016.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

Agenda Item No. 5 (D)
Attachment 1

City of El Cerrito
Comprehensive Financial Policy

Exhibit A

Approved ~~November 11, 2015~~ December 6, 2016
Resolution: ~~2015-70~~ 2016-XX

PURPOSE:

To establish a comprehensive set of financial policies for the City that will serve as a guideline for operational and strategic decision making related to financial matters.

POLICY:

The following financial policies are intended to establish a comprehensive set of guidelines for use by the City Council and staff on decision-making that has a fiscal impact. The goal is to maintain the City's financial stability in order to be able to continually adapt to local, regional and national economic changes. Such policies will allow the City to maintain and enhance a sound fiscal condition.

This financial policy will be reviewed annually by the Financial Advisory Board and any proposed substantive revisions will be submitted to the City Council for approval. The City's comprehensive financial policies will be utilized when preparing the Annual Operating Budget and shall be in conformance with all state and federal laws, generally accepted accounting principles (GAAP) and standards of the Governmental Accounting Standards Board (GASB) and the Government Finance Officers Association (GFOA).

1. OVERVIEW & LONG-TERM FINANCIAL PLANNING

- 1.1. A Five-Year Year Financial Plan will be prepared at a minimum for the General Fund, and Integrated Waste Management Funds. The City's Five-Year Financial Plan is the long-term picture of the City's finances and will be updated annually as part of the annual budget process.
- 1.2. The City shall seek a balance in the overall revenue structure between more stable revenue sources (e.g. Property Tax and Utility Taxes) and economically sensitive revenue sources (e.g., Sales Tax).
- 1.3. The City shall develop and maintain methods for the evaluation of future development and major fiscal impacts on the City budget.

- 1.4. The City shall develop and implement a financial plan to address its funding needs for issues like deferred maintenance and unfunded liabilities.
- 1.5. The City shall address issues related to cash flow requirements and any short term borrowing requirements on a timely basis.
- 1.6. The City shall require any annexation agreements to have a long-term beneficial financial impact on the City.

2. BUDGET POLICIES

- 2.1. The City Manager shall prepare a proposed annual budget to be reviewed by the Financial Advisory Board and presented to the City Council within all statutorily prescribed deadlines. The City Council will adopt the budget at a public hearing by June 30 of each year.
- 2.2. A Budget will be adopted by Resolution of the City Council annually, which will contain the budget amendment process, budget amendment authority, and spending authorities.

All departments are responsible for meeting the City's financial policy goals and ensuring the City's long-term financial health. Budget control is maintained at the fund level. The City Manager is authorized to transfer budgeted amounts within departments and within funds. In addition, amendments that are made to authorize spending of increased or new special purpose revenues may be approved by the City Manager. Budget modifications between funds or increases or decreases to a fund's overall budget must be approved by the City Council.

- 2.3. It is the City's policy to adopt a balanced General Fund budget where operating revenue is equal to, or exceeds, operating expenditures. In the event a balanced budget is not adopted, due to a deliberate reduction of accumulated fund

balance or if the cause of the imbalance is expected to last for no more than one year, as with the case of a one time settlement or large purchase, the planned use of reserves to balance the budget is permitted as long as the reserve is consistent with the amounts described in Section 3., General Fund Balance Reserve Policy.

2.4. The operating budget shall serve as the annual financial plan for the City. It shall serve as the City's management plan for implementing goals and objectives of the City Council, City Manager and departments and will define service levels.

2.5. During the annual budget development process, the existing budget shall be examined to assure removal or reduction of any services or programs that should be eliminated or reduced in cost.

2.6. The annual review process shall include an assessment to determine if funds are available to operate and maintain proposed capital facilities and other public improvements.

2.7. Any year-end operating surpluses will revert to unappropriated balances for use in maintaining reserve levels set by policy and will be available for capital projects and/or one-time expenditures upon approval of the City Council/.

2.8. Where practical, the City's annual budget will include performance measures of workload, efficiency, and effectiveness.

2.9. Revenues:

2.9.1. The City will estimate annual revenues using an objective, analytical process; specific assumptions will be documented and maintained. Budgeted revenues will be estimated conservatively using accepted standards and estimates provided by the state, other governmental agencies, and/or reliable economic forecasters when available.

2.9.2. Specific revenue sources will not be dedicated for specific purposes, unless required by law or Generally Accepted Accounting Principles (GAAP). All non-tax increment, non-restricted revenues will be deposited in the General Fund and appropriated through the

budget process. On-going revenues will fund on-going expenditures.

2.9.3. A diversified and stable revenue system will be maintained to the extent possible to protect programs from short-term fluctuations in any single revenue source.

2.10. Appropriations:

2.10.1. The City shall, to the extent possible, pay for current year expenditures with current year revenues. Where authorized activities or equipment remain incomplete and/or unpurchased, revenues and/or fund balance may be carried forward at the City Manager's direction to the next fiscal year to support such an activity/purchase.

2.10.2. The City shall avoid budgetary procedures which rely on financial strategies that defer payment of current operating expenses to future years.

2.10.3. Department Heads are responsible for ensuring that department expenditures stay within the department's budgeted appropriation.

2.10.4. A City Council Resolution is necessary to increase any total fund appropriation where no corresponding revenue offset exists that is restricted for that purpose.

2.10.5. The City Manager may adjust appropriations among departments within a fund.

3. GENERAL FUND RESERVE POLICY

3.1. The purpose of the reserve policy is to set aside funds to insure against events that would adversely affect the financial condition of the City and jeopardize the continuation of necessary public services. The reserve is designed to provide adequate cash flow, protect bond ratings, and offset economic downturns and revenue shortfalls. The reserve is also available to provide for one-time funding in the event of an emergency situation such as a natural disaster or unanticipated liability.

3.2. It is a goal of the City to achieve a general fund annual operating reserve of 15%, with a minimum of 10%, of projected General Fund operating expenditures in each fiscal year. As part of the annual

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budget process, the City Council shall consider a Five-Year Plan that attempts to maintain the minimum reserve balance of 15%. The City Council may adopt a deficit budget to deal with the uses discussed in Section 3.5 so long as the projected reserve does not go below 10% in any year of the Five-Year Plan. Should the General Fund reserve fall below 10%, each budget year the City will adopt a plan to restore the reserve percentage to 10% within five years and 15% within 10 years.

3.3. It is a goal of the City to achieve and maintain a minimum cash balance equal to 15 days of authorized operating expenses in order to meet anticipated City obligations without reliance on borrowed funds. Should the cash balance fall below the minimum due to unanticipated circumstances, the minimum cash balance should be restored as soon as practical.

3.4. The portion of the reserve below 10% should be utilized only for a financial emergency (as determined by the City Council), natural disaster or significant unanticipated liability. If this portion of the reserve is utilized for such an event, the Ten-Year Plan presented with the Annual Operating Budget must be developed so that the 10% base threshold is replenished within five years.

3.5. The unreserved fund balance in an Internal Service Fund may be transferred to the General Fund only for a fiscal emergency or for one-time uses such as natural disasters or unforeseen liabilities.

3.6. The reserves between the 10% and 15% level are designed to be used by the City to deal with revenue fluctuations that arise as a result of changes in the economy and provide opportunities to maintain services and programs where funding may be difficult. Also, a portion of any operating reserve in excess of 10% of annual revenues resulting from the previous fiscal year's operations could be committed to capital improvement

projects or used to retire existing debt, fund future liabilities or potential legislative actions, establish or replenish equipment replacement funds, and/or establish or replenish deferred maintenance funds as long as the amount is considered in the adopted Ten-Year Plan to achieve a balance of 15% within ten years.

3.7. One-time revenues will not be used to fund ongoing City programs. Any one-time revenue receipt during the fiscal year should be recognized and recorded in a "non-recurring revenue source" category. One-time revenue windfalls include: sales of City-owned real estate, CalPERS rebates, lump sum (net present value) savings from debt restructuring, litigation settlement, unexpected revenues, and other similar sources of revenue as designated by the City Council.

3.8. The operating reserve should be itemized as cash or cash equivalents and be separately stated on the financial statements.

4. FINANCIAL REPORTING POLICIES

4.1. Accounting Standards:

4.2. The City's accounting and financial reporting systems shall be maintained in conformance with all state and federal laws, generally accepted accounting principles (GAAP) and standards of the Governmental Accounting Standards Board (GASB) and the Government Finance Officers Association (GFOA). The City will make every attempt to implement all changes to governmental accounting practices at the earliest practicable time.

Annual Audit:

4.2.1. An annual audit will be performed by an independent public accounting firm with an audit opinion to be included with the City's published Comprehensive Annual Financial Report (CAFR). The CAFR will be submitted annually to the Government Finance Officers Association for peer review with

the goal of continuing receipt of the Certificate of Achievement for Excellence in Financial Reporting.

4.2.2. The independent firm will be selected through a competitive bidding process at least once every five years. The contract may be for an initial period of three years with two additional one-year options at the City Council's discretion. The current firm may be allowed to participate in the bid process. The need for rotation of the audit staff or audit firm will be considered in the bid process. The Finance Director will review the qualifications of prospective firms and make a recommendation to the City Council. The audit contract will be awarded by the City Council.

5. OPERATIONAL MANAGEMENT POLICIES

5.1. The City shall endeavor to avoid committing to new spending for operating or capital improvement purposes until an analysis of all current and future cost implications relating to those programs and projects is completed.

5.2. All departments will participate in the responsibility of meeting policy goals and ensuring long-term financial health. Future service plans and program initiatives will be developed to reflect current policy directives, projected resources and future service requirements.

5.3. Departmental requests for increases in staffing will be thoroughly analyzed; only those that meet adopted program initiatives and policy directives will be considered. To the extent feasible, personnel cost reductions will be achieved through attrition.

5.4. User Fees and Charges and Development Impact Fees:

5.4.1. Where direct services to users can be measured, as set forth in the Master Fee Schedule, the City should use appropriate fees, charges or assessments rather than general tax funds. All user fees and charges will be examined or adjusted annually to determine the direct and indirect cost of service. User fees and charges for services shall be established at a level related to the cost of providing such

service except where the City Council has determined there is a public benefit to subsidize the service with tax based revenue. The acceptable recovery rate and any associated changes to user fees and charges will be approved by the City Council following public review.

5.4.2. The City may identify the costs associated with new development as a basis for establishing development impact fees but the long-term benefit of the development to the City should be considered in establishing such fees.

5.5. Grant Management:

5.5.1. The City shall actively pursue federal, state and other grant opportunities when deemed appropriate. Before accepting any grant, the City shall thoroughly consider the implications in terms of ongoing obligations that will be required in connection with acceptance of said grant and present that report for approval by the City Council.

5.5.2. The term of Grant funded positions for programs should be clearly identified and presented to the City Council for approval. It is mandatory to disclose if General Fund revenues will be needed to fund a position during or after the Grant or program expires.

5.5.3. Grant funding will be considered to leverage City funds. Inconsistent and/or fluctuating grants should not be used to fund ongoing programs. Programs financed with grant monies will be budgeted in separate cost centers, and the service program will be adjusted to reflect the level of available funding. In the event of reduced grant funding, City resources may be substituted only after all program priorities and alternatives are considered.

5.5.4. The cost of all externally mandated services for which funding is available shall be fully evaluated, including overhead, to allow for complete reimbursement of expenses.

5.6. Revenue Collection Policy:

5.6.1. The City will pursue revenue collection and auditing to assure that monies due the City are received in a timely manner.

5.6.2. The City will seek reimbursement from the appropriate agency for State and Federal mandated costs whenever possible.

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5.6.3. The City will centralize accounts receivable/collection activities so that all receivables are handled consistently.

5.6.4. Accounts receivable management and diligent oversight of collections from all revenue sources are imperative. Sound financial management principles include the establishment of an allowance for doubtful accounts. Efforts shall be made to pursue the timely collection of delinquent accounts. When such accounts are deemed uncollectible, they will be written-off from the financial statements in accordance with established policies.

6. FINANCIAL MANAGEMENT POLICIES

6.1. Staff shall keep City Council apprised of financial opportunities available and shall develop appropriate recommendations.

6.2. All requests for City Council action shall include an analysis of the immediate and future fiscal impact of such action. No appropriation for new or expanded programs or staffing levels shall be approved without identifying the amount and source of available funds.

6.3. All externally mandated services for which funding is available shall be charged to allow for complete reimbursement of expenses including overhead.

6.4. Cash Management Investment:

6.4.1. Cash and investment programs will be maintained in accordance with California Government Code Section 53600 et seq. and the City's adopted investment policy and will ensure that proper controls and safeguards are maintained. Pursuant to the Investment Policy, the Financial Advisory Board, at least annually will review, and the City Council will affirm, a detailed investment policy.

6.4.2. Reports on the investment portfolio and cash position will be developed and presented to the Financial Advisory Board and the City Council in conformity with the California Government Code.

6.4.3. Funds will be managed in a prudent and diligent manner with emphasis on safety of principal, liquidity, and yield, in that order.

6.4.4. The quarterly report shall include a statement in compliance with government code 53646.

7. CAPITAL IMPROVEMENT PROJECT POLICIES

7.1. A Ten-year Capital Improvement Plan will be developed and updated annually, including anticipated funding sources. Capital improvement projects are defined as infrastructure or equipment purchases or construction which result in a capitalized asset and have a useful (depreciable) life of two years or more.

7.2. Each Capital Improvement Project will identify, where applicable, current operating maintenance costs and funding streams available to repair and/or replace deteriorating infrastructure and to avoid significant unfunded liabilities.

7.3. The City will develop and implement a post-implementation evaluation of its infrastructures condition on a specified periodic basis, estimating the remaining useful life, and projecting replacement costs.

7.4. The City shall actively pursue outside funding sources for all Capital Improvement Projects. Outside funding sources, such as grants, shall be used to finance only those Capital Improvement Projects that are consistent with the Ten-year Capital Improvement Plan and/or local governmental priorities, and whose operating and maintenance costs will be included in future operating budget forecasts.

7.5. Capital improvement lifecycle costs will be coordinated with the development of the Operating Budget. Future operating, maintenance and replacement costs associated with new capital improvements will be forecasted, matched to available revenue sources, and included in the Operating Budget. Capital project contract awards will

include a fiscal impact statement disclosing the expected operating impact of the project and when such cost is expected to occur.

- 7.6. The City must carefully seek and analyze the appropriate type of financing instrument appropriate for financing capital projects. Several options may be available – general obligation debt, fee-supported debt, fund reserves, tax increment, etc. All debt financing mechanisms shall be carefully considered and analyzed for fiscal benefit and cost effectiveness. Long-term borrowing shall be restricted to projects too large to be financed from current revenues (pay-as-you-go). Where possible, special assessment, revenue or other self-supporting bonds shall be used in lieu of general obligation bonds.

8. DEBT MANAGEMENT POLICIES

~~8.1.1. Issuance of Debt:~~

~~8.1.2. The City will not use long-term debt to pay for on-going operations. The use of bonds, certificates of participation or capital leases will only be considered for significant capital and infrastructure improvements.~~

~~8.1.3. New debt issues, and refinancing of existing debt, must be analyzed for compatibility within the City's overall financial planning within the Ten-Year Financial Plan. The review shall include, but not be limited to, cash flow analysis and the maintenance of the City's bond rating. Annual debt service shall not produce an adverse impact upon future operations.~~

~~8.1.4. Debt financing should not exceed the useful life of the infrastructure improvement with the average (weighted) bond maturities at or below twenty years.~~

~~8.1.5. Total debt will not exceed two percent (2%) of the total assessed value of property in the City and General Fund Debt Service will not exceed 5% of operational appropriations.~~

~~8.1.6.~~

~~8.1.7. Credit Rating:~~

~~8.1.8. It is the City's goal to acquire an AAA/Aaa credit rating from all three major rating agencies in order to minimize costs and preserve access to credit.~~

~~8.1.1. The City may pay the bond insurance which is considered as part of the rating, however, the rating agency will evaluate the structure of the bond to validate the bond rating. To support this policy, the City will continue to maintain its position of full financial disclosure and proactive fiscal planning.~~

New (Replaces Section 8 of the current Comprehensive Financial Policies)

8.1 These Debt Management Policies are intended to comply with Government Code Section 8855(i), and shall govern all debt undertaken by the City. The City hereby recognizes that a fiscally prudent debt policy is required in order to:

- Maintain the City's sound financial position.
- Ensure the City has the flexibility to respond to changes in future service priorities, revenue levels, and operating expenses.
- Protect the City's credit-worthiness.
- Ensure that all debt is structured in order to protect both current and future taxpayers, ratepayers and constituents of the City.
- Ensure that the City's debt is consistent with the City's planning goals and objectives and capital improvement program or budget, as applicable.

8.2 Purposes For Which Debt May Be Issued

(i) Long-Term Debt. Long-term debt may be issued to finance the construction, acquisition, and rehabilitation of capital improvements and facilities, equipment and land to be owned and operated by the City.

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(a) Long-term debt financings are appropriate when the following conditions exist:

- When the project to be financed is necessary to provide basic services.
- When the project to be financed will provide benefit to constituents over multiple years.
- When total debt does not constitute an unreasonable burden to the City and its taxpayers and ratepayers.
- When the debt is used to refinance outstanding debt in order to produce debt service savings or to realize the benefits of a debt restructuring.

(b) Long-term debt financings are not appropriate for current operating expenses and routine maintenance expenses.

(c) The City may use long-term debt financings subject to the following conditions:

- The project to be financed must be approved by the City Council.
- The weighted average maturity of the debt (or the portion of the debt allocated to the project) will not exceed the average useful life of the project.
- The City estimates that sufficient revenues will be available to service the debt through its maturity.
- The City determines that the issuance of the debt will comply with the applicable state and federal law.

(ii) Short-term debt. Short-term debt may be issued to provide financing for the City's operational cash flows in order to maintain a steady and even cash flow balance. Short-term debt may also be used to finance short-lived capital projects; for example, the City

may undertake lease-purchase financing for equipment.

(iii) Financings on Behalf of Other Entities. The City may also find it beneficial to issue debt on behalf of other governmental agencies or private third parties in order to further the public purposes of the City. In such cases, the City shall take reasonable steps to confirm the financial feasibility of the project to be financed and the financial solvency of any borrower and that the issuance of such debt is consistent with the policies set forth herein.

8.3 Types of Debt

The following types of debt are allowable under these Debt Management Policies:

- general obligation bonds
- bond or grant anticipation notes
- tax and revenue anticipation notes
- lease revenue bonds, certificates of participation and lease-purchase transactions
- other revenue bonds (including sales tax revenue bonds) and certificates of participation
- pension obligation bonds
- land-secured financings, such as special tax revenue bonds issued under the Mello-Roos Community Facilities Act of 1982, as amended, and limited obligation bonds issued under applicable assessment statutes
- tax increment financing to the extent permitted under state law
- conduit financings, such as financings for affordable rental housing and qualified 501c3 organizations

The City may from time to time find that other forms of debt would be beneficial to further its public purposes and the City Council may approve such debt by amending these Debt Management Policies.

Debt shall be issued as fixed rate debt unless the City makes a specific determination as to why a variable rate issue would be beneficial to the City in a specific circumstance.

8.4 Relationship of Debt to Capital Improvement Program and Budget

New debt issues, and refinancing of existing debt, must be analyzed for compatibility within the City's Ten-Year Capital Improvement Plan. The City shall strive to fund the upkeep and maintenance of its infrastructure and facilities due to normal wear and tear through the expenditure of available operating revenues. The City shall seek to avoid the use of debt to fund infrastructure and facilities improvements that are the result of normal wear and tear. The City shall seek to issue debt in a timely manner to avoid having to make unplanned expenditures for capital improvements or equipment from its general fund.

8.5 Policy Goals Related to Planning Goals and Objectives

The City is committed to long-term financial planning, maintaining appropriate reserves levels and employing prudent practices in governance, management and budget administration. The City intends to issue debt for the purposes stated in these Debt Management Policies and to implement policy decisions incorporated in the City's Five-Year Financial Plan and its annual operating budget.

It is a policy goal of the City to protect taxpayers, ratepayers and constituents by utilizing conservative financing

methods and techniques so as to obtain the highest practical credit ratings (if applicable) and the lowest practical borrowing costs.

The City will comply with applicable state and federal law as it pertains to the maximum term of debt and the procedures for levying and imposing any related taxes, assessments, rates and charges.

When refinancing debt, it shall be the policy goal of the City to realize, whenever possible, and subject to any overriding non-financial policy considerations, (i) minimum net present value debt service savings equal to or greater than 5% of the refunded principal amount, and (ii) present value debt service savings equal to or greater than 100% of any escrow fund negative arbitrage.

8.6 Internal Control Procedures

When issuing debt, in addition to complying with the terms of these Debt Management Policies, the City shall comply with any other applicable policies regarding initial bond disclosure, continuing disclosure, post-issuance compliance, and investment of bond proceeds.

The City will periodically review the requirements of and will remain in compliance with the following:

- the City's Disclosure Policies and Procedures,
- any federal tax compliance requirements, including without limitation arbitrage and rebate compliance, related to any prior bond issues, and
- the City's investment policies as they relate to the investment of bond proceeds.

Whenever reasonably possible, and for the purpose of ensuring that proceeds of debt will be used for their intended

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purpose, proceeds of debt will be held by a third-party trustee and the City will submit written requisitions for such proceeds. The City will submit a requisition signed by the Finance Director only after obtaining the signature of the City Manager.

8.7 Debt Limits

The outstanding principal amount of debt described in Section B will not exceed two percent (2%) of the total assessed value of property in the City, and debt service and lease payments incurred for financing purposes that are payable from the City's general fund will not exceed 5% of operational appropriations.

9. EQUIPMENT REPLACEMENT FUND

9.1. The City may maintain a dedicated fund to provide for replacement of vehicles and certain equipment. Unreserved fund balance will be available for transfer to the General Fund only in the event of a fiscal emergency as described in Section 3.4.

10. ENTERPRISE FUNDS

10.1. All Enterprise Funds user fees will be examined annually to ensure that they recover all direct and indirect costs of service, provide for

10.2. capital improvements and maintenance, and maintain adequate reserves.

10.3. Rate increases shall be approved by the City Council following formal noticing and a public hearing. Rate adjustments will be based on the projected expenditures in the Ten-Year Financial plan.



AGENDA BILL

Agenda Item No. 5(E)

Date: December 6, 2016
To: El Cerrito City Council
From: Stephen Prée, Environmental Programs Manager/City Arborist
Maria Sanders, Operations and Environmental Services Division Manager
Yvetteh Ortiz, Public Works Director/City Engineer
Subject: Tree Committee Reappointment Recommendation

ACTION REQUESTED

Approve a Tree Committee recommendation to reappoint Cathy Bleier to the Tree Committee, effective January 1, 2017.

BACKGROUND

The enabling legislation for the City's Tree Committee, Resolution 2007-96, authorizes a term of 4 years for Tree Committee members. The term for Tree Committee member Cathy Bleier will expire on December 31, 2016. Ms. Bleier has expressed an interest in continuing to serve on the Tree Committee for a second term; the Committee voted unanimously to recommend Ms. Bleier for this reappointment at its regular meeting on November 14, 2016.

ANALYSIS

Ms. Bleier has provided robust contributions to the Tree Committee since her appointment on March 11, 2013. She helped lead efforts to secure and administer an Invest From the Ground Up grant for outreach to local businesses in 2014; served as Committee Chair from 2014 to 2016; helped prepare and presented Committee Work Plans to City Council; contributed ornithological and other information to the revised City Tree List; provided critical input on ad-hoc subcommittees including the El Cerrito Arbor Week ad-hoc subcommittee; wrote and administered a Cal-Fire Grant for Arbor Week tree planting in 2016; and helped to plant and water City trees during each year of her Tree Committee membership. She has lived in El Cerrito since 1993.

Ms. Bleier received a Masters of Sciences Degree in Range Management from U.C. Berkeley and is a Registered Professional Forester. Her professional work experience includes participation in multi-stakeholder processes to develop conservation and environmental policies. Ms. Bleier developed an urban forestry carbon protocol to mitigate climate change and staffed task forces on habitat restoration, forestry and watershed policies for the California Natural Resources Agency. She also served on the Board of Directors of the San Francisco Estuary.

If the Council approves this recommendation, the number of Committee members will be eight out of a total possible membership of fifteen, as established by Council.

STRATEGIC PLAN CONSIDERATIONS

The work of the Tree Committee helps the City realize the following goals of the El Cerrito Strategic Plan:

- Goal C to "Deepen a sense of place and community identity"
- Goal F to "Foster environmental sustainability citywide"

As stated in its enabling Resolution 2007-96, the Tree Committee was established to assist the City in its "stewardship of its urban forest, including establishing a citywide commitment to a healthy, growing forest, and creating a coordinated, high quality forestry management program."

Reviewed by:



Karen Pinkos
Assistant City Manager

Attachments:

1. Resolution 2007-96
2. Cathy Bleier Application

RESOLUTION 2007-96

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO CREATING THE EL CERRITO TREE COMMITTEE.

WHEREAS, in 2004 the City Council revised El Cerrito Municipal Code Section 10.90, Obstruction of Views by Trees on Private Property, repealing the duties of the established Tree Commission; and

WHEREAS, in 2005 the City Council conducted a review of all City Boards, Commissions and Committees and indicated that an advisory body of the City Council dedicated to trees should remain; and

WHEREAS, in 2007 the Urban Forest Management Plan completed by Vallier Design Associates identified several goals for the stewardship of the urban forest, including establishing a citywide commitment to a healthy, growing forest, and creating a coordinated, high quality forestry management program including a Community Tree Committee; and

WHEREAS, such a committee would not only serve in an advisory capacity to the City Council regarding trees, but would also be charged with the education of residents in the proper planting and maintenance of trees throughout the City.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito hereby establishes a Tree Committee, with the necessary staff liaison assigned by the City Manager, with the following duties and responsibilities:

- To serve in an advisory capacity to the City Council, other commissions, and the citizens of the City with regard to the growth, maintenance, and location of trees within the City;
- To recommend programs, policies, and ordinances to implement and promote the City's Master Street Tree Plan and Urban Forest Management Plan and to coordinate with the Public Works staff regarding management and maintenance efforts;
- Promote and foster public awareness, education, interest and support for urban forestry efforts, foster volunteer opportunities for tree planting and irrigation along the city's streets and in residential front yards, and educate El Cerrito residents regarding selecting, planting and maintaining trees; and
- Promote and foster public awareness and education about potential hazards of trees near underground and above ground utilities and the appropriate tree species for avoiding such hazards.

BE IT FURTHER RESOLVED, that this Committee shall meet monthly and will be open to all El Cerrito residents with knowledge of, concern about, and/or participation in issues affecting the City's urban tree population.

BE IT FURTHER RESOLVED, that the terms for members of this Committee are four years, commencing on January 1st unless a member is removed from office pursuant to Section 2.04.220 of the El Cerrito Municipal Code, with the membership being divided into equal groups appointed in consecutive years. Members serve at the pleasure of the City Council and may be removed by a majority of the City Council.

* * * * *

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

I CERTIFY that at a regular meeting on November 19, 2007 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	Councilmembers Abelson, Jones, Potter and Mayor Moore
NOES:	None
ABSENT:	Councilmember Bridges

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on November 27, 2007.

Cheryl Morse, City Clerk

APPROVED:

Letitia D. Moore, Mayor



December 6, 2016
Concurrent City Council and Public Financing Authority
Meeting

Item No. 5(E) Tree Committee Appointment

Attachment 1 Cathy Bleier Application

is available for review in hardcopy format at the following
locations:

Office of the City Clerk
10940 San Pablo Avenue
El Cerrito
(510) 215-4305

and

The El Cerrito Library
El Cerrito
6510 Stockton Avenue



AGENDA BILL

Agenda Item No. 7(A)

Date: December 6, 2016
To: El Cerrito City Council
From: Kristen Cunningham, Senior Human Resources Analyst
Karen Pinkos, Assistant City Manager
Subject: Agreement with James Chan for Information Technology Services

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to enter into an agreement with James Chan, as a CalPERS retired annuitant, to provide Information Technology services to the City of El Cerrito.

BACKGROUND

Information Technology Manager James Chan has announced his retirement from the City of El Cerrito. His official date of retirement is December 31, 2016.

The recruitment process for a new Information Technology Manager is underway, with the expected appointment in December and start date in January 2017, if not sooner. The City will need to have Information Technology management services performed during this period, as these services are critical to the City's ability to serve residents, businesses, and customers. It is also desired that Mr. Chan is available to assist the new Information Technology Manager for a short-term period of time in order to provide a seamless transition.

ANALYSIS

James Chan is available to serve in compliance with retired annuitant rules established by CalPERS as an employee that has specialized skills needed in performing work of limited duration that is critical to prevent the stoppage of public business. State law and CalPERS policies set forth various restrictions for any post-retirement services provided by a retired annuitant. Some of these requirements include that the provision of services be of limited duration, that such work not exceed 960 hours in any fiscal year, and that if work is provided within 180 days of the retired annuitant's retirement date that the contract be formally reviewed and presented at a City Council Meeting. The attached resolution sets out the necessary findings for the City Council to allow for James Chan to be appointed as a retired annuitant, thus making the agreement consistent with CalPERS regulations.

Compensation must be in accordance with strict guidelines established by state law. The proposed hourly rate of \$90 is consistent with the pay steps applicable to the Information Technology Manager's compensation.

STRATEGIC PLAN CONSIDERATIONS

Authorization of this agreement helps fulfill City of El Cerrito Strategic Plan Goal A: Deliver Exemplary Government Services.

FINANCIAL CONSIDERATIONS

Funding for this request is included in the FY 2016-17 Adopted Operating Budget.

LEGAL CONSIDERATIONS

This action is in accordance with state law and CalPERS regulations.

Reviewed by:



Karen Pinkos
Assistant City Manager

Attachments:

1. Resolution
2. Agreement

RESOLUTION NO. 2016-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH JAMES CHAN, AS A CALPERS RETIRED ANNUITANT, TO PROVIDE INFORMATION TECHNOLOGY SERVICES TO THE CITY OF EL CERRITO

WHEREAS, in compliance with Government Code section 7522.56 the City Council of the City of El Cerrito must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since his or her retirement date; and

WHEREAS, James Chan will retire from the City of El Cerrito in the position of Information Technology Manager effective 12/31/2016; and

WHEREAS, section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is July 1, 2017 without this certification resolution; and

WHEREAS, section 7522.56 provides that this exception to the 180 day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the City Council of the City of El Cerrito and James Chan certify that James Chan has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the City of El Cerrito hereby appoints James Chan as an extra help retired annuitant to perform special projects relating to the duties of the Information Technology Manager under Government Code section 21229 effective January 1, 2017; and

WHEREAS, the entire employment agreement, contract or appointment document between James Chan and the City of El Cerrito has been reviewed by this body and is attached herein; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the hourly rate paid to James Chan will be \$90 per hour; and

WHEREAS, James Chan has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate.

Agenda Item No. 7(A)
Attachment 1

NOW THEREFORE, BE IT RESOLVED THAT the City Council of the City of El Cerrito hereby certifies the nature of the appointment of James Chan as described herein and detailed in the attached employment agreement document, and that this appointment is necessary to provide Information Technology services for the City of El Cerrito as of January 1, 2017 because of his specialized skills needed in performing work of limited duration that is critical to prevent the stoppage of public business.

I CERTIFY that at a regular meeting on December 6 2016 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2016.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor



**December 6, 2016
Concurrent City Council and Public Financing Authority
Meeting**

**Item No. 7(A) Agreement with James Chan for Information
Technology Services**

Attachment 2 Agreement

is available for review in hardcopy format at the following
locations:

Office of the City Clerk
10940 San Pablo Avenue
El Cerrito
(510) 215-4305

and

The El Cerrito Library
El Cerrito
6510 Stockton Avenue



AGENDA BILL

Agenda Item No. 7(B)

Date: December 6, 2016
To: El Cerrito City Council
From: Mark R. Rasiah, Finance Director/City Treasurer
Subject: Refinancing of 2006 Lease Revenue Bonds (City Hall Project)

ACTION REQUESTED

Adopt a resolution authorizing:

1. The execution, sale and delivery of refunding certificates of participation;
2. Authorizing and directing the execution of related lease financing documents;
3. Approving a purchase contract and an official statement; and
4. Authorizing all other associated official actions.

BACKGROUND

The El Cerrito Public Financing Authority (the "Authority") issued \$9,610,000 of lease revenue bonds in November 2006 to fund the construction of the City Hall (the "2006 Bonds"). The Authority was a joint venture between the City and the former El Cerrito Redevelopment Agency. The 2006 Bonds were issued using MUFG Union Bank, N.A. as trustee. As of November 15, 2016, the 2006 Bonds have an outstanding balance of \$8,115,000 with an average interest rate of 4.43%. Annual debt service is approximately \$600,000 with a final maturity on November 15, 2036.

The 2006 Bonds funded the construction of the City's new City Hall, including open gathering space, the City Council Chambers, and Emergency Operations Center. Funding for the project included City reserves and a contribution from the former Redevelopment Agency.

As the City Council is aware, the bond and U.S. Treasury markets have become very volatile since the November 8, 2016 election. While the tax-exempt market has eroded over the last few weeks, interest rates are at levels generally considered to be historical lower rates. It is generally assumed that interest rates will rise in 2017 as the economy improves.

ANALYSIS

The City's Finance Department has tracked and analyzed the refinancing possibilities for the 2006 Bonds for the last few years taking into consideration market rates, financing costs and the credit rating of the City. The interest rate environment has remained at historical low levels for the last year but is now anticipated to move up in 2017 as the economic cycle puts pressure on inflation and interest rates.

Based on current market rates, the City can reduce debt service and potentially save between \$435,000 and \$730,000 or more over the next 20 years. Current market rates are approximately 3.75%-4.10%. Staff is working with NHA Advisors, LLC as the City's

municipal advisor to determine the best strategy to capture the cash flow savings. All debt service savings from a refinancing will benefit the City's General Fund through a lower annual appropriation for debt service starting in FY 2016/17 and FY 2017/18.

The proposed 2017 Certificates of Participation (the "2017 COPs") will be structured using the City Hall property as the leased asset for purposes of making the 2017 COP payments on a semi-annual basis beginning on June 1, 2017. The City will enter into a lease agreement with Public Property Financing Corporation of California (the "Corporation") which is replacing the El Cerrito Financing Authority as the lease counterparty given the recent termination of the El Cerrito Redevelopment Agency (now reconstituted as the Successor Agency). A one-time administrative fee will be paid to the Corporation for participation in this financing and no control or decision-making powers related to the financing will be given up by the City.

The City currently plans to sell the bonds in a public offering through an underwriter. However, because of the uncertain nature of the financial markets, the attached resolution authorizes the City Manager and the Finance Director, after consultation with the City's municipal advisor and bond counsel, to determine if it would be in the best interests of the City to seek a private sale of the 2017 COPs with one or more financial institutions in a private placement transaction.

Required Documents that are presented for City Council's consideration are:

Site and Facilities Lease and Lease Agreement – the City will lease City Hall to the Corporation under a Site and Facilities Lease, and the Corporation will lease City Hall back to the City under a Lease Agreement in consideration of the payment by the City to the Corporation of semi-annual lease payments.

Trust Agreement and Assignment Agreement – the Corporation will assign its right to receive the semi-annual lease payments under the Lease Agreement to MUFG Union Bank, N.A., as trustee ("Trustee"), under an Assignment Agreement, and in consideration of such assignment the Trustee will execute and deliver the 2017 COPs, each evidencing a fractional interest in the City's semi-annual lease payments, in accordance with a Trust Agreement. The City is not a party to the Assignment Agreement.

Escrow Agreement – the proceeds of the 2017 COPs, along with moneys held by the trustee for the 2006 Bonds, will be deposited and held for the benefit of the 2006 Bonds until their redemption date, which can be any date with 30 days' notice. The City can cause redemption of the 2006 Bonds without a prepayment premium.

Certificate Purchase Contract – this agreement provides for the sale of the 2017 COPs to Stifel, Nicolaus & Company, Incorporated (the "Underwriter"), and includes representations and warranties made by the City, and specifies the conditions to the Underwriter's obligation to accept delivery of the 2017 COPs.

Continuing Disclosure Certificate – this is a certificate by which the City agrees to provide annual disclosure reports and notices of certain events to the Municipal

Securities Rulemaking Board (MSRB) via its Electronic Municipal Market Access (EMMA) service.

Preliminary Official Statement. The attached Preliminary Official Statement has been reviewed and approved for transmittal to the City Council by City staff and its financing team. The Preliminary Official Statement must include all facts that would be material to an investor in the 2017 COPs. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the 2017 COPs.

The Securities and Exchange Commission (the “SEC”), the agency with regulatory authority over the City’s compliance with the federal securities laws, has issued guidance as to the duties of the City Council with respect to its approval of the Preliminary Official Statement. In its “Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors” (Release No. 36761/January 24, 1996) (the “Release”), the SEC indicated that, if a member of the City Council has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the 2017 COPs, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC indicated that the steps that a member of the City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

The key provisions of the Preliminary Official Statement include:

- The terms of the 2017 COPs are summarized on the cover/inside cover and the section entitled “THE CERTIFICATES.”
- The security for the 2017 COPs is described in the section entitled “SECURITY FOR THE CERTIFICATES.” The 2017 COPs are payable from the City’s general fund.
- The financial condition of the City is described in “APPENDIX B -- CITY OF EL CERRITO GENERAL FINANCIAL AND DEMOGRAPHIC INFORMATION.”
- The key risk factors posed to owners of the 2017 COPs are summarized in the section entitled “RISK FACTORS.”

STRATEGIC PLAN CONSIDERATIONS

The refinancing of the 2006 Lease Revenue Bonds will help fulfill City of El Cerrito Strategic Plan Goal B: Achieve Long-term Financial Sustainability, specifically the objective of “Develop a plan to ensure that Citywide revenue meets the cost of providing Citywide services, including adequate reserves for unanticipated revenue shortfalls.”

FINANCIAL CONSIDERATIONS

The City has the option to refinance the 2006 Bonds and structure the cash flow savings generated from a lower interest rate on the proposed 2017 COP. Staff is proposing to capture as much of the savings in the next few years to reduce debt service payments and provide financial flexibility to the City's general fund. An alternative option includes the restructuring for level cash flow savings for each year through final maturity. Staff's recommendation is to structure for maximum savings in the immediate future to provide cash flow for deposit into the City reserves in FY 2016/17 and FY 2017/18.

A comparison of the 2006 Bonds and the proposed 2017 COP demonstrates the benefit of refinancing, based on market conditions as of November 21, 2017:

Description	2006 Bonds	2017 COP (Estimated)
Principal Amount	\$7,865,000	\$7,650,000*
Interest Rate	4.43%	3.75%-4.10%
Total Payments to Maturity	\$11,377,100	\$10,705,000*
Difference (Savings)		\$675,000 ⁽¹⁾
Final Maturity	November 15, 2036	December 1, 2035
Average Annual Debt Service	\$600,000	\$580,000*

*Preliminary estimates, based on market conditions as of November 21, 2016

(1) Based on 11/21/16 market conditions, net present value (NPV) savings are 7.30% of refunded par. Market conditions are subject to change before January 2017 pricing. The refunding requires a minimum of 5% NPV savings; estimated cash flow savings at this level are closer to \$435,000.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed actions and found that legal considerations have been addressed.

Reviewed by:



Karen Pinkos
Assistant City Manager

Attachments:

1. City Resolution
2. Draft Site and Facilities Lease
3. Draft Lease Agreement
4. Draft Trust Agreement
5. Draft Assignment Agreement
6. Draft Escrow Deposit and Trust Agreement
7. Draft Preliminary Official Statement
8. Draft Certificate Purchase Contract

RESOLUTION NO. 2016-XX

RESOLUTION OF THE COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE EXECUTION, SALE AND DELIVERY OF REFUNDING CERTIFICATES OF PARTICIPATION, AUTHORIZING AND DIRECTING EXECUTION OF RELATED LEASE FINANCING DOCUMENTS, APPROVING A PURCHASE CONTRACT AND AN OFFICIAL STATEMENT, AND AUTHORIZING OFFICIAL ACTIONS

WHEREAS, the City of El Cerrito (the "City") is a general law city organized under the Constitution and the laws of the State of California; and

WHEREAS, Public Property Financing Corporation of California, a California non-profit public benefit corporation (the "Corporation") has been formed under and pursuant to the laws of the State of California and is authorized to provide financial assistance to the City in financing the acquisition and improvement of public buildings, equipment and facilities, among other things; and

WHEREAS, for the purpose of financing the acquisition and construction of City Hall, the City previously caused the El Cerrito Public Financing Authority (the "Authority") to issue its \$9,610,000 El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project) (the "2006 Bonds") pursuant to a Trust Agreement, dated as of November 1, 2006 (the "2006 Trust Agreement"), by and between MUFG Union Bank, N.A., as trustee (the "2006 Trustee") and the Authority; and

WHEREAS, the 2006 Bonds are payable from lease payments (the "2006 Lease Payments") made by the City for the use and occupancy of the real property and improvements constituting the City Hall pursuant to a Facilities Lease, dated as of November 1, 2006 (the "2006 Lease Agreement"), by and between the City and the Authority; and

WHEREAS, in order to take advantage of prevailing market conditions and realize savings for the benefit of the City, the City wishes to refinance its lease payment obligation under the 2006 Lease Agreement and to cause the redemption of the 2006 Bonds; and

WHEREAS, to refinance the 2006 Lease Payment obligation, the City wishes to cause the execution and delivery of the 2017 Certificates of Participation (2006 City Hall Lease Refinancing) (the "Certificates"); and

WHEREAS, the City has proposed to lease the land and improvements constituting the City Hall (the "Leased Property") to the Corporation under a Site and Facilities Lease, by and between the City and the Corporation (the "Site and Facilities Lease"), and the Corporation has proposed to lease the Leased Property back to the City under a Lease Agreement, by and between the City and the Corporation (the

“Lease Agreement”), in consideration of the payment by the City of semi-annual lease payments; and

WHEREAS, the Corporation proposes to assign its right to receive such lease payments to MUFG Union Bank, N.A., as trustee (the “Trustee”), under an Assignment Agreement (the “Assignment Agreement”), by and between the Corporation and the Trustee, and in consideration of such assignment the Trustee will execute and deliver the Certificates, each evidencing a direct, undivided fractional interest in such lease payments, in accordance with a Trust Agreement (the “2017 Trust Agreement”), by and among the City, the Corporation and the Trustee; and

WHEREAS, there has been submitted to this City Council a form of the following documents: (i) the Lease Agreement, (ii) the Site and Facilities Lease, (iii) the 2017 Trust Agreement, (iv) a Certificate Purchase Contract (the “Purchase Agreement”), by and between the City and Stifel, Nicolaus & Company, Incorporated, the underwriter of the Certificates (the “Underwriter”), (v) an Escrow Deposit and Trust Agreement, by and among the City, the Authority and the 2006 Trustee, as escrow bank (the “Escrow Agreement”) and (vi) a Preliminary Official Statement; and

WHEREAS, the City Council wishes to authorize the City Manager and the Finance Director to select an alternative method of selling the Certificates if they determine, after consultation with the City’s financial advisor and bond counsel, that such alternative sale method would be in the best interests of the City.

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

Section 1. Recitals. All of the recitals herein are true and correct and this City Council so finds.

Section 2. Approval of Financing. The City Council approves the financing plan outlined above as being in the public interest, for the common benefit and necessary and proper for the City’s purpose. To that end, the City Council approves each of the following financing documents in substantially the form on file with the City Clerk together with any changes therein or additions thereto deemed advisable and approved by the Mayor, Vice Mayor, City Manager or Finance Director (each, an “Authorized Officer”), whose execution thereof shall be conclusive evidence of such approval:

- Site and Facilities Lease, whereby the City leases the Leased Property to the Corporation in consideration of an up-front rental payment that the City will apply to refinance the 2006 Bonds.
- Lease Agreement, whereby the Corporation leases the Leased Property back to the City and the City agrees to pay semi-annual lease payments as rental for the Leased Property, which lease payments are equal to the principal and

interest requirements of the financing.

- 2017 Trust Agreement, whereby the Trustee agrees to execute and deliver the Certificates and to apply the proceeds of the Certificates to refinance the 2006 Bonds.
- Purchase Agreement, specifying the terms and conditions upon which the Certificates are to be sold to the Underwriter.
- Escrow Agreement, relating to the use of proceeds of the Certificates and other moneys related to the 2006 Bonds to refinance the 2006 Lease Agreement and the 2006 Bonds.

Each of the Authorized Officers is hereby authorized and directed on behalf of the City to execute, and the City Clerk is hereby authorized and directed to attest, the final form of each of the foregoing documents. The schedule of lease payments attached to the Lease Agreement shall correspond to the payments of principal and interest represented by the Certificates, to be determined upon the sale thereof as set forth in Section 3.

The City Council hereby authorizes and directs the City Manager and the Finance Director, following consultation with the City's financial advisor and bond counsel, to cause the Certificates to be sold on a private placement basis to one or more financial institutions to be selected by the City Manager and the Finance Director, and each of the Authorized Officers, acting alone, is hereby authorized and directed to execute and deliver a purchase agreement with such institution for and in the name and on behalf of the City, and the City Council's approval of such purchase agreement shall to be conclusively evidenced by the execution and delivery of such agreement. The City Council hereby authorizes the delivery and performance by the City of its obligations under such purchase agreement(s).

The City Council hereby authorizes the City Manager and the Finance Director to approve a rate lock agreement (which could result in a financial penalty being imposed on the City if the sale of the Certificates does not close) and to such other commercially reasonable terms as they determine will result in the lowest long-term financing.

Section 3. Execution and Delivery of Certificates. The Council hereby authorizes the execution and delivery of the Certificates, and the sale of the Certificates to the Underwriter pursuant to the Purchase Agreement, in the aggregate principal amount of not to exceed \$8,250,000. The underwriter's discount may not exceed 1% of the principal amount of the Certificates. The Certificates shall only be executed and delivered if the net present value savings as a result of the execution and delivery of the Certificates is equal to at least 5% of the outstanding principal amount of the 2006 Bonds.

Section 4. Official Statement. The Council hereby approves, and hereby deems

nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934, the preliminary Official Statement describing the Certificates, in the form on file with the City Clerk. The Underwriter is hereby authorized to distribute the preliminary Official Statement in connection with the sale of the Certificates. An Authorized Officer is hereby authorized and directed to (a) execute and deliver to the purchaser of the Certificates a certificate deeming the preliminary Official Statement to be nearly final as of its date, (b) approve any changes in or additions to cause such preliminary Official Statement to be put in final form, and (c) execute said final Official Statement for and in the name and on behalf of the City. The Underwriter is authorized to distribute the final Official Statement.

Section 5. Appointment of Professionals. The City Council approves the selection of Jones Hall, A Professional Law Corporation, as bond counsel and disclosure counsel, and NHA Advisors, LLC, as financial advisor. Each Authorized Officer is authorized to execute a professional services agreement with such firms in connection with the proposed financing, and the execution of such agreements by an Authorized Officer shall be conclusive evidence of such approval.

Section 6. Municipal Bond Insurance and Reserve Fund Insurance Policies. The Authorized Officers, each acting alone, are hereby authorized and directed to take all actions necessary to obtain one or more municipal bond insurance policies for the Certificates and reserve account insurance policies for the Certificates from a municipal bond insurance company if it is determined, upon consultation with the Financial Advisor and the Underwriter, that such insurance policies will reduce the true interest cost of the Refunding Bonds.

Section 7. Bank Qualification. The City hereby designates the Lease Agreement for purposes of paragraph (3) of section 265(b) of the Code and represents that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under section 103(a) of the Code) from gross income for federal income tax purposes (excluding (i) private activity bonds, as defined in section 141 of the Code, except qualified 501(c)(3) bonds as defined in section 145 of the Code and (ii) current refunding obligations to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation), including the Lease Agreement, has been or will be issued by the City, including all subordinate entities of the City, during the calendar year 2017.

Section 8. Official Actions. Each Authorized Officer, the City Clerk and all other officers of the City are each authorized and directed in the name and on behalf of the City to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents which they or any of them might deem necessary or appropriate in order to consummate any of the transactions contemplated by the documents approved pursuant to this Resolution, including but not limited to a continuing disclosure undertaking, a termination agreement related to the documents related to the 2006 Bonds. Each Authorized Officer, after

consulting with the City's financing team, is authorized to identify alternative assets to serve as Leased Property under the Site and Facilities Lease and the Lease Agreement. Whenever in this resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable. Each Authorized Officer is expressly authorized to cause recordation of any documents necessary to cause the execution and delivery and the refinancing of the 2006 Bonds, including but not limited to the Site and Facilities Lease, the Lease Agreement (or a memorandum thereof), an assignment agreement and a termination agreement, and to purchase a policy of title insurance.

Section 9. Effective Date. This resolution shall take effect from and after the date of approval and adoption thereof.

I CERTIFY that at a regular meeting on December 6, 2016 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2016.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

TO BE RECORDED AND WHEN RECORDED

RETURN TO:

Jones Hall, A Professional Law Corporation

475 Sansome Street, Suite 1700

San Francisco, California 94111

Attention: Christopher K. Lynch, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

SITE AND FACILITIES LEASE

This SITE AND FACILITIES LEASE (this "Site Lease"), dated for convenience as of January 1, 2017, is between the CITY OF EL CERRITO, a general law city and municipal corporation duly organized and existing under the laws of the State of California, as lessor (the "City"), and the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a nonprofit public benefit corporation (the "Corporation");

BACKGROUND:

1. For the purpose of financing the acquisition and construction of City Hall, the City previously caused issuance by the El Cerrito Public Financing Authority (the "Authority") of the \$9,610,000 initial principal amount El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project) (the "2006 Bonds") pursuant to a Trust Agreement, dated as of November 1, 2006 (the "2006 Trust Agreement"), by and between MUFG Union Bank, N.A., as trustee (the "2006 Trustee") and the Authority.

2. The 2006 Bonds are payable from lease payments (the "2006 Lease Payments") made by the City for the use and occupancy of the real property and improvements constituting the City Hall pursuant to a Facilities Lease, dated as of November 1, 2006 (the "2006 Lease Agreement"), by and between the City and the Authority.

3. In order to take advantage of prevailing market conditions and realize savings for the benefit of the City, the City Council of the City has determined to refinance its lease payment obligation under the 2006 Lease Agreement and to cause the redemption of the 2006 Bonds.

4. The Board of Directors of the Corporation has determined that the public convenience and necessity require assisting the City with refinancing the 2006 Lease Agreement and redeeming the 2006 Bonds.

5. In order to provide funds to refinance the 2006 Lease Agreement, (a) the City and the Corporation will enter into this Site Lease, pursuant to which the City will lease certain real property more particularly described on Appendix A and the improvements thereon (the "Leased Property") to the Corporation, (b) the Corporation and the City will enter into a Lease Agreement, dated as of January 1, 2017 (the "Lease"), pursuant to which the Corporation will lease the Leased Property to the City in consideration for certain semi-annual lease payments to be made by the City and (c) the City will cause execution and delivery of the 2017 Certificates of Participation (2006 City Hall Lease Refinancing) (the "Certificates").

6. The Corporation has agreed to assign its right to receive such lease payments to MUFG Union Bank, N.A., as trustee (the "Trustee"), under an Assignment Agreement, dated as of January 1, 2017 (the "Assignment Agreement"), by and between the Corporation and the Trustee, and in consideration of such assignment the Trustee will execute and deliver the Certificates, each evidencing a direct, undivided fractional interest in such lease payments, in accordance with a Trust Agreement (the "Trust Agreement"), by and among the City, the Corporation and the Trustee.

7. A memorandum of the Lease and the Assignment Agreement are being recorded in the real property records of Contra Costa County concurrently with this Site Lease.

8. The City is authorized to enter into a lease-leaseback arrangement with the Corporation under Section 37350 of the California Government Code.

A G R E E M E N T :

In consideration of the foregoing and the material covenants hereinafter contained, the City and the Corporation formally covenant, agree and bind themselves as follows:

SECTION 1. *Lease of Leased Property.* The City hereby leases to the Corporation, and the Corporation hereby leases from the City, the Leased Property as described more fully in Appendix A hereto, on the terms and conditions hereinafter set forth.

SECTION 2. *Term; Possession.* The term of this Site Lease commences, and the Corporation becomes entitled to possession of the Leased Property, as of the date of recordation hereof. This Site Lease ends, and the right of the Corporation hereunder to possession of the Leased Property thereupon ceases, on the date on which all of the outstanding Certificates are paid in full, or provision is made for such payment in accordance with the Trust Agreement, and the Trust Agreement has been discharged under Section 13.01 thereof, but under any circumstances not later than December 1, 2046.

SECTION 3. *Rental.* The Corporation shall pay to the City as and for rental of the Leased Property hereunder, from the proceeds of sale of the Certificates, the amount of \$_____ to be paid on or before the date of execution and delivery hereof. In accordance with the Lease and the Trust Agreement the City shall cause the amount so paid to it to be applied to prepay the 2006 Lease Payments and redeem the 2006 Bonds. In addition to such payment, the Corporation shall cause a portion of the proceeds of sale of the Certificates to be applied to make the deposit required under the Trust Agreement into the Costs of Issuance Fund and to cause to be paid all related underwriting, financing and other costs of issuance of the Certificates.

SECTION 4. *Leaseback to City.* The purpose for which the City agrees to lease the Leased Property to the Corporation hereunder is to enable the City to finance the Project and refinance the 2006 Bonds from the rental payment made to it by the Corporation under Section 3. The Corporation hereby agrees to lease the Leased Property back to the City under the Lease.

SECTION 5. *Assignments and Subleases.* Unless the City is in default under the Lease, the Corporation may not assign its rights under this Site Lease or sublet all or any portion of the Leased Property, except as provided in the Lease, without the prior written consent of the City.

SECTION 6. *Right of Entry.* The City reserves the right for any of its duly authorized representatives to enter upon the Leased Property, or any portion thereof, at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

SECTION 7. *Termination.* The Corporation agrees, upon the termination of this Site Lease, to quit and surrender the Leased Property in the same good order and condition as the Leased Property was in at the time of commencement of the term hereof, reasonable wear and tear excepted, and agrees that all buildings, improvements and structures then existing upon the Leased Property will remain thereon and title thereto will vest thereupon in the City for no additional consideration.

SECTION 8. *Default.* If the Corporation is in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for 30 days following notice and demand for correction thereof to the Corporation, the City may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Lease shall be deemed to occur as a result thereof and this Site Lease may not be terminated by the City as a remedy for such default. Notwithstanding the foregoing, so long as the Lease remains in effect, the City shall continue to pay the Lease Payments to the Trustee.

SECTION 9. *Amendments.* The Corporation and the City may at any time amend or modify any of the provisions of this Site Lease, but only: (a) with the prior written consents of the Owners of a majority in aggregate principal amount of the Outstanding Certificates; or (b) without the consent of the Trustee or any of the Certificate Owners, and only if such amendment or modification is for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the City or the Corporation contained in this Site Lease, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City or the Corporation,
- (ii) to cure any ambiguity, or to cure, correct or supplement any defective provision contained herein, for the purpose of conforming to the original intention of the City and the Corporation,
- (iii) to amend any provision thereof relating to the Code, but only if and to the extent such amendment will not adversely affect the exclusion from gross income of interest represented by any of the Certificates under the Code, in the opinion of Bond Counsel,

- (iv) to amend the description of any component of the Leased Property to reflect accurately the property originally intended to be included therein, or to effectuate any substitution of property as permitted by Section 4.6 of the Lease or any release or property as permitted by Section 4.7 of the Lease,
- (v) in any other respect whatsoever as the Corporation and the City deem necessary or desirable, provided that, in the opinion of Bond Counsel, such modifications or amendments do not materially adversely affect the interests of the Owners of the Certificates.

The City must obtain and cause to be filed with the Trustee an opinion of Bond Counsel with respect to any amendment or modification hereof, stating that all conditions precedent to such amendment as set forth in this Section have been satisfied. Promptly following the effective date of any amendment or modification under this Section, the City must mail written notice thereof to each rating agency which then maintains a rating on the Certificates.

SECTION 10. *Quiet Enjoyment.* The Corporation at all times during the term of this Site Lease shall peaceably and quietly have, hold and enjoy all of the Leased Property, subject to the provisions of the Lease and subject only to Permitted Encumbrances.

SECTION 11. *Waiver of Personal Liability.* All liabilities under this Site Lease on the part of the Corporation are solely corporate liabilities of the Corporation as a nonprofit corporation, and the City hereby releases each and every member and officer of the Corporation of and from any personal or individual liability under this Site Lease. No member or officer of the Corporation or its governing board is at any time or under any circumstances individually or personally liable under this Site Lease for anything done or omitted to be done by the Corporation hereunder.

SECTION 12. *Taxes.* The City will pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Leased Property and any improvements thereon.

SECTION 13. *Eminent Domain.* If the whole or any part of the Leased Property, or any improvements thereon, are taken by eminent domain proceedings, the interest of the Corporation will be the aggregate amount of the then unpaid principal components of the Lease Payments payable under the Lease and the balance of the award, if any, will be paid to the City. The City hereby waives any and all rights that it has or may hereafter have to acquire the interest of the Corporation in and to the Leased Property through the eminent domain powers of the City.

SECTION 14. *Partial Invalidity.* If any one or more of the terms, provisions, covenants or conditions of this Site Lease are to any extent declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site Lease will be affected thereby, and each provision of this Site Lease will be valid and enforceable to the fullest extent permitted by law. The Corporation and the City each hereby declares that it would have entered into this Site Lease and each and every other Section, paragraph, sentence, clause or phrase hereof irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Site Lease may be held illegal, invalid or unenforceable.

SECTION 15. *Notices.* Any notice, request, complaint, demand or other communication under this Site Lease must be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by telecopy, telex or other form of telecommunication, at its number set forth below. Notice will be effective either (a) upon transmission by telecopy, telex or other form of telecommunication, (b) 48 hours after deposit in the United States mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The City, the Corporation and the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the Corporation:

Public Property Financing Corporation of California
2945 Townsgate Road, Suite 200
Westlake Village, California 91361

If to the City:

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, California 94530
Attention: Finance Director

If to the Trustee:

MUFG Union Bank, N.A.
Attn: Corporate Trust Department

[TO COME]

SECTION 16. *Governing Law.* This Site Lease is governed by the laws of the State of California.

SECTION 17. *Third Party Beneficiary.* The Trustee is hereby made a third party beneficiary hereunder with all rights of a third party beneficiary and the Trustee may enforce any right, remedy, or claim conferred, given or granted hereunder.

SECTION 18. *Binding Effect.* This Site Lease inures to the benefit of and is binding upon the Corporation, the City and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 20. *Section Headings.* All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

SECTION 21. *Execution in Counterparts.* This Site Lease may be executed in any number of counterparts, each of which is an original but all together constitute one and the same instrument. It is also agreed that separate counterparts of this Site Lease may be separately executed by the Corporation and the City, all with the same force and effect as though the same counterpart had been executed by both the Corporation and the City.

SECTION 22. *Defined Terms.* All capitalized terms used herein and not otherwise defined have the respective meanings given those terms in the Trust Agreement.

IN WITNESS WHEREOF, the City and the Corporation have caused this Site Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF EL CERRITO, as lessor

By _____
Finance Director

Attest:

City Clerk

**PUBLIC PROPERTY FINANCING
CORPORATION OF CALIFORNIA, as
lessee**

By _____
Treasurer

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The property constituting the Leased Property consists of the land located in the City of El Cerrito, County of Contra Costa, State of California, which is described as follows, including all buildings, improvements and facilities at any time situated thereon:

LEASE AGREEMENT

Dated as of January 1, 2017

between the

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA
as lessor

and the

CITY OF EL CERRITO
as lessee

Relating to

\$ _____
City of El Cerrito
2017 Certificates of Participation
(2006 City Hall Lease Refinancing)

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LEASE AGREEMENT

This LEASE AGREEMENT (this "Lease"), dated as of January 1, 2017, is between the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a nonprofit public benefit corporation (the "Corporation"), and the CITY OF EL CERRITO, a general law city and municipal corporation duly organized and existing under the Constitution of the State of California (the "City").

BACKGROUND:

1. For the purpose of financing the acquisition and construction of City Hall, the City previously caused the El Cerrito Public Financing Authority (the "Authority") to issue its \$9,610,000 El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project) (the "2006 Bonds") pursuant to a Trust Agreement, dated as of November 1, 2006 (the "2006 Trust Agreement"), by and between MUFG Union Bank, N.A., as trustee (the "2006 Trustee") and the Authority.

2. The 2006 Bonds are payable from lease payments (the "2006 Lease Payments") made by the City for the use and occupancy of the real property and improvements constituting the City Hall pursuant to a Facilities Lease, dated as of November 1, 2006 (the "2006 Lease Agreement"), by and between the City and the Authority.

3. In order to take advantage of prevailing market conditions and realize savings for the benefit of the City, the City Council of the City has determined to refinance its lease payment obligation under the 2006 Lease Agreement and to cause the redemption of the 2006 Bonds.

4. The Board of Directors of the Corporation has determined that the public convenience and necessity require assisting the City with refinancing the 2006 Lease Agreement and the 2006 Bonds.

5. In order to provide funds to refinance the 2006 Lease Agreement, (a) the City and the Corporation will enter into a Site and Facilities Lease, dated as of January 1, 2017 (the "Site and Facilities Lease"), pursuant to which the City will lease certain real property more particularly described on Exhibit A and the improvements thereon (the "Leased Property") to the Corporation, (b) the Corporation and the City will enter into this Lease, pursuant to which the Corporation will lease the Leased Property to the City in consideration for certain semi-annual lease payments to be made by the City and (c) the City will cause execution and delivery of the 2017 Certificates of Participation (2006 City Hall Lease Refinancing) (the "Certificates").

6. The Corporation has agreed to assign its right to receive such lease payments to MUFG Union Bank, N.A., as trustee (the "Trustee"), under an Assignment Agreement, dated as of January 1, 2017 (the "Assignment Agreement"), by and between the Corporation and the Trustee, and in consideration of such assignment the Trustee will execute and deliver the Certificates, each evidencing a direct, undivided fractional interest in such lease payments, in accordance with a Trust Agreement (the "Trust Agreement"), by and among the City, the Corporation and the Trustee.

7. The Site and Facilities Lease and the Assignment Agreement are being recorded in the real property records of Contra Costa County concurrently with a memorandum of this Lease.

8. The City is authorized to enter into a lease-leaseback arrangement with the Corporation under Section 37350 of the California Government Code.

A G R E E M E N T :

In consideration of the foregoing and the material covenants hereinafter contained, the City and the Corporation formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

SECTION 1.1. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Lease have the respective meanings specified in the recitals hereof and in Appendix A to the Trust Agreement.

SECTION 1.2. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Lease; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

SECTION 2.1. *Covenants, Representations and Warranties of the City.* The City makes the following covenants, representations and warranties to the Corporation as of the Closing Date:

- (a) Due Organization and Existence. The City is a general law city and municipal corporation duly organized and validly existing under the laws of the State of California, has full legal right, power and authority under the laws of the State of California to enter into this Lease, the Site and Facilities Lease and the Trust Agreement and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the City has duly authorized the execution and delivery of this Lease, the Site and Facilities Lease and the Trust Agreement.

- (b) Due Execution. The representatives of the City executing this Lease, the Site and Facilities Lease and the Trust Agreement have been fully authorized to execute the same under a resolution duly adopted by the City Council of the City.
- (c) Valid, Binding and Enforceable Obligations. This Lease, the Site and Facilities Lease and the Trust Agreement have been duly authorized, executed and delivered by the City and constitute the legal, valid and binding agreements of the City enforceable against the City in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of this Lease, the Site and Facilities Lease and the Trust Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site and Facilities Lease and the Trust Agreement or the financial condition, assets, properties or operations of the City.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any governmental authority is necessary in connection with the execution and delivery of this Lease, the Site and Facilities Lease and the Trust Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.
- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease, the Site and Facilities Lease or the Trust Agreement, or upon the financial condition, assets, properties or operations of the City, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would

materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site and Facilities Lease or the Trust Agreement or the financial conditions, assets, properties or operations of the City.

SECTION 2.2. *Covenants, Representations and Warranties of the Corporation.* The Corporation makes the following covenants, representations and warranties to the City as of the Closing Date:

- (a) Due Organization and Existence. The Corporation is a California nonprofit public benefit corporation duly organized and existing under the laws of the State of California, has full legal right, power and authority to enter into this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement and to carry out and consummate all transactions contemplated hereby and thereby, and by proper action the Corporation has duly authorized the execution and delivery of this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement.
- (b) Due Execution. The representatives of the Corporation executing this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement are fully authorized to execute the same under official action taken by the Board of Directors of the Corporation.
- (c) Valid, Binding and Enforceable Obligations. This Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement have been duly authorized, executed and delivered by the Corporation and constitute the legal, valid and binding agreements of the Corporation, enforceable against the Corporation in accordance with their respective terms.
- (d) No Conflicts. The execution and delivery of this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement, the consummation of the transactions herein and therein contemplated and the fulfillment of or compliance with the terms and conditions hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the Corporation is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Corporation, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site and Facilities Lease, the Trust Agreement and the Assignment Agreement or the financial condition, assets, properties or operations of the Corporation.
- (e) Consents and Approvals. No consent or approval of any trustee or holder of any indebtedness of the Corporation, and no consent, permission, authorization, order or license of, or filing or registration with, any

governmental authority is necessary in connection with the execution and delivery of this Lease, the Site and Facilities Lease, the Trust Agreement or the Assignment Agreement, or the consummation of any transaction herein or therein contemplated, except as have been obtained or made and as are in full force and effect.

- (f) No Litigation. There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other governmental authority pending or, to the knowledge of the Corporation after reasonable investigation, threatened against or affecting the Corporation or the assets, properties or operations of the Corporation which, if determined adversely to the Corporation or its interests, would have a material and adverse effect upon the consummation of the transactions contemplated by or the validity of this Lease, the Site and Facilities Lease, the Trust Agreement or the Assignment Agreement, or upon the financial condition, assets, properties or operations of the Corporation, and the Corporation is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other governmental authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease, the Site and Facilities Lease, the Trust Agreement or the Assignment Agreement or the financial conditions, assets, properties or operations of the Corporation.

ARTICLE III

DEPOSIT AND APPLICATION OF FUNDS

SECTION 3.1. *Deposit of Moneys*. On the Closing Date, the Corporation shall cause the proceeds of sale of the Certificates to be deposited with the Trustee. Under Section 4.01 of the Trust Agreement, from the proceeds of sale of the Certificates (i) the estimated amount of the Costs of Issuance will be deposited into the Costs of Issuance Fund and (ii) the balance of such proceeds will be used to refinance the 2006 Lease Payments and the 2006 Bonds as set forth herein and in the Trust Agreement.

Also pursuant to Section 4.01 of the Trust Agreement, the Municipal Bond Debt Service Reserve Insurance Policy No. _____ (the "Reserve Policy") issued by _____ (including its successors and assigns, the "Reserve Insurer") guaranteeing payments to be applied to the payment of principal and interest on the Certificates will be deposited in the Reserve Fund.

ARTICLE IV
LEASE PAYMENTS;
SUBSTITUTION AND RELEASE OF PROPERTY

SECTION 4.1. *Lease of Leased Property.* The Corporation hereby leases the Leased Property to the City, and the City hereby leases the Leased Property from the Corporation, upon the terms and conditions set forth in this Lease.

SECTION 4.2. *Term.* The Term of this Lease commences on the date of execution and delivery hereof and ends on the date on which the Trust Agreement is discharged under Section 13.01 thereof, but under any circumstances not later than December 1, 2046. The provisions of this Section 4.2 are subject to the provisions of Section 4.6 relating to the substitution of property, the provisions of Section 4.7 relating to the release of property, and the provisions of Section 6.2 relating to the taking in eminent domain of the Leased Property or any portion thereof. The City may not terminate this Lease as a remedy for a default by the Corporation.

SECTION 4.3. *Lease Payments.*

(a) Obligation to Pay. Subject to the provisions of Sections 6.2 and 6.3 and the provisions of Article IX, the City agrees to pay to the Corporation, its successors and assigns, the Lease Payments (denominated into components of principal and interest) in the respective amounts specified in Appendix B attached hereto and by this reference incorporated herein, to be due and payable in immediately available funds on the Interest Payment Dates immediately following each of the respective Lease Payment Dates specified in Appendix B, and to be deposited by the City with the Trustee on each of the Lease Payment Dates specified in such Appendix B. Any amount held in the Lease Payment Fund on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole under Article IX and other than amounts required for payment of past due principal or interest represented by any Certificates not presented for payment) will be credited towards the Lease Payment then required to be paid; and no Lease Payment need be deposited with the Trustee on any Lease Payment Date if the amounts then held in the Lease Payment Fund are at least equal to the Lease Payment then required to be deposited with the Trustee. The Lease Payments payable in any Rental Period are for the use of the Leased Property during such Rental Period.

(b) Effect of Prepayment. If the City prepays all Lease Payments in full under Sections 9.2 or 9.3, and if the City has paid all Additional Payments then due and payable, the City's obligations under this Section will thereupon cease and terminate. If the City prepays the Lease Payments in part but not in whole under Sections 9.2 or 9.3, the principal components of the remaining Lease Payments will be reduced in integral multiples of \$5,000 among Lease Payment Dates on a basis which corresponds to the principal maturities of the Certificates which are prepaid thereby; and the interest component of each remaining Lease Payment will be reduced by the aggregate corresponding amount of interest which would otherwise be payable with respect to the Certificates thereby prepaid under Sections 3.01(a) or 3.01(b) of the Trust Agreement, as the case may be. The City will provide a revised Appendix B to the Trustee.

(c) Rate on Overdue Payments. If the City fails to make any of the payments required in this Section 4.3, the payment in default will continue as an obligation of the City until the

amount in default has been fully paid, and the City agrees to pay the same with interest thereon, from the date of default to the date of payment at the highest rate of interest represented by any Outstanding Certificate.

(d) Fair Rental Value. The Lease Payments and Additional Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and the City will pay the Lease Payments and Additional Payments in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period. The Corporation and the City have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making that determination, consideration has been given to the estimated fair market value of the Leased Property as of the Closing Date, other obligations of the City and the Corporation under this Lease, the uses and purposes which may be served by the Leased Property and the benefits therefrom which will accrue to the City and the general public.

(e) Source of Payments; Budget and Appropriation. The Lease Payments are payable from any source of legally available funds of the City, subject to the provisions of Articles VI and IX.

The City covenants to take such action as may be necessary to include all estimated Lease Payments and all estimated Additional Payments due hereunder in each of its final approved budgets. The City further covenants to make all necessary appropriations (including any supplemental appropriations) from any source of legally available funds of the City for the full amount of Lease Payments and Additional Payments which come due and payable during the period covered by each such budget. The covenants on the part of the City contained herein are duties imposed by law and it is the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

(f) Assignment. The City acknowledges that certain of the Corporation's rights under the Site and Facilities Lease and this Lease (including the payment of all Lease Payments) have been assigned by the Corporation to the Trustee in trust under the Assignment Agreement, for the benefit of the Owners of the Certificates, and the City consents to such assignment. The Corporation directs the City, and the City agrees to pay to the Trustee at its Office, all payments payable by the City under this Section 4.3 and all amounts payable by the City under Article IX.

SECTION 4.4. *Additional Payments.* In addition to the Lease Payments, the City shall pay when due, as additional rental for the Leased Property hereunder, (a) all costs and expenses incurred by the City hereunder or under the Trust Agreement, or incurred by the Corporation to comply with the provisions of the Trust Agreement, including without limitation all Costs of Issuance (to the extent not paid from amounts on deposit in the Costs of Issuance Fund), (b) annual compensation due to the Trustee and all of its reasonable costs and expenses (including amounts payable to the Trustee by virtue of indemnification) payable as a result of the performance of and compliance with its duties under the Trust Agreement, (c) the amounts, costs and expenses payable by the City to the Reserve Insurer under or in connection with the Reserve Policy, including Policy Costs (as defined in the Reserve Policy), all in accordance with the terms and conditions of such Reserve Policy, the Trust Agreement and the Reserve Fund Agreement and (d) all reasonable costs and expenses of attorneys, auditors, engineers and

accountants engaged by the Corporation or the Trustee in connection with the Leased Property or the performance of their duties hereunder or under the Trust Agreement.

SECTION 4.5. *Title.* At all times during the Term of this Lease, the City will hold title to the Leased Property, subject to the Site and Facilities Lease and other Permitted Encumbrances, including all additions which comprise fixtures, repairs, replacements or modifications thereto, and subject to the provisions of Section 5.2.

Upon the termination of this Lease (other than under Section 8.2(b) hereof), all right, title and interest of the Corporation in and to the Leased Property will be transferred to and vested in the City. Upon the payment in full of all Lease Payments allocable to the Leased Property, or upon the deposit by the City of security for such Lease Payments as provided in Section 9.1, all right, title and interest of the Corporation in and to the Leased Property will be transferred to and vested in the City. The Corporation agrees to take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such transfer of title.

SECTION 4.6. *Substitution of Property.* The City has, and is hereby granted, the option at any time and from time to time to substitute other real property (the "Substitute Property") for the Leased Property or any portion thereof (the "Former Property"), provided that the City must satisfy all of the following requirements which are hereby declared to be conditions precedent to such substitution:

- (a) No Event of Default has occurred and is continuing.
- (b) The City has filed with the Corporation and the Trustee, and caused to be recorded in the office of the Contra Costa County Recorder sufficient memorialization of, (i) an amendment hereof which adds to Appendix A hereto a description of such Substitute Property and deletes therefrom the description of such Former Property, and (ii) appropriate amendments to the Site and Facilities Lease and Assignment Agreement that adds thereto a description of such Substitute Property and deletes therefrom the description of such Former Property.
- (c) The City has obtained a CLTA policy of title insurance insuring the City's leasehold estate hereunder in such Substitute Property, subject only to Permitted Encumbrances, in an amount at least equal to the estimated fair market value thereof;
- (d) The City has certified in writing to the Corporation and the Trustee that such Substitute Property serves the municipal purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California, and has been determined to be essential to the proper, efficient and economic operation of the City and to serve an essential governmental function of the City.
- (e) The Substitute Property does not cause the City to violate any of its covenants, representations and warranties made herein or in the Trust Agreement.
- (f) The City has filed with the Corporation and the Trustee a certificate to the effect that the fair market value and the fair rental value of the Substitute

Property and any other property that will be subject to this Lease and the Site and Facilities Lease are at least equal to the outstanding principal amount of the Certificates, and that the useful life of the Substitute Property at least equals the remaining term of this Lease.

- (g) The City has provided the Trustee with an opinion of nationally recognized bond counsel to the effect that such substitution will not, in and of itself, cause the interest on the Certificates to be included in gross income for federal income tax purposes.
- (h) The City has mailed written notice of such substitution to each rating agency which then maintains a rating on the Certificates.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Former Property and commence as to the Substitute Property, and all references to the Former Property will apply with full force and effect to the Substitute Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such substitution.

The Corporation and the City will execute, deliver and cause to be recorded all documents required to discharge this Lease, the Site and Facilities Lease and the Assignment Agreement against the Former Property, and to cause the Substitute Property to become subject to all of the terms and conditions of this Lease, the Site and Facilities Lease and the Assignment Agreement.

SECTION 4.7. *Release of Property.* The City has the option at any time and from time to time to release any portion of the Leased Property from this Lease and the Site and Facilities Lease (the "Released Property") provided that the City has satisfied all of the following requirements which are hereby declared to be conditions precedent to such release:

- (a) No Event of Default has occurred and is continuing.
- (b) The City has filed with the Corporation and the Trustee, and caused to be recorded in the office of the Contra Costa County Recorder sufficient memorialization of, (i) an amendment hereof that removes the Released Property from this Lease, and (ii) appropriate amendments to the Site and Facilities Lease and Assignment Agreement that removes therefrom the description of the Released Property.
- (c) The City has certified in writing to the Corporation and the Trustee that the fair market value of the property which remains subject to this Lease and the Site and Facilities Lease following such removal is at least equal to the outstanding principal amount of the Certificates, and the fair rental value of the property which remains subject to this Lease and the Site and Facilities Lease following such removal is at least equal to the Lease Payments thereafter coming due and payable hereunder.
- (d) The City has provided the Trustee with an opinion of nationally recognized bond counsel to the effect that such release will not, in and of itself, cause the interest on the Certificates to be included in gross income for federal income tax purposes.

- (e) The City has mailed written notice of such removal to each rating agency which then maintains a rating on the Certificates.

Upon the satisfaction of all such conditions precedent, the Term of this Lease will thereupon end as to the Released Property. The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such release. The Corporation and the City shall execute, deliver and cause to be recorded all documents required to discharge this Lease, the Site and Facilities Lease and the Assignment Agreement of record against the Released Property.

SECTION 4.8. *No Merger.* It is the express intention of the Corporation and the City that this Lease and the obligations of the parties hereunder are separate and distinct from the Site and Facilities Lease and the obligations of the parties thereunder, and that during the term of the Site and Facilities Lease and this Lease no merger of title or interest may occur or be deemed to occur as a result of the respective positions of the Corporation and the City thereunder and hereunder.

ARTICLE V

MAINTENANCE, TAXES, INSURANCE AND OTHER MATTERS

SECTION 5.1. *Maintenance, Utilities, Taxes and Assessments.* Throughout the Term of this Lease, as part of the consideration for the rental of the Leased Property, all improvement, repair and maintenance of the Leased Property are the sole responsibility of the City, and the City will pay for or otherwise arrange for the payment of all utility services supplied to the Leased Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Leased Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or sublessee thereof. In exchange for the Lease Payments herein provided, the Corporation agrees to provide only the Leased Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 1941 and 1942 of the California Civil Code, but such waiver does not limit any of the rights of the City under the terms of this Lease.

The City will also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Corporation or the City affecting the Leased Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City is obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

The City may, at the City's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Corporation notifies the City that, in its reasonable opinion, by nonpayment of any such items the interest of the Corporation in the

Leased Property will be materially endangered or the Leased Property or any part thereof will be subject to loss or forfeiture, in which event the City shall promptly pay such taxes, assessments or charges or provide the Corporation with full security against any loss which may result from nonpayment, in form satisfactory to the Corporation and the Trustee.

SECTION 5.2. *Modification of Leased Property.* The City has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of this Lease. Such additions, modifications and improvements may not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under this Section, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements. The City will not permit any lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City under this Section; provided that if any such lien is established and the City first notifies the Corporation of the City's intention to do so, the City may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Corporation with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Corporation. The Corporation will cooperate fully in any such contest, upon the request and at the expense of the City.

SECTION 5.3. *Public Liability and Property Damage Insurance.* The City will maintain or cause to be maintained, throughout the Term of this Lease, comprehensive general insurance in protection of the Corporation, the City and their respective members, officers, agents, employees and assigns. Such insurance must provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property. Such insurance must provide coverage in such liability limits and be subject to such deductibles as the City deems adequate and prudent. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of a program of self-insurance by the City, or in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. The City shall apply the proceeds of such insurance toward extinguishment or satisfaction of the liability with respect to which the net proceeds are paid.

SECTION 5.4. *Casualty Insurance.* The City will procure and maintain, or cause to be procured and maintained, at all times throughout the Term of this Lease, casualty insurance against loss or damage to the insured buildings, facilities and other improvements constituting any part of the Leased Property, in an amount that is expressly designated as coverage for the Leased Property and at least equal to the greater of (a) the replacement value of such buildings, facilities and improvements, or (b) the aggregate principal amount of the Outstanding Certificates. Such insurance must, as nearly as practicable, cover loss or damage by fire, explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. The City shall not be obligated to purchase earthquake coverage as part of such insurance. Such insurance may be subject to such deductibles as the City deems prudent. Such insurance may be maintained as part of or in conjunction with any

other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The property and casualty insurance provided pursuant to this Section 5.4 (i) shall be provided pursuant to a policy that is specific to the Leased Property and provides coverage solely for the Leased Property or (ii) if provided pursuant to a policy that covers more than just the Leased Property, shall include a rider or endorsement to such policy that (A) provides that the coverage for the Leased Property under the policy shall never be less than the amount required by this Section 5.4 and that any payments under the policy in respect of other property covered by the policy shall not have the effect of reducing the coverage provided by the policy for the Leased Property and (B) meets the other conditions of this Section 5.4 and Section 5.7. The City shall apply the Net Proceeds of such insurance as provided in Section 6.1.

SECTION 5.5. *Rental Interruption Insurance.* The City will procure and maintain, or cause to be procured and maintained, at all times throughout the Term of this Lease, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the buildings, facilities and other improvements constituting any part of the Leased Property, as a result of any of the hazards covered in the insurance required by Section 5.4, in an amount at least equal to the maximum Lease Payments coming due and payable during any two consecutive Fiscal Years during the remaining Term of this Lease. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The Net Proceeds of such insurance, if any, shall be paid to the Trustee and deposited in the Lease Payment Fund, and shall be credited towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable. The provider of such insurance shall be rated at least "A" by A.M. Best & Company.

SECTION 5.6. *Recordation Hereof; Title Insurance.* The City will, at its expense, cause the Site and Facilities Lease, the Assignment Agreement and this Lease (or a memorandum thereof in form and substance approved by Bond Counsel) to be recorded in the office of the Contra Costa County Recorder on or before the Closing Date. Concurrent with such recordation, the City shall obtain a CLTA title insurance policy insuring the City's leasehold estate in the Leased Property hereunder, in an amount at least equal to the aggregate principal amount of the Certificates. All Net Proceeds received under such title insurance policy will be deposited with the Trustee in the Lease Payment Fund and credited towards the prepayment of the Lease Payments under Section 9.3.

SECTION 5.7. *Insurance Net Proceeds; Form of Policies.* Each policy of insurance maintained under Sections 5.4, 5.5 and 5.6 must name the Trustee as loss payee so as to provide that all proceeds thereunder are payable to the Trustee. The City shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease. All such policies shall provide that the Trustee is given 30 days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The Trustee is not responsible for the sufficiency, adequacy or amount of any insurance or self-insurance herein required and is fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss. Annually not later than December 1 in each year during the Term hereof, the City must furnish or cause to be furnished to the Trustee a certificate stating that the City has complied with Sections 5.3, 5.4, 5.5, 5.6 and 5.7 hereof. The

Trustee is entitled to rely on any such certificate as to the City's compliance with these provisions, and the Trustee has no further duties in that regard.

SECTION 5.8. *Installation of City's Personal Property.* The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Leased Property. All such items will remain the sole property of the City, in which neither the Corporation nor the Trustee has any interest, and may be modified or removed by the City at any time, provided that the City must repair and restore any and all damage to the Leased Property resulting from the installation, modification or removal of any such items. Nothing in this Lease prevents the City from purchasing or leasing items to be installed under this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest attaches to any part of the Leased Property.

SECTION 5.9. *Liens.* The City may not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Property, other than as herein contemplated and except for such encumbrances as the City certifies in writing to the Trustee do not materially and adversely affect the leasehold estate in the Leased Property hereunder. Except as expressly provided in this Article, the City will promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The City will reimburse the Corporation for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

SECTION 5.10. *Advances.* If the City fails to perform any of its obligations under this Article V, the Corporation may take any necessary action to cure the failure, including the advancement of money, and the City shall repay all such advances as additional rental hereunder, with interest at the rate set forth in Section 4.3(c).

ARTICLE VI

DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

SECTION 6.1. *Application of Net Proceeds.* The Net Proceeds of any insurance award resulting from any damage to or destruction of the Leased Property by fire or other casualty shall be paid to the Trustee, as assignee of the Corporation under the Assignment Agreement, and deposited in the Insurance and Condemnation Fund to be applied as set forth in Section 6.01 of the Trust Agreement. The Net Proceeds of any eminent domain award with respect to the Leased Property resulting from any event described in Section 6.2 shall be paid by the City to the Trustee and deposited in the Insurance and Condemnation Fund to be applied as set forth in Section 6.02 of the Trust Agreement. For avoidance of doubt, the definition of Leased Property excludes personal property and, therefore, Net Proceeds does not include insurance proceeds or eminent domain award related to personal property.

SECTION 6.2. *Termination or Abatement Due to Eminent Domain.* If the Leased Property is taken permanently under the power of eminent domain or sold to a government

threatening to exercise the power of eminent domain, the Term of this Lease will cease with respect thereto as of the day possession is so taken. If less than all of the Leased Property is taken permanently, or if the Leased Property is taken temporarily, under the power of eminent domain, (a) this Lease will continue in full force and effect with respect thereto and will not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (b) there will be a partial abatement of Lease Payments allocated thereto, in an amount to be determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property.

SECTION 6.3. *Abatement Due to Damage or Destruction.* The amount of Lease Payments will be abated during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof. The amount of such abatement shall be determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portions of the Leased Property that are available for use and occupancy. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Lease shall continue in full force and effect and the City waives any right to terminate this Lease by virtue of any such damage and destruction. Notwithstanding the foregoing, there shall be no abatement of Lease Payments under this Section 6.3 to the extent that the proceeds of hazard insurance, or rental interruption insurance, are available to pay Lease Payments which would otherwise be abated under this Section 6.3, it being hereby declared that such proceeds and amounts constitute a special fund for the payment of the Lease Payments.

ARTICLE VII

OTHER COVENANTS

SECTION 7.1. *Disclaimer of Warranties.* THE CORPORATION AND THE TRUSTEE MAKE NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE LEASED PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED PROPERTY OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE CORPORATION IS NOT A MANUFACTURER OF ANY PORTION OF THE LEASED PROPERTY OR A DEALER THEREIN, THAT THE CITY LEASES THE LEASED PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. In no event shall the Corporation or the Trustee be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease or the Trust Agreement for the existence, furnishing, functioning or the City's use of the Leased Property.

SECTION 7.2. *Access to the Leased Property.* The City agrees that the Corporation and any Corporation Representative, and the Corporation's successors or assigns, may at all reasonable times enter upon and to examine and inspect the Leased Property or any part thereof. The Corporation and any Corporation Representative have such rights of access to the Leased Property or any component thereof as may be reasonably necessary to cause the proper maintenance of the Leased Property in the event of failure by the City to perform its

obligations hereunder; *provided, however*, that neither the Corporation nor any of its assigns has any obligation to cause such proper maintenance.

SECTION 7.3. *Release and Indemnification Covenants.* The City shall indemnify the Corporation, and the Trustee and their respective officers, agents, successors and assigns against all claims, losses and damages, including legal fees and expenses, arising out of any of the following:

- (a) the use, maintenance, condition or management of, or from any work or thing done on the Leased Property by the City,
- (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease,
- (c) any negligence or willful misconduct of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Leased Property, or
- (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Leased Property.

No indemnification is made under this Section or elsewhere in this Lease for willful misconduct or negligence under this Lease by the Corporation, the Trustee, or their respective officers, agents, employees, successors or assigns.

SECTION 7.4. *Assignment and Subleasing by the City.* After the date of recordation of this Lease, the City may sublease the Leased Property, or any portion thereof, subject to all of the following conditions:

- (a) This Lease and the obligation of the City to make Lease Payments hereunder must remain obligations of the City.
- (b) The City must, within 30 days after the delivery thereof, furnish or cause to be furnished to the Corporation and the Trustee a true and complete copy of such sublease.
- (c) No such sublease by the City may cause the Leased Property to be used for a purpose which is not authorized under the provisions of the laws of the State of California.

SECTION 7.5. *Amendment of Lease Agreement.* The Corporation and the City may at any time amend or modify any of the provisions of this Lease, but only: (a) with the prior written consents of the Owners of a majority in aggregate principal amount of the Outstanding Certificates; or (b) without the consent of the Trustee or any of the Certificate Owners, and only if such amendment or modification is for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the City contained in this Lease, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City,

- (ii) to cure any ambiguity, or to cure, correct or supplement any defective provision contained herein, for the purpose of conforming to the original intention of the City and the Corporation,
- (iii) to amend the description of any component of the Leased Property to reflect accurately the property originally intended to be included therein, or to effectuate any substitution of property as permitted by Section 4.6 or any release of property as permitted by Section 4.7,
- (iv) to obligate the City to pay additional amounts of rental hereunder for the use and occupancy of the Leased Property or any portion thereof, but only if (A) such additional amounts of rental are pledged or assigned for the payment of any bonds, notes, leases or other obligations the proceeds of which are applied to finance public improvements of the City, and (B) the City has filed with the Trustee written evidence that the amendments made under this subsection (iv) will not of themselves cause a reduction or withdrawal of any rating then assigned to the Certificates, or
- (v) in any other respect whatsoever as the Corporation and the City deem necessary or desirable, provided that, in the opinion of Bond Counsel, such modifications or amendments do not materially adversely affect the interests of the Owners of the Certificates.

The City must obtain and cause to be filed with the Trustee an opinion of Bond Counsel with respect to any amendment or modification hereof, stating that all conditions precedent to such amendment as set forth in this Section 7.5 have been satisfied. Promptly following the effective date of any amendment or modification under this Section, the City must mail written notice thereof to each rating agency which then maintains a rating on the Certificates.

SECTION 7.6. *Tax Covenants.*

- (a) Private Activity Bond Limitation. The City will assure that the proceeds of the Certificates are not so used as to cause the obligations of the City under this Lease to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(c) of the Code.
- (b) Federal Guarantee Prohibition. The City will not take any action or permit or suffer any action to be taken if the result of such action would be to cause any of the obligations of the City under this Lease to be "federally guaranteed" within the meaning of section 149(b) of the Code.
- (c) Rebate Requirement. The City will take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Certificates and this Lease.
- (d) No Arbitrage. The City will not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the proceeds of the Certificates which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of delivery of this Lease would have caused any

of the obligations of the City under this Lease to be "arbitrage bonds" within the meaning of section 148 of the Code.

- (e) Maintenance of Tax-Exemption. The City will take all actions necessary to assure the exclusion of interest with respect to the Certificates from the gross income of the Owners of the Certificates to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of delivery of this Lease.
- (f) Record Retention. The City will retain its records of all accounting and monitoring it carries out with respect to the Certificates for at least 3 years after the Certificates mature or are redeemed (whichever is earlier); however, if the Certificates are redeemed and refunded, the City will retain its records of accounting and monitoring at least 3 years after the earlier of the maturity or redemption of the last obligation in the series of obligations that refunded the Certificates.
- (g) Compliance with Tax Certificate. The City will comply with the provisions of the tax certificate and the use of proceeds certificate to be delivered with respect to the Certificates, which are incorporated herein as if fully set forth herein. The covenants of this Section will survive payment in full or defeasance of the Certificates.
- (h) Small Issuer Exemption from Bank Nondeductibility Restriction. The City hereby designates the Lease for purposes of paragraph (3) of section 265(b) of the Code and represents that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under section 103(a) of the Code) from gross income for federal income tax purposes (excluding (i) private activity bonds, as defined in section 141 of the Code, except qualified 501(c)(3) bonds as defined in section 145 of the Code and (ii) current refunding obligations to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation), including the Lease, has been or will be issued by the City, including all subordinate entities of the City, during the calendar year 2017.
[CONFIRM]

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

SECTION 8.1. *Events of Default Defined.* Each of the following events constitutes an Event of Default hereunder:

- (a) Failure by the City to pay any Lease Payment or other payment required to be paid hereunder in full at the time specified herein.
- (b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed herein or in the Trust Agreement, other than as referred to in the preceding subsection (a), for a period of 30 days after written notice specifying such failure and requesting

that it be remedied has been given to the City by the Corporation, or the Trustee; *provided, however*, that if the City notifies the Corporation and the Trustee that in its reasonable opinion the failure stated in the notice can be corrected, but not within such 30 day period, the failure will not constitute an Event of Default if the City commences to cure the failure within such 30 day period and thereafter diligently and in good faith cures such failure in a reasonable period of time.

- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

Any Event of Default described in the preceding clause (a) will give rise to the exercise of remedies with respect to all of the Leased Property, and the City shall not have the right to allocate its Lease Payment to a particular portion of the Leased Property.

SECTION 8.2. *Remedies on Default.* Whenever any Event of Default has happened and is continuing, the Corporation may exercise any and all remedies available under law or granted under this Lease. Notwithstanding anything herein or in the Trust Agreement to the contrary, there is no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Corporation may exercise any and all rights granted hereunder; provided, that no termination of this Lease shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. Upon the occurrence and during the continuance of any Event of Default, the Corporation may exercise each and every one of the following remedies, subject in all respects to the limitations set forth in Section 8.3:

- (a) Enforcement of Payments Without Termination. If the Corporation does not elect to terminate this Lease in the manner hereinafter provided for in subsection (b) of this Section, the City agrees to remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Corporation for any deficiency arising out of the re-leasing of the Leased Property, or, if the Corporation is unable to re-lease the Leased Property, then for the full amount of all Lease Payments to the end of the Term of this Lease, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Corporation or any suit in unlawful detainer, or otherwise, brought by the Corporation for the purpose of effecting such re-entry or obtaining possession of the Leased Property or the exercise of any other remedy by the Corporation.

The City hereby irrevocably appoints the Corporation as the agent and attorney-in-fact of the City to enter upon and re-lease the Leased Property

upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Leased Property, to place such property in storage or other suitable place in the County of Contra Costa for the account of and at the expense of the City, and the City hereby agrees to save harmless the Corporation from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Leased Property and the removal and storage of such property by the Corporation or its duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the Corporation to re-lease the Leased Property in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Corporation in effecting such re-leasing constitute a surrender or termination of this Lease irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease shall vest in the Corporation to be effected in the sole and exclusive manner hereinafter provided for in subsection (b) of this Section. The City agrees to surrender and quit possession of the Leased Property upon demand of the Corporation for the purpose of enabling the Leased Property to be re-let under this paragraph. Any rental obtained by the Corporation in excess of the unpaid Lease Payments shall be deposited with the Trustee in the Lease Payment Fund, to be applied as a credit against future Lease Payments.

- (b) Termination of Lease. If an Event of Default occurs and is continuing hereunder, the Corporation at its option may terminate this Lease and re-lease all or any portion of the Leased Property. The Trustee shall provide the City with a reasonable period of time to remove its personal property in connection with a termination of this Lease and a re-lease of all or any portion of the Leased Property. If the Corporation terminates this Lease at its option and in the manner hereinafter provided on account of default by the City (and notwithstanding any re-entry upon the Leased Property by the Corporation in any manner whatsoever or the re-leasing of the Leased Property), the City nevertheless agrees to pay to the Corporation all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments and Additional Payments. Any surplus received by the Corporation from such re-leasing shall be deposited in the Lease Payment Fund. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the Corporation shall of itself operate to terminate this Lease, and no termination of this Lease on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Corporation has given written notice to the City of the election on the part of the Corporation to terminate this Lease. The City agrees that no surrender of the Leased Property, or of the remainder of the Term hereof or any termination of this Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Corporation by such written notice.

- (c) Proceedings at Law or In Equity. If an Event of Default occurs and continues hereunder, the Corporation may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its rights hereunder.

SECTION 8.3. *No Remedy Exclusive.* No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive and every such remedy is cumulative and in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation to exercise any remedy reserved to it in this Article VIII it is not necessary to give any notice, other than such notice as may be required in this Article VIII or by law.

SECTION 8.4. *Agreement to Pay Attorneys' Fees and Expenses.* If either party to this Lease defaults under any of the provisions hereof and the non-defaulting party employs attorneys or incurs other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party.

SECTION 8.5. *No Additional Waiver Implied by One Waiver.* If any agreement contained in this Lease is breached by either party and thereafter waived by the other party, such waiver will be limited to the particular breach so waived and will not constitute a waiver of any other breach hereunder.

SECTION 8.6. *Application of Proceeds.* All net proceeds received from the re-lease of the Leased Property under this Article VIII, and all other amounts derived by the Corporation or the Trustee as a result of the occurrence of an Event of Default, shall be paid to the Trustee and applied in accordance with Section 12.04 of the Trust Agreement.

SECTION 8.7. *Trustee and Certificate Owners to Exercise Rights.* Such rights and remedies as are given to the Corporation under this Article VIII have been assigned by the Corporation to the Trustee under the Assignment Agreement for the benefit of the Certificate Owners, to which assignment the City hereby consents. The Trustee and the Certificate Owners shall exercise such rights as provided in the Trust Agreement.

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

SECTION 9.1. *Security Deposit.* Notwithstanding any other provision of this Lease, the City may on any date secure the payment of the Lease Payments in whole or in part by depositing with the Trustee an amount of cash which, together with other available amounts on deposit in the funds and accounts established under the Trust Agreement, is either (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Appendix B, or (b) invested in whole or in part in non-callable Federal Securities in such amount as will, in the opinion of an independent certified public accountant, (which opinion must be addressed and delivered to the Trustee), together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay such Lease Payments when due under Section 4.3(a) as the City instructs at the time of said deposit.

If the City posts a security deposit under this Section with respect to all unpaid Lease Payments and if the City has paid or caused to be paid all Additional Payments then due and payable, and notwithstanding the provisions of Section 4.2, (a) all obligations of the City under this Lease, and all security provided by this Lease for said obligations, will thereupon cease and terminate, excepting only the obligation of the City to make, or cause to be made all of the Lease Payments from such security deposit, and (b) under Section 4.6, title to the Leased Property will vest in the City on the date of said deposit automatically and without further action by the City or the Corporation. Said security deposit constitutes a special fund for the payment of Lease Payments in accordance with the provisions of this Lease.

SECTION 9.2. *Optional Prepayment.* The City may exercise its option to prepay the principal components of the Lease Payments in whole, or in part in any integral multiple of \$5,000, on any date on or after December 1, 2026, by paying a prepayment price equal to the aggregate principal components of the Lease Payments to be prepaid, together with the interest component of the Lease Payment required to be paid on such date, without prepayment premium. Such prepayment price shall be deposited by the Trustee upon receipt in the Lease Payment Fund, to be applied to the prepayment of Certificates under Section 3.01(a) of the Trust Agreement. The City shall give the Trustee written notice of its intention to exercise its option not less than 45 days in advance of the date of exercise.

SECTION 9.3. *Mandatory Prepayment From Net Proceeds of Insurance or Eminent Domain.* The City is obligated to prepay the principal components of the Lease Payments, in whole on any date or in part on any Interest Payment Date, from and to the extent of any Net Proceeds of insurance award or eminent domain award with respect to the Leased Property theretofore deposited in the Lease Payment Fund for such purpose under Article VI hereof and Article VI of the Trust Agreement. The City and the Corporation hereby agree that such Net Proceeds, to the extent remaining after payment of any delinquent Lease Payments, shall be credited towards the City's obligations under this Section 9.3. Such prepayment price shall be deposited by the Trustee in the Lease Payment Fund to be applied to the prepayment of Certificates under Section 3.01(b) of the Trust Agreement.

SECTION 9.4. *Credit for Amounts on Deposit.* If the City prepays the principal components of the Lease Payments in full under Sections 9.2 or 9.3, such that the Trust Agreement is discharged by its terms as a result of such prepayment, at the written election of

the City filed with the Trustee any or all amounts then on deposit in the Lease Payment Fund will be credited towards the amounts then required to be so prepaid.

ARTICLE X

MISCELLANEOUS

SECTION 10.1. *Notices.* Any notice, request, complaint, demand or other communication under this Lease may be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice is effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 72 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Corporation, the City and the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the Corporation: Public Property Financing Corporation of California
2945 Townsgate Road, Suite 200
Westlake Village, California 91361

If to the City: City of El Cerrito
10890 San Pablo Avenue
El Cerrito, California 94530
Attention: Finance Director

If to the Trustee: MUFG Union Bank, N.A.
Attn: Corporate Trust Services Department
[TO COME]

SECTION 10.2. *Binding Effect.* This Lease inures to the benefit of and is binding upon the Corporation, the City and their respective successors and assigns.

SECTION 10.3. *Severability.* If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction, such holding does not invalidate or render unenforceable any other provision hereof.

SECTION 10.4. *Net-net-net Lease.* This Lease is a "net-net-net lease" and the City hereby agrees that the Lease Payments are an absolute net return to the Corporation, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 10.5. *Third Party Beneficiary.* The Trustee is made a party beneficiary hereunder with all rights of a third party beneficiary and the Trustee may enforce any right, remedy, or claim conferred, given or granted hereunder.

SECTION 10.6. *Further Assurances and Corrective Instruments.* The Corporation and the City shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Leased Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease.

SECTION 10.7. *Execution in Counterparts.* This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 10.8. *Applicable Law.* This Lease is governed by and construed in accordance with the laws of the State of California.

SECTION 10.9. *Corporation and City Representatives.* Whenever under the provisions of this Lease the approval of the Corporation or the City is required, or the Corporation or the City is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by an Corporation Representative and for the City by a City Representative, and any party hereto shall be authorized to rely upon any such approval or request.

SECTION 10.10. *Captions.* The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

IN WITNESS WHEREOF, the Corporation and the City have caused this Lease to be executed in their respective names by their duly authorized officers, all as of the date first above written.

**PUBLIC PROPERTY FINANCING
CORPORATION OF CALIFORNIA, as Lessor**

By _____
Treasurer

CITY OF EL CERRITO, as Lessee

By _____
Finance Director

Attest:

City Clerk

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The property constituting the Leased Property consists of the land located in the City of El Cerrito, County of Contra Costa, State of California, which is described as follows, including all buildings, improvements and facilities at any time situated thereon:

APPENDIX B

SCHEDULE OF LEASE PAYMENTS*

<u>Interest Payment Date**</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Aggregate Lease Payment</u>
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* Remainder of Lease Payments continued on next page.

** Lease Payments are due no later than the 2nd Business Day prior to the corresponding Interest Payment Date.

<u>Interest Payment Date*</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Aggregate Lease Payment</u>
-------------------------------	----------------------------	---------------------------	--------------------------------

* Lease Payments are due no later than the 2nd Business Day prior to the corresponding Interest Payment Date

TRUST AGREEMENT

Dated as of January 1, 2017

among

MUFG UNION BANK, N.A.,
as trustee

PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA

and the

CITY OF EL CERRITO

Relating to

\$ _____
City of El Cerrito
2017 Certificates of Participation
(2006 City Hall Lease Refinancing)

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TRUST AGREEMENT

This Trust Agreement (this "Trust Agreement"), dated as of January 1, 2017, is among MUFG Union Bank, N.A., a national banking association duly organized and existing under the laws of the United States of America, as trustee (the "Trustee"), the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a nonprofit public benefit corporation (the "Corporation"), and the CITY OF EL CERRITO, a general law city and municipal corporation duly organized and existing under the laws of the State of California (the "City").

BACKGROUND:

WHEREAS, the City is a city organized under the laws of the State of California; and

WHEREAS, the Corporation has been formed under and pursuant to the laws of the State of California and is authorized to provide financial assistance to the City in financing the acquisition and improvement of public buildings, equipment and facilities, among other things; and

WHEREAS, for the purpose of financing the acquisition and construction of City Hall, the City previously caused the El Cerrito Public Financing Authority (the "Authority") to issue its \$9,610,000 El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project) (the "2006 Bonds") pursuant to a Trust Agreement, dated as of November 1, 2006 (the "2006 Trust Agreement"), by and between MUFG Union Bank, N.A., as trustee (the "2006 Trustee") and the Authority; and

WHEREAS, the 2006 Bonds are payable from lease payments (the "2006 Lease Payments") made by the City for the use and occupancy of the real property and improvements constituting the City Hall pursuant to a Facilities Lease, dated as of November 1, 2006 (the "2006 Lease Agreement"), by and between the City and the Authority; and

WHEREAS, in order to take advantage of prevailing market conditions and realize savings for the benefit of the City, the City wishes to refinance its lease payment obligation under the 2006 Lease Agreement and to cause the redemption of the 2006 Bonds; and

WHEREAS, the Board of Directors of the Corporation has determined that the public convenience and necessity require assisting the City with refinancing the 2006 Lease Agreement and the 2006 Bonds; and

WHEREAS, in order to provide funds to refinance the 2006 Lease Agreement, (a) the City and the Corporation will enter into a Site and Facilities Lease, dated as of January 1, 2017 (the "Site and Facilities Lease"), pursuant to which the City will lease certain real property described therein and the improvements thereon (the "Leased Property") to the Corporation, (b) the Corporation and the City will enter into a Lease Agreement, dated as of January 1, 2017 (the "Lease Agreement"), pursuant to which the Corporation will lease the Leased Property to the City in consideration for certain semi-annual lease payments to be made by the City and (c) the City will cause execution and delivery of the 2017 Certificates of Participation (2006 City Hall Lease Refinancing) (the "Certificates"); and

WHEREAS, the Corporation has agreed to assign its right to receive such lease payments to MUFG Union Bank, N.A., as trustee (the "Trustee"), under an Assignment

Agreement, dated as of January 1, 2017 (the "Assignment Agreement"), by and between the Corporation and the Trustee, and in consideration of such assignment the Trustee will execute and deliver the Certificates, each evidencing a direct, undivided fractional interest in such lease payments, in accordance with this Trust Agreement, by and among the City, the Corporation and the Trustee; and

WHEREAS, the City is authorized to enter into a lease-leaseback arrangement with the Corporation under Section 37350 of the California Government Code.

A G R E E M E N T :

In consideration of the foregoing and the material covenants hereinafter contained, the City, the Corporation and the Trustee formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

SECTION 1.01. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms defined in Appendix A attached to this Trust Agreement have the respective meanings specified in Appendix A when used in this Trust Agreement.

SECTION 1.02. *Authorization.* Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Trust Agreement, and has taken all actions necessary to authorize the execution hereof by the officers and persons signing it.

SECTION 1.03. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and includes the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Trust Agreement; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

THE CERTIFICATES OF PARTICIPATION

SECTION 2.01. *Authorization.* The Trustee is hereby authorized and directed upon written request from the Corporation to register, execute and deliver to the Original Purchaser, Certificates in the aggregate principal amount of \$_____. The Certificates evidence direct, undivided fractional ownership interests of the Owners thereof in the Lease Payments.

SECTION 2.02. *Date.* Each Certificate shall be dated as of the date of its execution and interest represented thereby shall be payable from the Interest Payment Date next preceding the date of execution thereof, unless:

- (a) it is executed following a Record Date and on or before the next succeeding Interest Payment Date, in which event interest represented thereby shall be payable from such Interest Payment Date,
- (b) it is executed on or before the first Record Date, in which event interest represented thereby shall be payable from the Closing Date, or
- (c) as of the date of any Certificate, interest represented by such Certificate is in default, in which event interest represented thereby shall be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to such Certificate.

SECTION 2.03. *Terms of Certificates.* Principal represented by the Certificates is payable on December 1 in each of the respective years and in the respective amounts, and interest represented thereby is computed at the respective rates, as follows:

Maturity Date (December 1)	Principal Amount	Interest Rate
-------------------------------	---------------------	------------------

T Term Certificate.

SECTION 2.04. *Fully Registered Form; Interest.* The Certificates will be delivered in the form of fully registered Certificates without coupons in the authorized denominations of \$5,000 or any integral multiple thereof, except that no Certificate shall represent principal payable in more than one year. The Trustee shall assign the Certificates such alphabetical and numerical designation as the Trustee deems appropriate.

Interest represented by the Certificates is payable on each Interest Payment Date to and including the date of maturity or prepayment, whichever is earlier, as provided in Section 2.09. Said interest represents the portion of Lease Payments designated as interest and coming due on each of the respective Interest Payment Dates. The share of the portion of Lease Payments designated as interest with respect to any Certificate shall be computed by multiplying the portion of Lease Payments designated as principal represented by such Certificate by the rate of interest represented by such Certificate (on the basis of a 360-day year consisting of twelve 30-day months).

SECTION 2.05. *Book Entry System.*

(a) Original Delivery. The Certificates will be initially delivered in the form of a separate single fully registered Certificate (which may be typewritten) for each maturity of the Certificates. Upon initial delivery, the ownership of each such Certificate will be registered on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Certificates shall be registered in the name of the Nominee on the Registration Books.

With respect to Certificates the ownership of which is registered in the name of the Nominee, the City and the Trustee have no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Depository System Participant holds an interest in the Certificates. Without limiting the generality of the immediately preceding sentence, the City and the Trustee have no responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any Depository System Participant or any other person, other than a Certificate Owner as shown in the Registration Books, of any notice with respect to the Certificates, including any notice of prepayment, (iii) the selection by the Depository of the beneficial interests in the Certificates to be prepaid if the City elects to prepay the Certificates in part, (iv) the payment to any Depository System Participant or any other person, other than a Certificate Owner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest represented by the Certificates or (v) any consent given or other action taken by the Depository as Owner of the Certificates. The City and the Trustee may treat and consider the person in whose name each Certificate is registered as the absolute owner of such Certificate for the purpose of payment of principal, premium, if any, and interest represented by such Certificate, for the purpose of giving notices of prepayment and other matters with respect to such Certificate, for the purpose of registering transfers of ownership of such Certificate, and for all other purposes whatsoever. The Trustee shall pay the principal, interest and premium, if any, represented by the Certificates only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal, interest and premium, if any, represented by the Certificates to the extent of the sum or sums so paid. No person other than a Certificate Owner may receive a Certificate evidencing the obligation of the City to make payments of principal, interest and premium, if any, under this Trust Agreement. Upon delivery by the Depository to the Nominee of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the City shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Certificates for the Depository's book-entry system, the City shall execute and deliver to such Depository a letter representing such matters as shall be necessary to so qualify the Certificates. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the City or the Trustee any obligation whatsoever with respect to persons having interests in the Certificates other than the Certificate Owners. Upon the written acceptance by the Trustee, the Trustee shall agree to take all action reasonably necessary for all representations of the City in such letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of such letter, the City may take any other actions, not inconsistent with this Trust Agreement, to qualify the Certificates for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. If either (i) the Depository determines not to continue to act as Depository for the Certificates, or (ii) the City determines to terminate the Depository as such, then the City shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the City and the Trustee in the execution and delivery of replacement Certificates by providing the Trustee with a list showing the interests of the Depository System Participants in the Certificates, and by surrendering the Certificates, registered in the name of the Nominee, to the Trustee on or before the date such

replacement Certificates are to be executed and delivered. The Depository, by accepting delivery of the Certificates, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the City fails to identify another Securities Depository to replace the Depository, then the Certificates shall no longer be required to be registered in the Registration Books in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging Certificates shall designate, in accordance with the provisions hereof.

If the City determines that it is in the best interests of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the City may notify the Depository System Participants of the availability of such certificated Certificates through the Depository. In such event, the Trustee will execute, transfer and exchange Certificates as required by the Depository and others in appropriate amounts; and whenever the Depository requests, the Trustee and the City shall cooperate with the Depository in taking appropriate action (y) to make available one or more separate certificates evidencing the Certificates to any Depository System Participant having Certificates credited to its account with the Depository, or (z) to arrange for another Securities Depository to maintain custody of a single certificate evidencing such Certificates, all at the City's expense.

(d) Payments to the Nominee. Notwithstanding any other provision of this Trust Agreement to the contrary, so long as any Certificate is registered in the name of the Nominee, all payments with respect to principal, interest and premium, if any, represented by such Certificate and all notices with respect to such Certificate shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

SECTION 2.06. *Form and Execution of Certificates.* The Certificates shall be substantially in the form set forth in Appendix B attached hereto and by this reference incorporated herein. The Trustee shall execute the Certificates with the manual signature of an authorized signatory of the Trustee. If any person whose signature appears on any Certificate ceases to be an authorized signatory before the date of delivery of said Certificate, such signature shall nevertheless be as effective as if such person had remained an authorized signatory until such date.

SECTION 2.07. *Transfer and Exchange.*

(a) Transfer of Certificates. The registration of any Certificate may, in accordance with its terms, be transferred upon the Registration Books by the person in whose name it is registered, in person or by duly authorized attorney, upon surrender of such Certificate for cancellation at the Office of the Trustee, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, manually executed. Whenever any Certificate or Certificates shall be surrendered for registration of transfer, the Trustee shall execute and deliver a new Certificate or Certificates representing the same maturity, interest rate and aggregate principal amount, in any authorized denominations. The Trustee shall require the Certificate Owner to pay all costs of the Trustee incurred in connection with any such transfer and any tax or other governmental charge required to be paid with respect to such transfer.

(b) Exchange of Certificates. Certificates may be exchanged at the Office of the Trustee, for a like aggregate principal amount of Certificates representing other authorized denominations of the same interest rate and maturity. The City shall pay all costs of the Trustee incurred in connection with any such exchange, except that the Trustee shall require the

payment by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

(c) Limitations on Transfer or Exchange. The Trustee may refuse to transfer or exchange either (i) any Certificate during the period established by the Trustee for the selection of Certificates for prepayment, or (ii) any Certificate which the Trustee has selected for prepayment in whole or in part under the provisions of Section 3.02.

SECTION 2.08. *Certificates Mutilated, Lost, Destroyed or Stolen.* If any Certificate is mutilated, the Trustee, at the expense of the Owner of such Certificate, shall execute and deliver a new Certificate of like principal amount, interest rate and maturity in replacement for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. The Trustee shall cancel and destroy every mutilated Certificate so surrendered to it and shall deliver a certificate of destruction to the City at the request of the City. If any Certificate is lost, destroyed or stolen, evidence of such loss, destruction or theft must be submitted to the Trustee, and, if such evidence is satisfactory to the Trustee and if an indemnity satisfactory to the Trustee is given, the Trustee, at the expense of the Certificate Owner, shall execute and deliver a new Certificate of like principal amount, interest rate and maturity and numbered as the Trustee shall determine in lieu of and in replacement for the Certificate so lost, destroyed or stolen. The Trustee may require payment of an appropriate fee for each replacement Certificate delivered under this Section 2.08 and of the expenses which may be incurred by the Trustee in carrying out the duties under this Section 2.08. Any Certificate delivered under the provisions of this Section 2.08 in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Trustee is not required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the principal amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section 2.08, in lieu of delivering a replacement for a Certificate which has been mutilated, lost, destroyed or stolen, and which has matured, the Trustee may make payment with respect to such Certificate upon receipt of indemnity satisfactory to the Trustee and the City.

SECTION 2.09. *Payment.* Payment of interest represented by any Certificate on any Interest Payment Date shall be made to the person appearing on the Registration Books as the Owner thereof as of the close of business on the Record Date immediately preceding such Interest Payment Date, such interest to be paid by check mailed on the applicable Interest Payment Date to such Owner, by first class mail postage prepaid, at such Owner's address as it appears on the Registration Books. At the written request of the Owner of Certificates in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee prior to the Record Date preceding any Interest Payment Date, the Trustee shall pay interest represented by such Certificates coming due and payable on such Interest Payment Date by wire transfer in immediately available funds to such account in the United States as is specified in such written request. The principal, interest and prepayment premium, if any, represented by any Certificate at maturity or upon prepayment are payable in lawful money of the United States of America upon surrender of such Certificate at the Office of the Trustee.

SECTION 2.10. *Execution of Documents and Proof of Ownership.* Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by Certificate Owners may be in any number of concurrent

instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose, or by any bank, trust company or other depository for such Certificates. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of Certificates shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

- (a) The fact and date of the execution by any Owner or any Owner's attorney or agent of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which need not be acknowledged or verified, of an officer of any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to acknowledgments of deeds to be recorded in such jurisdictions, that the persons signing such instruments acknowledged before him the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such certificate shall also constitute sufficient proof of authority.
- (b) The fact of the ownership of Certificates by any person and the amount, the maturity and the numbers of such Certificates and the date of such person's holding the same shall be proved by the Registration Books.

Nothing in this Section 2.10 limits the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which the Trustee may deem sufficient. Any request or consent of the Owner of any Certificate binds every future Owner of the same Certificate in respect of anything done or suffered to be done by the Trustee under such request or consent.

SECTION 2.11. *Registration Books.* The Trustee shall keep or cause to be kept sufficient records for the registration and registration of transfer of the Certificates, which shall at all reasonable times be open to inspection by the City and the Corporation upon prior notice, during regular business hours; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books, Certificates as hereinbefore provided.

ARTICLE III

PREPAYMENT OF CERTIFICATES

SECTION 3.01. *Prepayment.*

(a) Optional Prepayment. The Certificates maturing on or before December 1, 2026, are not subject to optional prepayment before their respective stated maturities. The Certificates maturing on or after December 1, 2027, are subject to prepayment prior to their respective stated maturities, at the option of the City, in whole, or in part among maturities on such basis as designated by the City and by lot within any one maturity, on December 1, 2026, or on any date thereafter, upon payment of a prepayment price equal to 100% of the principal

amount to be prepaid, together with accrued interest to the date fixed for prepayment, without premium.

(b) Extraordinary Mandatory Prepayment From Net Proceeds of Insurance or Condemnation. The Certificates are subject to mandatory prepayment, in whole, on any Business Day, or in part on any Interest Payment Date among maturities on a pro rata basis and by lot within a maturity, from the Net Proceeds of insurance or eminent domain proceedings credited towards the prepayment of the Lease Payments under Section 9.3 of the Lease and Article VI, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

(c) Sinking Fund Prepayment. The Term Certificates are also subject to mandatory sinking fund prepayment by lot on December 1 in each year as set forth in the following tables, from the principal components of the Lease Payments required to be paid with respect to each of such dates, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the prepayment date, without premium, as follows:

**Term Certificates Maturing
December 1, 20__**

Sinking Fund Prepayment Date <u>(December 1)</u>	Principal Amount <u>To Be Prepaid</u>
--	--

**Term Certificates Maturing
December 1, 20__**

Sinking Fund Prepayment Date <u>(December 1)</u>	Principal Amount <u>To Be Prepaid</u>
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Notwithstanding the foregoing provisions of this subsection (c), if some but not all of the Term Certificates are prepaid under subsections (a) and (b) of this Section 3.01, the aggregate principal amount of the Term Certificates to be prepaid in each year thereafter under this subsection (c) shall be reduced by the aggregate principal amount of Term Certificates so prepaid, to be allocated among sinking fund installments on a pro rata basis in integral multiples of \$5,000 such that the resulting amount of principal represented by the Term Certificates subject to prepayment on any date under this subsection (c) is equal to the aggregate principal components of the Lease Payments coming due and payable on such date. In such instance the City shall provide the Trustee with a revised sinking fund schedule.

SECTION 3.02. *Selection of Certificates for Prepayment.* Whenever provision is made in this Trust Agreement for the prepayment of Certificates and less than all Outstanding Certificates of any maturity are called for prepayment, the Trustee shall select Certificates of such maturity for prepayment by lot. For the purposes of such selection, Certificates shall be deemed to be composed of \$5,000 portions, and any such portion may be separately prepaid. The Trustee shall promptly notify the City and the Corporation in writing of the Certificates or portions thereof so selected for prepayment.

SECTION 3.03. *Notice of Prepayment.* When prepayment is authorized or required under Section 3.01(a) or 3.01(b), the Trustee shall give notice of the prepayment of the Certificates on behalf and at the expense of the City. Such notice must:

- (a) state the prepayment date and prepayment price;
- (b) state the numbers or maturities of the Certificates to be prepaid, if less than all of the then Outstanding Certificates are to be called for prepayment;
- (c) if a Certificate is to be prepaid only in part, identify the portion of the Certificate which is to be prepaid;
- (d) require that such Certificates be surrendered on the prepayment date at the Office of the Trustee for prepayment at said prepayment price;
- (e) state that interest represented by the Certificates will not accrue from and after the prepayment date; and
- (f) state that on the prepayment date the principal and premium, if any, represented by each Certificate will become due and payable, together with accrued interest represented thereby to the prepayment date, and that from and after such date interest represented thereby ceases to accrue and be payable; and
- (g) in the case of any prepayment of Certificates under Section 3.01(a), the notice may provide that the proposed prepayment is conditional upon the availability of funds and that the City has the right to rescind the notice as provided below.

The Trustee has no liability for any designation of the CUSIP numbers of the Certificates to be prepaid, and neither the failure to identify the CUSIP numbers of the Certificates to be prepaid nor any incorrect designation of such CUSIP numbers will affect the sufficiency of the proceedings for the prepayment of such Certificates or the cessation of accrual of interest represented thereby from and after the date fixed for prepayment.

The Trustee shall mail notice of prepayment by first class mail with postage prepaid, to the Securities Depositories and to the Municipal Securities Rulemaking Board, and to the Owners of Certificates designated for prepayment at their respective addresses appearing on the Registration Books, at least 30 days but not more than 60 days prior to the prepayment date. Neither the failure to receive any such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the prepayment of such Certificates or the cessation of accrual of interest represented thereby from and after the date fixed for prepayment.

The City has the right to rescind any notice of the optional prepayment of Certificates under Section 3.01(a) by written notice to the Trustee on or prior to the dated fixed for prepayment. Any notice of optional prepayment shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for prepayment for the payment in full of the Certificates then called for prepayment, and such cancellation shall not constitute an Event of Default. The City and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of prepayment. The Trustee shall mail notice of such rescission of prepayment to the respective Owners of the Certificates designated for prepayment at their respective addresses appearing on the Registration Books, and to the Securities Depositories and the Municipal Securities Rulemaking Board.

SECTION 3.04. *Partial Prepayment of Certificates.* Upon surrender of any Certificate prepaid in part only, the Trustee shall execute and deliver to the Owner thereof, at the expense of the City, a new Certificate or Certificates of authorized denominations equal in aggregate principal amount to the unprepaid portion of the Certificate surrendered and of the same interest rate and the same maturity.

SECTION 3.05. *Effect of Notice of Prepayment.* Moneys for the prepayment (including the interest to the applicable date of prepayment) of Certificates having been set aside in the Lease Payment Fund, the Certificates shall become due and payable on the date of such prepayment, and, upon presentation and surrender thereof at the Office of the Trustee, said Certificates shall be paid at the unpaid principal amount (or applicable portion thereof) represented thereby plus interest accrued and unpaid to said date of prepayment.

If, on said date of prepayment, moneys for the prepayment of all the Certificates to be prepaid, together with interest represented thereby to said date of prepayment, shall be held by the Trustee so as to be available therefor on such date of prepayment, then, from and after said date of prepayment, interest represented by the Certificates shall cease to accrue and become payable. All moneys held by the Trustee for the prepayment of Certificates shall be held in trust for the account of the Owners of the Certificates so to be prepaid, and shall be held by the Trustee in cash uninvested.

All Certificates paid at maturity or prepaid prior to maturity under the provisions of this Article III shall be canceled upon surrender thereof.

SECTION 3.06. *Purchase of Certificates.* In lieu of prepayment of Certificates as provided in this Article III, amounts held by the Trustee for such prepayment may, at the written request of the City Representative received by the Trustee at least 75 days prior to the selection of Certificates for prepayment, be applied by the Trustee to the purchase of Certificates at public or private sale as and when and at such prices (including brokerage, accrued interest and other charges) as the City may in its discretion direct, but not to exceed the prepayment price which would be payable if such Certificates were prepaid.

ARTICLE IV

DISPOSITION OF PROCEEDS OF SALE

SECTION 4.01. *Application of Proceeds.*

On the Closing Date, the Trustee will receive net proceeds from the sale of the Certificates of \$_____, which is equal to (A) the purchase price of the Certificates in the amount of \$_____ (representing the aggregate principal amount of the Certificates (\$_____), plus net original issue premium (\$_____), less an underwriter's discount (\$_____), less (B) the amount of \$_____, which the Underwriter will wire to the Escrow Agent for deposit into the Escrow Fund established pursuant to the Escrow Agreement, less (C) the Reserve Policy premium (\$_____) to be wired directly to the Reserve Policy Provider). The Trustee shall transfer or deposit the net proceeds in the Costs of Issuance Fund.

In addition, the Trustee shall credit the Reserve Policy to the Reserve Fund in satisfaction of the Reserve Requirement upon delivery of the Certificates.

The Trustee may establish and maintain for so long as is necessary one or more temporary funds and accounts under this Trust Agreement, including but not limited to a temporary fund for holding the proceeds of the Certificates.

SECTION 4.02. *Reserve Fund.* The Trustee shall establish, maintain and hold in a trust a separate fund designated as the "Reserve Fund." The Trustee shall hold the Reserve Fund in trust for the benefit of the City and the Owners of the Certificates. The Reserve Requirement for the Certificates shall be satisfied by the delivery of the Reserve Policy by the Reserve Insurer to the Trustee on the Closing Date. The Trustee shall draw on the Reserve Policy in accordance with its terms and conditions and the terms of this Trust Agreement.

The amounts available under the Reserve Policy shall be used and withdrawn by the Trustee solely for the purpose of making transfers to the Lease Payment Account, in the event of any deficiency at any time in such account.

The Trustee shall comply with all documentation relating to the Reserve Policy as shall be required to maintain the Reserve Policy in full force and effect and as shall be required to receive payments thereunder in the event and to the extent required to make any payment when and as required under this Section 4.02.

The City shall have no obligation to replace the Reserve Policy or to fund the Reserve Fund with cash or any other security if, at any time that the Certificates are Outstanding, amounts are not available under the Reserve Policy or if any ratings of the Reserve Policy Provider are lowered or terminated.

SECTION 4.03. *Establishment and Application of Costs of Issuance Fund.* The Trustee shall establish, maintain and hold in trust a separate fund designated as the "Costs of Issuance Fund." The Trustee shall disburse moneys in the Costs of Issuance Fund to pay the Costs of Issuance upon submission of written requisitions executed by a City Representative in substantially the form of Appendix C stating the person to whom payment is to be made, the

amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. The Trustee shall not be responsible for the truth or accuracy of such requisitions, may rely conclusively thereon and shall be under no duty to investigate or verify any statements made therein. On May 1, 2017, the Trustee shall withdraw all remaining moneys in the Costs of Issuance Fund and transfer such moneys into the Lease Payment Fund, and the Trustee shall thereupon close the Costs of Issuance Fund.

ARTICLE V

LEASE PAYMENTS; LEASE PAYMENT FUND

SECTION 5.01. *Assignment of Rights in Lease.* Under the Assignment Agreement, the Corporation has transferred, assigned and set over to the Trustee for the benefit of the Owners of the Certificates certain of its rights under (i) the Lease, including but not limited to all of the Corporation's rights to receive and collect all of the Lease Payments and all other amounts required to be deposited in the Lease Payment Fund, and (ii) the Site and Facilities Lease. The City shall pay to the Trustee all Lease Payments and other amounts which have been assigned to the Trustee under the Assignment Agreement. Any Lease Payments collected or received by the Corporation shall be deemed to be held and to have been collected or received by the Corporation as the agent of the Trustee, and the Corporation shall immediately transfer all such Lease Payments and other amounts to the Trustee.

SECTION 5.02. *Establishment of Lease Payment Fund.* The Trustee shall establish a special fund designated as the "Lease Payment Fund." All moneys at any time deposited by the Trustee in the Lease Payment Fund shall be held by the Trustee in trust for the benefit of the City and the Owners of the Certificates. So long as any Certificates are Outstanding, neither the City nor the Corporation has any beneficial right or interest in the Lease Payment Fund, or the moneys deposited therein, except only as provided in this Trust Agreement, and the Trustee shall apply the Lease Payment Fund solely as set forth in this Trust Agreement.

SECTION 5.03. *Deposits.* The Trustee shall deposit all Lease Payments received by it in the Lease Payment Fund, including any moneys received by the Trustee for deposit therein under Section 5.01 or under Article VI hereof, or Article IX of the Lease, and any other moneys required to be deposited therein under the Lease or under this Trust Agreement.

SECTION 5.04. *Application of Moneys.* The Trustee shall apply amounts in the Lease Payment Fund solely for the purpose of paying the principal, interest and prepayment premiums (if any) represented by the Certificates as the same become due and payable, in accordance with the provisions hereof.

SECTION 5.05. *Surplus.* With the exception of amounts transferred to the Lease Payment Fund pursuant to Section 4.04 (c), any surplus remaining in the Lease Payment Fund, after prepayment and payment of all Certificates, including premiums and accrued interest (if any) and payment of any applicable fees and expenses to the Trustee, or provision for such prepayment or payment having been made to the satisfaction of the Trustee, shall be withdrawn by the Trustee and remitted to the City.

ARTICLE VI

INSURANCE AND CONDEMNATION FUND

SECTION 6.01. *Establishment of Insurance and Condemnation Fund; Application of Net Proceeds of Insurance Award.* Any Net Proceeds of insurance collected by the City in the event of accident to or destruction of any component of the Leased Property shall be paid to the Trustee under Section 6.1 of the Lease and deposited by the Trustee promptly upon receipt thereof in a special fund designated as the "Insurance and Condemnation Fund" which the Trustee shall thereupon establish. If the City determines and notifies the Trustee in writing of its determination, within 45 days following the date of such deposit, that the replacement, repair, restoration, modification or improvement of the Leased Property is not economically feasible or in the best interests of the City, then such Net Proceeds shall be promptly transferred by the Trustee to the Lease Payment Fund and applied to the prepayment of Lease Payments under Section 9.3 of the Lease and the corresponding prepayment of Certificates under Section 3.01(b), which prepayment shall be made on the first Interest Payment Date for which notice of prepayment can be timely given. Notwithstanding the foregoing provisions of this Section 6.01, the determination of the City to apply Net Proceeds to the prepayment of Certificates is subject to the following:

- (a) if the Leased Property is damaged or destroyed in full, such Net Proceeds may be transferred to the Lease Payment Fund to be used to prepay Outstanding Certificates only if such Net Proceeds, together with other available moneys, are sufficient to cause the corresponding prepayment of all Lease Payments allocable to the Leased Property; and
- (b) if the Leased Property is damaged or destroyed in part but not in whole, such Net Proceeds may be transferred to the Lease Payment Fund to be used to prepay Outstanding Certificates only if the Lease Payments which result after the corresponding abatement thereof under Section 6.3 of the Lease are sufficient to pay the full amount of principal and interest represented by the Certificates which remain Outstanding after such prepayment.

All Net Proceeds deposited in the Insurance and Condemnation Fund and not so transferred to the Lease Payment Fund shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Property by the City, upon receipt of written requisitions of the City stating with respect to each payment to be made (a) the name and address of the person, firm or corporation to whom payment is due, (b) the amount to be paid and (c) that each obligation mentioned therein has been properly incurred, is a proper charge against the Insurance and Condemnation Fund, has not been the basis of any previous withdrawal, and specifying in reasonable detail the nature of the obligation. Any balance of the Net Proceeds remaining after the City shall file a written certificate with the Trustee stating that such work has been completed shall, after payment of all amounts then due and owing to the Trustee hereunder, be paid to the City.

Notwithstanding any other provision of this Section 6.01 or the Lease, the Trustee shall pay to the City all moneys in the Insurance and Condemnation Fund upon the Trustee's receipt of a written notice executed by a City Representative which states that, pursuant to Section 4.6 of the Lease, the City has substituted other real property for the Leased Property that was

damaged or destroyed and that there will be no abatement of the Lease Payments as a result of such damage or destruction.

SECTION 6.02. *Deposit and Application of Net Proceeds of Eminent Domain Award.* If all or any part of the Leased Property is taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Net Proceeds therefrom shall be deposited with the Trustee in the Insurance and Condemnation Fund, under Section 6.1 of the Lease, and shall be applied and disbursed by the Trustee as follows:

- (a) If the City gives written notice to the Trustee of its determination that (i) such eminent domain proceedings have not materially affected the interest of the City in the Leased Property or the ability of the City to meet any of its financial obligations under the Lease, and (ii) that such proceeds are not needed for repair, replacement or rehabilitation of the Leased Property, the Trustee shall transfer such proceeds to the Lease Payment Fund to be credited towards the payment of the Lease Payments as they become due and payable.
- (b) If the City gives written notice to the Trustee of its determination that (i) such eminent domain proceedings have not materially affected the interest of the City in the Leased Property or the ability of the City to meet any of its financial obligations under the Lease, and (ii) such proceeds are needed for repair, replacement or rehabilitation of the Leased Property, the Trustee shall pay to the City, or to its order, from said proceeds such amounts as the City may expend for the repair or rehabilitation of the Leased Property, upon the filing of requisitions of the City Representative meeting the requirements of Section 6.01.
- (c) If (i) less than all of the Leased Property is taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers, and if the City gives written notice to the Trustee of its determination that such eminent domain proceedings have materially affected the interest of the City in the Leased Property or the ability of the City to meet any of its financial obligations under the Lease, or (ii) all of the Leased Property is taken in such eminent domain proceedings, then the Trustee shall transfer such proceeds to the Lease Payment Fund to be credited toward the prepayment of the Lease Payments under Section 9.3 of the Lease and applied to the corresponding prepayment of Certificates under Section 3.01(b), which prepayment shall be made on the first Interest Payment Date for which notice of prepayment can be timely given.

In making any such determination whether to repair, replace or rehabilitate the Leased Property under this Section 6.02, the City may obtain, but is not required to obtain, at its expense, the report of an independent engineer or other independent professional consultant, a copy of which must be filed with the Trustee. Additionally, any such determination shall be made within 45 days of the date the funds are deposited with the Trustee. Any such determination by the City is final.

ARTICLE VII

MONEYS IN FUNDS; INVESTMENTS

SECTION 7.01. *Held in Trust.* The moneys and Permitted Investments held by the Trustee under this Trust Agreement are irrevocably held in trust for the benefit of the City and the Owners of the Certificates solely for the purposes herein specified, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Trust Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of the Corporation, the Trustee, the City or the Owner of any Certificates.

SECTION 7.02. *Investments Authorized.* Upon the written request of a City Representative filed with the Trustee from time to time, moneys held by the Trustee in any fund or account hereunder shall be invested and reinvested by the Trustee in Permitted Investments which mature not later than the date such moneys are required or estimated by the City to be required to be expended hereunder. In the absence of any written request of the City directing the investment of uninvested moneys held by the Trustee hereunder, the Trustee shall invest such moneys in Permitted Investments described in clause (e) of the definition thereof; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a written request of the City specifying a specific money market fund and, if no such written request of the City is so received, the Trustee shall hold such moneys uninvested. Such investments, if registrable, shall be registered in the name of the Trustee, as trustee or in the name of its nominee, and shall be held by the Trustee. The Trustee may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section 7.02. Such investments and reinvestments shall be made giving full consideration to the time at which funds are required to be available. The Trustee may act as purchaser or agent in the making or disposing of any investment. Whenever in this Trust Agreement any moneys are required to be transferred by the City to the Trustee, such transfer may be accomplished by transferring a like amount of Permitted Investments. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder. The Trustee is not responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Section 7.02.

SECTION 7.03. *Accounting.* The Trustee shall furnish to the City, not less than monthly, an accounting (in the form customarily used by the Trustee) of all investments and other transactions made by the Trustee under this Trust Agreement.

SECTION 7.04. *Allocation of Earnings.* Any income, profit or loss on such investments shall be deposited in or charged to the respective funds from which such investments were made.

SECTION 7.05. *Valuation and Disposition of Investments.* For the purpose of determining the amount in any fund, the value of Permitted Investments credited to such fund shall be valued by the Trustee at least quarterly at the market value thereof. The Trustee may sell or present for prepayment, any Permitted Investment so purchased by the Trustee whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee shall not be liable or responsible for any loss resulting from any such Permitted Investment. The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grants the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

SECTION 7.06. *Investments at Fair Market Value.* Except as otherwise provided in the following sentence, the City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Trust Agreement, or otherwise containing gross proceeds of the Certificates (within the meaning of section 148 of the Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Trust Agreement or the Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code shall be valued at their present value (within the meaning of section 148 of the Code).

ARTICLE VIII

THE TRUSTEE

SECTION 8.01. *Appointment of Trustee.* MUFG Union Bank, N.A., is hereby appointed Trustee by the Corporation and the City for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Trust Agreement. The Corporation and the City agree that they will maintain a Trustee having a corporate trust office in the State of California and having a combined capital and surplus (or whose related bank holding company has a combined capital and surplus) of at least \$75,000,000, and which shall be subject to supervision or examination by Federal or state authority, so long as any Certificates are Outstanding. If such bank, national banking association or trust company publishes a report of condition at least annually under law or to the requirements of any supervising or examining authority above referred to then for the purpose of this Section 8.01 the combined capital and surplus of such, national banking association, bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The City and the Corporation covenant that they will maintain a Trustee qualified under the provisions of the foregoing provisions of this Section 8.01, so long as any Certificates are Outstanding.

The Trustee is hereby authorized to pay or prepay the Certificates when duly presented as provided herein for payment at maturity, or on prepayment, or on purchase by the Trustee as directed by the City prior to maturity in accordance with Section 3.06, and to cancel all Certificates upon payment thereof. The Trustee shall keep accurate records of all funds

administered by it and of all Certificates paid and discharged. The Trustee shall be compensated for its services rendered under the provisions of this Trust Agreement.

SECTION 8.02. *Acceptance of Trusts.* The Trustee hereby accepts the express trusts imposed upon it by this Trust Agreement, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

- (a) The Trustee, prior to the occurrence of an Event of Default and after the curing or waiver of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement. In case an Event of Default has occurred (which has not been cured or waived) the Trustee may exercise such of the rights and powers vested in it by this Trust Agreement, and shall use the same degree of care and skill in their exercise, as a responsible corporate trustee would exercise or use under the circumstances.
- (b) No provision in this Trust Agreement requires the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if repayment of such funds or adequate indemnity against such risk or liability is not in the conclusive opinion of the Trustee satisfactorily assured to it.
- (c) The Trustee is not responsible or liable for any recital herein, or in the Certificates, or for any of the supplements thereto or instruments of further assurance, or for the validity or sufficiency of the security for the Certificates executed and delivered hereunder or intended to be secured hereby and the Trustee shall not be bound at any time to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Corporation or the City under the Lease. The Trustee is not responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with Article VII.
- (d) The Trustee is not accountable for the use of any Certificates delivered hereunder. The Trustee may become the Owner of Certificates with the same rights which it would have if not the Trustee; may acquire and dispose of other bonds or evidence of indebtedness of the City with the same rights it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Certificates, whether or not such committee shall represent the Owners of the majority in aggregate principal amount of the Certificates then Outstanding.
- (e) The Trustee shall be protected in acting upon any notice, request, requisition, consent, certificate, order, affidavit, letter, telegram, direction, facsimile transmission, electronic mail or other paper or document believed by the trust officer responsible for the administrative of the trusts created hereunder to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith under this Trust Agreement upon the request or authority or consent of any person who at the time of making such request or

giving such authority or consent is the Owner of any Certificate, shall be conclusive and binding upon all future Owners of the same Certificate and upon Certificates delivered in exchange therefor or in place thereof. The Trustee is not bound to recognize any person as an Owner of any Certificate or to take any action at such person's request unless such Certificate shall be deposited with the Trustee or satisfactory evidence of the ownership of such Certificate shall be furnished to the Trustee.

- (f) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed by a Corporation Representative or a City Representative as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default of which the Trustee has been given notice or is deemed to have notice, as provided in Section 8.02(h), shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed by it to be necessary or advisable, but shall in no case be bound to secure the same. The Trustee may accept a certificate of a Corporation Representative or a City Representative to the effect that an authorization in the form therein set forth has been adopted by the Corporation or the City, as the case may be, as conclusive evidence that such authorization has been duly adopted, and is in full force and effect.
- (g) The permissive right of the Trustee to do things enumerated in this Trust Agreement may not be construed as a duty and the Trustee is not answerable for other than its negligence or willful misconduct. The immunities and exceptions from liability of the Trustee extend to its officers, directors, employees and agents.
- (h) The Trustee is not required to take notice or be deemed to have notice of any Event of Default hereunder except failure by the City to make any of the Lease Payments to the Trustee required to be made by the City under the Lease or failure by the Corporation or the City to file with the Trustee any document required by this Trust Agreement or the Lease to be so filed subsequent to the delivery of the Certificates, unless the Trustee shall be specifically notified in writing of such default by the Corporation, the City or the Owners of at least 25% in aggregate principal amount of Certificates then Outstanding. All notices or other instruments required by this Trust Agreement to be delivered to the Trustee must, in order to be effective, be delivered at the Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default except as aforesaid.
- (i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, have the right (but not any duty) fully to inspect the Leased Property, including all books, papers and records of the Corporation or the City pertaining to the Leased Property and the Certificates, and to take such memoranda from and with regard thereto as may be desired.

- (j) The Trustee is not required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.
- (k) Notwithstanding anything elsewhere in this Trust Agreement with respect to the execution of any Certificates, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Trust Agreement, the Trustee has the right, but is not required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action, which may be deemed desirable by the Trustee for the purpose of establishing the right of the Corporation or the City to the execution of any Certificates, the withdrawal of any cash, or the taking of any other action by the Trustee.
- (l) Before taking any action referred to in Section 12.03 and this Article at the direction of the Certificate Owners, the Trustee may require that a satisfactory indemnity bond be furnished by the Certificate Owners, or any of them, for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any such action.
- (m) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. The Trustee has no liability for interest on any moneys received hereunder except such as may be agreed upon, other than interest derived from investments made or required to be made under Section 7.02.
- (n) The Trustee is not responsible for the sufficiency of the Lease, its right to receive moneys under the Lease, or the value of or title to the Leased Property.
- (o) The Trustee is not liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Owners of a majority in aggregate principal amount of the Outstanding Certificates relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Trust Agreement.
- (p) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers and the Trustee is not responsible for any misconduct or negligence on the part of any attorney, agent, or receiver appointed with due care. The Trustee shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder and shall be protected in any action taken or suffered by it hereunder in reliance on such advice.

- (q) The Trustee is not liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts.
- (r) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.
- (s) The Trustee agrees to accept and act upon instructions or directions pursuant to this Trust Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the City elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee acts upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding the fact that such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.
- (t) Whenever in the administration of the trusts imposed upon it by this Trust Agreement the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of the City, which shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Trust Agreement in reliance upon such certificate, but in its discretion the Trustee may (but shall have no duty to), in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

- (u) The Trustee shall have no responsibility or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the execution and delivery of the Certificates.
- (v) The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.
- (w) The Trustee shall not be concerned with or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

SECTION 8.03. *Fees, Charges and Expenses of Trustee.* The Trustee shall be entitled to payment and reimbursement by the City for reasonable fees for its services rendered hereunder and all advances, agent and counsel fees (including expenses) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. The Trustee has a first lien with right of payment prior to payment on account of principal, premium, if any, and interest represented by any Certificate upon the amounts held hereunder for the foregoing fees, charges and expenses incurred by it respectively. The Trustee shall be entitled to interest on all moneys advanced by it in the performance of its duties hereunder at the maximum legal rate allowable.

SECTION 8.04. *Notice to Certificate Owners of Default.* If an Event of Default occurs of which the Trustee has been given or is deemed to have notice, as provided in Section 8.02(h), then the Trustee shall promptly give written notice thereof by first class mail, postage prepaid, to the Owner of each Outstanding Certificate, unless such Event of Default has been cured before the giving of such notice; *provided, however* that unless such Event of Default consists of the failure by the City to make any Lease Payment when due, the Trustee may elect not to give such notice to the Certificate Owners if and so long as the Trustee in good faith determines that it is in the best interests of the Certificate Owners not to give such notice.

SECTION 8.05. *Removal of Trustee.* The City may remove the Trustee at any time, unless an Event of Default has occurred and is continuing, and shall remove the Trustee (a) if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owners of a majority in aggregate principal amount of the Certificates then Outstanding (or their attorneys duly authorized in writing) or (b) if at any time the Trustee ceases to be eligible in accordance with Section 8.01, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. In each case such removal shall be accomplished by the giving of 30 days' prior written notice of such removal by the City to the Trustee, whereupon the City shall appoint a successor Trustee in accordance with Section 8.07. However, no removal shall become effective until a successor Trustee has been appointed.

SECTION 8.06. *Resignation by Trustee.* The Trustee and any successor Trustee may at any time resign by giving written notice by registered or certified mail to the City. Upon receiving such notice of resignation, the City shall promptly appoint a successor Trustee in accordance with Section 8.07. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. Upon such acceptance, the City shall mail notice thereof to the Certificate Owners at

their respective addresses set forth on the Registration Books. However, no resignation shall become effective until a successor Trustee has been appointed.

SECTION 8.07. *Appointment of Successor Trustee.* If the Trustee resigns or is removed under Sections 8.06 or 8.05, respectively, the City shall promptly appoint a successor Trustee. If the City for any reason whatsoever fails to appoint a successor Trustee within 30 days following the delivery to the Trustee of the instrument described in Section 8.05 or within 30 days following the receipt of notice by the City under Section 8.06, the Trustee may apply to any federal or state court for the appointment of a successor Trustee meeting the requirements of Section 8.01. Any such successor Trustee appointed by such court will become the successor Trustee hereunder notwithstanding any action by the City purporting to appoint a successor Trustee following the expiration of such 30-day period.

SECTION 8.08. *Merger or Consolidation.* Any company or association into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company or association to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company or association shall be eligible under Section 8.01, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

SECTION 8.09. *Concerning any Successor Trustee.* Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Corporation and the City an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of the City, or of its successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Should any instrument in writing from the City be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article VIII, shall be filed or recorded by the successor Trustee in each recording office where the Assignment Agreement has been filed or recorded.

SECTION 8.10. *Non-Liability of Trustee.* The recitals, statements and representations by the City and the Corporation contained in this Trust Agreement or in the Certificates shall be taken and construed as made by and on the part of the City and the Corporation, as the case may be, and not by the Trustee, and the Trustee has no responsibility, obligation or liability for the correctness of any thereof.

The Trustee makes no representation or warranty, express or implied as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City or the Corporation of the Leased Property. In no event shall the

Trustee be liable for special or consequential damages in connection with or arising from the Lease for the existence, furnishing or use of the Leased Property.

The Trustee is not: (a) responsible for the sufficiency or enforceability of the Lease or the assignment under the Assignment Agreement of its rights to receive Lease Payments; (b) deemed to have knowledge of any Event of Default unless and until it has received written notice thereof or, with respect to Section 8.1(a) of the Lease, has actual knowledge thereof or except as provided in Section 8.02(h); or (c) accountable for the use or application by the City or the Corporation of any funds which the Trustee has released under this Trust Agreement.

SECTION 8.11. *Actions Through Agents.* The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder, and the Trustee is not answerable for the default or misconduct of any such attorney, agent, or receiver selected by it with reasonable care. The Trustee is not answerable for the exercise of any discretion or power under this Trust Agreement or for anything whatever in connection with the funds and accounts established hereunder, except only for its own negligence or willful misconduct.

SECTION 8.12. *Nature of Trust Engagement.* The Trustee undertakes to perform such duties and only such duties as are expressly and specifically set forth in the Trust Agreement and no implied covenants or obligations whatsoever shall be read into the Trust Agreement against the Trustee. In accepting the trusts hereby created, the Trustee acts solely as Trustee and not in its individual capacity. All persons, including without limitation the Owners, the City and the Corporation having any claim against the Trustee arising from the Trust Agreement shall look only to the funds and accounts hereunder for payment except as otherwise provided herein; *provided, however*, that nothing in this sentence is intended or shall be construed to apply to, or limit the source of payment of, claims against the Trustee arising from the negligence or willful misconduct of the Trustee. Under no circumstances shall the Trustee be liable in its individual capacity for payment of the obligations represented by the Certificates.

ARTICLE IX

MODIFICATION OR AMENDMENT

SECTION 9.01. *Amendments Permitted.* This Trust Agreement and the rights and obligations of the Owners of the Certificates may be modified or amended at any time by a supplemental agreement which shall become effective when the written consents of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 13.04, has been filed with the Trustee. No such modification or amendment may (a) extend or have the effect of extending the fixed maturity of any Certificate or reducing the interest rate represented thereby or extending the time of payment of interest, or reducing the amount of principal represented thereby or reducing any premium payable upon the prepayment thereof, without the express consent of the Owner of such Certificate, or (b) reduce or have the effect of reducing the percentage of Certificates required for the affirmative vote or written consent to an amendment or modification hereof, or (c) modify any of the rights or obligations of the Trustee without its written assent thereto. Any such supplemental agreement shall become effective as provided in Section 9.02.

This Trust Agreement and the rights and obligations of the Owners of the Certificates may be modified or amended at any time by a supplemental agreement, without the consent of any Certificate Owners, but only to the extent permitted by law and only:

- (a) to add to the covenants and agreements of any party, other covenants to be observed, or to surrender any right or power herein reserved to the Corporation or the City,
- (b) to cure, correct or supplement any ambiguous or defective provision contained herein,
- (c) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of the portion of lease payments designated as and comprising interest and received by owners of the Certificates,
- (d) in regard to questions arising hereunder, as the parties hereto or thereto may deem necessary or desirable and which shall not, in the opinion of Bond Counsel, materially adversely affect the interests of the Owners of the Certificates, or
- (e) to conform to any amendments of the Lease which are permitted to be made under Section 7.5 thereof.

Any such supplemental agreement shall become effective upon execution and delivery by the parties hereto.

SECTION 9.02. *Procedure for Amendment with Written Consent of Certificate Owners.* If the consents of the Owners of the Certificates are required to any amendment hereof under Section 9.01, such amendment shall be required to comply with the provisions of this Section 9.02. A copy of such supplemental agreement, together with a request to the Certificate Owners for their consent thereto, shall be mailed by the Trustee to each Owner of a Certificate at such Owner's address as set forth on the Registration Books, but failure to mail copies of such supplemental agreement and request shall not affect the validity of the supplemental agreement when assented to as provided in this Section.

Such supplemental agreement may not become effective unless there shall be filed with the Trustee the written consents of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding (exclusive of Certificates disqualified as provided in Section 13.04) and a notice has been mailed as hereinafter provided in this Section. Each such consent shall be effective only if accompanied by proof of ownership of the Certificates for which such consent is given, which proof shall be such as is permitted by Section 2.10. Any such consent shall be binding upon the Owner of the Certificate giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

After the Owners of the required percentage of Certificates have filed their consents to such supplemental agreement, the Trustee shall mail a notice to the Owners of the Certificates in the manner hereinbefore provided in this Section for the mailing of such supplemental

agreement of the notice of adoption thereof, stating in substance that such supplemental agreement has been consented to by the Owners of the required percentage of Certificates and will be effective as provided in this Section (but failure to mail copies of said notice shall not affect the validity of such supplemental agreement or consents thereto). A record, consisting of the papers required by this Section to be filed with the Trustee, shall be conclusive proof of the matters therein stated. Such supplemental agreement shall become effective upon the mailing of such last-mentioned notice, and such supplemental agreement shall be deemed conclusively binding upon the parties hereto and the Owners of all Certificates at the expiration of 60 days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such 60 day period.

SECTION 9.03. *Effect of Supplemental Agreement.* From and after the time any supplemental agreement becomes effective under this Article IX, this Trust Agreement shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto, and the rights of the affected Certificate Owners, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any supplemental agreement shall be deemed to be part of the terms and conditions of this Trust Agreement for any and all purposes.

SECTION 9.04. *Endorsement or Replacement of Certificates Delivered After Amendments.* The Trustee may determine that Certificates delivered after the effective date of any action taken as provided in this Article IX shall bear a notation, by endorsement or otherwise, in form approved by the Trustee, as to such action. In that case, upon demand on the Owner of any Certificate Outstanding at such effective date and presentation of such Owner's Certificate for the purpose at the Office of the Trustee, a suitable notation shall be made on such Certificate. The Trustee may determine that the delivery of substitute Certificates, so modified as in the opinion of the Trustee is necessary to conform to such Certificate Owners' action is necessary or desirable, which substitute Certificates shall thereupon be prepared, executed and delivered. In that case, upon demand on the Owner of any Certificate then Outstanding, such substitute Certificate shall be exchanged at the Office of the Trustee, without cost to such Owner, for a Certificate of the same character then Outstanding, upon surrender of such Outstanding Certificate.

SECTION 9.05. *Amendatory Endorsement of Certificates.* The provisions of this Article IX shall not prevent any Certificate Owner from accepting any amendment as to the particular Certificates held by him, provided that proper notation thereof is made on such Certificates.

SECTION 9.06. *Opinion of Counsel.* Prior to executing any supplemental Trust Agreement, the Trustee shall be furnished an opinion of counsel, upon which it may conclusively rely to the effect that all conditions precedent to the execution of such supplemental Trust Agreement under this Trust Agreement have been satisfied and such supplemental Trust Agreement is authorized and permitted under this Trust Agreement.

SECTION 9.07. *Notice to Rating Agencies.* The City shall send copies of any proposed amendment or modification hereof to each rating agency which then maintains a rating on the Certificates, at least 10 days prior to the effective date of any such amendment or modification.

ARTICLE X

OTHER COVENANTS

SECTION 10.01. *Compliance With and Enforcement of Lease.* The City covenants to perform all obligations and duties imposed on it under the Lease. The Corporation covenants and agrees with the Owners of the Certificates to perform all obligations and duties imposed on it under the Lease.

The City will not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be a ground for cancellation or termination of the Lease by the Corporation thereunder. The Corporation and the City, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting their respective estates, or either of them, in the Leased Property, which may or can in any manner affect such estate of the City, will deliver the same, or a copy thereof, to the Trustee.

SECTION 10.02. *Observance of Laws and Regulations.* The City will keep, observe and perform all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State of California, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the City, including its right to exist and carry on business as a public agency, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

SECTION 10.03. *Prosecution and Defense of Suits.* The City shall promptly, upon request of the Trustee or any Certificate Owner, from time to time take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Leased Property, whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify and save the Trustee and every Certificate Owner harmless from all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

SECTION 10.04. *Recordation and Filing.* The City shall record and file the Lease or a memorandum thereof, the Site and Facilities Lease, the Assignment Agreement and all such documents as may be required by law (and shall take all further actions which may be necessary or be reasonably required by the Trustee), all in such manner, at such times and in such places as may be required by law in order fully to preserve, protect and perfect the security of the Trustee and the Certificate Owners.

SECTION 10.05. *Continuing Disclosure.* The City shall comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Trust Agreement, failure of the City to comply with such Continuing Disclosure Certificate does not constitute an Event of Default; except that any Participating Underwriter (as such term is defined in such Continuing Disclosure Certificate) or any Owner or beneficial owner of the Certificates may take such actions as may be necessary and appropriate to compel performance by the City of its obligations under this Section, including seeking mandate or specific performance by court order.

SECTION 10.06. *Further Assurances.* The Corporation and the City will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Trust Agreement and the Lease, and for the better assuring and confirming unto the Owners of the Certificates the rights and benefits provided herein.

ARTICLE XI

LIMITATION OF LIABILITY

SECTION 11.01. *Limited Liability of City.* Except for the payment of Lease Payments when due in accordance with the Lease and the performance of the other covenants and agreements of the City contained in the Lease and this Trust Agreement, the City has no pecuniary obligation or liability to any of the other parties or to the Owners of the Certificates with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the distribution of Lease Payments to the Owners by the Trustee, except as expressly set forth herein.

SECTION 11.02. *No Liability of the Corporation for Trustee Performance.* Neither the City nor the Corporation has any obligation or liability to any of the other parties or to the Owners of the Certificates with respect to the performance by the Trustee of any duty imposed upon it under this Trust Agreement.

SECTION 11.03. *Indemnification of Trustee.* The Corporation and the City shall indemnify and save the Trustee, its directors, officers, agents and employees harmless from and against (whether or not litigated) all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of any of the following:

- (a) the use, maintenance, condition or management of, or from any work or thing done on, the Leased Property by the Corporation or the City,
- (b) any breach or default on the part of the Corporation or the City in the performance of any of their respective obligations under this Trust Agreement and any other agreement made and entered into for purposes of the Leased Property,
- (c) any act of negligence of the Corporation or the City or of any of their respective agents, contractors, servants, employees, licensees with respect to the Leased Property,
- (d) any act of negligence of any assignee of, or purchaser from the Corporation or the City or of any of its or their respective agents, contractors, servants, employees or licensees with respect to the Leased Property,
- (e) the application of the proceeds of the Certificates,
- (f) the actions of any other party, including but not limited to the ownership, operation or use of or the Leased Property by the Corporation or the City, or

(g) the Trustee's exercise and performance of its powers and duties hereunder.

No indemnification is made under this Section 11.03 or elsewhere in this Trust Agreement for willful misconduct, negligence under this Trust Agreement by the Trustee, its officers, agents, employees, successors or assigns. The Corporation's and the City's obligations hereunder and Section 8.03 hereof will remain valid and binding notwithstanding maturity and payment or discharge of the Certificates and notwithstanding any resignation or removal of the Trustee.

SECTION 11.04. *Opinion of Counsel.* Before being required to take any action, the Trustee may, at the expense of the City, require an opinion of counsel acceptable to the Trustee, or an opinion of Bond Counsel acceptable to the Trustee, or a verified certificate of any party hereto, or both, concerning the proposed action. If it does so in good faith, Trustee shall be absolutely protected in relying on any such opinion or certificate obtained by the Trustee.

SECTION 11.05. *Limitation of Rights to Parties and Certificate Owners.* Nothing in this Trust Agreement or in the Certificates expressed or implied is intended or shall be construed to give any person other than the City, the Corporation, the Trustee and the Owners of the Certificates, any legal or equitable right, remedy or claim under or in respect of this Trust Agreement or any covenant, condition or provision hereof; and all such covenants, conditions and provisions are and shall be for the sole and exclusive benefit of the City, the Corporation, the Trustee and said Owners.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

SECTION 12.01. *Assignment of Rights.* Under the Assignment Agreement the Corporation has transferred, assigned and set over to the Trustee certain of the Corporation's rights in and to the Lease (excepting only the Corporation's rights under Sections 4.4, 5.10, 7.3 and 8.4 thereof), including without limitation all of the Corporation's rights to exercise such rights and remedies conferred on the Corporation under the Lease as may be necessary or convenient (a) to enforce payment of the Lease Payments and any other amounts required to be deposited in the Lease Payment Fund or the Insurance and Condemnation Fund, and (b) otherwise to exercise the Corporation's rights and take any action to protect the interests of the Trustee or the Certificate Owners in an Event of Default.

SECTION 12.02. *Events of Default Defined.* As provided in Section 8.1 of the Lease, any one or more of the following events constitutes an Event of Default:

- (a) Failure by the City to pay any Lease Payment or other payment required to be paid hereunder at the time specified in the Lease.
- (b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed in the Lease or in this Trust Agreement, other than as referred to in the preceding subsection (a), for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Corporation

or the Trustee; *provided, however*, that if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30-day period, the failure will not constitute an Event of Default if the City commences to cure the failure within such 30-day period and thereafter diligently and in good faith cures the failure in a reasonable period of time.

- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

SECTION 12.03. *Remedies.* If an Event of Default happens, then and in each and every such case during the continuance of such Event of Default, the Trustee may, or at the written direction of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding the Trustee shall, exercise any and all remedies available under law or granted under the Lease; *provided, however*, that notwithstanding anything herein or in the Lease to the contrary, there shall be no right under any circumstances to accelerate the maturities of the Certificates or otherwise to declare any Lease Payment not then in default to be immediately due and payable.

SECTION 12.04. *Application of Funds.* All moneys received by the Trustee under any right given or action taken under the provisions of this Article XII or Article VIII of the Lease shall be applied by the Trustee in the order following upon presentation of the several Certificates, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid -

First, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in taking any remedial action with respect thereto, including reasonable compensation to its agents, attorneys and counsel, and including such other necessary costs relating to the administration of the foregoing and to events leading up thereto and to any other fees and expenses incurred in and about the performance of its powers and duties under this Trust Agreement;

Second, to the payment of the whole amount then owing and unpaid with respect to the Certificates for principal and interest, with interest on the overdue principal and installments of interest at the rate set forth in Section 4.3(c) of the Lease (but such interest on overdue installments of interest shall be paid only to the extent funds are available therefor following payment of principal and interest and interest on overdue principal, as aforesaid), and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid with respect to the Certificates, then to the payment of such principal and interest without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest, ratably to the aggregate of such principal and interest.

SECTION 12.05. *Institution of Legal Proceedings.* If one or more Events of Default occur and are continuing, the Trustee in its discretion may, or upon the written request of the Owners of a majority in principal amount of the Certificates then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners of Certificates by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights or duties hereunder.

SECTION 12.06. *Non-waiver.* Nothing in this Article XII or in any other provision of this Trust Agreement or in the Certificates, affects or impairs the obligation of the City, which is absolute and unconditional, to pay or prepay the Lease Payments as provided in the Lease. No delay or omission of the Trustee or any Certificate Owner to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article XII to the Trustee or the Certificate Owners may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Certificate Owners.

SECTION 12.07. *Remedies Not Exclusive.* No remedy herein conferred upon or reserved to the Trustee or the Certificate Owners is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

SECTION 12.08. *Power of Trustee to Control Proceedings.* If the Trustee, upon the happening of an Event of Default, takes any action, by judicial proceedings or otherwise, under its duties hereunder, whether upon its own discretion or upon the direction of the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, it has full power, in the exercise of its discretion for the best interests of the Owners of the Certificates, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; *provided, however,* that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in aggregate principal amount of the Outstanding Certificates opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

SECTION 12.09. *Limitation on Certificate Owners' Right to Sue.* No Owner of any Certificate delivered hereunder may institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Trust Agreement, unless (a) such Owner has previously given to the Trustee written notice of the occurrence of an Event of Default hereunder; (b) the Owners of a majority in aggregate principal amount of all the Certificates then Outstanding have requested the Trustee in writing to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners have tendered to the Trustee indemnity satisfactory to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee has refused or omitted to comply with such request for a period of 60 days after such written request has been received by, and said tender of indemnity has been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Certificates of any remedy hereunder; it being understood and intended that no one or more Owners of Certificates has any right in any manner whatever by its or their action to enforce any right under this Trust Agreement, except in the manner herein provided, and that all proceedings at law or in equity with respect to an Event of Default shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Certificates.

SECTION 12.10. *Possession of Certificates by Trustee Not Required.* All rights and remedies granted to or exercisable by the Trustee hereunder or under the Lease may be exercised by the Trustee without possession of any of the Certificates or the production thereof at the trial or other proceeding relative thereto, and any suit, action or proceeding instituted by the Trustee hereunder or under the Lease shall be brought in its name for the benefit of the Owners of such Certificates, subject to the provisions of this Trust Agreement.

ARTICLE XIII

DISCHARGE; ADMINISTRATIVE PROVISIONS

SECTION 13.01. *Discharge Hereof.* If and when the obligations represented by any Outstanding Certificates shall be paid and discharged in any one or more of the following ways:

- (a) by well and truly paying or causing to be paid the principal, interest and prepayment premiums (if any) represented by such Certificates Outstanding, as and when the same become due and payable, or
- (b) by depositing with the Trustee or any other fiduciary, under an escrow deposit and trust agreement, security for the payment of Lease Payments relating to such Certificates as more particularly described in Section 9.1 of the Lease, said security to be held by the Trustee on behalf of the City to be applied by the Trustee or by such other fiduciary to pay or prepay such Lease Payments as the same become due, under Section 9.1 of the Lease,

then notwithstanding that such Certificates have not been surrendered for payment, all rights hereunder of the Owners of such Certificates and all obligations of the Corporation, the Trustee and the City with respect to such Certificates shall cease and terminate, except only the obligations of the Corporation and the City under Section 11.03 and the obligations of the Trustee under Sections 2.07 and 2.08, and the obligation of the Trustee to pay or cause to be paid, from Lease Payments paid by or on behalf of the City from funds deposited under paragraph (b) of this Section, to the Owners of such Certificates not so surrendered and paid all sums represented thereby when due and in the event of deposits under paragraph (b), and such Certificates shall continue to represent direct, undivided fractional interests of the Owners thereof in the Lease Payments to be paid by or on behalf of the City from funds deposited under paragraph (b) of this Section.

Any funds held by the Trustee, at the time of discharge of the obligations represented by all Outstanding Certificates as a result of one of the events described in paragraphs (a) or (b) of this Section, which are not required for the payment to be made to Owners, shall, upon payment

in full of all fees and expenses of the Trustee (including attorneys' fees) then due, be paid over to the City.

SECTION 13.02. *Records.* The Trustee shall keep complete and accurate records of all moneys received and disbursed under this Trust Agreement, which shall be available for inspection by the City, the Corporation and any Owner, or the agent of any of them, at any reasonable time during regular business hours upon prior notice.

SECTION 13.03. *Notices.* Any notice, request, complaint, demand or other communication under this Trust Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 72 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The Corporation, the City, the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the Corporation: Public Property Financing Corporation of California
2945 Townsgate Road, Suite 200
Westlake Village, California 91361

If to the City: City of El Cerrito
10890 San Pablo Avenue
El Cerrito, California 94530
Attention: Finance Director

If to the Trustee: MUFG Union Bank, N.A.
Attn: Corporate Trust Department

[TO COME]

If to the Reserve Insurer: _____

SECTION 13.04. *Disqualified Certificates.* In determining whether the Owners of the requisite aggregate principal amount of Certificates have concurred in any demand, request, direction, consent or waiver under this Trust Agreement, Certificates which are owned or held by or for the account of the City (but excluding Certificates held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, *provided, however*, that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Certificates which the Trustee knows to be so owned or held shall be disregarded. Upon request of the Trustee, the City and the Corporation shall specify in a certificate to the Trustee those Certificates disqualified pursuant to this Section and the Trustee may conclusively rely on such certificate.

SECTION 13.05. *Payment of Certificates After Discharge of Trust Agreement.* Notwithstanding any provisions of this Trust Agreement, but subject to any applicable laws of the State of California relating to the escheat of funds or property, any moneys held by the Trustee in trust for the payment of the principal or interest represented by any Certificates and

remaining unclaimed for 2 years after the principal represented by all of the Certificates has become due and payable (whether at maturity or upon call for prepayment or by acceleration as provided in this Trust Agreement), if such moneys were so held at such date, or 2 years after the date of deposit of such moneys if deposited after said date when all of the Certificates became due and payable, shall be repaid to the City free from the trusts created by this Trust Agreement, and all liability of the Trustee with respect to such moneys shall thereupon cease; *provided, however*, that before the repayment of such moneys to the City as aforesaid, the Trustee shall (at the request of and at the cost of the City) mail, by first class mail postage prepaid, to the Owners of Certificates which have not yet been paid, at the respective addresses shown on the Registration Books, a notice, in such form as may be deemed appropriate by the Trustee with respect to the Certificates so payable and not presented and with respect to the provisions relating to the repayment to the City of the moneys held for the payment thereof.

SECTION 13.06. *Governing Law.* This Trust Agreement shall be construed and governed in accordance with the laws of the State of California.

SECTION 13.07. *Binding Effect; Successors.* This Trust Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Whenever in this Trust Agreement either the Corporation, the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Trust Agreement contained by or on behalf of the Corporation, the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

SECTION 13.08. *Corporation and City Representatives.* Whenever under the provisions of this Trust Agreement the Corporation or the City is required or permitted to take some action, including but not limited to the giving of any approval or the execution of some request, direction or other instrument, such action shall be made on behalf of the Corporation by a Corporation Representative and on behalf of the City by a City Representative, and any party hereto shall be fully authorized to rely upon any such action by a Corporation Representative or a City Representative.

SECTION 13.09. *Execution in Counterparts.* This Trust Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

SECTION 13.10. *Delivery of Canceled Certificates.* Whenever in this Trust Agreement provision is made for the surrender to or cancellation by the Trustee of any Certificates, the Trustee shall cancel and, unless directed in writing by the City Representative, destroy such Certificates and shall deliver a certificate of destruction with respect thereto to the City.

SECTION 13.11. *Headings.* The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Trust Agreement.

SECTION 13.12. *Waiver of Notice.* Whenever in this Trust Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice are not conditions precedent to the validity of any action taken in reliance upon such waiver.

SECTION 13.13. *Separability of Invalid Provisions.* In case any one or more of the provisions contained in this Trust Agreement or in the Certificates shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Trust Agreement, and this Trust Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The Corporation and the City hereby declare that they would have entered into this Trust Agreement and each and every other section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Certificates pursuant thereto irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Trust Agreement may be held illegal, invalid or unenforceable.

IN WITNESS WHEREOF, the parties have executed this Trust Agreement as of the date and year first above written.

MUFG UNION BANK, N.A., as Trustee

By _____
Authorized Officer

**PUBLIC PROPERTY FINANCING
CORPORATION OF CALIFORNIA**

By _____
Treasurer

CITY OF EL CERRITO

By _____
Finance Director

Attest:

City Clerk

APPENDIX A

DEFINED TERMS

Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms defined in this Appendix A have the respective meanings given them in this Appendix when used in this Trust Agreement and when used in the Lease Agreement.

"Additional Payments" means the amounts payable by the City under Section 4.4 of the Lease.

"Assignment Agreement" means the Assignment Agreement, dated as of January 1, 2017, between the Corporation as assignor and the Trustee as assignee, as originally executed or as thereafter amended under any duly authorized and executed amendments thereto.

"Bond Counsel" means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income under Section 103 of the Code.

"Business Day" means a day other than a Saturday, Sunday or legal holiday, on which banking institutions are not closed in the State of California, or in any state in which any Office of the Trustee is located.

"Certificates" means the \$_____ aggregate principal amount of 2017 Certificates of Participation (2006 City Hall Lease Refinancing), executed and delivered and at any time Outstanding hereunder.

"City" means the City of El Cerrito, a general law city and municipal corporation duly organized and existing under the Constitution of the State of California.

"City Representative" means the Mayor, Vice Mayor, the City Manager, the Finance Director, or any other person authorized by resolution of the City Council of the City to act on behalf of the City under or with respect to the Lease and this Trust Agreement.

"Closing Date" means _____, 2017, the day when the Certificates, duly executed by the Trustee, are delivered to the Original Purchaser.

"Code" means the Internal Revenue Code of 1986 as in effect on the date of delivery of the Lease Agreement or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of delivery of the Lease Agreement, together with applicable temporary and final regulations promulgated, and applicable official public guidance published with respect thereto.

"Continuing Disclosure Certificate" means that certain Continuing Disclosure Certificate executed by the City as of the Closing Date, as originally executed and as it may be amended from time to time in accordance with its terms.

"Corporation" means the Public Property Financing Corporation of California, a nonprofit public benefit corporation.

"Corporation Representative" means the President, Vice President, Treasurer or Secretary of the Corporation, or any other person authorized by the Board of Directors of the Corporation to act on behalf of the Corporation under or with respect to this Trust Agreement.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the City or the Corporation relating to the execution and delivery of the Certificates, including but not limited to filing and recording costs, settlement costs, printing costs, reproduction and binding costs, initial fees and charges of the Trustee (which shall include legal fees and the first annual administration fee of the Trustee), financing discounts, legal fees and charges, insurance fees and charges, financial and other professional consultant fees, costs of rating agencies for credit ratings, fees for execution, transportation and safekeeping of the Certificates, and any charges and fees in connection with the foregoing.

"Costs of Issuance Fund" means the fund by that name established and held by the Trustee under Section 4.03.

"Depository" means (a) initially, DTC, and (b) any other Securities Depository acting as Depository under Section 2.05.

"Depository System Participant" means any participant in the Depository's book-entry system.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

"Escrow Agent" means MUFG Union Bank, N.A. and its successors and assigns as escrow agent under the Escrow Agreement.

"Escrow Agreement" means the Escrow Deposit and Trust Agreement dated as of the Closing Date, among the Authority, the City and the Escrow Agent, relating to the payment and prepayment of the 2006 Bonds and the discharge of the Authority's obligations relating thereto.

"Event of Default" means an event of default under the Lease, as defined in Section 8.1 thereof.

"Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security--State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is

without regard to the source of the investment. To the extent required by the regulations under the Code, the term “investment” will include a hedge.

“Federal Securities” means: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), the payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America; and (b) any obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

“Fiscal Year” means the twelve-month period beginning on July 1 of any year and ending on June 30 of the next succeeding year, or any other twelve-month period by the City as its fiscal year under written notice filed with the Trustee.

“Insurance and Condemnation Fund” means the fund by that name to be established and held by the Trustee under Section 6.01.

“Interest Payment Date” means each June 1 and December 1, commencing June 1, 2017, to and including the final date of maturity of the Certificates.

“Lease” means the Lease Agreement dated as of January 1, 2017, between the Corporation as lessor and the City as lessee, as originally executed or as thereafter amended under any duly authorized and executed amendments and supplements thereto.

“Lease Payment Date” means, with respect to any Interest Payment Date, the 2nd Business Day preceding such Interest Payment Date.

“Lease Payment Fund” means the fund by that name established and held by the Trustee under Section 5.02.

“Lease Payments” means all payments required to be paid by the City under Section 4.3(a) of the Lease, including any prepayment thereof under Article IX of the Lease.

“Leased Property” means all of the land and all of the buildings, improvements and facilities thereon, which is more particularly described in Appendix A attached to the Lease. Leased Property does not include personal property located in the Leased Property. If the City exercises its option under Section 4.6 of the Lease with respect to the substitution of property or its option under Section 4.7 of the Lease Agreement with respect to the release of property, the term “Leased Property” will thereupon be modified accordingly.

“Net Proceeds” means any insurance proceeds or eminent domain award (including any proceeds of sale to a governmental entity under threat of the exercise of eminent domain powers), paid with respect to the Leased Property, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof. For avoidance of doubt, the definition of Leased Property excludes personal property and, therefore, Net Proceeds does not include insurance proceeds or eminent domain award related to personal property.

“Nominee” means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depository designated under Section 2.05(a).

"Office" means the corporate trust office of the Trustee in Los Angeles, California, or such other or additional offices as the Trustee may designate in writing to the Corporation from time to time as the corporate trust office for purposes of this Trust Agreement, except that with respect to presentation of Certificates for payment or for registration of transfer and exchange thereof, such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

"Original Purchaser" means Stifel, Nicolaus & Company, Incorporated, as original purchaser of the Certificates upon the negotiated public sale thereof.

"Outstanding", when used as of any particular time with respect to Certificates, means (subject to the provisions of Section 13.05) all Certificates theretofore executed and delivered by the Trustee under this Trust Agreement except (a) Certificates theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Certificates deemed to have been paid under Section 13.01; and (c) Certificates in lieu of or in exchange for which other Certificates has been executed and delivered by the Trustee under Section 2.08.

"Owner", when used with respect to a Certificate, means the person in whose name the ownership of such Certificate shall be registered on the Registration Books.

"Permitted Encumbrances" means, as of any time: (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may permit to remain unpaid under Article V of the Lease; (b) the Site and Facilities Lease, the Lease and the Assignment Agreement; (c) any right or claim of any mechanic, laborer, materialman, supplier or vendor which is secured by a lien on the Leased Property; (d) the exceptions disclosed in the title insurance policy with respect to the Leased Property issued as of the Closing Date by Stewart Title Company of California, Inc. (or its affiliate); and (e) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the City certifies in writing will not materially impair the use of the Leased Property for its intended purposes.

"Permitted Investments" means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein:

- (a) Federal Securities;
- (b) obligations of any federal agency which either (i) represent full faith and credit of the United States of America, or (ii) are rated "AA" or better by S&P;
- (c) U.S. dollar denominated deposit accounts federal funds and banker's acceptances with domestic commercial banks, which may include the Trustee, its parent holding company, if any, and their affiliates, which have a rating on their short term certificates of deposit on the date of purchase of "A" or better by S&P, maturing no more than 360 days after the date of purchase, provided that ratings on holding companies are not considered as the rating of the bank;
- (d) commercial paper which is rated at the time of purchase in the single highest classification, "A-1+" or better by S&P, and which matures not more than 270 calendar days after the date of purchase;

- (e) investments in a money market fund, including those of an affiliate of the Trustee, rated in the highest short-term rating category by S&P, including funds for which the Trustee, its parent holding company, if any, or any affiliates or subsidiaries of the Trustee or such holding company provide investment advisory or other management services;
- (f) investment agreements with financial institutions whose long-term general credit rating is A or better from S&P, by the terms of which the Trustee may withdraw funds if such rating falls below "A"; and
- (g) the Local Agency Investment Fund which is administered by the California Treasurer for the investment of funds belonging to local agencies within the State of California, provided for investment of funds held by the Trustee, the Trustee is entitled to make investments and withdrawals in its own name as Trustee; and
- (h) shares in a California common law trust established pursuant to Title 1, Division 7, Chapter 5 of the California Government Code which invests exclusively in investments permitted by Section 53635 of Title 5, Division 2, Chapter 4 of the California Government Code, as it may be amended, including but not limited to the California Asset Management Program (CAMP).

"Record Date" means the close of business on the 15th day of the month preceding each Interest Payment Date, whether or not such 15th day is a Business Day.

"Registration Books" means the records maintained by the Trustee under Section 2.11 for the registration of the ownership and transfer of ownership of the Certificates.

"Rental Period" means each period during the Term of the Lease commencing on and including December 2 in each year and extending to and including the next succeeding December 1, except that the first Rental Period begins on the Closing Date and ends on December 1, 2017.

"Reserve Fund" means the fund by that name established and held by the Trustee under Section 4.02.

"Reserve Fund Agreement" means the Debt Service Reserve Fund Agreement, dated _____, 2016, by and between the City and the Reserve Insurer.

"Reserve Insurer" means _____, its successors and assigns, as issuer of the Reserve Policy.

"Reserve Policy" means the Municipal Bond Debt Service Reserve Insurance Policy No. _____ issued by the Reserve Insurer guaranteeing scheduled payments of principal and interest on the Certificates as provided in such policy, including the policy limit set forth therein.

"Reserve Requirement" means \$_____.

"Securities Depositories" means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the City designates in written notice filed with the Trustee.

"Site and Facilities Lease" means the Site and Facilities Lease dated as of January 1, 2017, between the City as lessor and the Corporation as lessee of the Leased Property, as originally executed or as thereafter amended under any duly authorized and executed amendments and supplements thereto.

"S&P" means S&P Global Ratings, a Standard & Poor's Financial Services LLC business, its successors and assigns.

"Term Certificates" means the Certificates maturing on December 1, 20__ and December 1, 20__.

"Term of the Lease" means the time during which the Lease is in effect, as provided in Section 4.2 thereof.

"Trust Agreement" means this Trust Agreement, as originally executed or as thereafter amended under any amendments or supplements hereto which are permitted to be made hereunder.

"Trustee" means MUFG Union Bank, N.A., or any successor thereto acting as trustee hereunder.

"2006 Bonds" means the \$9,610,000 El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project).

"2006 Lease Agreement" means the Facilities Lease, dated as of November 1, 2006, by and between the City and the Corporation.

"2006 Trust Agreement" means the Trust Agreement, dated as of November 1, 2006, between the Authority and the 2006 Trustee.

"2006 Trustee" means MUFG Union Bank, N.A., as trustee under the 2006 Trust Agreement.

APPENDIX B

FORM OF CERTIFICATE OF PARTICIPATION

No. R-_____

\$_____

2017 CERTIFICATE OF PARTICIPATION (2006 City Hall Lease Refinancing)

Evidencing the Direct, Undivided Fractional Interest of the
Owner Thereof in Lease Payments to be Made by the

CITY OF EL CERRITO

RATE OF INTEREST:
_____ %

MATURITY DATE:
December 1, _____

DATED DATE:
_____, 2017

CUSIP:

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

THIS IS TO CERTIFY THAT the Registered Owner identified above, or registered assigns, as the registered owner (the "Registered Owner") of this Certificate of Participation (this "Certificate") is the owner of a direct, undivided fractional interest in Lease Payments (the "Lease Payments") payable under a Lease Agreement dated as of January 1, 2017 (the "Lease"), between the Public Property Financing Corporation of California, a nonprofit public benefit corporation (the "Corporation") and the City of El Cerrito, a general law city and municipal corporation duly organized and existing under the laws of the State of California (the "City"), which Lease Payments and certain other rights and interests under the Lease have been assigned to MUFG Union Bank, N.A., as trustee (the "Trustee"), having a corporate trust office in Los Angeles, California or such other place as designated by the Trustee (the "Office"), or such other or additional offices as the Trustee may designate from time to time as the corporate trust office.

The Registered Owner of this Certificate is entitled to receive, subject to the terms of the Lease, on the Maturity Date identified above, or any earlier prepayment date, the Principal Amount identified above representing a direct, undivided fractional share of the portion of the Lease Payments designated as principal, and to receive on each June 1 and December 1, commencing June 1, 2017 (the "Interest Payment Dates") until payment in full of said principal, the Registered Owner's direct, undivided fractional share of the Lease Payments designated as interest coming due during the period immediately preceding each of the Interest Payment Dates.

Interest represented hereby shall be payable from the Interest Payment Date next preceding the date of execution of this Certificate unless (a) this Certificate is executed on an Interest Payment Date, in which event interest shall be payable from such Interest Payment Date, or (b) unless this Certificate is executed on or before May 15, 2017, in which event

interest is payable from the Dated Date identified above. The Registered Owner's share of the portion of the Lease Payments designated as interest is the result of the multiplication of the aforesaid share of the portion of the Lease Payments designated as principal by the Rate of Interest per annum identified above, calculated on the basis of a 360-day year comprised of twelve 30-day months. Principal represented hereby is payable in lawful money of the United States of America, upon presentation and surrender hereof at the Office of the Trustee, and interest represented hereby is payable by check mailed by first class mail by the Trustee on each Interest Payment Date to the Registered Owner at such Owner's address as it appears on the registration books of the Trustee as of the close of business on the 15th day of the month preceding such Interest Payment Date.

This Certificate has been executed and delivered by the Trustee under the terms of a Trust Agreement dated as of January 1, 2017, among the Trustee, the Corporation and the City (the "Trust Agreement"). The City has certified that it is authorized to enter into the Lease and the Trust Agreement under the laws of the State of California, for the purpose of leasing certain real property (the "Leased Property") used for the municipal purposes of the City. Reference is hereby made to the Lease and the Trust Agreement (copies of which are on file at the Office of the Trustee) for a description of the terms on which the Certificates are delivered, the rights thereunder of the owners of the Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Lease, to all of the provisions of the Lease and the Trust Agreement the Registered Owner of this Certificate, by acceptance hereof, assents and agrees.

The City is obligated under the Lease to pay the Lease Payments for the Leased Property from any source of available funds, subject to certain exceptions as set forth in the Lease. As more fully described in the Lease, the Lease Payments are subject to abatement during any period in which by reason of damage or destruction to the Leased Property in whole or in part, or by reason of eminent domain proceedings with respect to the Leased Property in whole or in part, there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof; such abatement shall be in an amount agreed upon by the City and the Corporation such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining portions of the Leased Property. The obligation of the City to pay the Lease Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay the Lease Payments does not constitute a debt of the City, the State of California or any of its political subdivisions, and does not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The Certificates maturing on or before December 1, 2026, are not subject to optional prepayment before their respective stated maturities. The Certificates maturing on or after December 1, 2027, are subject to prepayment prior to their respective stated maturities, at the option of the City, in whole, or in part among maturities on such basis as designated by the City and by lot within any one maturity, on December 1, 2026, or on any date thereafter, upon payment of a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest to the date fixed for prepayment, without premium.

The Certificates maturing on December 1, 20__ and December 1, 20__, are also subject to mandatory sinking fund prepayment by lot on December 1 in each of the years and in the respective principal amounts as set forth in the following table, in each case from the principal components of the Lease Payments required to be paid with respect to each of such dates, at a

prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the prepayment date, without premium, as follows:

**Term Certificates Maturing
December 1, 20__**

Sinking Fund Prepayment Date <u>(December 1)</u>	Principal Amount <u>To Be Prepaid</u>
--	--

**Term Certificates Maturing
December 1, 20__**

Sinking Fund Prepayment Date <u>(December 1)</u>	Principal Amount <u>To Be Prepaid</u>
--	--

The Certificates are subject to mandatory prepayment, in whole, on any business day, or in part on any Interest Payment Date among maturities on a pro rata basis and by lot within a maturity, from certain proceeds of insurance or eminent domain proceedings credited towards the prepayment of the Lease Payments under the Lease and the Trust Agreement, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

As provided in the Trust Agreement, the Trustee shall mail notice of prepayment of the Certificates by first class mail, postage prepaid, not less than 30 nor more than 60 days before the prepayment date, to the registered owners of the Certificates to be prepaid, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for prepayment or the cessation of accrual of interest represented thereby. If this Certificate is called for prepayment and payment is duly provided therefor as specified in the Trust Agreement, interest represented hereby shall cease to accrue from and after the date fixed for prepayment.

This Certificate is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Office of the Trustee or such other place as designated by the Trustee, but only in the manner, subject to the limitations and upon payment of the charges, if any, provided in the Trust Agreement and upon surrender and cancellation of this Certificate. Upon such transfer a new Certificate or Certificates, of authorized denomination or denominations, representing the same aggregate principal amount and representing the same rate of interest, will be delivered to the transferee in exchange herefor. The City, the Corporation and the Trustee may treat the Registered Owner hereof as the absolute owner

hereof for all purposes, whether or not this Certificate shall be overdue, and the City, the Corporation and the Trustee shall not be affected by any notice to the contrary.

The Trustee is not required to register the transfer or exchange of any Certificate during the period in which the Trustee is selecting certificates for prepayment or any Certificate selected for prepayment.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto with the written consent of the owners of a majority in aggregate principal amount of the Certificates then outstanding, and may be amended without such consent under certain circumstances; provided that no such amendment shall extend the fixed maturity of any Certificate or reduce the interest or principal represented thereby, without the express consent of the owner of such Certificate.

The Trustee has no obligation or liability to the owners of the Certificate to make any payment of the interest, principal or premium (if any) represented by the Certificates, other than as provided in the Trust Agreement from the Lease Payments and amounts credited thereto received or held by the Trustee. The recitals herein shall be taken as statements of the Corporation and the City and not of the Trustee. The Trustee has executed this Certificate solely in its capacity as Trustee under the Trust Agreement and not in its individual or personal capacity.

Unless this Certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC") to the Trustee for registration of transfer, exchange or payment, and any Certificate executed and delivered is registered in the name of Cede & Co. or such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

IN WITNESS WHEREOF, this Certificate has been executed and delivered by MUFG Union Bank, N.A., as Trustee, acting under the Trust Agreement.

Execution Date: _____

MUFG UNION BANK, N.A., *as Trustee*

By: _____
Authorized Officer

FORM OF ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within registered Certificate and hereby irrevocably constitute(s) and appoint(s) _____ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor institution (banks, stockbrokers, saving and loan associations and credit unions with membership in an approved signature medallion program) pursuant to Securities and Exchange Commission Rule 17Ad-15.

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Certificate in every particular without alteration or enlargement or any change whatsoever.

APPENDIX C

COSTS OF ISSUANCE FUND -- REQUISITION FORM

**WRITTEN REQUISITION NO. __ FOR
DISBURSEMENT FROM THE COSTS OF ISSUANCE FUND**

The undersigned hereby states and certifies that:

(i) The undersigned is a City Representative as defined in the Trust Agreement, dated as of January 1, 2017 (the "Trust Agreement"), related to the \$_____ City of El Cerrito 2017 Certificates of Participation (2006 City Hall Lease Financing), and as such, is familiar with the facts herein certified and is authorized and qualified to certify the same;

(ii) under Section 4.03 of the Trust Agreement, you are hereby requested, in your capacity as trustee under the Trust Agreement ("Trustee"), to disburse this date, from the Costs of Issuance Fund established under the Trust Agreement, to the payees set forth on Exhibit A attached hereto and by this reference incorporated herein, at the addresses identified thereon, the amount set forth opposite such payee for payment or reimbursement of Costs of Issuance;

(iii) each item of cost identified herein has been properly incurred, constitutes payment of Costs of Issuance, has not been the basis of any previous disbursement and the payment of such cost is a proper charge against the Costs of Issuance Fund; and

(iv) attached hereto is an invoice for each disbursement to be made under this Requisition.

Capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Trust Agreement.

Dated: ____, 20__

CITY OF EL CERRITO

By _____
Finance Director

EXHIBIT A

COSTS OF ISSUANCE DISBURSEMENTS

TO BE RECORDED AND WHEN RECORDED
RETURN TO:

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Christopher K. Lynch, Esq.

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES UNDER SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT (this "Assignment Agreement"), made and entered into as of January 1, 2017, is between the PUBLIC PROPERTY FINANCING CORPORATION OF CALIFORNIA, a nonprofit public benefit corporation (the "Corporation"), and MUFG UNION BANK, N.A., a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee").

SECTION 1. *Recitals.*

(a) For the purpose of financing the acquisition and construction of City Hall, the City previously caused the El Cerrito Public Financing Authority (the "Authority") to issue its \$9,610,000 El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project) (the "2006 Bonds") pursuant to a Trust Agreement, dated as of November 1, 2006 (the "2006 Trust Agreement"), by and between MUFG Union Bank, N.A., as trustee (the "2006 Trustee") and the Authority.

(b) The 2006 Bonds are payable from lease payments (the "2006 Lease Payments") made by the City for the use and occupancy of the real property and improvements constituting the City Hall pursuant to a Facilities Lease, dated as of November 1, 2006 (the "2006 Lease Agreement"), by and between the City and the Authority.

(c) In order to take advantage of prevailing market conditions and realize savings for the benefit of the City, the City Council of the City has determined to refinance its lease payment obligation under the 2006 Lease Agreement and to cause the redemption of the 2006 Bonds.

(d) The Board of Directors of the Corporation has determined that the public convenience and necessity require assisting the City with refinancing the 2006 Lease Agreement and the 2006 Bonds.

(e) In order to provide funds to refinance the 2006 Lease Agreement, (a) the City and the Corporation will enter into a Site and Facilities Lease, dated as of January 1, 2017 (the "Site and Facilities Lease"), pursuant to which the City will lease certain real property more particularly described on Appendix A and the improvements thereon (the "Leased Property") to the Corporation, (b) the Corporation and the City will enter into a Lease Agreement, dated as of January 1, 2017 (the "Lease"), pursuant to which the Corporation will lease the Leased Property to the City in consideration for certain semi-annual lease payments to be made by the City and (c) the City will cause execution and delivery of the 2017 Certificates of Participation (2006 City Hall Lease Refinancing) (the "Certificates").

(f) The Corporation has agreed to assign its right to receive such lease payments to the Trustee under this Assignment Agreement, and in consideration of such assignment the Trustee will execute and deliver the Certificates, each evidencing a direct, undivided fractional interest in such lease payments, in accordance with a Trust Agreement (the "Trust Agreement"), by and among the City, the Corporation and the Trustee.

(g) The Site and Facilities Lease and this Assignment Agreement are being recorded concurrently with a memorandum of the Lease.

(h) The City is authorized to enter into a lease-leaseback arrangement with the Corporation under Section 37350 of the California Government Code.

SECTION 2. *Assignment.* The Corporation hereby transfers, assigns and sets over to the Trustee, for the benefit of the Owners of all Certificates which are executed, delivered and Outstanding under the Trust Agreement, all of the Corporation's rights under the Site and Facilities Lease and the Lease (excepting only the Corporation's rights under Sections 4.4, 5.10, 7.3 and 8.4 of the Lease), including without limitation (a) the right to receive and collect all of the Lease Payments from the City under the Lease, (b) the right to receive and collect any proceeds of any insurance maintained thereunder with respect to the Leased Property, or any eminent domain award (or proceeds of sale under threat of eminent domain) paid with respect to the Leased Property, and (c) the right to exercise such rights and remedies conferred on the Corporation under the Lease as may be necessary or convenient (i) to enforce payment of the Lease Payments and any other amounts required to be deposited in the Lease Payment Fund or the Insurance and Condemnation Fund established under the Trust Agreement, or (ii) otherwise to protect the interests of the Owners in the event of a default by the City under the Lease. All rights assigned by the Corporation shall be administered by the Trustee in accordance with the provisions of the Trust Agreement and for the benefit of the Owners of Certificates. Such assignment shall be absolute and irrevocable, and shall be without recourse to the Corporation.

SECTION 3. *Acceptance.* The Trustee hereby accepts the assignments made herein for the purpose of securing the payments due under the Lease and Trust Agreement to, and the rights under the Lease and Trust Agreement of, the Owners of the Certificates which are executed, delivered and Outstanding under the Trust Agreement, all subject to the provisions of the Trust Agreement. The recitals contained herein are those of the Corporation and not of the Trustee, and the Trustee assumes no responsibility for the correctness thereof.

SECTION 4. *Conditions.* This Assignment Agreement shall confer no rights or impose no duties upon the Trustee beyond those expressly provided in the Trust Agreement.

SECTION 5. *Execution in Counterparts.* This Assignment Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same agreement. It is also agreed that separate counterparts of this Assignment Agreement may be separately executed by the Trustee and the Corporation, both with the same force and effect as though the same counterpart had been executed by the Trustee and the Corporation.

SECTION 6. *Defined Terms.* All capitalized terms used in this Assignment Agreement and not otherwise defined have the respective meanings given those terms in the Trust Agreement.

SECTION 7. *Binding Effect.* This Assignment Agreement inures to the benefit of and binds the Corporation and the Trustee, and their respective successors and assigns, subject, however, to the limitations contained herein.

SECTION 8. *Governing Law.* This Assignment Agreement shall be construed in accordance with and governed by the Constitution and laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Assignment Agreement by their officers thereunto duly authorized as of the day and year first written above.

**PUBLIC PROPERTY FINANCING
CORPORATION OF CALIFORNIA, as Lessor**

By _____
Treasurer

MUFG UNION BANK, N.A., as Trustee

By _____
Authorized Officer

APPENDIX A

DESCRIPTION OF THE LEASED PROPERTY

The property constituting the Leased Property consists of the land located in the City of El Cerrito, Contra Costa County, State of California, which is described as follows, including all buildings, improvements and facilities at any time situated thereon:

ESCROW DEPOSIT AND TRUST AGREEMENT

Relating to

\$9,610,000

El Cerrito Public Financing Authority
Lease Revenue Bonds, Series 2006 (City Hall Project)

This ESCROW DEPOSIT AND TRUST AGREEMENT (this "**Agreement**"), dated as of January 1, 2017, is among the CITY OF EL CERRITO, a general law city and municipal corporation organized and existing under the laws of the State of California (the "**City**"), the EL CERRITO PUBLIC FINANCING AUTHORITY (the "**Authority**"), a joint exercise of powers authority organized and existing under the laws of the State of California and MUFG UNION BANK, N.A., a national banking association organized and existing under the laws of the United States of America, acting as escrow agent for the Prior Bonds described below (the "**Escrow Agent**") and as successor trustee (the "**Prior Trustee**") for the Prior Bonds.

BACKGROUND:

1. The Authority previously issued its \$9,610,000 El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project) (the "**Prior Bonds**") pursuant to a Trust Agreement dated as of November 1, 2006 (the "**Prior Trust Agreement**"), between the Authority and the Prior Trustee for the purpose of financing the acquisition and construction of City Hall.
2. The Prior Bonds are payable from lease payments (the "Prior Lease Payments") made by the City to the Authority pursuant to a Facilities Lease dated as of November 1, 2006, between the City and the Authority (the "Prior Lease Agreement").
3. In order to take advantage of prevailing bond market conditions, the City and the Authority wish to refinance the Prior Bonds.
4. To that end, the City has proposed to lease certain real property to the Public Property Financing Corporation of California (the "**Corporation**") in consideration of the payment by the Corporation of an upfront rental payment that is sufficient to provide funds to refinance the Prior Bonds.
5. In order to raise funds for such purpose, and pursuant to a Trust Agreement, dated as of January 1, 2017 (the "**Refunding Trust Agreement**"), the City proposes to cause execution and delivery of its City of El Cerrito 2017 Certificates of Participation (2006 City Hall Lease Refinancing) in the aggregate principal amount of \$_____ (the "**Refunding Certificates**").
6. The City and the Authority wish to appoint the Escrow Agent for the purpose of establishing an irrevocable escrow fund to be funded, invested, held and administered for the purpose of providing for the payment in full of the principal and interest and premium (if any) with respect to the outstanding Prior Bonds, and to provide certain directions to the Prior Trustee with respect to the Prior Bonds.

7. As a result of the deposit and investment of funds in accordance with this Agreement, the Prior Bonds will be discharged and defeased in accordance with the provisions of Section 9.01 of the Prior Trust Agreement and redeemed in accordance with the provisions of Section 2.03(b) of the Prior Trust Agreement.

8. As a result of the deposit and investment of funds in accordance with the Trust Agreement, the City's obligations under the Prior Lease Agreement have been discharged in accordance with Section 7.02(d) of the Prior Lease Agreement.

A G R E E M E N T :

In consideration of the premises and the material covenants contained herein, the City, the Authority and MUFG Union Bank, N.A., as Escrow Agent and Prior Trustee, hereby agree as follows:

SECTION 1. *Appointment of Escrow Agent; Establishment of Escrow Fund.* The City and the Authority hereby appoint the Escrow Agent to act as escrow agent for purposes of administering the funds required to defease and prepay the Prior Bonds in accordance with the Prior Trust Agreement. The Escrow Agent is directed to establish an escrow fund (the "**Escrow Fund**") to be held by the Escrow Agent in trust as an irrevocable escrow securing the payment of the Prior Bonds as set forth below. All cash and securities in the Escrow Fund are hereby irrevocably pledged as a special fund for the payment of the principal of and interest and premium (if any) with respect to the Prior Bonds in accordance with the Prior Trust Agreement.

If at any time the Escrow Agent receives actual knowledge that the cash and securities in the Escrow Fund will not be sufficient to make any payment required by Section 4 in respect of the Prior Bonds, the Escrow Agent shall notify the City and the Authority of such fact and the City shall immediately cure such deficiency from any source of legally available funds. The Escrow Agent has no liability for any such insufficiency.

SECTION 2. *Deposit and Investment of Amounts in Escrow Fund.* On _____, 2017 (the "**Closing Date**"), the City, pursuant to the Refunding Trust Agreement, will cause to be transferred to the Escrow Agent for deposit into the Escrow Fund the amount of \$_____ in immediately available funds, to be derived from the proceeds of the Refunding Certificates.

In addition, the City and the Authority hereby direct the Prior Trustee to transfer to the Escrow Agent for deposit into the Escrow Fund the amount of \$_____, to be derived from moneys related to the Prior Bonds that are available as a result of the defeasance of the Prior Bonds.

On the Closing Date, the Escrow Agent shall invest \$_____ of the amounts deposited in the Escrow Fund in the federal securities listed on Exhibit A; the federal securities listed on Exhibit A are "Defeasance Obligations" as defined in the Prior Trust Agreement. The Escrow Agent shall hold the remaining \$____ in cash, uninvested.

SECTION 3. *Application of Amounts in Escrow Fund.* The Escrow Agent is hereby instructed to withdraw from the Escrow Fund and transfer to the Prior Trustee an amount

required to pay the principal of and interest and redemption premium (if any) on the Prior Bonds, in accordance with the schedule attached as Exhibit B hereto.

Following the payment and redemption of the Prior Bonds in full, the Escrow Agent shall transfer any amounts remaining on deposit in the Escrow Fund to MUFG Union Bank, N.A., as trustee for the Refunding Certificates, for deposit in the Lease Payment Fund established under the Refunding Trust Agreement, to be applied to pay interest next coming due and payable on the Refunding Certificates.

SECTION 4. *Irrevocable Election to Redeem Prior Bonds; Defeasance Notice.* The City has irrevocably elected to pay and prepay all of the outstanding Prior Bonds on the date set forth in Exhibit B, in accordance with the provisions of the Prior Trust Agreement. Pursuant to a written direction of the Authority, the Prior Trustee has given notice of the redemption of the Prior Bonds in accordance with the requirements of the Prior Trust Agreement, at the expense of the City, using the form set forth in Exhibit C.

The City and the Authority hereby direct the Prior Trustee to file on the Closing Date the notice attached as Exhibit D on the Municipal Securities Rulemaking Board's EMMA system.

SECTION 5. *Compensation to Escrow Agent.* The City shall pay the Escrow Agent full compensation for its services under this Agreement, including out-of-pocket costs such as publication costs, redemption expenses, legal fees and other costs and expenses relating hereto and, in addition, all fees, costs and expenses relating to the purchase, substitution or withdrawal of any securities after the date hereof. Under no circumstances shall amounts deposited in or credited to the Escrow Fund be deemed to be available for said purposes. The Escrow Agent has no lien upon or right of set off against the cash and securities at any time on deposit in the Escrow Fund.

SECTION 6. *Immunities and Liability of Escrow Agent.* The Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties, covenants or obligations shall be read into this Agreement against the Escrow Agent. The Escrow Agent shall not have any liability hereunder except to the extent of its negligence or willful misconduct. In no event shall the Escrow Agent be liable for any special, indirect or consequential damages. The Escrow Agent shall not be liable for any loss from any investment made by it in accordance with the terms of this Agreement. The Escrow Agent may consult with legal counsel of its own choice and the Escrow Agent shall not be liable for any action taken or not taken by it in good faith in reliance upon the opinion or advice of such counsel. The Escrow Agent shall not be liable for the recitals or representations contained in this Agreement and shall not be responsible for the validity of this Agreement, the sufficiency of the Escrow Fund or the moneys and securities to pay the principal, interest and redemption premium (if any) with respect to the Prior Bonds.

Whenever in the administration of this Agreement the Escrow Agent deems it necessary or desirable that a matter be proved or established prior to taking or not taking any action, such matter may be deemed to be conclusively proved and established by a certificate of an authorized representative of the City and shall be full protection for any action taken or not taken by the Escrow Agent in good faith reliance thereon.

The Escrow Agent may conclusively rely as to the truth and accuracy of the statements and correctness of any opinions or calculations provided to it in connection with this Agreement and shall be protected in acting, or refraining from acting, upon any notice, instruction, request, certificate, document, opinion or other writing furnished to the Escrow Agent in connection with this Agreement and believed by the Escrow Agent to be signed by the proper party, and it need not investigate any fact or matter stated therein.

None of the provisions of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder. The Escrow Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care.

The Escrow Agent may at any time resign by giving 30 days written notice of resignation to the City and the Authority. Upon receiving such notice of resignation, the City and the Authority shall promptly appoint a successor and, upon the acceptance by the successor of such appointment, release the resigning Escrow Agent from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to the resigning Escrow Agent and the successor. If no successor shall have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor.

Any bank, corporation or association into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any bank, corporation or association resulting from any merger, conversion or consolidation to which the Escrow Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Escrow Agent shall be the successor of the Escrow Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

The City shall indemnify, defend and hold harmless the Escrow Agent and its officers, directors, employees, representatives and agents, from and against and reimburse the Escrow Agent for any and all claims, obligations, liabilities, losses, damages, actions, suits, judgments, reasonable costs and expenses (including reasonable attorneys' and agents' fees and expenses) of whatever kind or nature regardless of their merit, demanded, asserted or claimed against the Escrow Agent directly or indirectly relating to, or arising from, claims against the Escrow Agent by reason of its participation in the transactions contemplated hereby except to the extent caused by the Escrow Agent's negligence or willful misconduct. The provisions of the foregoing sentence shall survive the termination of this Agreement or the earlier resignation or removal of the Escrow Agent.

The Escrow Agent agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail (provided, that for purposes of this Agreement, an e-mail does not constitute a notice, request or other communication hereunder but rather the portable document format or similar attachment attached to

such e-mail shall constitute a notice, request or other communication hereunder), facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Escrow Agent shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the City elects to give the Escrow Agent e-mail or facsimile instructions (or instructions by a similar electronic method) and the Escrow Agent in its discretion elects to act upon such instructions, the Escrow Agent's understanding of such instructions shall be deemed controlling. The Escrow Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Escrow Agent, including without limitation the risk of the Escrow Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties.

SECTION 7. *Termination of Agreement.* Upon payment in full of the principal of and interest and redemption premium (if any) on the Prior Bonds and all fees, expense and charges of the Escrow Agent as described above, this Agreement shall terminate and the Escrow Agent shall be discharged from any further obligation or responsibility hereunder.

SECTION 8. *Execution in Counterparts.* This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 9. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

CITY OF EL CERRITO

By: _____
Chief Financial Officer

**EL CERRITO PUBLIC FINANCING
AUTHORITY**

By: _____
Treasurer

MUFG UNION BANK, N.A., as Escrow
Agent and as Prior Trustee

By _____
Authorized Officer

EXHIBIT A
ESCROW SECURITIES

<u>Type of Security</u>	<u>Purchase Date</u>	<u>Maturity Date</u>	<u>First Int Pmt Date</u>	<u>Par Amount</u>	<u>Rate</u>
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EXHIBIT B

ESCROW REQUIREMENTS

Payment <u>Date</u>	Interest <u>Payment</u>	Principal <u>Payment</u>	Principal <u>Redeem</u> <u>ed</u>	Total <u>Payment</u>
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EXHIBIT C

FORM OF CONDITIONAL NOTICE OF REDEMPTION

\$9,610,000
El Cerrito Public Financing Authority
Lease Revenue Bonds, Series 2006
(City Hall Project)

Original Date of Issuance: November 15, 2006

NOTICE IS HEREBY GIVEN, by the El Cerrito Public Financing Authority (the "Authority") that all of the captioned bonds (the "2006 Bonds") have been called for redemption under and within the meaning of the Trust Agreement, dated as of November 1, 2006 (the "2006 Trust Agreement"), on _____ (the "Redemption Date"), at a redemption price equal to the par amount thereof together with accrued interest thereon to the Redemption Date, without premium (the "Redemption Price").

The 2006 Bonds consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP (28285P)</u>
12/1/17	\$260,000	3.750%	BC4
12/1/19 (T)	550,000	4.000	BD2
12/1/21 (T)	590,000	4.000	BE0
12/1/26 (T)	1,710,000	4.500	BF7
12/1/29 (T)	1,220,000	4.200	BG5
11/15/36 (T)	3,535,000	4.500	BH3

T Term Bond.

On the Redemption Date, the Redemption Price will become due and payable upon each 2006 Bond called for redemption and interest with respect thereto will cease to accrue from and after the Redemption Date.

The CUSIP number of the 2006 Bonds has been assigned by an independent service and is included in this notice solely for the convenience of the Owners and neither MUFG Union Bank, N.A., as trustee for the 2006 Bonds (the "2006 Trustee") or the Authority shall be liable for any inaccuracies in such numbers.

Redemption of the 2006 Bonds as described in this notice shall be conditioned upon the receipt by the 2006 Trustee from the Authority of the funds necessary for the proposed redemption on or before the Redemption Date.

Payment of the Redemption Price of the 2006 Bonds called for redemption will become due and payable on the Redemption Date upon presentation and surrender thereof in the following manner:

[to come]

Please call Bondholder Services at (800) 934-6802 with any questions.

Holders of the 2006 Bonds presenting their 2006 Bonds in person for same day payment **must** surrender their bond(s) by 1:00 P.M. CST on the Redemption Date and a check will be available for pick up after 2:00 P.M. CST. Checks not picked up by 4:30 P.M. CST will be mailed out to the certificate holders via first class mail. If payment of the Redemption Price is to be made to the registered owner of the 2006 Bond, you are not required to endorse the 2006 Bond to collect the Redemption Price.

Interest on the principal amount designated to be prepaid shall cease to accrue on and after the Redemption Date.

IMPORTANT NOTICE

Under the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act"), 28% will be withheld if tax identification number is not properly certified.

Dated: _____, 2017

MUFG UNION BANK, N.A.

EXHIBIT D

FORM OF NOTICE OF DEFEASANCE

\$9,610,000

**El Cerrito Public Financing Authority
Lease Revenue Bonds, Series 2006
(City Hall Project)**

Original Date of Issuance: November 15, 2006

NOTICE IS HEREBY GIVEN, by the El Cerrito Public Financing Authority (the "Authority") that the captioned bonds (the "2006 Bonds") have been defeased and discharged under and within the meaning of the Trust Agreement, dated as of November 1, 2006, relating to the 2006 Bonds (the "2006 Trust Agreement"). Funds for the payment of the 2006 Bonds have been deposited with MUFG Union Bank, N.A., as Escrow Agent, and the sufficiency of the funds and investments for the purpose of paying the principal of and interest on the 2006 Bonds has been verified by certified public accountants.

The Authority has irrevocably elected to redeem all of the outstanding 2006 Bonds on _____, 2017, at a redemption price equal to the par amount thereof together with accrued interest thereon to the redemption date, without premium.

As a consequence of the foregoing actions and in accordance with the 2006 Trust Agreement, all obligations of MUFG Union Bank, N.A., as successor trustee for the 2006 Bonds and the Authority with respect to the 2006 Bonds has ceased and terminated, except the obligation to use moneys set aside in escrow as described above and, if necessary, from other legally available funds of the City.

The outstanding 2006 Bonds consist of the following:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP (28285P)</u>
12/1/17	\$260,000	3.750%	BC4
12/1/19 (T)	550,000	4.000	BD2
12/1/21 (T)	590,000	4.000	BE0
12/1/26 (T)	1,710,000	4.500	BF7
12/1/29 (T)	1,220,000	4.200	BG5
11/15/36 (T)	3,535,000	4.500	BH3

T Term Bond.

The CUSIP number of the 2006 Bonds has been assigned by an independent service and is included in this notice solely for the convenience of the Owners and neither MUFG Union Bank, N.A., as trustee for the 2006 Bonds (the "2006 Trustee") or the Authority shall be liable for any inaccuracies in such numbers.

Please call Bondholder Services at _____ with any questions.

Dated: _____

MUFG UNION BANK N.A.

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2016**NEW ISSUE - BOOK-ENTRY ONLY**
BANK QUALIFIED [To be confirmed.]**INSURED RATING: S&P: "____"**
UNDERLYING RATING: S&P: "____"
See "RATING"

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Special Counsel, subject, however to certain qualifications described herein, under existing law, the portion of lease payments designated as and comprising interest and received by the owners of the Certificates is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings, and the Certificates are "qualified tax-exempt obligations" within the meaning of section 265(b)(3) of the Internal Revenue Code of 1986. In the further opinion of Special Counsel, such interest is exempt from California personal income taxes. See "TAX MATTERS."

\$ _____ *

City of El Cerrito
2017 Certificates of Participation
(2006 City Hall Lease Refinancing)

Dated: Date of Delivery**Due: December 1, as shown on inside cover**

Authority for Execution and Delivery. The certificates of participation captioned above (the "Certificates") are being executed and delivered under a Trust Agreement dated as of January 1, 2017 (the "Trust Agreement"), among the City of El Cerrito (the "City"), the Public Property Financing Corporation of California (the "Corporation") and MUFG Union Bank, N.A., as trustee (the "Trustee"). See "THE CERTIFICATES – Authority for Execution and Delivery."

Purpose. The Certificates are being executed and delivered to (i) refinance the City's remaining lease payment obligations under a Lease Agreement dated as of November 1, 2006, by and between the City and El Cerrito Public Financing Authority, and cause the current refunding of the outstanding bonds of the El Cerrito Public Financing Authority captioned "\$9,610,000 El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project)," (ii) provide a debt service reserve through the purchase of a reserve fund policy and (iii) pay certain costs of executing and delivering the Certificates. See "PLAN OF FINANCING."

Security for the Certificates. The Certificates evidence and represent direct, undivided fractional interests in certain payments (the "Lease Payments"), to be made by the City under a Lease Agreement dated as of January 1, 2017 (the "Lease Agreement"), between the City and the Corporation, under which the Corporation will lease certain real property to the City in consideration of the payment by the City of the Lease Payments. The Corporation, for the benefit of the Owners of the Certificates, has assigned, among other things, its right to receive Lease Payments to the Trustee. In addition, a Reserve Fund will be established and available if there are insufficient amounts in the Lease Payment Fund to make payment on the Certificates. See "SECURITY FOR THE CERTIFICATES."

Insurance Policy. The scheduled payment of principal and interest on the Certificates when due will be guaranteed under a municipal bond insurance policy to be issued concurrently with the delivery of the Certificates by _____. See "INTRODUCTION – Certificate Insurance Policy."

Terms of the Certificates. The Certificates will be executed and delivered in denominations of \$5,000 principal amount or integral multiples thereof. Interest with respect to the Certificates accrues from their date of delivery and is payable semiannually on June 1 and December 1, commencing June 1, 2017. See "THE CERTIFICATES – General Certificate Terms."

Book-Entry Only. The Certificates will be executed and delivered as fully registered certificates in book-entry form only, initially registered in the name of Cede & Co., New York, New York, as nominee of The Depository Trust Company ("DTC"), New York, New York. Purchasers will not receive physical certificates representing their interest in the Certificates. The principal and premium (if any) on and interest with respect to the Certificates will be payable by the Trustee to DTC for subsequent disbursement to DTC participants, so long as DTC or its nominee remains the registered owner of the Certificates. See "THE CERTIFICATES – Book-Entry System."

Prepayment. The Certificates are subject to optional prepayment, extraordinary mandatory prepayment from the net proceeds of insurance or condemnation proceedings, and mandatory sinking fund prepayment prior to their scheduled payment dates. See "THE CERTIFICATES – Prepayment of the Certificates."

The following firm is serving as municipal advisor to the City:



This cover page contains information for general reference only, and is not a summary of the security or terms of this issue. Investors must read the entire Official Statement, including the section entitled "RISK FACTORS," for a discussion of special factors that should be considered, in addition to the other matters set forth in this Official Statement, in considering the investment quality of the Certificates. Capitalized terms used on this cover page and not otherwise defined have the meanings set forth in this Official Statement.

MATURITY SCHEDULE

See inside front cover

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances will this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor will there be any sale of these securities in any jurisdiction in which such offer solicitation or sale would be unlawful.

NEITHER THE CERTIFICATES NOR THE OBLIGATION OF THE CITY TO MAKE LEASE PAYMENTS CONSTITUTES A DEBT OF THE CITY OR OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMIT OR RESTRICTION, OR AN OBLIGATION FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

The Certificates are offered when, as and if sold, executed, delivered to and received by the Underwriter, subject to the approval as to their legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Special Counsel. Jones Hall is also serving as Disclosure Counsel to the City. Certain legal matters will be passed upon for the Authority and the City by the City Attorney, and for the Underwriter by Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California. It is anticipated that the Certificates in book-entry form, will be available for delivery to DTC in New York, New York, on or about _____, 2017.

STIFEL

The date of this Official Statement is _____, 2017.

* Preliminary; subject to change.

MATURITY SCHEDULE*

\$_____ Serial Certificates

(Base CUSIP†: _____)

<u>Maturity Date</u> <u>(December 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>Price</u>	<u>CUSIP†</u>
---	-----------------------------------	--------------------------------	--------------	--------------	---------------

\$_____ % Term Certificates Due December 1, 20____; Price: ____; Yield: ____%; CUSIP[†]: ____

\$_____ % Term Certificates Due December 1, 2035; Price: ____; Yield: ____%; CUSIP[†]: ____

* Preliminary; subject to change.

† Copyright 2016, American Bankers Association. CUSIP data are provided by Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc., and are provided for convenience of reference only. Neither the City nor the Underwriter assumes any responsibility for the accuracy of these CUSIP data.

CITY OF EL CERRITO, CALIFORNIA

[Update when new titles available.]

City Council

Greg Lyman, *Mayor*
Janet Abelson, *Mayor Pro Tem*
Jan Bridges, *Council Member*
Mark Friedman, *Council Member*
Gabe Quinto, *Council Member*

City Officials

Scott Hanin, *City Manager*
Sky Woodruff, *City Attorney*
Cheryl Morse, *City Clerk*
Mark Rasiah, *Finance Director/City Treasurer*

Special Counsel and Disclosure Counsel

Jones Hall, A Professional Law Corporation
San Francisco, California

Municipal Advisor

NHA Advisors
San Rafael, California

Trustee and Escrow Agent

MUFG Union Bank, N.A.
San Francisco, California

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

Use of Official Statement. This Official Statement is submitted in connection with the sale of the Certificates referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not to be construed as a contract with the purchasers of the Certificates.

Estimates and Forecasts. When used in this Official Statement and in any continuing disclosure by the City, in any press release and in any oral statement made with the approval of an authorized officer of the City, the words or phrases “will likely result,” “are expected to,” “will continue,” “is anticipated,” “estimate,” “project,” “forecast,” “expect,” “intend” and similar expressions identify “forward looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Any forecast is subject to such uncertainties. Inevitably, some assumptions used to develop the forecasts will not be realized and unanticipated events and circumstances may occur. Therefore, there are likely to be differences between forecasts and actual results, and those differences may be material.

Limit of Offering. No dealer, broker, salesperson or other person has been authorized by the City or the Underwriter to give any information or to make any representations other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Certificates by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

Limited Scope of Information. The City has obtained certain information set forth herein from sources that are believed to be reliable, but this information is not guaranteed as to accuracy or completeness. The information and expressions of opinions herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City or any other parties described in this Official Statement since the date hereof.

All summaries of or references to the documents referred to in this Official Statement are made subject to the provisions of such documents and do not purport to be complete statements of any or all of such provisions. All capitalized terms used herein, unless noted otherwise, have the meanings given them in APPENDIX A.

Involvement of the Underwriter. The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of the information.

Stabilization of Prices. In connection with this offering, the Underwriter may over-allot or effect transactions that stabilize or maintain the market price of the Certificates at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time. The Underwriter may offer and sell the Certificates to certain dealers and others at prices lower than the public offering prices set forth on the cover page hereof and said public offering prices may be changed from time to time by the Underwriter.

NO REGISTRATION. THE CERTIFICATES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON AN EXCEPTION FROM THE REGISTRATION REQUIREMENTS CONTAINED IN SUCH ACT. THE CERTIFICATES HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE.

City Internet Site. The City maintains a website, but the information presented on the website is not a part of this Official Statement and should not be relied upon in making an investment decision with respect to the Certificates.

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OFFICIAL STATEMENT

\$ _____ *

City of El Cerrito
2017 Certificates of Participation
(2006 City Hall Lease Refinancing)

The purpose of this Official Statement (which includes the cover page and the attached appendices) is to provide information concerning the execution and delivery of the certificates of participation captioned above (the “**Certificates**”), evidencing and representing direct, undivided fractional interests of the registered owners thereof in certain lease payments (as described in this Official Statement) to be made by the City of El Cerrito (the “**City**”) to the Public Property Financing Corporation of California (the “**Corporation**”).

Any statements made in this Official Statement involving matters of opinion or of estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized.

Capitalized terms used but not defined in this Official Statement have the meanings set forth in APPENDIX A.

INTRODUCTION

The City. The City is a general law city that was incorporated in August 1917. It is located in western Contra Costa County (the “**County**”), approximately 17 miles northeast of San Francisco and 12 miles north of Oakland. It forms part of the highly urbanized area along the eastern shore of San Francisco Bay together with the cities of Richmond and Berkeley.

For selected financial, economic and demographic information about the City, see “APPENDIX B – City of El Cerrito General Financial and Demographic Information.”

The City’s audited financial statements for the fiscal year ended June 30, 2015, are attached as Appendix C.

Authority for Execution and Delivery. The Certificates are being executed and delivered under a Trust Agreement dated as of January 1, 2017 (the “**Trust Agreement**”), among the City, the Corporation and MUFG Union Bank, as trustee (the “**Trustee**”).

Purposes. The Certificates are being executed and delivered to:

- (i) refinance the City’s remaining lease payment obligations under a Lease Agreement dated as of November 1, 2006 (the “**2006 Lease Payments**”), by and between the City and El Cerrito Public Financing Authority (the “**Authority**”), and cause the current refunding of the outstanding bonds of

* Preliminary; subject to change.

the Authority captioned “\$9,610,000 El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project),” which were issued on November 15, 2006, and are currently outstanding in the aggregate principal amount of \$7,865,000 (the “**2006 Bonds**”);

- (ii) provide a debt service reserve through the purchase of a reserve fund policy; and
- (iii) pay certain costs of executing and delivering the Certificates.

See “PLAN OF FINANCING.”

Security for the Certificates. In order to provide funds to refinance the 2006 Lease Payments, the Corporation and the City have entered into a Site and Facilities Lease dated as of January 1, 2017 (the “**Site Lease**”), pursuant to which the City will lease certain real property and the improvements thereon (the “**Leased Property**”) to the Corporation, and the Corporation and the City have entered into a Lease Agreement dated as of January 1, 2017 (the “**Lease Agreement**”), under which the Corporation will lease the Leased Property back to the City in consideration of the payment by the City of semiannual lease payments (the “**Lease Payments**”). See “THE LEASED PROPERTY.”

The Corporation will assign its right to receive the Lease Payments to the Trustee under an Assignment Agreement dated as of January 1, 2017 (the “**Assignment Agreement**”), between the Authority and the Trustee, in consideration for which the Trustee has agreed to execute and deliver the Certificates. The Certificates evidence and represent direct, undivided fractional interests of the Certificate Owners in the Lease Payments. See “SECURITY FOR THE CERTIFICATES.”

Reserve Fund. A Reserve Fund will be established as additional security for the Certificates, and will be available if there are insufficient amounts in the Lease Payment Fund to make payment on the Certificates. Upon delivery of the Certificates, the City will deposit the reserve fund policy (the “**Reserve Policy**”) issued by _____ (including its successors and assigns, the “**Reserve Insurer**”) with the Trustee in satisfaction of its obligation to fund the Reserve Fund. See “SECURITY FOR THE CERTIFICATES – Reserve Fund.”

Certificate Insurance Policy. Concurrently with the execution and delivery of the Certificates, _____ (the “**Certificate Insurer**”) will issue its insurance policy for the Certificates (the “**Policy**”). The Policy guarantees the scheduled payment of principal of and interest on the Certificates when due as set forth in the form of the Policy included as Appendix H to this Official Statement.

Prepayment. The Certificates are subject to optional prepayment, extraordinary mandatory prepayment from the net proceeds of insurance or condemnation proceedings, and mandatory sinking fund prepayment prior to their scheduled payment dates. See “THE CERTIFICATES – Prepayment of the Certificates.”

Abatement. The Lease Payments are subject to complete or partial abatement in the event and to the extent that there is substantial interference with the City’s use and possession of the Leased Property or any portion thereof. If the Lease Payments are abated under the Lease Agreement, the Certificate Owners would receive less than the full amount of principal of and interest represented by the Certificates. To the extent proceeds of rental interruption

insurance are available, Lease Payments (or a portion thereof) may be made from those proceeds during periods of abatement. See "SECURITY FOR THE CERTIFICATES – Abatement" and "RISK FACTORS – Abatement."

Legal Opinion; Bank Qualified. Upon delivery of the Certificates, Jones Hall, A Professional Law Corporation, San Francisco, California, Special Counsel ("**Special Counsel**") will release its final approving legal opinion with respect to the Certificates, regarding the validity and tax-exempt status of the Certificates, in the form attached hereto as APPENDIX D. In addition, Special Counsel will opine that the Certificates are "qualified tax-exempt obligations" within the meaning of section 265(b)(3) of the Internal Revenue Code of 1986, subject to certain limitations as set forth in such opinion.

Risk Factors. The Certificates are payable only from Lease Payments made by the City to the Corporation and assigned to the Trustee under the Trust Agreement. For a discussion of some of the risks associated with the purchase of the Certificates, see "RISK FACTORS."

Planned Issuance of Sales Tax Revenue Refunding Bonds. Prior to the execution and delivery of the Certificates, the City plans to issue its 2017 Sales Tax Revenue Refunding Bonds ("**Sales Tax Bonds**"). Unlike the Certificates, the Sales Tax Bonds are not an obligation of the City's General Fund.

Limited Obligations. NEITHER THE CERTIFICATES NOR THE OBLIGATION OF THE CITY TO MAKE LEASE PAYMENTS CONSTITUTES A DEBT OF THE CITY OR OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMIT OR RESTRICTION, OR AN OBLIGATION FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

PLAN OF FINANCING

The proceeds of the Certificates will be used to (i) refinance the 2006 Lease Payments and cause the current refunding of the 2006 Bonds, (ii) provide a debt service reserve through the purchase of a reserve fund policy and (iii) pay certain costs of executing and delivering the Certificates.

Refinancing of 2006 Lease Payments and Redemption of 2006 Bonds

The proceeds of the 2006 Bonds were used for the following purposes:

- (i) financing the construction of certain facilities and improvements located in the City, consisting of a new City Hall and for other municipal purposes;
- (ii) funding interest on the 2006 Bonds through December 1, 2008;
- (iii) establishing a reserve fund for the 2006 Bonds; and
- (iv) paying costs of issuance incurred in connection with the issuance, sale and delivery of the 2006 Bonds.

On the date of execution and delivery of the Certificates (the “**Closing Date**”), the City will cause a portion of the proceeds of the Certificates to be transferred to MUFG Union Bank, N.A., as escrow agent (the “**Escrow Agent**”), for deposit into an escrow fund (the “**Escrow Fund**”) established under an Escrow Deposit and Trust Agreement, dated as of January 1, 2017, by and among the City, Authority and Escrow Agent, in an amount sufficient to refinance the remaining 2006 Lease Payments and cause the current refunding of the 2006 Bonds on February 6, 2017 (the “**Redemption Date**”).

The Escrow Agent will hold the amount deposited into the Escrow Fund in cash, uninvested. All amounts held in the Escrow Fund will be applied on the Redemption Date to prepay the 2006 Lease Payments and cause the redemption of the 2006 Bonds at a price equal to 100% of their aggregate principal amount, together with accrued interest to the Redemption Date, without premium.

The amounts held by the Escrow Agent are pledged solely to the prepayment of the 2006 Lease Payments and refunding of the 2006 Bonds. The funds deposited into the Escrow Fund will not be available for the payment of debt service on the Certificates; however, following the prepayment of the 2006 Lease Payments in full and redemption of the 2006 Bonds, the Escrow Agent will transfer any amounts remaining on deposit in the Escrow Fund to the Trustee to be applied to pay interest next coming due and payable on the Certificates.

Estimated Sources and Uses of Funds

The proceeds to be received from the sale of the Certificates, and related amounts, are anticipated to be applied as follows:

SOURCES

Principal Amount of Certificates

Plus/Less: Net Original Issue Premium/(Discount)

Amounts Related to 2006 Bonds

Total Sources

USES

Deposit into Escrow Fund [1]

Deposit into Costs of Issuance Fund [2]

Underwriter's Discount

Total Uses

[1] To be used to prepay the 2006 Lease Payments on the Redemption Date. See “– Refinancing of 2006 Lease Payments and Redemption of 2006 Bonds.”

[2] Includes fees of Special Counsel, Disclosure Counsel, municipal advisor, rating agency, Trustee and Escrow Agent; Policy premium; Reserve Policy premium; title insurance premium; printing costs; and other costs of executing and delivering the Certificates.

THE CERTIFICATES

This section provides summaries of the Certificates and certain provisions of the Trust Agreement. See "APPENDIX A – Summary of Principal Legal Documents" for a more complete summary of the Trust Agreement. Capitalized terms used but not defined in this section have the meanings given in APPENDIX A.

Authority for Execution and Delivery

The Certificates are being executed and delivered under the Trust Agreement, a resolution of the City Council adopted on December 6, 2016, and a resolution of the Board of Directors of the Corporation adopted on _____, 2016. Under these resolutions, the Certificates may be executed and delivered in a maximum principal amount of \$8,250,000.

General Certificate Terms

Certificate Terms. The Certificates will be dated as of the date of original delivery, will bear interest at the rates per annum and will mature on the dates and in the amounts set forth on the inside front cover of this Official Statement. The Certificates will be executed and delivered in fully registered form without coupons in denominations of \$5,000 principal amount or any integral multiple of \$5,000, except that no Certificate will represent principal payable in more than one year.

Interest with respect to the Certificates accrues from their date of delivery and is payable semiannually on June 1 and December 1, commencing June 1, 2017 (each, an "**Interest Payment Date**").

Book-Entry Only System. The Certificates, when executed and delivered, will be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York ("**DTC**"). So long as DTC, or Cede & Co. as its nominee, is the registered owner of all Certificates, all payments with respect to the Certificates will be made directly to DTC, and disbursement of such payments to the DTC Participants (defined below) will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners (defined below) will be the responsibility of the DTC Participants, as more fully described hereinafter. See "– Book-Entry System" below.

Calculation of Interest. Interest represented by the Certificates will be payable from the Interest Payment Date next preceding the date of execution thereof, unless:

- (a) it is executed following a Record Date and on or before the next succeeding Interest Payment Date, in which event interest represented thereby is payable from such Interest Payment Date,
- (b) it is executed on or before the first Record Date, in which event interest represented thereby is payable from the Closing Date, or
- (c) as of the date of any Certificate, interest represented by such Certificate is in default, in which event interest represented thereby will be payable from the Interest Payment Date to which interest has previously been paid or made available for payment with respect to such Certificate.

Interest represented by the Certificates is payable on each Interest Payment Date to and including the date of maturity or prepayment, whichever is earlier.

Such interest represents the portion of Lease Payments designated as interest and coming due on each of the respective Interest Payment Dates. The share of the portion of Lease Payments designated as interest with respect to any Certificate will be computed by multiplying the portion of Lease Payments designated as principal represented by such Certificate by the rate of interest represented by such Certificate (on the basis of a 360-day year consisting of twelve 30-day months).

Record Date. The Trust Agreement defines the “Record Date” with respect to the Certificates as the close of business on the 15th calendar day of the month immediately preceding each Interest Payment Date, whether or not such 15th calendar day is a Business Day.

Payments of Interest and Principal. Payment of interest represented by any Certificate on any Interest Payment Date will be made to the person appearing on the Registration Books as the Owner thereof as of the close of business on the Record Date immediately preceding such Interest Payment Date, such interest to be paid by check mailed on the applicable Interest Payment Date to such Owner, by first class mail postage prepaid, at such Owner’s address as it appears on the Registration Books.

At the written request of the Owner of Certificates in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee prior to the Record Date preceding any Interest Payment Date, the Trustee will pay interest represented by such Certificates coming due and payable on such Interest Payment Date by wire transfer in immediately available funds to such account in the United States as is specified in such written request.

The principal, interest and prepayment premium, if any, represented by any Certificate at maturity or upon prepayment are payable in lawful money of the United States of America upon surrender of such Certificate at the Office of the Trustee.

Notwithstanding the foregoing, while the Certificates are held in the book-entry only system of DTC, all such payments of principal, premium (if any) of, and interest with respect to, the Certificates will be made to Cede & Co. as the registered owner of the Certificates, for subsequent disbursement to Participant and beneficial owners. See “APPENDIX F – BOOK-ENTRY PROVISIONS.”

Prepayment of the Certificates*

Optional Prepayment. The Certificates maturing on or before December 1, 2026, are not subject to optional prepayment before their respective stated maturities.

The Certificates maturing on or after December 1, 2027, are subject to prepayment prior to their respective stated maturities, at the option of the City, in whole, or in part among maturities on such basis as designated by the City and by lot within any one maturity, on December 1, 2026, or on any date thereafter, upon payment of a prepayment price equal to

* Preliminary; subject to change.

100% of the principal amount to be prepaid, together with accrued interest to the date fixed for prepayment, without premium.

Extraordinary Mandatory Prepayment From Net Proceeds of Insurance or Condemnation. The Certificates are subject to extraordinary mandatory prepayment, in whole, on any Business Day, or in part on any Interest Payment Date among maturities on a pro rata basis and by lot within a maturity, from the Net Proceeds of insurance or eminent domain proceedings credited towards the prepayment of the Lease Payments under the Lease Agreement and under the Trust Agreement, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the date fixed for prepayment, without premium.

Mandatory Sinking Fund Prepayment. The Certificate maturing on December 1, 20__ (the “**Term Certificate**”), is also subject to mandatory sinking fund prepayment by lot on December 1 in each year as set forth in the following tables, from the principal components of the Lease Payments required to be paid with respect to each of such dates, at a prepayment price equal to 100% of the principal amount to be prepaid, together with accrued interest represented thereby to the prepayment date, without premium, as follows:

Sinking Fund Prepayment Date (December 1)	Principal Amount To Be Prepaid
---	-----------------------------------

(Maturity)

Notwithstanding the provisions of the previous paragraph, if some but not all the Term Certificate is prepaid as described in “– Optional Prepayment” or “– Extraordinary Mandatory Prepayment from Net Proceeds of Insurance or Condemnation,” the aggregate principal amount of the Term Certificate to be prepaid in each year thereafter will be reduced by the aggregate principal amount of the Term Certificate so prepaid, to be allocated among sinking fund installments on a pro rata basis in integral multiples of \$5,000 such that the resulting amount of principal represented by the Term Certificate subject to prepayment on any date is equal to the aggregate principal components of the Lease Payments coming due and payable on such date.

Selection of Certificates for Prepayment. Whenever provision is made in the Trust Agreement for the prepayment of Certificates and less than all Outstanding Certificates of any maturity are called for prepayment, the Trustee will select Certificates of such maturity for prepayment by lot. For the purposes of such selection, Certificates will be deemed to be composed of \$5,000 portions, and any such portion may be separately prepaid. The Trustee will promptly notify the City and the Corporation in writing of the Certificates or portions thereof so selected for prepayment.

Notice of Prepayment. When optional prepayment or extraordinary mandatory prepayment from the Net Proceeds of insurance or condemnation proceedings is authorized or required under the Trust Agreement, the Trustee will give notice of the prepayment of the Certificates on behalf and at the expense of the City. In the case of optional prepayment, the notice may provide that the proposed prepayment is conditional upon the availability of funds and that the City has the right to rescind the notice as provided below.

The Trustee will mail notice of prepayment by first-class mail with postage prepaid, to the Securities Depositories and to the Municipal Securities Rulemaking Board, and to the Owners of Certificates designated for prepayment at their respective addresses appearing on the Registration Books, at least 30 days but not more than 60 days prior to the prepayment date.

Neither the failure to receive any such notice nor any defect in any notice so mailed will affect the sufficiency of the proceedings for the prepayment of such Certificates or the cessation of accrual of interest represented thereby from and after the date fixed for prepayment.

However, while the Certificates are subject to DTC's book-entry system, the Trustee will be required to give notice of prepayment only to DTC as provided in the letter of representations executed by the City and received and accepted by DTC. DTC and the Participants will have sole responsibility for providing any such prepayment notice to the beneficial owners of the Certificates to be prepaid. Any failure of DTC to notify any Participant, or any failure of Participants to notify the Beneficial Owner of any Certificates to be prepaid, of a notice of prepayment or its content or effect, will not affect the validity of the notice of prepayment, or alter the effect of prepayment set forth in the Trust Agreement.

Rescission of Prepayment. The City has the right to rescind any notice of the optional prepayment of Certificates by written notice to the Trustee on or prior to the date fixed for prepayment. Any notice of optional prepayment will be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for prepayment for the payment in full of the Certificates then called for prepayment, and such cancellation will not constitute an Event of Default. The City and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of prepayment.

The Trustee will mail notice of such rescission of prepayment to the respective Owners of the Certificates designated for prepayment at their respective addresses appearing on the Registration Books, and to the Securities Depositories and the Municipal Securities Rulemaking Board.

Effect of Notice of Prepayment. If moneys for the prepayment (including the interest to the applicable date of prepayment) of Certificates have been set aside in the Lease Payment Fund, the Certificates will become due and payable on the date of such prepayment, and, upon presentation and surrender thereof at the Office of the Trustee, those Certificates will be paid at the unpaid principal amount (or applicable portion thereof) represented thereby plus interest accrued and unpaid to the date of prepayment.

If, on the date of prepayment, moneys for the prepayment of all the Certificates to be prepaid, together with interest represented thereby to the date of prepayment, are held by the Trustee so as to be available therefor on such date of prepayment, then, from and after the date of prepayment, interest represented by the Certificates will cease to accrue and become payable. All moneys held by the Trustee for the prepayment of Certificates will be held in trust for the account of the Owners of the Certificates so to be prepaid, and will be held by the Trustee in cash uninvested.

Purchase of Certificates in Lieu of Prepayment. In lieu of prepayment of Certificates as provided in the Trust Agreement, amounts held by the Trustee for such prepayment may, at the written request of the City Representative received by the Trustee at least 75 days prior to the selection of Certificates for prepayment, be applied by the Trustee to the purchase of

Certificates at public or private sale as and when and at such prices (including brokerage, accrued interest and other charges) as the City may in its discretion direct, but not to exceed the prepayment price which would be payable if such Certificates were prepaid.

Book-Entry System

DTC will act as securities depository for the Certificates. The Certificates will be executed and delivered as fully-registered Certificates registered in the name of Cede & Co. (DTC's partnership nominee). One fully-registered Certificate will be executed and delivered for each maturity of the Certificates, each in the aggregate principal amount of such maturity, and will be deposited with DTC. See "APPENDIX F- BOOK-ENTRY PROVISIONS".

The City and the Trustee cannot and do not give any assurances that DTC, DTC Participants or others will distribute payments of principal, interest or premium with respect to the Certificates paid to DTC or its nominee as the registered owner, or will distribute any prepayment notices or other notices, to the Beneficial Owners, or that they will do so on a timely basis or will serve and act in the manner described in this Official Statement. The City and the Trustee are not responsible or liable for the failure of DTC or any DTC Participant to make any payment or give any notice to a Beneficial Owner with respect to the Certificates or an error or delay relating thereto.

Registration, Transfer and Exchange

The provisions of the Trust Agreement regarding the registration, exchange and transfer of the Certificates apply only during any period in which the Certificates are not subject to DTC's book-entry system. While the Certificates are subject to DTC's book-entry system, their registration, exchange and transfer will be effected through DTC and the Participants and will be subject to the procedures, rules and requirements established by DTC. See APPENDIX F.

Registration. The Trustee will keep or cause to be kept sufficient records for the registration and registration of transfer of the Certificates, which will at all reasonable times be open to inspection by the City and the Corporation upon prior notice, during regular business hours; and, upon presentation for such purpose, the Trustee will, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books, Certificates as provided in the Trust Agreement.

Transfer of Certificates. The registration of any Certificate may, in accordance with its terms, be transferred upon the Registration Books by the person in whose name it is registered, in person or by duly authorized attorney, upon surrender of such Certificate for cancellation at the Office of the Trustee, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, manually executed. Whenever any Certificate or Certificates is surrendered for registration of transfer, the Trustee will execute and deliver a new Certificate or Certificates representing the same maturity, interest rate and aggregate principal amount, in any authorized denominations. The Trustee will require the Certificate Owner to pay all costs of the Trustee incurred in connection with any such transfer and any tax or other governmental charge required to be paid with respect to such transfer.

Exchange of Certificates. Certificates may be exchanged at the Office of the Trustee, for a like aggregate principal amount of Certificates representing other authorized denominations of the same interest rate and maturity. The City will pay all costs of the Trustee incurred in connection with any such exchange, except that the Trustee will require the payment

by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange.

Limitations on Transfer or Exchange. The Trustee may refuse to transfer or exchange either (i) any Certificate during the period established by the Trustee for the selection of Certificates for prepayment, or (ii) any Certificate which the Trustee has selected for prepayment in whole or in part under the Trust Agreement.

SCHEDULE OF LEASE PAYMENTS

The table below shows the annual Lease Payments, which corresponds to the payments of principal and interest with respect to the Certificates and assumes no optional or extraordinary mandatory prepayments.

Rental Period Ending December 1 ⁽¹⁾	Principal Component	Interest Component	Aggregate Lease Payment
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
Total			

- (1) "Rental Period" is defined in the Lease to mean each period during the Term of the Lease commencing on and including December 2 in each year and extending to and including the next succeeding December 1, except that the first Rental Period begins on the Closing Date and ends on December 1, 2017. Lease Payments are due on the second Business Day prior to the corresponding Interest Payment Date.

THE LEASED PROPERTY

General

Lease Payments will be made by the City under the Lease Agreement for the use and occupancy of the Leased Property, which consists of the City's City Hall.

In addition to administrative offices of the City, the City Hall houses an open gathering space, the City Council's Chambers, as well as the Emergency Operations Center ("**EOC**"). The plaza encompasses approximately 9,035 square feet. Because of the inclusion of the EOC, the building was built to seismic standards required for essential facilities. The building, which was completed in 2008, encompasses approximately 16,735 square feet of useable space, of which approximately 2,255 square feet provide space for the City Council Chambers.

The City Hall has an insured value of \$8,261,945, which amount includes \$1,163,694 of personal property, but excludes the land value of the approximately 0.82-acre site on which the City Hall is located. The City currently does not maintain earthquake insurance on the Leased Property.

Modification of Leased Property

Under the Lease Agreement, the City has the right, at its own expense, to make additions, modifications and improvements to the Leased Property or any portion thereof. All additions, modifications and improvements to the Leased Property will thereafter comprise part of the Leased Property and become subject to the provisions of the Lease Agreement.

Such additions, modifications and improvements may not in any way damage the Leased Property, or cause the Leased Property to be used for purposes other than those authorized under the provisions of state and federal law; and the Leased Property, upon completion of any additions, modifications and improvements made thereto under the Lease Agreement, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements.

The City will not permit any lien to be established or remain against the Leased Property for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the City under the Lease Agreement; provided that if any such lien is established and the City first notifies the Corporation of the City's intention to do so, the City may in good faith contest any lien filed or established against the Leased Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and will provide the Corporation with full security against any loss or forfeiture that might arise from the nonpayment of any such item, in form satisfactory to the Corporation. The Corporation will cooperate fully in any such contest, upon the request and at the expense of the City.

Substitution of Property

Under the Lease Agreement, the City has, and is granted, the option at any time and from time to time to substitute other real property (the "**Substitute Property**") for the Leased Property or any portion thereof (the "**Former Property**"), provided that the City must satisfy all

of the requirements set forth in the Lease Agreement that are conditions precedent to such substitution, and which include (among others) the following:

- (a) The City must file with the Corporation and the Trustee, and cause to be recorded in the office of the Contra Costa County Recorder sufficient memorialization of, an amendment of the Lease Agreement that adds to Appendix A thereto a description of such Substitute Property and deletes therefrom the description of such Former Property, and appropriate amendments to the Site Lease and Assignment Agreement that adds thereto a description of such Substitute Property and deletes therefrom the description of such Former Property.
- (b) The City must certify in writing to the Corporation and the Trustee that such Substitute Property serves the municipal purposes of the City and constitutes property which the City is permitted to lease under the laws of the State of California, and has been determined to be essential to the proper, efficient and economic operation of the City and to serve an essential governmental function of the City.
- (c) The City must file with the Corporation and the Trustee a certificate to the effect that the fair market value and the fair rental value of the Substitute Property and any other property that will be subject to the Lease Agreement and the Site Lease are at least equal to the outstanding principal amount of the Certificates, and that the useful life of the Substitute Property at least equals the lesser of (i) the useful life of the Former Property, or (ii) the final Lease Payment Date of the Lease Payments allocable to the Former Property.
- (d) The City will provide the Trustee with an opinion of nationally recognized bond counsel to the effect that such substitution will not, in and of itself, cause the interest on the Certificates to be included in gross income for federal income tax purposes.

Upon the satisfaction of all conditions precedent to substitution under the Lease Agreement, the Term of the Lease Agreement will thereupon end as to the Former Property and commence as to the Substitute Property, and all references to the Former Property will apply with full force and effect to the Substitute Property.

The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such substitution.

The Corporation and the City will execute, deliver and cause to be recorded all documents required to discharge the Lease Agreement, the Site Lease and the Assignment Agreement against the Former Property, and to cause the Substitute Property to become subject to all of the terms and conditions of the Lease Agreement, Site Lease and the Assignment Agreement.

See APPENDIX A for additional conditions to the substitution of property under the Lease Agreement.

Release of Property

Under the Lease Agreement, City has the option at any time and from time to time to release any portion of the Leased Property from the Lease Agreement and the Site Lease (the **"Released Property"**) provided that the City has satisfied all of the requirements of the Lease Agreement that are conditions precedent to such release, and which include (among others) the following:

- (a) The City must file with the Corporation and the Trustee, and cause to be recorded in the office of the Contra Costa County Recorder sufficient memorialization of, an amendment of the Lease Agreement that removes the Released Property therefrom, and appropriate amendments to the Site Lease and Assignment Agreement that removes therefrom the description of the Released Property.
- (b) The City must certify in writing to the Corporation and the Trustee that the fair market value of the property that remains subject to the Lease Agreement and the Site Lease following such removal is at least equal to the outstanding principal amount of the Certificates, and the fair rental value of the property that remains subject to the Lease Agreement and the Site Lease following such removal is at least equal to the Lease Payments thereafter coming due and payable under the Lease Agreement.
- (c) The City will provide the Trustee with an opinion of nationally recognized bond counsel to the effect that such release will not, in and of itself, cause the interest on the Certificates to be included in gross income for federal income tax purposes.

Upon the satisfaction of all conditions precedent to release under the Lease Agreement, the Term of the Lease Agreement will thereupon end as to the Released Property.

The City is not entitled to any reduction, diminution, extension or other modification of the Lease Payments whatsoever as a result of such release.

The Corporation and the City will execute, deliver and cause to be recorded all documents required to discharge the Lease Agreement, the Site Lease and the Assignment Agreement of record against the Released Property.

See APPENDIX A for additional conditions to the release of property from the Lease Agreement and the Site Lease.

THE CITY AND THE CORPORATION

The City

General. The City is a general law city, which was incorporated in August 1917. It is located in the western portion of the County, approximately 17 miles northeast of San Francisco and 12 miles north of Oakland. It forms part of the highly urbanized area along the eastern shore of San Francisco Bay together with the cities of Richmond and Berkeley.

The City operates under the council-manager form of government. The City Council consists of five members elected at large for four-year, overlapping terms. The Mayor is selected by the City Council from among its members for a one-year term. The City Manager and the City Attorney are appointed by the City Council. The City Manager is responsible for administration of municipal affairs, and the City Attorney advises the City Council and the City staff on legal affairs. All municipal departments operate under the supervision of the City Manager. The City Clerk and Finance Director/City Treasurer are appointed by the City Manager.

For selected financial, economic and demographic information about the City, see "APPENDIX B – City of El Cerrito General Financial and Demographic Information."

The Corporation

The Corporation is a non-profit public benefit corporation duly organized and existing under the laws of the State. The Corporation was created for the purpose, among others, of providing assistance to public agencies that wish to finance public improvements. The Corporation is unrelated to the City.

SECURITY FOR THE CERTIFICATES

This section provides summaries of the security and sources of payment for the Certificates and certain provisions of the Trust Agreement and Lease Agreement. See APPENDIX A for a more complete summary of the Trust Agreement and Lease Agreement. Capitalized terms used but not defined in this section have the meanings given in APPENDIX A.

General

Lease Payments. Each Certificate evidences and represents a direct, undivided fractional interest of the Owner thereof in the Lease Payments to be made by the City under the Lease Agreement.

Assignment to Trustee. Under the Assignment Agreement, the Corporation will transfer, assign and set over to the Trustee, for the benefit of the Owners of all Outstanding Certificates, substantially all of the Corporation's rights under the Lease Agreement and the Site Lease, including without limitation:

(a) the right to receive and collect all of the Lease Payments from the City under the Lease Agreement;

(b) the right to receive and collect any proceeds of any insurance maintained under the Lease Agreement with respect to the Leased Property, or any eminent domain award (or proceeds of sale under threat of eminent domain) paid with respect to the Leased Property; and

(c) the right to exercise such rights and remedies conferred on the Corporation under the Lease Agreement as may be necessary or convenient (i) to enforce payment of the Lease Payments and any other amounts required to be deposited in the Lease Payment Fund or the Insurance and Condemnation Fund established under the Trust Agreement, or (ii) otherwise to protect the interests of the Owners in the event of a default by the City under the Lease Agreement.

This assignment will be absolute and irrevocable, and will be without recourse to the Corporation.

Under the Lease Agreement, the City acknowledges that all Lease Payments have been assigned by the Corporation to the Trustee in trust under the Assignment Agreement, for the benefit of the Owners of the Certificates, and the City consents to such assignment. The Corporation directs the City, and the City agrees to pay to the Trustee at its Office, all Lease Payments (including prepayments thereof).

Lease Payments

Obligation to Make Lease Payments. Under the Lease Agreement (subject to the provisions of the Lease Agreement regarding abatement and prepayment), the City will pay to the Corporation, its successors and assigns, the Lease Payments (denominated into components of principal and interest) in the respective amounts specified in the Lease Agreement, to be due and payable in immediately available funds on the Interest Payment Dates immediately following each of the respective Lease Payment Dates, and to be deposited by the City with the Trustee on each of the Lease Payment Dates.

The Lease Payments payable in any Rental Period are for the use of the Leased Property during such Rental Period.

Credits and Offsets. Any amount held in the Lease Payment Fund on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole, and other than amounts required for payment of past due principal or interest represented by any Certificates not presented for payment) will be credited towards the Lease Payment then required to be paid.

No Lease Payment need be deposited with the Trustee on any Lease Payment Date if the amounts then held in the Lease Payment Fund are at least equal to the Lease Payment then required to be deposited with the Trustee.

Effect of Prepayment. If the City prepays all Lease Payments in full under the Lease Agreement, and if the City has paid all Additional Payments then due and payable, the City's obligations to make Lease Payments under the Lease Agreement will thereupon cease and terminate.

If the City prepays the Lease Payments in part but not in whole under the Lease Agreement, the principal components of the remaining Lease Payments will be reduced in integral multiples of \$5,000 among Lease Payment Dates on a basis that corresponds to the principal maturities of the Certificates that are prepaid; and the interest component of each remaining Lease Payment will be reduced by the aggregate corresponding amount of interest that would otherwise be payable with respect to the Certificates thereby prepaid under the Trust Agreement.

Rate on Overdue Payments. If the City fails to make any of the Lease Payments, the payment in default will continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay the same with interest thereon, from the date of default to the date of payment at the highest rate of interest represented by any Outstanding Certificate.

Fair Rental Value. The Lease Payments and Additional Payments coming due and payable during each Rental Period constitute the total rental for the Leased Property for such Rental Period, and the City will pay the Lease Payments and Additional Payments in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Leased Property during each Rental Period.

The Corporation and the City have agreed and determined that the total Lease Payments represent the fair rental value of the Leased Property. In making that determination, consideration has been given to the estimated value of the Leased Property as of the Closing Date, other obligations of the City and the Corporation under this Lease, the uses and purposes that may be served by the Leased Property, and the benefits therefrom that will accrue to the City and the general public.

Source of Payments; Budget and Appropriation

The Lease Payments are payable from any source of legally available funds of the City, subject to the provisions of the Lease Agreement regarding abatement and prepayment.

The City covenants in the Lease Agreement to take such action as may be necessary to include all estimated Lease Payments and all estimated Additional Payments due under the Lease Agreement in each of its final approved budgets. The City further covenants to make all necessary appropriations (including any supplemental appropriations) from any source of legally available funds of the City for all the actual amount of Lease Payments and Additional Payments that come due and payable during the period covered by each such budget.

These covenants on the part of the City are duties imposed by law and it is the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in the Lease Agreement agreed to be carried out and performed by the City.

Limited Obligation

THE OBLIGATION OF THE CITY TO MAKE LEASE PAYMENTS DOES NOT CONSTITUTE A DEBT OF THE CITY OR OF THE STATE OF CALIFORNIA OR OF ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMIT OR RESTRICTION, OR AN OBLIGATION FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

Additional Payments

In addition to the Lease Payments, under the Lease Agreement, the City agrees to pay when due, as additional rental for the Leased Property thereunder, all costs and expenses incurred by the City thereunder or under the Trust Agreement, or incurred by the Corporation to comply with the provisions of the Trust Agreement, including without limitation (a) all Costs of Issuance (to the extent not paid from amounts on deposit in the Costs of Issuance Fund), (b) annual compensation due to the Trustee and all of its reasonable costs and expenses (including amounts payable to the Trustee by virtue of indemnification) payable as a result of the performance of and compliance with its duties under the Trust Agreement, and (c) all reasonable costs and expenses of attorneys, auditors, engineers and accountants engaged by the Corporation or the Trustee in connection with the Leased Property or the performance of their duties under the Lease Agreement or the Trust Agreement.

Reserve Fund

Under the Trust Agreement, a Reserve Fund will be established for the benefit of the City and the Owners of the Certificates. The Trustee will hold the Reserve Fund in trust as a reserve for the payment of the principal of, interest, and premium, if any, on the Certificates.

The Reserve Requirement for the Certificates will be satisfied by the delivery of the Reserve Policy by the Reserve Insurer to the Trustee on the Closing Date. The “**Reserve Requirement**” is defined in the Trust Agreement as \$_____.

The amounts available under the Reserve Policy will be used and withdrawn by the Trustee solely for the purpose of making transfers to the Lease Payment Account in the event of any deficiency at any time in such account.

The Trustee will comply with all documentation relating to the Reserve Policy as required to maintain the Reserve Policy in full force and effect and as required to receive payments thereunder if and to the extent required to make any payment when and as required under the Trust Agreement.

The City will have no obligation to replace the Reserve Policy or to fund the Reserve Fund with cash or any other security if, at any time that the Certificates are Outstanding, amounts are not available under the Reserve Policy.

Pursuant to the Trust Agreement, the City and the Trustee will agree to comply with certain provisions regarding the repayment of any draws under the Reserve Policy and the payment of all related reasonable expenses incurred by the Reserve Insurer.

See APPENDIX A for a further description of the Reserve Fund and the Reserve Policy.

Abatement

Termination or Abatement Due to Eminent Domain. If the Leased Property is taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of the Lease Agreement will cease with respect thereto as of the day possession is so taken.

If less than all of the Leased Property is taken permanently, or if the Leased Property is taken temporarily, under the power of eminent domain,

- (a) the Lease Agreement will continue in full force and effect with respect thereto and will not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and
- (b) there will be a partial abatement of Lease Payments allocated thereto, in an amount to be determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portions of the Leased Property.

Abatement Due to Damage or Destruction. The amount of Lease Payments will be abated during any period in which by reason of damage or destruction (other than by eminent

domain as described above) there is substantial interference with the use and occupancy by the City of the Leased Property or any portion thereof.

The amount of such abatement will be determined by the City such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portions of the Leased Property that are available for use and occupancy.

Such abatement will continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. If any such damage or destruction occurs, the Lease Agreement will continue in full force and effect and the City waives any right to terminate the Lease Agreement by virtue of any such damage and destruction.

Notwithstanding the foregoing, there will be no abatement of Lease Payments to the extent that the proceeds of hazard insurance or rental interruption insurance are available to pay Lease Payments that would otherwise be abated, it being declared that such proceeds and amounts constitute a special fund for the payment of the Lease Payments.

Application of Net Proceeds of Insurance and Condemnation

Application of Net Proceeds of Insurance Award. Under the Trust Agreement, any Net Proceeds of insurance collected by the City in the event of accident to or destruction of any component of the Leased Property will be paid to the Trustee under the Lease Agreement and deposited by the Trustee promptly upon receipt thereof in a special fund designated as the “**Insurance and Condemnation Fund**” which the Trustee will thereupon establish.

If the City determines and notifies the Trustee in writing of its determination, within 45 days following the date of such deposit, that the replacement, repair, restoration, modification or improvement of the Leased Property is not economically feasible or in the best interests of the City, then such Net Proceeds will be promptly transferred by the Trustee to the Lease Payment Fund and applied to the prepayment of Lease Payments under the Lease Agreement and the corresponding prepayment of Certificates under the Trust Agreement. This prepayment will be made on the first Interest Payment Date for which notice of prepayment can be timely given.

Notwithstanding the foregoing, the determination of the City to apply Net Proceeds to the prepayment of Certificates is subject to the following:

- (a) if the Leased Property is damaged or destroyed in full, such Net Proceeds may be transferred to the Lease Payment Fund to be used to prepay Outstanding Certificates only if such Net Proceeds, together with other available moneys, are sufficient to cause the corresponding prepayment of all Lease Payments allocable to the Leased Property; and
- (b) if the Leased Property is damaged or destroyed in part but not in whole, such Net Proceeds may be transferred to the Lease Payment Fund to be used to prepay Outstanding Certificates only if the Lease Payments that result after the corresponding abatement thereof under the Lease Agreement are sufficient to pay the full amount of principal and interest represented by the Certificates that remain Outstanding after such prepayment.

All Net Proceeds deposited in the Insurance and Condemnation Fund and not so transferred to the Lease Payment Fund will be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Leased Property by the City.

Notwithstanding any other provision of the Lease Agreement, the Trustee will pay to the City all moneys in the Insurance and Condemnation Fund upon the Trustee's receipt of a written notice executed by a City Representative which states that, pursuant to the Lease Agreement, the City has substituted other real property for the Leased Property that was damaged or destroyed and that there will be no abatement of the Lease Payments as a result of such damage or destruction.

Application of Net Proceeds of Eminent Domain Award. Under the Trust Agreement, if all or any part of the Leased Property is taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Net Proceeds therefrom will be deposited with the Trustee in the Insurance and Condemnation Fund and will be applied and disbursed by the Trustee as follows:

- (a) If the City gives written notice to the Trustee of its determination that (i) such eminent domain proceedings have not materially affected the interest of the City in the Leased Property or the ability of the City to meet any of its financial obligations under the Lease Agreement, and (ii) that such proceeds are not needed for repair, replacement or rehabilitation of the Leased Property, the Trustee will transfer such proceeds to the Lease Payment Fund to be credited towards the payment of the Lease Payments as they become due and payable.
- (b) If the City gives written notice to the Trustee of its determination that (i) such eminent domain proceedings have not materially affected the interest of the City in the Leased Property or the ability of the City to meet any of its financial obligations under the Lease Agreement, and (ii) such proceeds are needed for repair, replacement or rehabilitation of the Leased Property, the Trustee will pay to the City, or to its order, from said proceeds such amounts as the City may expend for the repair or rehabilitation of the Leased Property.
- (c) If (i) less than all of the Leased Property is taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers, and if the City gives written notice to the Trustee of its determination that such eminent domain proceedings have materially affected the interest of the City in the Leased Property or the ability of the City to meet any of its financial obligations under the Lease Agreement, or (ii) all of the Leased Property is taken in such eminent domain proceedings, then the Trustee will transfer such proceeds to the Lease Payment Fund to be credited toward the prepayment of the Lease Payments under the Lease Agreement and applied to the corresponding prepayment of Certificates under the Trust Agreement. This prepayment will be made on the first prepayment date for which notice of prepayment can be timely given.

In making any such determination whether to repair, replace or rehabilitate the Leased Property under the Trust Agreement, the City may obtain, but is not required to obtain, at its

expense, the report of an independent engineer or other independent professional consultant, a copy of which must be filed with the Trustee. Additionally, any such determination must be made within 45 days of the date the funds are deposited with the Trustee. Any such determination by the City is final.

Covenants to Maintain Insurance

Public Liability and Property Damage Insurance. Under the Lease Agreement, the City will maintain or cause to be maintained, throughout the Term of the Lease Agreement, comprehensive general insurance in protection of the Corporation, the City and their respective members, officers, agents, employees and assigns. Such insurance must provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Leased Property. Such insurance must provide coverage in such liability limits and be subject to such deductibles as the City deems adequate and prudent.

Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of a program of self-insurance by the City, or in the form of the participation by the City in a joint powers authority or other program providing pooled insurance.

The City will apply the proceeds of such insurance toward extinguishment or satisfaction of the liability with respect to which the net proceeds are paid.

Casualty Insurance. Under the Lease Agreement, the City will procure and maintain, or cause to be procured and maintained, at all times throughout the Term of the Lease Agreement, casualty insurance against loss or damage to the insured buildings, facilities and other improvements constituting any part of the Leased Property, in an amount at least equal to the greater of (a) the replacement value of such buildings, facilities and improvements, or (b) the aggregate principal amount of the Outstanding Certificates.

Such insurance will, as nearly as practicable, cover loss or damage by fire, explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. The City shall not be obligated to purchase earthquake coverage as part of such insurance. Such insurance may be subject to such deductibles as the City deems prudent.

Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance. The City shall apply the Net Proceeds of such insurance as provided in the Lease Agreement.

The City currently does not maintain earthquake insurance on the Leased Property, although the Leased Property was built to seismic standards. See "THE LEASED PROPERTY – General" and "RISK FACTORS – Natural Calamities – Seismic."

Rental Interruption Insurance. Under the Lease Agreement, the City will procure and maintain, or cause to be procured and maintained, at all times throughout the Term of the Lease Agreement, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the buildings, facilities and other improvements constituting any part of the Leased

Property, as a result of any of the hazards covered in the casualty insurance required by the Lease Agreement and described above, in an amount at least equal to the maximum Lease Payments coming due and payable during any two consecutive fiscal years during the remaining Term of the Lease Agreement.

Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance; provided that such insurance may not be maintained by the City in the form of self-insurance.

The Net Proceeds of such insurance, if any, will be paid to the Trustee and deposited in the Lease Payment Fund, and will be credited towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

See "APPENDIX A – Summary of Principal Legal Documents" for a summary of certain other insurance requirements under the Lease Agreement.

Additional Rental

The City may amend the Lease Agreement, without the consent of the Trustee or any of the Certificate Owners, to obligate the City to pay additional amounts of rental thereunder for the use and occupancy of the Leased Property or any portion thereof, but only if (A) such additional amounts of rental are pledged or assigned for the payment of any bonds, notes, leases or other obligations the proceeds of which are applied to finance public improvements of the City, and (B) the City has filed with the Trustee written evidence that the amendments made under the Lease Agreement will not of themselves cause a reduction or withdrawal of any rating then assigned to the Certificates. See "RISK FACTORS – Additional Obligations of the City."

See "APPENDIX A – Summary of Principal Legal Documents" for a summary of certain other permitted amendments under the Lease Agreement.

CERTIFICATE INSURANCE POLICY

The following information has been furnished by _____ for use in this Official Statement. No representation is made by the City or Underwriter as to the accuracy or completeness of this information, or the absence of material adverse changes therein at any time subsequent to the date hereof. See APPENDIX H for a specimen of the Policy.

[To be provided by Certificate insurer.]

CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS

Article XIII A of the California Constitution

On June 6, 1978, California voters approved Proposition 13 ("**Proposition 13**"), which added Article XIII A to the State Constitution ("**Article XIII A**"). Article XIII A limits the amount of any ad valorem tax on real property to 1% of the full cash value thereof, except that additional ad valorem taxes may be levied to pay debt service on (i) indebtedness approved by the voters prior to July 1, 1978, (ii) (as a result of an amendment to Article XIII A approved by State voters on June 3, 1986) on bonded indebtedness for the acquisition or improvement of real property which has been approved on or after July 1, 1978, by two-thirds of the voters on such indebtedness, and (iii) bonded indebtedness incurred by a school district or community college district for the construction, reconstruction, rehabilitation or replacement of school facilities or the acquisition or lease of real property for school facilities, approved by 55% of the voters of the district, but only if certain accountability measures are included in the proposition. Article XIII A defines full cash value to mean "the county assessor's valuation of real property as shown on the 1975-76 tax bill under full cash value, or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership have occurred after the 1975 assessment." This full cash value may be increased at a rate not to exceed 2% per year to account for inflation.

Article XIII A has subsequently been amended to permit reduction of the "full cash value" base in the event of declining property values caused by damage, destruction or other factors, to provide that there would be no increase in the "full cash value" base in the event of reconstruction of property damaged or destroyed in a disaster and in other minor or technical ways.

Legislation Implementing Article XIII A. Legislation has been enacted and amended a number of times since 1978 to implement Article XIII A. Under current law, local agencies are no longer permitted to levy directly any property tax (except to pay voter-approved indebtedness). The one percent property tax is automatically levied by the county and distributed according to a formula among taxing agencies. The formula apportions the tax roughly in proportion to the relative shares of taxes levied prior to 1989. Increases of assessed valuation resulting from reappraisals of property due to new construction, change in ownership or from the 2% annual adjustment are allocated among the various jurisdictions in the "taxing area" based upon their respective "situs." Any such allocation made to a local agency continues as part of its allocation in future years.

In accordance with Article XIII A, all taxable property is now shown at "full cash value" on the County's property tax rolls.

Appropriation Limitation - Article XIII B

On November 6, 1979, the voters of the State approved Proposition 4, known as the Gann Initiative, which added Article XIII B to the State Constitution. On June 5, 1990, the voters approved Proposition 111, which amended Article XIII B in certain respects.

Under Article XIII B, as amended, state and local government entities each have an annual "appropriations limit" which limits the ability to spend certain monies that are called "appropriations subject to limitation" (consisting of most tax revenues and certain state

subventions, together called “proceeds of taxes,” and certain other funds) in an amount higher than the “appropriations limit.” Article XIIIB does not affect the appropriation of monies that are excluded from the definition of “appropriations limit,” including debt service on indebtedness existing or authorized as of January 1, 1979, or bonded indebtedness subsequently approved by two-thirds of the voters.

The “appropriations limit” is adjusted annually for changes in the cost of living and in population, for transfers in the financial responsibility for providing services, and in the case of certain declared emergencies.

If an entity receives any proceeds of taxes in excess of its appropriations limit, it may, by resolution of the entity’s governing board, increase its appropriations limit to equal that amount (provided that the State has excess appropriations limit of its own in that fiscal year). The City’s appropriations limit for fiscal year 2016-17 is \$125,810,267, and the City does not anticipate exceeding this limit.

Proposition 218 - Article XIIIC and Article XIIID

General. On November 5, 1996, the voters of the State approved Proposition 218, known as the “Right to Vote on Taxes Act.” Proposition 218 added Articles XIIIC and XIIID to the State Constitution and contains a number of interrelated provisions affecting the ability of the City to levy and collect both existing and future taxes, assessments, fees and charges.

On November 2, 2010, State voters approved Proposition 26, entitled the “Supermajority Vote to Pass New Taxes and Fees Act”. Section 1 of Proposition 26 declares that Proposition 26 is intended to limit the ability of the State Legislature and local government to circumvent existing restrictions on increasing taxes by defining the new or expanded taxes as “fees.” Proposition 26 amended Articles XIIIA and XIIIC of the State Constitution. The amendments to Article XIIIA limit the ability of the State Legislature to impose higher taxes (as defined in Proposition 26) without a two-thirds vote of the Legislature. The amendments to Article XIIIC define “taxes” that are subject to voter approval as “any levy, charge, or exaction of any kind imposed by a local government,” with certain exceptions.

Taxes. Article XIIIC requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes of the City (“general taxes”) require a majority vote; taxes for specific purposes (“special taxes”), even if deposited in the City’s General Fund, require a two-thirds vote. The voter approval requirements of Article XIIIC reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase such taxes in the future to meet increased expenditure needs.

Property-Related Fees and Charges. Article XIIID also adds several provisions making it generally more difficult for local agencies to levy and maintain property-related fees, charges, and assessments for municipal services and programs. These provisions include, among other things, (i) a prohibition against assessments that exceed the reasonable cost of the proportional special benefit conferred on a parcel, (ii) a requirement that assessments must confer a “special benefit,” as defined in Article XIIID, over and above any general benefits conferred, (iii) a majority protest procedure for assessments that involves the mailing of notice and a ballot to the record owner of each affected parcel, a public hearing and the tabulation of ballots weighted according to the proportional financial obligation of the affected party, and (iv) a prohibition against fees and charges that are used for general governmental services, including police, fire

or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

Reduction or Repeal of Taxes, Fees and Charges. Article XIIC also removed limitations on the initiative power in matters of reducing or repealing local taxes, assessments, fees or charges. No assurance can be given that the voters of the City will not, in the future, approve an initiative or initiatives that reduce or repeal local taxes, assessments, fees or charges currently comprising a substantial part of the City's General Fund, including Measure P (a quarter-cent general sales tax increase passed by the voters of the City in 2010) and Measure O (a quarter percent sales tax increase passed by voters in 2004). See "APPENDIX B – City of El Cerrito General Financial and Demographic Information – Major Revenues." If such repeal or reduction occurs, the City's ability to pay debt service with respect to the Certificates could be adversely affected.

Burden of Proof. Article XIIC provides that local government "bears the burden of proving by a preponderance of the evidence that a levy, charge, or other exaction is not a tax, that the amount is no more than necessary to cover the reasonable costs of the governmental activity, and that the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity." Similarly, Article XIID provides that in "any legal action contesting the validity of a fee or charge, the burden shall be on the agency to demonstrate compliance" with Article XIID.

Impact on City's General Fund. The approval requirements of Articles XIIC and XIID reduce the flexibility of the City to raise revenues for the General Fund, and no assurance can be given that the City will be able to impose, extend or increase the taxes, fees or charges in the future that it may need to meet increased expenditure needs. The City believes all of its existing local taxes, fees and assessments are compliant with Proposition 218 and Proposition 26.

Judicial Interpretation. Although some court cases have been decided, further interpretation and application of Articles XIIC and XIID will be determined by the courts, and it is not possible at this time to predict with certainty the outcome of such determination.

Unitary Property

AB 454 (Chapter 921, Statutes of 1986) provides that revenues derived from most utility property assessed by the State Board of Equalization ("**Unitary Property**"), commencing with the 1988-89 fiscal year, will be allocated as follows: (1) each jurisdiction will receive up to 102% of its prior year State-assessed revenue; and (2) if county-wide revenues generated from Unitary Property are less than the previous year's revenues or greater than 102% of the previous year's revenues, each jurisdiction will share the burden of the shortfall or excess revenues by a specified formula. This provision applies to all Unitary Property except railroads, whose valuation will continue to be allocated to individual tax rate areas.

The provisions of AB 454 constitute neither an elimination of the assessment of any State-assessed properties nor a revision of the methods of assessing utilities by the State Board of Equalization. Generally, AB 454 allows valuation growth or decline of Unitary Property to be shared by all jurisdictions in a county.

Proposition 62

On November 4, 1986, California voters adopted Proposition 62, which requires that (i) any local tax for general governmental purposes (a “**general tax**”) must be approved by a majority vote of the electorate; (ii) any local tax for specific purposes (a “**special tax**”) must be approved by a two-thirds vote of the electorate; (iii) any general tax must be proposed for a vote by two-thirds of the legislative body; and (iv) proceeds of any tax imposed in violation of the vote requirements must be deducted from the local agency’s property tax allocation.

Most of the provisions of Proposition 62 were affirmed by the 1995 California Supreme Court decision in *Santa Clara County Local Transportation Authority v. Guardino*, which invalidated a special sales tax for transportation purposes because less than two-thirds of the voters voting on the measure had approved the tax.

The City does not believe any of the taxes constituting City revenues are levied in violation of Proposition 62.

Proposition 1A

On November 2, 2004, California voters approved Proposition 1A, which amends the State constitution to significantly reduce the State’s authority over major local government revenue sources.

Under Proposition 1A, the State cannot (i) reduce local sales tax rates or alter the method of allocating the revenue generated by such taxes, (ii) shift property taxes from local governments to schools or community colleges, (iii) change how property tax revenues are shared among local governments without two-thirds approval of both houses of the State Legislature or (iv) decrease Vehicle License Fee revenues without providing local governments with equal replacement funding.

Proposition 22

Proposition 22, entitled “The Local Taxpayer, Public Safety and Transportation Protection Act,” was approved by the voters of the State in November 2010. Proposition 22 eliminates or reduces the State’s authority to (i) temporarily shift property taxes from cities, counties and special districts to schools, (ii) use vehicle license fee revenues to reimburse local governments for State-mandated costs (the State will have to use other revenues to reimburse local governments), (iii) redirect property tax increment from redevelopment agencies to any other local government, (iv) use State fuel tax revenues to pay debt service on State transportation bonds, or (v) borrow or change the distribution of State fuel tax revenues.

Proposition 22 has resulted in more stable revenues for the City, and the City expects this to continue to be the case.

Future Initiatives

Article XIII A, Article XIII B, Proposition 218, Proposition 62, Proposition 1A and Proposition 22 were each adopted as measures that qualified for the ballot pursuant to California’s initiative process. From time to time, other initiative measures could be adopted, further affecting the City or its revenues or the ability of the City to expend revenues.

RISK FACTORS

The following describes certain special considerations and risk factors affecting the payment of and security for the Certificates. The following discussion is not meant to be an exhaustive list of the risks associated with the purchase of any Certificates and the order presented does not necessarily reflect the relative importance of the various risks. Potential investors in the Certificates are advised to consider the following special factors along with all other information in this Official Statement in evaluating the Certificates. There can be no assurance that other considerations will not materialize in the future.

No Pledge of Taxes

General. The obligation of the City to pay the Lease Payments and Additional Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to pay Lease Payments and Additional Payments does not constitute a debt or indebtedness of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.

The City is currently liable on other obligations payable from general revenues, which are described under “APPENDIX B – City of El Cerrito General Financial and Demographic Information – Long-Term General Fund Obligations.”

Limitations on Taxes and Fees. Certain taxes, assessments, fees and charges presently imposed by the City could be subject to the voter approval requirements of Article XIIC and Article XIID of the State Constitution. Based upon the outcome of an election by the voters, such fees, charges, assessments and taxes might no longer be permitted to be imposed, or may be reduced or eliminated and new taxes, assessments, fees and charges may not be approved.

The City believes that if the initiative power was exercised so that all local taxes, assessments, fees and charges that may be subject to Article XIIC and Article XIID of the State Constitution are eliminated or substantially reduced, the financial condition of the City, including its General Fund, could be materially adversely affected.

Although the City does not currently anticipate that the provisions of Article XIIC and Article XIID of the State Constitution would adversely affect its ability to pay Lease Payments and its other obligations payable from the General Fund, no assurance can be given regarding the ultimate interpretation or effect of Article XIIC and Article XIID of the State Constitution, including any initiative by City voters thereunder to repeal any of the taxes that provide revenue to the City’s General Fund, on the City’s finances. See “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS – Proposition 218 – Article XIIC and Article XIID.”

Additional Obligations of the City

The City has existing obligations payable from its General Fund. See “APPENDIX B – City of El Cerrito General Financial and Demographic Information – Long-Term General Fund Obligations.” The City is permitted to enter into other obligations that constitute additional charges against its revenues without the consent of Owners of the Certificates. To the extent that additional obligations are incurred by the City, the funds available to pay Lease Payments may be decreased.

The Lease Payments and other payments due under the Lease Agreement (including payment of costs of repair and maintenance of the Leased Property) are payable from funds lawfully available to the City. If the amounts that the City is obligated to pay in a fiscal year exceed the City's revenues for such year, the City may choose to make some payments rather than making other payments, including Lease Payments and Additional Payments, based on the perceived needs of the City. The same result could occur if, because of California Constitutional limits on expenditures, the City is not permitted to appropriate and spend all of its available revenues or is required to expend available revenues to preserve the public health, safety and welfare.

In addition, the City may amend the Lease Agreement, without the consent of the Trustee or any of the Certificate Owners, to obligate the City to pay additional amounts of rental thereunder for the use and occupancy of the Leased Property or any portion thereof, subject to certain conditions precedent described in the Lease Agreement. If the City obligated itself to pay additional rental payments, such amounts would be payable from the funds lawfully available to the City, just like the Lease Payments payable to Certificate Owners.

Default

Whenever any event of default referred to in the Lease Agreement happens and continues, the Trustee, as the Corporation's assignee, is authorized under the terms of the Lease Agreement to exercise any and all remedies available under law or granted under the Lease Agreement. See APPENDIX A for a detailed description of available remedies in the case of a default under the Lease Agreement.

In the event of a default, there is no remedy of acceleration of the total Lease Payments due over the term of the Lease Agreement. The Trustee is not empowered to sell the Leased Property and use the proceeds of such sale to prepay the Certificates or pay principal and interest represented by the Certificates. The Lease Agreement permits the Trustee, as the Corporation's assignee, to take possession of and re-let the Leased Property in the event of a default by the City under the Lease Agreement; however, due to the fact that the Leased Property serves essential governmental purposes, a court may determine to not permit such remedy to be exercised. Even if such remedy may be exercised, no assurance can be given that the Trustee could readily re-let the Leased Property for rents which are sufficient to enable it to pay debt service on the Certificates in full when due.

The City will be liable only for Lease Payments on an annual basis and, in the event of a default, the Trustee would be required to seek a separate judgment each year for that year's defaulted Lease Payments. Any such suit for money damages would be subject to limitations on legal remedies against municipalities in California, including a limitation on enforcement of judgments against funds of a fiscal year other than the fiscal year in which the Lease Payments were due and against funds needed to serve the public welfare and interest.

Abatement

Under certain circumstances related to damage, destruction, or a taking pursuant to eminent domain which, in any such case, causes a substantial interference with the use and possession of the Leased Property, the City's obligation to make Lease Payments will be subject to full or partial abatement and could result in the Trustee having inadequate funds to pay the principal and interest on the Certificates as and when due. See "SECURITY FOR THE CERTIFICATES – Abatement" and "APPENDIX A – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS."

Although the City is required under the Lease Agreement to maintain property and liability insurance and rental interruption insurance with respect to the Leased Property, the required insurance coverage is subject to certain conditions and restrictions. The Lease Agreement does not require earthquake insurance, and the City currently does not maintain earthquake insurance on the Leased Property (although the Leased Property was built to seismic standards). See "THE LEASED PROPERTY" and "SECURITY FOR THE CERTIFICATES – Covenants to Maintain Insurance." In addition, there is no assurance that the City will receive proceeds of any insurance in time to make Lease Payments when due.

Property Taxes

Levy and Collection. The City does not have any independent power to levy and collect property taxes. Any reduction in the tax rate or the implementation of any constitutional or legislative property tax decrease, or any substantial delinquencies in the payment of property taxes, could reduce the City's property tax revenues, and accordingly, could have an adverse impact on the ability of the City to make Lease Payments when due.

Reduction in Inflationary Rate. Article XIII A of the California Constitution provides that the full cash value base of real property used in determining assessed value may be adjusted from year to year to reflect the inflationary rate, not to exceed a 2% increase for any given year, or may be reduced to reflect a reduction in the consumer price index or comparable local data. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS." Such measure is computed on a calendar year basis. Because Article XIII A limits inflationary assessed value adjustments to the lesser of the actual inflationary rate or 2%, there have been years in which the assessed values were adjusted by actual inflationary rates, which were less than 2%. Since Article XIII A was approved, the annual adjustment for inflation has fallen below the 2% limitation in certain years.

The City is unable to predict if any adjustments to the full cash value base of real property within the City, whether an increase or a reduction, will be realized in the future.

Appeals of Assessed Values. There are two types of appeals of assessed values that could adversely impact property tax revenues:

Proposition 8 Appeals. Most of the appeals that might be filed in the City would be based on Section 51 of the Revenue and Taxation Code, which requires that for each lien date the value of real property must be the lesser of its base year value annually adjusted by the inflation factor pursuant to Article XIII A of the State Constitution or its full cash value, taking into account reductions in value due to damage, destruction,

depreciation, obsolescence, removal of property or other factors causing a decline in value.

Under California law, property owners may apply for a reduction of their property tax assessment by filing a written application, in form prescribed by the State Board of Equalization, with the appropriate county board of equalization or assessment appeals board. In most cases, the appeal is filed because the applicant believes that present market conditions (such as residential home prices) cause the property to be worth less than its current assessed value. These market-driven appeals are known as Proposition 8 appeals.

Any reduction in the assessment ultimately granted as a Proposition 8 appeal applies to the year for which application is made and during which the written application was filed. These reductions are often temporary and are adjusted back to their original values when market conditions improve. Once the property has regained its prior value, adjusted for inflation, it once again is subject to the annual inflationary factor growth rate allowed under Article XIII A.

Base Year Appeals. A second type of assessment appeal is called a base year appeal, where the property owners challenge the original (basis) value of their property. Appeals for reduction in the "base year" value of an assessment, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. The base year is determined by the completion date of new construction or the date of change of ownership. Any base year appeal must be made within four years of the change of ownership or new construction date.

No assurance can be given that property tax appeals in the future will not significantly reduce the City's property tax revenues.

Natural Calamities

From time to time, the City is subject to natural calamities that may adversely affect economic activity in the City, which could have a negative impact on the City's finances. Additionally, a natural calamity adversely affecting the Leased Property could have a negative impact of the City's use of such property, which could result in abatement of Lease Payments. See "– Abatement" above.

Seismic. The Hayward Fault is an active fault that traverses urban areas in the City. This fault was responsible for the 1836 and 1868 earthquakes. The 1868 earthquake was of slightly less magnitude than the 1906 San Francisco earthquake. Another adjacent fault is the inactive Wildcat Fault. In the event of an earthquake of high magnitude along the Hayward Fault or the Wildcat Fault, displacements of several feet are possible. The City cannot predict how much damage may occur within the City and how much reduction in assessed valuation in the City may result from such a high magnitude earthquake.

The City currently does not maintain earthquake insurance on the Leased Property. Under the Lease Agreement, the City is not required to obtain earthquake insurance and, due to earthquake insurance premium levels, does not expect to obtain earthquake insurance.

Flood. The following information has been excerpted from the City's General Plan: The only portion of the City located in a FEMA Flood Insurance Zone is the area located west of San

Pablo Avenue and south of Central Avenue. Flooding is generally caused by the relatively low ground elevations and high tides in this area, coupled with hydraulic restrictions in the existing downstream channels located in Richmond between the City and San Francisco Bay.

The Leased Property is not located within the FEMA Flood Insurance Zone.

Fire Hazards. The following information has been excerpted from the City's General Plan: The City's intermix of urban housing and wildland areas increases the community's risk of loss from a devastating fire. The City's Fire Hazard Reduction Program addresses hazard reduction in the Very High Fire Hazard Severity Zones of the city, requiring that property owners take special precautions with their properties, including vegetation management, to reduce the risk of fire.

Severe Drought. Much of the State is continuing to experience drought conditions. On January 17, 2014, Governor Brown declared a drought in the State and requested a 20% reduction in water use statewide. On April 25, 2014, the Governor issued an Executive Order directing local water suppliers to redouble efforts to implement water conservation activities. On August 5, 2014, the City Council adopted Stage 1 – Mandatory of the City's Shortage Plan imposing mandatory restrictions on outdoor irrigation with potable water and requiring customers to reduce community-wide water use by 20%. On April 1, 2015, the Governor issued an Executive Order directing the State Water Board to impose restrictions to achieve an aggregate statewide 25% reduction in urban water use through February 28, 2016. On May 5, 2015, the State Water Resources Control Board ("**State Water Board**") adopted an emergency conservation regulation in accordance with the Governor's April 1, 2015, Executive Order. To reach the statewide 25% reduction, the emergency conservation regulation assigned each urban water supplier a conservation standard between 4% and 36%.

Rainfall in the winter of fiscal year 2015-16 provided relief from the drought in some parts of the State. In response, on May 9, 2016, Governor Brown issued a new executive order directing the State Water Board to update the Emergency Drought Regulations to consider local water supply availability and reliability and providing direction on long-term water use efficiency. On May 18, 2016, the State Water Board approved updated Emergency Drought Regulations that suspend the 25% statewide reduction mandate and take into account local water supply availability and reliability; the updated regulations remain in effect through the end of January 2017.

Residents of the City are provided water service by East Bay Municipal Utility District ("**EBMUD**") and sewer service by Stege Sanitary District. Drought conditions could cause these utilities to increase their rates (although EBMUD declared an end to drought conditions in May 2016). Significant rate increases would be outside the scope of City control, and any water or wastewater rate increases could adversely affect economic activity in the City or, depending on the extent of the increases, reduce assessed values in the City (in each case, impacting the General Fund).

Certain Risks Associated with Sales Tax and Other Local Tax Revenues

For fiscal year 2015-16, the City estimates that sales tax revenues were the largest source of revenue to the City. Sales tax revenues are based upon the gross receipts of retail sales of tangible goods and products by retailers with taxable transactions in the City, which could be impacted by a variety of factors.

For example, before final maturity of the Certificates, the City may enter into an economic recession. In times of economic recession, the gross receipts of retailers often decline, and such a decline would cause the sales tax revenues received by the City to also decline.

In addition, changes or amendments in the laws applicable to the City's receipt of sales tax revenues or other local taxes, whether implemented by State legislative action or voter initiative, including any initiative by City voters under Article XIIC of the California Constitution to repeal Measure R, which is a temporary one-cent sales tax measure providing revenue to the City's General Fund, could have an adverse effect on sales tax revenues received by the City. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS – Proposition 218 – Article XIIC and Article XIID."

For example, many categories of transactions are exempt from the statewide sales tax, and additional categories could be added in the future. Currently, most sales of food products for human consumption are exempt; this exemption, however, does not apply to liquor or to restaurant meals. The rate of sales tax levied on taxable transactions in the City or the fee charged by the State Board of Equalization for administering the City's sales tax could also be changed. Moreover, Measure R is set to expire on March 31, 2027, which is before the final maturity of the Certificates; if not extended, sales tax revenues received by the City would decline significantly.

Limitations on Remedies Available to Certificate Owners

The ability of the City to comply with its covenants under the Lease Agreement may be adversely affected by actions and events outside of the control of the City, and may be adversely affected by actions taken (or not taken) by voters, property owners, taxpayers or payers of assessments, fees and charges. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS."

Furthermore, any remedies available to the owners of the Certificates upon the occurrence of an event of default under the Lease Agreement or the Trust Agreement are in many respects dependent upon judicial actions, which are often subject to discretion and delay and could prove both expensive and time consuming to obtain. For a discussion of such remedies, see "– Default" and "APPENDIX A – Summary of Principal Legal Documents."

In addition to the limitations on remedies contained in the Lease Agreement and the Trust Agreement, the rights and obligations under the Certificates, the Lease Agreement and the Trust Agreement, may be subject to the following: the United States Bankruptcy Code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect; usual equity principles which may limit the specific enforcement under State law of certain remedies; the exercise by the United States of America of the powers delegated to it by the Federal Constitution; and the reasonable and necessary exercise, in certain exceptional situations, of the police power inherent in the sovereignty of the State of California and its governmental bodies in the interest of serving a significant and legitimate public purpose.

Bankruptcy proceedings, or the exercise of powers by the federal or state government, if initiated, could subject the Owners of the Certificates to judicial discretion and interpretation of their rights in bankruptcy or otherwise, and consequently may entail risks of delay, limitation or modification of their rights.

Bankruptcy

In addition to the limitations on remedies contained in the Trust Agreement and the Lease Agreement, the rights and remedies in the Lease Agreement may be limited and are subject to the provisions of federal bankruptcy laws, as now or hereafter enacted, and to other laws or equitable principles that may affect the enforcement of creditors' rights.

Under Chapter 9 of the Bankruptcy Code (Title 11, United States Code) (the "**Bankruptcy Code**"), which governs bankruptcy proceedings of public entities such as the City, no involuntary bankruptcy petition may be filed against a public entity; however, upon satisfaction of certain prerequisite conditions, a voluntary bankruptcy petition may be filed by the City. The filing of a bankruptcy petition results in a stay against enforcement of certain remedies under agreements to which the bankrupt entity is a party. A bankruptcy filing by the City could thus limit remedies under the Lease Agreement. A bankruptcy debtor may choose to assume or reject executory contracts and leases, such as the Lease Agreement; however, a debtor may not assume or reject executory contracts to loan money or to make a financial accommodation, such as the Trust Agreement. In the event of rejection of a lease by a debtor lessee, the leased property is returned to the lessor and the lessor has a claim for a limited amount of the resulting damages.

Under the Trust Agreement, the Trustee holds a security interest in the revenues in the funds pledged thereunder, including Lease Payments, for the benefit of the Owners of the Certificates, but such security interest arises only when the Lease Payments are actually received by the Trustee following payment by the City. The Leased Property itself is not subject to a security interest, mortgage or any other lien in favor of the Trustee for the benefit of Owners. In the event of a bankruptcy filed by the City and the subsequent rejection of the Lease Agreement by the City, the Trustee would recover possession of the Leased Property and have a claim for damages against the City. The Trustee's claim would constitute a secured claim only to the extent of revenues in the possession of the Trustee; the balance of such claim would be unsecured.

In a bankruptcy of the City, if a material unpaid liability is owed to California Public Employees' Retirement System or any other pension system (collectively, the "**Pension Systems**") on the filing date, or accrues thereafter, such circumstances could create additional uncertainty as to the City's ability to make Lease Payments. Given that municipal pension systems in California are usually administered pursuant to state constitutional provisions and, as applicable, other state and/or city or county law, the Pension Systems may take the position, among other possible arguments, that their claims enjoy a higher priority than all other claims, that Pension Systems have the right to enforce payment by injunction or other proceedings outside of a City bankruptcy case, and that Pension System claims cannot be the subject of adjustment or other impairment under the Bankruptcy Code because that would purportedly constitute a violation of state statutory, constitutional and/or municipal law. It is uncertain how a bankruptcy judge in a City bankruptcy would rule on these matters. In addition, this area of law is presently very unsettled because issues of pension underfunding claim priority, pension contribution enforcement, and related bankruptcy plan treatment of such claims (among other pension-related matters) are presently (or were recently) the subject of litigation in the Chapter 9 cases of several California municipalities, including the cities of Stockton and San Bernardino.

In particular, if the City were to become a debtor under the Bankruptcy Code, the City would be entitled to all of the protective provisions of the Bankruptcy Code as applicable in a

Chapter 9 case. Among the adverse effects of such a bankruptcy might be: (i) the application of the automatic stay provisions of the Bankruptcy Code, which, until relief is granted, would prevent collection of payments from the City or the commencement of any judicial or other action for the purpose of recovering or collecting a claim against the City, and which could prevent the Trustee from making payments from funds in its possession; (ii) the avoidance of preferential transfers occurring during the relevant period prior to the filing of a bankruptcy petition; (iii) the existence of unsecured or secured debt which may have a priority of payment that is superior to that of Owners of the Certificates; and (iv) the possibility of the adoption of a plan (an “**Adjustment Plan**”) for the adjustment of the City’s various obligations over the objections of the Trustee or all of the Owners of the Certificates and without their consent, which Adjustment Plan may restructure, delay, compromise or reduce the amount of any claim of the Owners if the Bankruptcy Court finds that such Adjustment Plan is “fair and equitable” and in the best interests of creditors. The Adjustment Plans approved by the Bankruptcy Courts in connection with the bankruptcies of the cities of Vallejo, San Bernardino and Stockton resulted in significant reductions in the amounts payable by the cities under lease revenue obligations that were substantially identical or similar to the Certificates. The City can provide no assurances about the outcome of the bankruptcy cases of other California municipalities or the nature of any Adjustment Plan if it were to file for bankruptcy.

Hazardous Substances

Discovery of hazardous substances on the land that comprises the Leased Property or on other parcels within the City could impact the City’s ability to pay debt service with respect to the Certificates.

In general, the owners and operators of a property may be required by law to remedy conditions of the property relating to releases or threatened releases of hazardous substances. The Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as “**CERCLA**” or the “**Superfund Act**” is the most well known and widely applicable of these laws, but California laws with regard to hazardous substances are also stringent and similar. Under many of these laws, the owner (or operator) is obligated to remedy a hazardous substance condition of property whether or not the owner or operator has anything to do with creating or handling the hazardous substance.

The effect, therefore, should any substantial amount of property within the City be affected by a hazardous substance, would be to reduce the marketability and value of the property by the costs of, and any liability incurred by, remedying the condition, since the purchaser, upon becoming an owner, will become obligated to remedy the condition just as is the seller. Reduction in the value of property in the City as a whole could reduce property tax revenues received by the City and deposited in the general fund, which could significantly and adversely affect the ability of the City to make payments on the Certificates. Additionally, if any of the Leased Property is affected by a hazardous substance, the City would be limited in the beneficial use it could make of such property upon discovery and during remediation thereof.

Litigation

The City may be or become a party to litigation that has an impact on the City’s general fund. Although the City maintains certain insurance policies that provide coverage under certain circumstances and with respect to certain types of incidents (see APPENDICES B and C for further information), the City cannot predict what types of liabilities may arise in the future. See also “NO LITIGATION.”

State Law Limitations on Appropriations

Article XIII B of the California Constitution limits the amount that local governments can appropriate annually. The ability of the City to make debt service payments on the Certificates may be affected if the City should exceed its appropriations limit. The State may increase the appropriation limit of cities in the State by decreasing the State's own appropriation limit. The City does not anticipate exceeding its appropriations limit. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS – Appropriation Limitation – Article XIII B."

Impact of State Budget on City Revenues

At various times, including recently, the State has experienced significant financial and budgetary stress. State budgets are affected by national and local economic conditions and other factors over which the City has no control. The State's financial condition and budget policies affect communities and local public agencies throughout the State. To the extent that the State budget process results in reduced revenues to the City, the City will be required to make adjustments to its budget.

For example, declining revenues and fiscal difficulties that arose in the State commencing in fiscal year 2008-09 led the State to undertake a number of budgeting strategies, which had subsequent impacts on local agencies within the State. These techniques included the issuance of IOUs in lieu of warrants (checks), the enactment of statutes deferring amounts owed to public schools, until a later date in the fiscal year, or even into the following fiscal year (known as statutory deferrals), trigger reductions, which were budget cutting measures that were implemented or could have been implemented if certain State budgeting goals were not met, among others, and the dissolution of local redevelopment agencies in part to make available additional funding for schools.

Although starting with Fiscal Year 2013-14, recent State budgets have been balanced and balanced budgets are projected for the foreseeable future, largely attributable to improvements in the economy, the additional revenues generated due to the passage of Proposition 30 at the November 6, 2012, statewide election ("**Proposition 30**"), as well as other spending cuts, there can be no certainty that budget-cutting strategies such as those used in prior years will not be used in the future should the State budget again be stressed and if projections included in such budget do not materialize.

The temporary personal income tax increases of Proposition 30 were scheduled to expire at the end of 2018; however, voters approved Proposition 55 in the November 2016 statewide election, which extended the increases through 2030.

Loss of Tax-Exemption

As discussed under the caption "TAX MATTERS," interest represented by the Certificates could become includable in gross income for purposes of federal income taxation, retroactive to the date the Certificates were executed and delivered, as a result of future acts or omissions of the City in violation of its covenants in the Lease Agreement and the Trust Agreement. Should such an event of taxability occur, the Certificates are not subject to prepayment and will remain outstanding until maturity or until prepaid under other provisions set forth in the Trust Agreement.

Federal Income Tax Changes

During recent years, legislative proposals have been introduced in the United States Congress, and in some cases enacted, that altered certain federal tax consequences resulting from the ownership of obligations that are similar to the Certificates. In some cases, these proposals have contained provisions that altered these consequences on a retroactive basis. Such alteration of federal tax consequences may have affected the market value of obligations similar to the Certificates. From time to time, legislative proposals are pending which could have an effect on both the federal tax consequences resulting from ownership of the Certificates and their market value.

No assurance can be given that legislative proposals will not be enacted that would apply to, or have an adverse effect upon, the Certificates. For example, in connection with federal deficit reduction, job creation and tax law reform efforts, proposals have been and others are likely to be made that could significantly reduce the benefit of, or otherwise affect, the exclusion from gross income of the portion of lease payments designated as and comprising interest and received by the owners of obligations that are similar to the Certificates. There can be no assurance that any such legislation or proposal will be enacted, and if enacted, what form it may take. The introduction or enactment of any such legislative proposals may affect, perhaps significantly, the market price for, or marketability of, the Certificates.

Secondary Market for Certificates

There can be no guarantee that there will be a secondary market for the Certificates or, if a secondary market exists, that any Certificates can be sold for any particular price. Prices of issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

No assurance can be given that the market price for the Certificates will not be affected by the introduction or enactment of any future legislation (including without limitation amendments to the Internal Revenue Code), or changes in interpretation of the Internal Revenue Code, or any action of the Internal Revenue Service, including but not limited to the publication of proposed or final regulations, the issuance of rulings, the selection of the Certificates for audit examination, or the course or result of any Internal Revenue Service audit or examination of the Certificates or obligations that present similar tax issues as the Certificates.

The Internal Revenue Service has initiated an expanded program for the auditing of tax-exempt bond issues, including both random and targeted audits. It is possible that the Certificates will be selected for audit by the Internal Revenue Service and that the market value

of the Certificates might be affected as a result of such an audit (or by an audit of similar securities).

TAX MATTERS

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Special Counsel, subject, however to the qualifications set forth below, under existing law, the portion of lease payments designated as and comprising interest and received by the owners of the Certificates is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings, and the Certificates are "qualified tax-exempt obligations" within the meaning of section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "**Tax Code**"), such that, in the case of certain financial institutions (within the meaning of section 265(b)(5) of the Tax Code), a deduction for federal income tax purposes is allowed for 80% of that portion of each such financial institution's interest expense allocable to the portion of the Lease Payments designated as and comprising interest.

The opinions set forth in the preceding paragraph are subject to the condition that the City comply with all requirements of the Tax Code that must be satisfied subsequent to the execution and delivery of the Certificates. The City has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of interest with respect to the Certificates in gross income for federal income tax purposes to be retroactive to the date of execution and delivery of the Certificates, or may cause the Certificates to not be "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Tax Code.

If the initial offering price to the public (excluding bond houses and brokers) at which a Certificate is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public (excluding bond houses and brokers) at which a Certificate is sold is greater than the amount payable at maturity thereof, then such difference constitutes "original issue premium" for purposes of federal income taxes and State of California personal income taxes. *De minimis* original issue discount and original issue premium is disregarded.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Certificate on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Certificates to determine taxable gain upon disposition (including sale, prepayment, or payment on maturity) of such Certificate. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Certificates who purchase the Certificates after the initial offering of a substantial amount of such maturity. Owners of such Certificates should consult their own tax advisors with respect to the tax consequences of ownership of Certificates

with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such Certificates under federal individual and corporate alternative minimum taxes.

Under the Tax Code, original issue premium is amortized on an annual basis over the term of the Certificate (said term being the shorter of the Certificate's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the Certificate for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a Certificate is amortized each year over the term to maturity of the Certificate on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized Certificate premium is not deductible for federal income tax purposes. Owners of premium Certificates, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Certificates.

In the further opinion of Special Counsel, the portion of lease payments designated as and comprising interest and received by the owners of the Certificates is exempt from California personal income taxes.

Owners of the Certificates should also be aware that the ownership or disposition of, or the accrual or receipt of interest with respect to, the Certificates may have federal or state tax consequences other than as described above. Special Counsel expresses no opinion regarding any federal or state tax consequences arising with respect to the Certificates other than as expressly described above.

CERTAIN LEGAL MATTERS

The legal opinion of Special Counsel, approving the validity of the Certificates and addressing certain tax matters, in substantially the form attached hereto as APPENDIX D, will be made available to purchasers at the time of original delivery of the Certificates. Special Counsel will, as Disclosure Counsel, also deliver a disclosure letter to the City and the Underwriter regarding the contents of this Official Statement. Certain matters will be passed upon for the City by the City Attorney.

CONTINUING DISCLOSURE

The City has covenanted for the benefit of owners of the Certificates to provide certain financial information and operating data relating to the City and its general fund by not later than nine months after the end of the City's fiscal year, or March 31 each year based on the City's current fiscal year-end of June 30, commencing March 31, 2017, with the report for fiscal year 2015-16 (the "**Annual Report**") and to provide notices of the occurrence of certain listed events ("**Event Notices**"). All Annual Reports and Event Notices are required to be filed electronically with the Municipal Securities Rulemaking Board (the "**MSRB**").

These covenants have been made in order to assist the Underwriter in complying with Rule 15c2-12(b)(5) promulgated under the Securities Exchange Act of 1934, as amended (the

“Rule”). The specific nature of the information to be contained in the Annual Report and the Event Notices is set forth in APPENDIX E.

The City is not aware of any instances in the past five years in which either it or its related entities failed to comply in all material respects with their respective continuing disclosure undertakings.

UNDERWRITING

Stifel, Nicolaus & Company (the **“Underwriter”**), has entered into a Certificate Purchase Contract with the City under which the Underwriter has agreed to purchase the Certificates at a price of \$_____ (equal to the par amount of the Certificates (\$_____)), plus/less an original issue premium/discount of \$_____, and less an Underwriter’s discount of \$_____.

The Underwriter will be obligated to take and pay for all the Certificates if any are taken. The Underwriter intends to offer the Certificates to the public at the offering prices shown on the inside cover page of this Official Statement. After the initial public offering, the Underwriter may vary the public offering prices from time to time.

NO LITIGATION

The City is not aware of any pending or threatened litigation concerning the validity of the Certificates or challenging any action taken by the City with respect to the Certificates. Furthermore, the City is not aware of any pending or threatened litigation to restrain, enjoin, question or otherwise affect the Trust Agreement or in any way contesting or affecting the validity or enforceability of any of the foregoing or any proceedings of the City taken with respect to any of the foregoing.

There are a number of lawsuits and claims pending and threatened against the City unrelated to the Certificates or actions taken with respect to the Certificates. It is the opinion of the City as of this date that such litigation, claims and threatened litigation will not materially affect the City’s finances or impair its ability to make debt service payments on the Certificates.

PROFESSIONAL FEES

In connection with the execution and delivery of the Certificates, fees payable to the following professionals involved in the offering are contingent upon the issuance and delivery of the Certificates:

- Jones Hall, A Professional Law Corporation, as Special Counsel and Disclosure Counsel;
- Stradling Yocca Carlson & Rauth, a Professional Corporation, as Underwriter’s Counsel; and
- MUFG Union Bank, N.A., as Trustee and Escrow Agent.

RATING

S&P Global Ratings, a Standard & Poor's Financial Services LLC business ("**S&P**"), has assigned its municipal bond rating of "___" to the Certificates with the understanding that the Certificate Insurer will issue the Policy concurrently with the delivery of the Certificates. S&P has assigned an underlying rating of "___" to the Certificates.

This rating reflects only the views of S&P, and an explanation of the significance of this rating, and any outlook assigned to or associated with this rating, should be obtained from S&P.

Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. The City has provided certain additional information and materials to the rating agency (some of which does not appear in this Official Statement).

There is no assurance that this rating will continue for any given period of time or that this rating will not be revised downward or withdrawn entirely by the rating agency, if in the judgment of the rating agency, circumstances so warrant. Any such downward revision or withdrawal of any rating on the Certificates may have an adverse effect on the market price or marketability of the Certificates.

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EXECUTION

The execution and delivery of this Official Statement have been duly authorized by the City.

CITY OF EL CERRITO

By: _____
City Manager

APPENDIX A

SUMMARY OF PRINCIPAL LEGAL DOCUMENTS

APPENDIX B

CITY OF EL CERRITO GENERAL FINANCIAL AND DEMOGRAPHIC INFORMATION

General

The City. The City is a general law City that was incorporated on August 1, 1917. Located in western Contra Costa County (the “**County**”), it has a geographical area of approximately 3.9 square miles and forms part of the highly urbanized area along the eastern shore of San Francisco Bay. Interstate Highway 80 passes near the west boundary of the community; the crest of the Berkeley Hills and Wildcat Canyon Regional Park defines the eastern boundary. The community is served by the Bay Area Rapid Transit system with stations near both the north and south boundaries of the City.

The County. The City is located the County, one of the nine counties in the San Francisco-Oakland Bay Area. Situated northeast of San Francisco, the County is bounded by San Francisco and San Pablo Bays, the Sacramento River Delta, and Alameda County on the south. Ranges of hills effectively divide the County into three distinct regions. The western portion, with its access to water, contains much of the County's heavy industry. The central section is rapidly developing from a suburban area into a major commercial and financial headquarters center. The eastern part is also undergoing substantial change, from a rural, agricultural area, to a suburban region. The County has extensive and varied transportation facilities-ports accessible to ocean-going vessels, railroads, freeways, and rapid transit lines connecting the area with Alameda County and San Francisco.

City Services and Government

The City provides a full range of services, including police and fire protection; building permits and inspections; parks and recreation facilities and services, planning and environmental services, construction and maintenance of streets, public buildings, and other infrastructure and operation of a state of the art Recycling Center.

The City is organized as a council-manager form of local municipal government. The City Council consists of five members elected at-large for four-year, overlapping terms. The Council selects the Mayor from among its members for a one-year term. The Mayor and City Council provide community leadership, develop policies to guide the City in delivering services and achieving community goals, and encourage citizen understanding and involvement.

The City Manager is appointed by the City Council and responsible for administration of municipal affairs. All municipal departments operate under the supervision of the City Manager. Through the City Manager, City staff, using the resources appropriated by the Council in the budget to achieve desired service results in the community, carries out the policies of the Council.

Budget Process

In accordance with applicable sections of the California Government Code and the City's Charter, an annual budget is adopted by the City Council by June 30 of each year. The annual budget is the City's service and financial plan for the fiscal year: a planning tool that matches the services desired by the community to the resources required in order to provide those

services. The development, adoption, and implementation of the City budget compose a major decision-making process with several phases.

At the initial stage of the budget process, department heads and division managers propose to the City Manager those programs designed to provide essential services that meet the City Council's expression of community goals. Staff also prepares estimates of available revenues for the same period. The City Manager and department directors balance the requested program expenditures with the anticipated resources, and develop a proposed budget and financial forecasts. The proposed document is reviewed by the City's Financial Advisory Board, and their recommendations and revisions are considered during the budget process.

After presentation of the staff-prepared proposed budget, the City Council holds public meetings on the budget to review the staff recommendations. The City Council also receives public testimony and reviews the service, expenditure, and revenue proposals contained in the proposed budget. After discussing and making amendments, if any, to the proposed budget, the City Council adopts the budget for the next fiscal year and establishes appropriations. The appropriations are the legal authority to spend money. While the budget document for fiscal year 2016-17 and 2017-18 incorporates two fiscal years, the City Council is required per the El Cerrito Municipal Code to adopt and appropriate an annual budget for each fiscal year.

General Fund Budgets

General. The City's budgeted General Fund revenues and expenditures for fiscal years 2014-15, 2015-16, and 2016-17, and actual General Fund revenues and expenditures for fiscal years 2014-15 and 2015-16, are set forth in the following table. The City's audited financial statements for the fiscal year ended June 30, 2015, are included as APPENDIX C to this Official Statement.

Table B-1
CITY OF EL CERRITO
General Fund Adopted Budgets
For Fiscal Years 2014-15, 2015-16 and 2016-17
(Dollars in Thousands)

	<u>Adopted Budget 2014-15</u>	<u>Audited 2014-15</u>	<u>Adopted Budget 2015-16</u>	<u>Unaudited 2015-16</u>	<u>Adopted Budget 2016-17</u>
Revenues:					
Property taxes	\$8,517,814	\$8,799,514	\$8,866,454	\$9,314,177	\$10,906,773
Taxes other than property	10,595,144	10,755,814	11,999,385	11,946,148	12,229,000
Licenses and permits	531,000	493,244	623,000	607,729	653,690
Fines and forfeitures	341,500	276,759	301,500	326,543	326,000
Use of money and property	344,900	349,916	389,840	311,742	391,996
Intergovernmental	3,728,684	4,036,613	3,135,186	3,363,105	3,163,805
Charges for services	4,410,442	4,275,245	4,795,320	4,649,897	4,854,773
Other revenues	221,647	119,300	179,267	775,439	466,320
Total revenues	28,691,131	29,106,405	30,289,952	31,294,780	32,992,357
Expenditures:					
General government:					
City council	62,113	89,694	70,290	81,554	69,485
City manager	771,050	819,640	847,627	918,771	1,004,035
City attorney	275,000	256,771	285,000	449,455	300,000
Financial services	960,028	1,207,388	962,643	1,225,638	1,917,110
City clerk	290,948	264,054	308,095	251,992	334,758
Information services	396,341	404,493	541,268	530,024	606,492
Employee services	788,793	686,417	885,625	791,281	1,019,392
Public works	681,185	642,199	1,129,435	1,102,338	1,451,343
Recreation	3,942,797	4,153,881	4,101,897	4,439,603	4,496,140
Community development	1,726,262	1,687,744	1,976,963	1,767,207	2,107,493
Public safety:					
Police	10,437,226	9,861,386	11,113,625	10,222,380	10,869,441
Fire	8,366,005	8,599,206	8,061,081 ⁽¹⁾	8,877,582 ⁽¹⁾	8,458,550
Payment of sales tax to City of Richmond	--	245,599	--	240,000	--
Capital outlay	120,000	135,283		168,665	164,000
Debt service: principal	90,858	90,858	130,473	93,373	130,473
Total expenditures	28,908,606	29,144,613	30,414,022	31,159,863	32,928,712
Excess of revenues over (under) expenditures	(217,475)	(38,208)	(124,070)	134,917	63,645
Other financing sources (uses):					
Transfers in	900,857	900,857	890,194	890,194	915,214
Transfers out	(668,607)	(671,603)	(711,222)	(737,708)	(741,497)
Total other financing sources (uses)	232,250	229,254	178,972	152,486	173,717
Net change in fund balance	14,775	191,046	54,902	287,403	237,362
Fund balance - July 1	1,270,466	1,270,466	1,461,512	1,461,512	2,872,742
Fund balance - June 30	\$1,285,241	\$1,461,512	\$1,516,414	\$1,748,915	\$3,110,104

(1) Variance between budgeted amount and unaudited amount due to retirement of two senior employees during the fiscal year, as well as payment of overtime pertaining to nine fire-related incidents outside the City.

Source: City of El Cerrito.

Adopted Budget for Fiscal Year 2016-17

General. Under the City's biennial adopted General Fund budget for fiscal years 2016-17 and 2017-18 (the "**Adopted Budget**"), the City has budgeted \$32.99 million in revenues, and \$32.93 million in expenditures for fiscal year 2016-17. This is an increase of approximately \$2.7 million in budgeted revenues and \$2.5 million in budgeted revenues from the prior fiscal year.

The Adopted Budget reflects strong increases in revenue, management of expenditures and approximately \$1.2 million in salary savings due to unfilled positions vacant for the year. In fiscal year 2013-14 reserves dipped to 4.4% of projected General Fund operating expenditures as a result of the Great Recession and the conscious decision to reduce reserves rather than cut services or layoff staff. Due to increasing revenues, most notably those related to property taxes, well managed expenses and one-time revenues that went towards reserves, the General Fund reserve balance is projected to rebound to 9.1% in fiscal year 2016-17, and 9.2% in fiscal year 2017-18, of projected General Fund operating expenditures. Should development occur as projected, reserves could be higher than proposed.

Budgeted Revenues. Budgeted revenue increases in fiscal year 2016-17 are driven largely by property taxes, which have risen significantly with the improved economy. Home prices are at an all-time high and continue to increase; property taxes are also expected to increase due to a number of significant property transfers along San Pablo Avenue. Sales taxes continue to grow at a strong rate, and fees are expected to rise in proportion with the local Consumer Price Index. Other revenues such as franchise fees and utility user taxes are largely driven by external rate increases; however, utility user taxes are expected to decrease from current levels due to rising utility rates that the City expects will reduce demand.

Budgeted Expenditures. Approximately 74% of the General Fund expenditures are related to personnel costs. Within personnel, salaries and benefits have traditionally been governed by the City Council's policy to provide median compensation, which is intended to act as a ceiling for salaries and benefits as agreed upon in the memorandums of understanding with the various benefit groups. Currently, all employees are now contributing between 8-12% of their salary towards the total pension costs.

Of the remaining General Fund expenses, very few are discretionary (which include costs related to contract services such as Public Safety dispatch, Animal Control services, legal services, independent audit services, election services and criminalist services that the City could not provide as efficiently as other organizations can on its behalf). When other non-discretionary items are factored in such as insurance, medical supplies, utilities, vehicles, and a minimal level of supplies, nearly 95% of the General Fund is non-discretionary.

City General Fund Reserve Policy

The City's General Fund Reserve Policy (the "**Reserve Policy**") forms a part of its Comprehensive Financial Policy, which the City Council approved on November 11, 2015 (the "**Comprehensive Financial Policy**"). The purpose of the Reserve Policy is to set aside funds to insure against events that would adversely affect the financial condition of the City and jeopardize the continuation of necessary public services. The Reserve Policy is designed to provide adequate cash flow, protect bond ratings, and offset economic downturns and revenue

shortfalls. The reserve is also available to provide for one-time funding in the event of an emergency situation such as a natural disaster or unanticipated liability.

The Reserve Policy expresses the City's goal of achieving a General Fund annual operating reserve of 15%, with a minimum of 10%, of projected general fund operating expenditures in each fiscal year. As part of the annual budget process, the City Council considers a five-year plan that attempts to maintain the minimum reserve balance of 15%. Should the General Fund reserve fall below 10%, each budget year the City would adopt a plan to restore the reserve percentage of 10% within five years and 15% within ten years.

The portion of the reserve below 10% should be utilized only for a financial emergency (as determined by the City Council), natural disaster or significant unanticipated liability. If this portion of the reserve is utilized for such an event, the ten-year plan presented with the City's annual operating budget must be developed so that the 10% base threshold is replenished within five years.

The reserves between the 10% and 15% level are designed to be used by the City to deal with revenue fluctuations that arise as a result of changes in the economy and provide opportunities to maintain services and programs where funding may be difficult. Also, a portion of any operating reserve in excess of 10% of annual revenues resulting from the previous fiscal year's operations could be committed to capital improvement projects or used to retire existing debt, fund future liabilities or potential legislative actions, establish or replenish equipment replacement funds, and/or establish or replenish deferred maintenance funds as long as the amount is considered in the adopted ten-year plan to achieve a balance of 15% within ten years.

The estimated General Fund reserve as of June 30, 2016, is \$1.749 million, or 5.6%, of General Fund expenditures. As noted above, under the Adopted Budget, the budgeted General Fund reserve for fiscal year 2016-17 is \$3,110,104, or 9.2%, of General Fund expenditures. In accordance with the policy of City Council described above, the City has adopted a plan to restore the reserve percentage to 10% within five years and 15% within ten years.

The Comprehensive Financial Policy will be reviewed annually by the City's Financial Advisory Board and any proposed substantive revisions will be submitted to the City Council for approval.

State Budget and Its Impact on the City

General. Information about the fiscal year 2016-17 revised State budget and other State budgets is regularly available at various State-maintained websites. An impartial analysis of the budget is posted by the Legislative Analyst Office at www.lao.ca.gov. In addition, various State official statements, many of which contain a summary of the current and past State budgets, may be found at the website of the State Treasurer, www.treasurer.ca.gov. *The information referred to in this paragraph is prepared by the respective State agency maintaining each website and not by the City or Underwriter, and the City and Underwriter take no responsibility for the continued accuracy of the Internet addresses or for the accuracy or timeliness of information posted there, and such information is not incorporated in this Official Statement by these references.*

See "RISK FACTORS – Impact of State Budget on City Revenues."

Proposition 30. The fiscal year 2012-13 State budget relied upon the Schools and Local Public Safety Protection Act, a \$6.9 billion tax increase approved by California voters at a regular election in November 2012 (“**Proposition 30**”). Proposition 30 enacted temporary increases on high-income earners, raising income taxes by up to three percent on the wealthiest Californians for seven years and increase the state sales tax by \$0.0025 for four years, and averted \$5.9 billion of planned Trigger Cuts that would have affected public education funding in the State. The 2012-13 State budget also contained reductions in expenditures from prior years spending totaling \$8.1 billion.

The temporary personal income tax increases under Proposition 30 were scheduled to expire at the end of 2018; however, the voters approved Proposition 55 in the November 2016 statewide election, which extended these increases through 2030.

Future State Budgets. The City cannot predict what actions will be taken in future years by the State Legislature and the Governor to address the State’s current or future budget deficits. Future State budgets will be affected by national and state economic conditions and other factors over which the City has no control. To the extent that the State budget process results in reduced revenues to the City, the City will be required to make adjustments to its budget. Decrease in such revenues may have an adverse impact on the City’s ability to pay the Certificates.

Financial Statements

The accounting policies of the City conform to generally accepted accounting principles. The Governmental Accounting Standards Board (“**GASB**”) published its Statement No. 34 “Basic Financial Statements – and Management’s Discussion and Analysis – for State and Local Governments” on June 30, 1999. Statement No. 34 provides guidelines to auditors, state and local governments and special purpose governments such as school districts and public utilities, on requirements for financial reporting for all governmental agencies in the United States. Generally, the basic financial statements and required supplementary information should include (i) Management’s Discussion and Analysis; (ii) financial statements prepared using the economic measurement focus and the accrual basis of accounting; (iii) fund financial statements prepared using the current financial resources measurement focus and the modified accrual method of accounting; and (iv) required supplementary information.

Accounts of the City are organized on the basis of funds, each of which is considered a separate accounting entity. There are three groups of funds: governmental funds (which include the General Fund), proprietary funds (which include enterprise funds and internal service funds) and fiduciary funds (which are used to account for resources held for the benefit of parties outside the City). The City maintains 36 individual governmental funds. Information is presented separately in the governmental statement of revenues, expenditures, and changes in fund balances for the General Fund and the Street Maintenance and Construction Fund, both of which are considered to be major funds. Data for the 35 other funds are combined into a single aggregated presentation.

All governmental funds and fiduciary funds use the modified accrual basis of accounting. The proprietary funds use the accrual basis of accounting. The General Fund is the general operating fund of the City and is used to account for all financial resources except those required to be accounted for in a separate fund.

In fiscal year 2014-15, the City implemented GASB Statements No. 68 and 71. These statements establish standards for measuring and recognizing liabilities, deferred outflows of resources, deferred inflows of resources and pension plan expenses. GASB Statements No. 68 and No. 71 do not change the pension funding obligations of the City and have had no effect on the General Fund. See also “– Employee Retirement System.”

The City’s most recent audited financial statements are included in the Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2015, which is attached as APPENDIX C to this Official Statement. The financial statements were prepared by the City and audited by Maze & Associates (the “**Auditor**”).

The financial statements should be read in their entirety. *The City has neither requested nor obtained permission from the Auditor to include the audited financial statements as an appendix to this Official Statement. Accordingly, the Auditor has not performed any post-audit review of the financial condition or operations of the City or General Fund. In addition, the Auditor has not reviewed this Official Statement.*

Set forth on the following pages are (i) a general fund balance sheet for fiscal years 2011-12 through 2015-16 and (ii) a statement of revenues, expenditures and changes in fund balance for the City’s General Fund for the same period, as well as adopted budget figures for fiscal year 2016-17.

Table B-2
CITY OF EL CERRITO
General Fund Balance Sheet
(Dollars in Thousands)

	Audited 2011-12	Audited 2012-13	Audited 2013-14	Audited 2014-15	Unaudited 20 15-16
ASSETS:					
Cash and investments	\$198,713	\$361,857	\$1 ⁽¹⁾	\$1 ⁽¹⁾	\$6,276,747 ⁽²⁾
Cash with fiscal agents	--	456,801	150,445	10,170	10,187
Accounts receivable	465,923	313,710	187,946	29,493	794,679
Due from other governments	1,824,463	1,919,791	1,747,713	3,253,667	1,367,977
Due from other funds	1,637,270	647,761	310,035	--	--
Interest receivable	919	2	1	--	--
Loans receivable	--	--	--	--	--
Inventory	39,273	23,183	26,965	73,942	110,976
Prepays	5,100	24,866	31,361	54,300	59,641
Land held for resale or redevelopment	--	--	--	--	--
Total assets	4,171,661	3,747,971	2,454,467	3,421,573	8,620,207
LIABILITIES:					
Accounts payable	620,153	527,422	596,507	732,767	1,023,617
Accrued liabilities	34,428	36,269	34,074	47,553	56,622
Due to other funds	--	575,000	250,000	849,386	1,411,533
Deposits payable	168,584	236,416	272,842	296,624	22,654
Deferred revenue	59,154	--	--	--	5,000,000 ⁽²⁾
Unearned revenue	--	31,626	30,578	33,731	38,351
Total liabilities	882,319	1,406,733	1,184,001	1,960,061	7,552,777
DEFERRED INFLOWS OF RESOURCES					
Unavailable revenue - accounts receivable	--	--	--	--	--
Unavailable revenue - due from other governments	--	--	--	--	--
Unavailable revenue - loans receivable	--	--	--	--	--
Total deferred inflows of resources	--	--	--	--	--
Fund Balances:					
Nonspendable					
Items not in spendable form:					
Prepays and Inventory	44,373	48,049	58,326	128,242	170,617
Restricted	598,957	--	--	--	--
Redevelopment projects & programs	--	598,957	--	--	--
Solar Project	--	456,801	150,445	10,170	10,187
Assigned to various contrast	--	--	53,108	--	--
Unassigned	2,646,021	1,237,431	1,008,587	1,323,100	1,568,111
Total fund balances	3,289,342	2,341,238	1,270,466	1,461,512	1,748,915
Total liabilities and fund balances	\$4,171,661	\$3,747,971	\$2,454,467	\$3,421,573	\$9,301,692

(1) Decreases from fiscal year 2012-13 reflect advance of cash from General Fund to other City funds.

(2) The City issued its 2015-16 Tax and Revenue Anticipation Notes in the aggregate principal amount of \$5,000,000 (the "2015-16 TRAN") in fiscal year 2015-16, but retired the 2015-16 TRAN in fiscal year 2016-17. In the prior fiscal years shown above, the City issued and retired its tax and revenue anticipation notes in the same fiscal year. Increased Cash and Investments and Deferred Revenue in fiscal year 2015-16 reflect this.

Source: City of El Cerrito Comprehensive Annual Financial Reports.

Table B-3
CITY OF EL CERRITO
Statement of General Fund Revenues, Expenditures and Changes in Fund Balance
(Dollars in thousands)

	<u>Audited</u> <u>2011-12</u>	<u>Audited</u> <u>2012-13</u>	<u>Audited</u> <u>2013-14</u>	<u>Audited</u> <u>2014-15</u>	<u>Unaudited</u> <u>2015-16</u>	<u>Adopted</u> <u>Budget</u> <u>2016-17</u>
Revenues:						
Taxes and assessments	\$17,525,337	\$17,303,159	\$18,642,362	\$19,555,328	\$21,260,325	\$23,135,773
Licenses and permits	518,276	516,704	539,567	493,244	607,729	653,690
Fines and penalties	215,336	288,781	388,365	276,759	326,543	326,000
Use of money and property	283,952	317,009	289,661	349,916	311,742	391,996
Intergovernmental revenues	2,994,806	3,544,827	3,460,949	4,036,613	3,363,105	3,163,805
Charges for services	4,432,450	4,451,433	4,781,590	4,275,245	4,649,897	4,854,773
Other revenues	111,153	289,670	146,442	119,300	775,439	466,320
Total revenues	26,081,310	26,711,583	28,248,936	29,106,405	31,294,780	32,992,357
Expenditures:						
Current:						
General government	3,671,488	3,744,658	3,967,342	3,728,457	4,248,715	5,251,272
Public works	795,492	711,382	517,787	642,199	1,102,338	1,451,343
Recreation	4,010,750	3,964,609	4,002,274	4,153,881	4,439,603	4,496,140
Community development	1,615,071	1,790,150	1,515,150	1,687,744	1,767,207	2,107,493
Public safety	17,714,021	18,166,843	18,058,632	18,460,592	19,099,962	19,327,991
Payment of sales tax to City of Richmond	--	--	253,720 ⁽²⁾	245,599 ⁽²⁾	240,000	--
Capital outlay	131,569	140,074	105,504	135,283	168,665	164,000
Debt service: principal	--	43,788	88,410	90,858	93,373	130,473
Debt service: interest	--	--	--	--	--	--
Total expenditures	27,938,391	28,561,504	28,508,819	29,144,613	31,159,863	32,928,712
Excess of revenues over (under) expenditures	(1,857,081)	(1,849,921)	(259,883)	(38,208)	134,917	63,645
Other financing sources (uses):						
Issuance of debt	--	1,595,300 ⁽¹⁾	--	--	--	--
Transfers in	3,216,904	1,059,228	804,379	900,857	890,194	915,214
Transfers out	(4,569,968)	(1,752,711)	(1,615,268)	(671,603)	(737,708)	(741,497)
Total other financing sources (uses)	(1,353,064)	901,817	(810,889)	229,254	152,486	173,717
Net change in fund balance	(3,210,145)	(948,104)	(1,070,772)	191,046	287,403	237,362
Fund balance - July 1	6,499,487	3,289,342	2,341,238	1,270,466	1,461,512	2,872,742
Fund balance - June 30	\$3,289,342	\$2,341,238	\$1,270,466	\$1,461,512	\$1,748,915	\$3,110,104

(1) Represents the principal portion of the solar lease debt service payment. See "-- Long-Term General Fund Obligations -- Solar Photovoltaic Capital Lease."

(2) Payment by City in connection with its tax sharing agreement with the City of Richmond. See "-- Tax Sharing Agreement with City of Richmond."

Source: City of El Cerrito Comprehensive Annual Financial Reports.

Major Revenues

General. Taxes and other sources of revenue received by the City are listed in the table below. Certain general taxes currently imposed by the City are affected by Proposition 218. See “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS – Proposition 218 – Article XIIC and Article XIID.”

The following table presents historical tax revenues for fiscal years 2011-12 through 2015-16, and the budgeted tax revenues for fiscal year 2016-17, for the City’s General Fund.

Table B-4
CITY OF EL CERRITO
Major Tax Revenues by Source – General Governmental Activities
(Dollars in thousands)

	<u>Audited 2011-12</u>	<u>Audited 2012-13</u>	<u>Audited 2013-14</u>	<u>Audited 2014-15</u>	<u>Unaudited 2 015-16</u>	<u>Adopted Budget 2016-17</u>	<u>% of 2016-17 Budgeted Total</u>
Property Taxes	\$8,396,623	\$5,467,008	\$6,061,184	\$6,804,612	\$7,379,425	\$8,607,000	31.15%
Sales Taxes ⁽¹⁾	6,560,971	6,251,355	6,814,760	6,455,436 ⁽²⁾	7,895,489	7,849,000	28.41
Utility User Tax	3,163,978	3,066,580	3,137,017	3,106,232	3,291,254	3,163,000	11.45
Local Parcel Taxes	1,908,237	1,908,470	1,908,642	1,908,856	2,035,018	1,921,170	6.95
Franchise Taxes	1,020,930	1,065,858	1,228,307	1,376,771	1,453,351	1,565,000	5.66
Business License Tax	691,948	660,931	768,448	722,130	787,122	810,000	2.93
Other Taxes	592,386	681,582	3,259,133	3,539,300	3,397,586	3,713,977	13.44
Total Taxes	\$22,335,073	\$19,101,784	\$23,177,491	\$23,913,338	\$26,239,245	\$27,629,147	100.00%

- (1) Includes revenues from Measure A, a 1/2-cent transactions and use tax on certain retailers and other commercial enterprises within the City (“**Measure A**”). The revenues from Measure A are pledged to the payment of debt service on the City’s 2008 Sales Tax Revenue Bonds (“**Sales Tax Bonds**”) and will be unavailable for debt service on the Certificates. Measure A revenues for fiscal years 2011-12, 2012-13, 2013-14, 2014-15, and 2015-16 were \$1,546,542, \$1,141,958, \$1,453,527, \$1,399,734 and \$1,800,598, respectively. Measure A revenues are budgeted at \$1,485,000 in fiscal year 2016-17.
- (2) Measure R sales tax was first levied on April 1, 2015. See “– Sales and Use Taxes – Sales Tax Rates.”

Source: *City of El Cerrito Comprehensive Annual Financial Reports; fiscal year 2016-17 estimates per fiscal year 2016-17 Budget.*

Property Taxes

General. This section describes property tax levy and collection procedures and certain information regarding historical assessed values and major property tax payers in the City.

Property taxes represent the largest source of tax revenue to the City (budgeted for approximately 31.15% of governmental fund tax revenues in fiscal year 2016-17). The City received \$7,379,425 of property tax revenues in fiscal year 2015-16 and has budgeted to receive \$8,607,000 in property tax revenue for fiscal year 2016-17. See “– Assessed Valuation” below.

Property taxes have historically been the primary revenue source affected by voter initiatives and legislative actions. With approval of Proposition 13, property tax revenues were curtailed when they were reduced by two-thirds and thereafter limited to 2% annual increases or

the CPI, whichever was less. See “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS.”

ERAF Shift Legislation. Certain property taxes have been shifted from local government agencies to schools by the State Legislature for deposit in the Education Revenue Augmentation Fund (“**ERAF**”), a shift that has resulted in diversion of City property taxes since fiscal year 1992-93. See “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS – Proposition 1A.” There can be no assurance that the State will not undertake future ERAF shifts.

Levy and Collection. Property taxes are levied for each fiscal year on taxable real and personal property as of the preceding January 1. For assessment and collection purposes, property is classified either as “secured” or “unsecured” and is listed accordingly on separate parts of the assessment roll. The “secured roll” is that part of the assessment roll containing State-assessed public utilities property and real property the taxes on which are a lien sufficient, in the opinion of the County Assessor, to secure payment of the taxes. Other property is assessed on the “unsecured roll.”

Property taxes on the secured roll are due in two installments, on November 1 and February 1 of each fiscal year, and become delinquent on December 10 and April 10, respectively. A penalty of 10% attaches immediately to all delinquent payments. Property on the secured roll with respect to which taxes are delinquent become tax defaulted on or about June 30 of the fiscal year. Such property may thereafter be redeemed by payment of a penalty of 1% per month to the time of redemption, plus costs and a redemption fee. If taxes are unpaid for a period of five years or more, the property is deeded to the State of California and may be sold at public auction.

Property taxes on the unsecured roll are due as of the January 1 lien dates and become delinquent on August 31. A 10% penalty attaches to delinquent unsecured taxes. If unsecured taxes are unpaid at 5:00 p.m. on October 31, an additional penalty of 1% attaches to them on the first day of each month until paid. The County has four ways of collecting delinquent unsecured personal property taxes: (1) a civil action against the taxpayer; (2) filing a judgment in the office of the County Clerk specifying certain facts in order to obtain a lien on certain property of the taxpayer; (3) filing a certificate of delinquency for record in the County Recorder’s office in order to obtain a lien on certain property of the taxpayer; and (4) seizure and sale of personal property, improvements or possessory interests belonging or assessed to the assessee.

Beginning in 1978-79, Proposition 13 and its implementing legislation shifted the function of property tax allocation to the counties, except for levies to support prior voted debt, and prescribed how levies on countywide property values are to be shared with local taxing entities within each county.

Assessed Valuation. All property is assessed using full cash value as defined by Article XIII A of the State Constitution. State law provides exemptions from ad valorem property taxation for certain classes of property such as churches, colleges, non-profit hospitals, and charitable institutions. See “CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES AND APPROPRIATIONS.”

Future assessed valuation growth allowed under Article XIII A (new construction, certain changes of ownership, 2% inflation) will be allocated on the basis of “situs” among the

jurisdictions that serve the tax rate area within which the growth occurs. Local agencies and schools will share the growth of “base” revenues from the tax rate area. Each year’s growth allocation becomes part of each agency’s allocation in the following year.

Assessed Valuation History. The following table shows a ten-year history of the City’s assessed valuation.

Table B-5
CITY OF EL CERRITO
Assessed Value and Estimated Actual Value of Taxable Property
Fiscal Years 2007-08 to 2016-17
(in thousands)

Fiscal Year	Local Secured	Utility	Unsecured	Total
2007-08	\$2,793,574,119	\$673,692	\$42,580,008	\$2,836,827,819
2008-09	2,900,313,359	673,692	47,499,129	2,948,486,180
2009-10	2,888,677,278	0	39,872,973	2,928,550,251
2010-11	2,921,297,403	0	39,345,699	2,960,643,102
2011-12	2,881,842,764	0	38,112,554	2,919,955,318
2012-13	2,811,186,014	0	37,430,254	2,848,616,268
2013-14	2,961,865,602	0	40,596,347	3,002,461,949
2014-15	3,222,404,322	0	41,830,854	3,264,235,176
2015-16	3,547,584,767	0	41,828,039	3,589,412,806
2016-17	3,789,900,085	0	40,622,301	3,830,522,386

Source: California Municipal Statistics, Inc.

Proposition 13 and Proposition 8 Property Value Adjustments. Proposition 13, passed in 1978, established the base year value concept for property tax assessments. Under Proposition 13, the 1975-76 fiscal year serves as the original base year used in determining the assessment for real property. Thereafter, annual increases to the base year value are limited to the inflation rate, as measured by the California Consumer Price Index, or 2%, whichever is less. A new base year value, however, is established whenever a property, or portion thereof, has had a change in ownership or has been newly constructed.

Proposition 8, enacted in 1978, allows for a temporary reduction in assessed value when a property suffers a “decline-in-value.” As of the January 1st (lien date) each year, the Assessor must enroll either a property’s Proposition 13 value (adjusted annually for inflation by no more than 2%) or its current market value, whichever is less. When the current market value replaces the higher Proposition 13 value, the lower value is commonly referred to as a “Proposition 8 Value.” “Proposition 8 values” are temporary and, once enrolled, must be reviewed annually by the assessor until the Proposition 13 adjusted base year value is enrolled.

Major Property Taxpayers. The following table shows the principal property taxpayers in the City as determined by their secured assessed valuations in fiscal year 2015-16.

Table B-6
CITY OF EL CERRITO
Principal Property Taxpayers
(in thousands)

<u>Taxpayer</u>	<u>Fiscal Year 2015-16</u>		
	<u>Taxable Assessed Value</u>	<u>Rank</u>	<u>Percentage of Total City Taxable Assessed Value⁽¹⁾</u>
MCD-RCCA-El Cerrito LLC ⁽²⁾	\$92,279,352	1	2.41%
KMF X El Cerrito LLC ⁽³⁾	47,187,248	2	1.23
El Cerrito Shopping Center LLC	43,855,634	3	1.14
MG Garden View Apartments LP	21,331,827	4	0.56
Lucky FLA Nocal Investor LLC	16,955,000	5	0.44
Civic Plaza Riley Group LLC	16,184,249	6	0.43
Pepper Lane SE Square Loop	15,017,393	7	0.40
St Johns Land Partnership	10,829,667	8	0.29
Longs Drug Stores Inc	10,810,732	9	0.29
Creekside Walk Ventures LLC	9,933,734	10	0.26
Total	\$284,834,836		

(1) Fiscal Year 2015-16 Local Secured Assessed Valuation: \$3,589,412,806.

(2) Shopping center.

(3) Multifamily housing.

Source: City of El Cerrito Comprehensive Annual Financial Report.

Teeter Plan. The Board of Supervisors of the County has approved the implementation of the Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds (the “**Teeter Plan**”), as provided for in Section 4701 et seq. of the California Revenue and Taxation Code. Under the Teeter Plan, the County apportions secured property taxes on an accrual basis when due (irrespective of actual collections) to local political subdivisions, including the City, for which the County acts as the tax-levying or tax-collecting agency. The Teeter Plan was effective beginning the fiscal year commencing July 1, 1993.

The Teeter Plan is applicable to all tax levies on secured property for which the County acts as the tax-levying or tax-collecting agency, or for which the County treasury is the legal depository of the tax collections.

The Teeter Plan is to remain in effect unless the Board of Supervisors of the County orders its discontinuance or unless, prior to the commencement of any fiscal year of the County (which commences on July 1), the Board of Supervisors receives a petition for its discontinuance joined in by resolutions adopted by at least two-thirds of the participating revenue districts in the County, in which event the Board of Supervisors is to order discontinuance of the Teeter Plan effective at the commencement of the subsequent fiscal year. If the Teeter Plan is discontinued subsequent to its implementation, only those secured property taxes actually collected would be allocated to political subdivisions (including the City) for which the County acts as the tax-levying or tax-collecting agency.

Sales and Use Taxes

Sales and use taxes represent the second largest source of tax revenue to the City (budgeted to be approximately 28.41% of the governmental funds tax revenues in fiscal year 2016-17). This section describes the current system for levying, collecting and distributing sales and use tax revenues in the State of California. The City received \$7,895,489 in sales tax revenue for fiscal year 2015-16 and has budgeted to receive \$7,849,000 in sales tax revenue for fiscal year 2016-17, in each case including the revenues from Measure A (which are indicated at footnote 1 of Table B-4).

Sales Tax Rates. The City collects a percentage of taxable sales in the City (minus certain administrative costs imposed by the State Board of Equalization) pursuant to the Bradley-Burns Uniform Local Sales and Use Tax (the “**Sales Tax Law**”), as shown below.

At an election held on November 2, 2010, the voters of the City approved Measure R (by a majority vote), a measure to increase the sales tax in the City by a half-cent, to be used by the City for general purposes. Measure R was set to expire after seven years; however, in November 2014, El Cerrito voters approved the extension and increase of Measure R at the one percent sales tax rate for 12 years. The new sales tax rate went into effect on April 1, 2015, and will end on March 21, 2027. This increased El Cerrito’s sale tax rate to 10% and is expected to generate an additional \$1.4 million per year.

At a February 2008 election, a majority of City voters approved Measure A, which increased sales tax by a one-half cent to be used exclusively for street improvements. Prior to 2008, the City faced a backlog of street maintenance and repairs. The Measure A accelerated work plan was a multi-year, intensive pothole and street repair program designed to rapidly improve the City’s street system and to complete the repairs in the most efficient and quickest way possible. As part of the Measure A Street Improvement Program, construction was completed on the 2013-14 Street Improvement Project, 2014 Pavement Rehabilitation Project, 2014 Patch Paving Program, and 2015 Slurry Seal and Curb Ramp Project to repair and resurface various streets as well as install related improvements to curb, gutter, sidewalk, curb ramps, storm drain facilities and traffic striping.

Currently, taxable transactions in the City are subject to the following sales and use tax, of which the City’s share is only a portion. The State collects and administers the tax, and makes distributions on taxes collected within the City, as follows:

**Table B-7
CITY OF EL CERRITO
Sales Tax Rates
Fiscal Year 2016-17**

<u>Component</u>	<u>Rate</u>
Statewide	7.50%
Contra Costa County Transportation Authority	0.50
Bay Area Rapid Transit District	0.50
El Cerrito Measure A (Streets)	0.50
El Cerrito Measure R (General Fund)	<u>1.00</u>
Total Tax Rate	10.00%

Source: City of El Cerrito Proposed Biennial Budget Fiscal Years 2016-17 & 2017-18.

Sales and use taxes are complementary taxes; when one applies, the other does not. In general, the statewide sales tax applies to gross receipts of retailers from the sale of tangible personal property in the State of California. The use tax is imposed on the purchase, for storage, use or other consumption in the State of tangible personal property from any retailer. The use tax generally applies to purchases of personal property from a retailer outside the State of California where the use will occur within the State of California. The sales tax is imposed upon the same transactions and items as the statewide sales tax and the statewide use tax.

Certain transactions are exempt from the State sales tax, including sales of the following products:

- food products for home consumption;
- prescription medicine;
- newspapers and periodicals;
- edible livestock and their feed;
- seed and fertilizer used in raising food for human consumption; and
- gas, electricity and water when delivered to consumers through mains, lines and pipes.

This is not an exhaustive list of exempt transactions. A comprehensive list can be found in the State Board of Equalization's Publication No. 61 entitled "Sales and Use Taxes: Exemptions and Exclusions," which can be found on the State Board of Equalization's website at <http://www.boe.ca.gov/>. *The reference to this Internet website is provided for reference and convenience only. The information contained within the website may not be current, has not been reviewed by the City and is not incorporated in this Official Statement by reference.*

Sales Tax Collection Procedures. Collection of the sales and use tax is administered by the California State Board of Equalization. According to the State Board of Equalization, it distributes quarterly tax revenues to cities, counties and special districts using the following method:

Using the prior year's like quarterly tax allocation as a starting point, the State Board of Equalization first eliminates nonrecurring transactions such as fund transfers, audit payments and refunds, and then adjusts for growth, in order to establish the estimated base amount. The State Board of Equalization disburses 90% to each local jurisdiction in three monthly

installments (advances) prior to the final computation of the quarter's actual receipts. Ten percent is withheld as a reserve against unexpected occurrences that can affect tax collections (such as earthquakes, fire or other natural disaster) or distributions of revenue such as unusually large refunds or negative fund transfers. The first and second advances each represent 30% of the 90% distribution, while the third advance represents 40%. One advance payment is made each month, and the quarterly reconciliation payment (clean-up) is distributed in conjunction with the first advance for the subsequent quarter. Statements showing total collections, administrative costs, prior advances and the current advance are provided with each quarterly clean-up payment.

Under the Sales and Use Tax Law, all sales and use taxes collected by the State Board of Equalization under a contract with any city, city and county, redevelopment agency, or county are required to be transmitted by the Board of Equalization to such city, city and county, redevelopment agency, or county periodically as promptly as feasible. These transmittals are required to be made at least twice in each calendar quarter.

Under its procedures, the State Board of Equalization projects receipts of the sales and use tax on a quarterly basis and remits an advance of the receipts of the sales and use tax to the City on a monthly basis. The amount of each monthly advance is based upon the State Board of Equalization's quarterly projection. During the last month of each quarter, the State Board of Equalization adjusts the amount remitted to reflect the actual receipts of the sales and use tax for the previous quarter.

The Board of Equalization receives an administrative fee based on the cost of services provided by the Board to the City in administering the City's sales tax, which is deducted from revenue generated by the sales and use tax before it is distributed to the City.

History of Taxable Transactions. A summary of historic taxable sales within the City for which data is available is shown in the following table.

Table B-8
CITY OF EL CERRITO
Taxable Sale by Category
(Dollars in thousands)

	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>
Home Furnishings and Appliance Stores	\$12,446	\$12,361	\$12,861	\$13,232	\$12,403
Bldg. Matrl. And Garden Equip. and Supplies*	16,706	16,839	20,212	13,084	--
Food and Beverage Stores	21,270	23,400	26,630	26,370	26,680
Gasoline Stations	17,633	20,786	21,556	19,503	19,212
Clothing and Clothing Accessories Stores	24,917	24,772	24,316	25,437	25,258
General Merchandise Stores*	3,460	--	--	--	--
Food Services and Drinking Places	29,297	30,354	31,114	35,149	37,162
Other Retail Group	102,871	106,516	111,440	116,462	122,377
All Other Outlets	16,975	18,017	24,226	25,761	25,498
Total	\$246,573	\$253,036	\$273,354	\$274,997	\$268,591

* Sales omitted because publication would result in the disclosure of confidential information.

Source: City of El Cerrito Comprehensive Annual Financial Reports

Other Taxes and Revenues

Utility Users Tax. The utility users tax (“UUT”) was initially approved by the voters of the City in 1991 and revised with voter approval of the ordinance in 2004. The tax generates approximately \$3 million in revenues annually for the General Fund. The ordinance calls for an 8% tax to be assessed by providers of gas, electricity, water, telephone and video/television services to all City customers and then remitted to the City. These revenues are subject to changes in market conditions, weather, and/or pricing in the sectors subject to the utility user tax ordinance. Although use of these services is generally declining, prices and rates are generally increasing on these services. Therefore a slight decrease in overall utility user revenues is projected for coming fiscal years.

Business License Tax. Business License Taxes are imposed on certain types of businesses in the City and reflect about \$750,000 of General Fund revenue annually. The tax is based on factors such as a business’s number of employees or vehicles, its annual gross receipts, or a property owner’s number of residential rental units. A slight increase is projected in the new few years.

Franchise Taxes. Franchise taxes are paid by utilities based on various methodologies and represent over \$1 million in General Fund revenue. They are projected to increase slightly over the new few years.

Other Taxes. Other taxes include the Transient Occupancy Tax, a 10% tax on room rates for hotels and motels, and other minor taxes. Other taxes are a minor General Fund revenue source, projected to increase slightly over the new few years.

Tax Sharing with City of Richmond

Tax Sharing Agreement. Pursuant to an agreement dated November 18, 1991 (the “Tax Sharing Agreement”), between the City and the City of Richmond (“**Richmond**”), the City and Richmond agreed that, with respect to a Home Depot located on a site consisting of 8 parcels located in the City and 13 parcels located in Richmond, the City will be allocated 30%, and Richmond will be allocated 70%, of sales taxes, property taxes, utility users’ taxes and business license taxes to be generated by the Home Depot (“**Home Depot Tax Revenues**”). Under the Tax Sharing Agreement, if the either party receives more than its allocated share of aggregate Home Depot Tax Revenues, it must, within 30 days of each January 15 and July 15, transmit the excess above the allocated share to the other party.

Over-Allocation of Sales Tax Revenues by BOE. The BOE completed two separate reviews related to the allocation of Home Depot Tax Revenues between the City and Richmond. The review dates back to fiscal year 2006. In April 2013, the BOE found that the Home Depot Tax Revenues had been over-allocated by \$292,357 from fiscal year 2008-09 through 2012-13, and the June 2013 remittance was reduced in that amount.

In October 2013, the BOE found that the City’s historical Home Depot Tax Revenues had been over-allocated by \$2,499,975 and indicated that it would withhold that amount from the December 2013 remittance. This finding did not include any adjustments under the Tax Sharing Agreement and payments that had been made by the City under that agreement in the then-current and prior fiscal years. The City had requested documentation from the BOE to support its calculation and obtained an extension to April 30, 2014, for the opportunity to appeal the decision while management reviewed BOE’s methodology and calculations. The BOE did

not withhold the amount from the December 2013 remittance, pending the City's review and potential appeal.

In October 2014, the BOE rescinded the demand letters and agreed to implement the Tax Sharing Agreement between the cities with regard to Home Depot Tax Revenues. As a result, Richmond receives 100% from the BOE and then credits 30% of that amount (pursuant to the 70/30 split in the Tax Sharing Agreement) towards the previously over-allocated amount owed by the City to Richmond. The City does not receive any cash payments and will not until the outstanding over-allocated amount is repaid by 2018.

Long-Term General Fund Obligations

Set forth below is a summary of long-term obligations payable from the City's general fund (other than the 2006 Bonds being prepaid, as described under the heading "PLAN OF FINANCING").

2015-16 Tax and Revenue Anticipation Notes. On July 28, 2016, the City issued its 2016-17 Tax and Revenue Anticipation Notes (the "**2016-17 TRAN**"), in the aggregate principal amount of \$5,000,000, in a private placement with West America Bank. The 2016-17 TRAN matures in July 2017 and is payable from taxes, income, revenue, cash receipts and other moneys that are received by the City for the General Fund for fiscal year 2016-17. As security for the payment of the principal of and interest on the 2016-17 TRAN, the City has pledged the first "unrestricted moneys" (as defined below) to be received by the City as follows: (a) an amount equal to 50% of the principal amount of the 2016-17 TRAN in February 2017; (b) an amount equal to 50% of the principal amount of the 2016-17 TRAN in May 2017; and (c) an amount sufficient to pay interest as due on the 2016-17 TRAN at maturity, in June 2017 (collectively, "**Pledged Revenues**"). The principal of and interest on the 2016-17 TRAN constitutes a first lien and charge on, and is payable from, the Pledged Revenues. To the extent not so paid from the Pledged Revenues, the 2016-17 TRAN will be paid from any other moneys of the City lawfully available for such purpose. The term "**unrestricted moneys**" means taxes, income, revenue, cash receipts, and other moneys intended as receipts for the General Fund for fiscal year 2016-17 and that are generally available for the payment of current expenses and other obligations of the City.

2012 Lease Revenue Bonds. On September 26, 2012, the El Cerrito Public Financing Authority issued Lease Revenue Refunding Bonds, Series 2012 (the "**2012 Bonds**"), in the original principal amount of \$2,516,500 at 1.960% interest to provide for the refunding of the City's outstanding 2002 Swim Center Lease Revenue Bonds. The 2012 Bonds were outstanding in the principal amount of \$1,552,200 as of June 30, 2016. Principal payments are due annually on September 1, with interest payments payable semi-annually on March 1 and September 1 through September 1, 2020. Parcel tax revenues are pledged for the repayment of the 2012 Bonds. If parcel tax revenues are insufficient to pay the annual principal and interest payments on the 2012 Bonds, the City has covenanted to use General Fund revenues.

Solar Photovoltaic Capital Lease. On December 5, 2012, the City entered into a lease agreement in the amount of \$1,595,300 at 2.75% interest with Green Campus Partners, LLC, to finance the purchase and installment of six solar photovoltaic electricity generation systems at six different sites in the City. Semiannual principal and interest payments of \$65,236 are due each December 1 and June 1 through December 1, 2027.

Master Equipment Lease. On July 25, 2012, the City entered into a Master Equipment Lease refunding agreement in the amount of \$1,628,172 at 1.78% with JP Morgan Chase, to refund and retire five prior lease agreements for the purchase of two fire trucks and apparatus, two recycling trucks, 10,000 64-gallon recycling carts, and a recycling truck. Semiannual principal and interest payments of \$124,210 are due each December and June 1 through June 1, 2019.

Employee Relations

The City had 175.2 authorized positions at the beginning of fiscal year 2016-17, of which 46.4 were sworn Police personnel and 36 were sworn Fire personnel. The City's employees are represented by 3 labor groups.

<u>Labor Group</u>	<u>Number of Employees</u>	<u>Contract Expiration Date</u> ⁽¹⁾
Public Safety - Police	52.4	6/30/2017
Public Safety - Fire	37.0	6/30/2017
SEIU	88.3	6/30/2017

(1) Upon expiration, contract continues on existing terms until renegotiated.

There have been no work stoppages by City employees.

Risk Management

The City is a member of the Municipal Pooling Authority of Northern California. The Authority provides coverage against loss risks under the terms of a joint-powers agreement with the City and several other cities and governmental agencies.

See Note 11 in the City's fiscal year 2014-15 audited financial statements, which are attached to this Official Statement as Appendix C, for additional information about the City's risk management practices.

Employee Retirement System

This caption contains certain information relating to California Public Employees' Retirement System ("CalPERS"). The information is primarily derived from information produced by CalPERS, its independent accountants and actuaries. The City has not independently verified the information provided by CalPERS and makes no representations and expresses no opinion as to the accuracy of the information provided by CalPERS.

The comprehensive annual financial reports of CalPERS are available on its Internet website at www.calpers.ca.gov. The CalPERS website also contains CalPERS' most recent actuarial valuation reports and other information concerning benefits and other matters. Such information is not incorporated by reference in this Official Statement. None of the Authority, City or Underwriter can guarantee the accuracy of such information. Actuarial assessments are "forward-looking" statements that reflect the judgment of the fiduciaries of the pension plans, and are based upon a variety of assumptions, one or more of which may not materialize or may be changed in the future. Actuarial assessments will change with the future experience of the pension plans.

GASB Statement No. 68. In June 2012, the GASB adopted new standards (GASB Statement No. 68, or “**GASB 68**”) with respect to accounting and financial reporting by state and local government employers for defined benefit pension plans. The new standards revise the accounting treatment of defined benefit pension plans, changing the way expenses and liabilities are calculated and how state and local government employers report those expenses and liabilities in their financial statements. Major changes include: (i) the inclusion of unfunded pension liabilities on the government’s balance sheet (previously, such unfunded liabilities were typically included as notes to the government’s financial statements); (ii) pension expense incorporates more rapid recognition of actuarial experience and investment returns and is no longer based on the employer’s actual contribution amounts; (iii) lower actuarial discount rates that are required to be used for underfunded plans in certain cases for purposes of the financial statements; (iv) closed amortization periods for unfunded liabilities that are required to be used for certain purposes of the financial statements; and (v) the difference between expected and actual investment returns to will be recognized over a closed five-year smoothing period. The reporting requirements took effect in fiscal year 2014-15. Based on the adoption of the new accounting standards, beginning with the fiscal year 2014-15 actuarial valuation, the annual required contribution and the annual pension expense will be different. GASB 68 is a change in accounting reporting and disclosure requirements, but it does not change the City’s pension plan funding obligations.

Information shown in this section that has been sourced from a CalPERS Actuarial Valuation Report has not been prepared in accordance with GASB 68. For a presentation of additional information that is required by GASB 68, see Note 10 to the City’s Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2015, which is attached as APPENDIX C.

Plan Description. All qualified permanent and probationary employees are eligible to participate in the City’s separate Safety (police and fire) and Miscellaneous (all other) Employee Pensions Plans (the “**Plans**”), cost-sharing multiple employer defined benefit pension plans administered by CalPERS. Benefit provisions under the Plans are established by State statute and City resolution. CalPERS issues publicly available reports that include a full description of the pension plans regarding benefit provisions, assumptions and membership information that can be found on the CalPERS website.

Benefits Provided. CalPERS provides service retirement and disability benefits, annual cost of living adjustments and death benefits to plan members, who must be public employees and beneficiaries. Benefits are based on years of credited service, equal to one year of full time employment. Members with five years of total service are eligible to retire at age 50 with statutorily reduced benefits. All members are eligible for non-duty disability benefits after 10 years of service. The death benefit is one of the following: the Basic Death Benefit, the 1957 Survivor Benefit, or the Optional Settlement 2W Death Benefit. The cost of living adjustments for each plan are applied as specified by the Public Employees’ Retirement Law.

The provisions and benefits of each plan that were in effect at June 30, 2015, are summarized as follows:

Miscellaneous Plan

	Miscellaneous - Classic	Miscellaneous - PEPR
Hire Date	Prior to January 1, 2013	On or after January 1, 2013
Benefit	2.7% @ 55	2% @ 62
Benefit vesting schedule	5 years service	5 years of service
Benefit payments	Monthly for life	Monthly for life
Retirement age	50	52
Monthly benefits, as a % of eligible compensation	2.00% - 2.70%	1.00% - 2.50%
Required employee contribution rates	8.00%	6.25%
Required employer contributions rates	21.87%	6.25%

Safety - Police Plan

	Safety - Classic	Safety - PEPR Police
Hire Date	Prior to January 1, 2013	On or after January 1, 2013
Benefit	3% @ 50	2.7% @ 57
Benefit vesting schedule	5 years service	5 years service
Benefit payments	Monthly for life	Monthly for life
Retirement age	52	50
Monthly benefits, as a % of eligible compensation	3.00%	2.00% - 2.70%
Required employee contribution rates	9.00%	11.50%
Required employer contributions rates	33.82%	11.50%

Safety - Fire Plan

	Safety - PEPR Fire
Hire Date	On or after January 1, 2013
Benefit	2.7% @ 57
Benefit vesting schedule	5 years service
Benefit payments	Monthly for life
Retirement age	50
Monthly benefits, as a % of eligible compensation	2.00% - 2.70%
Required employee contribution rates	11.50%
Required employer contributions rates	11.50%

The City is required to contribute at an actuarially determined rate of annual covered payroll, plus a fixed payment of unfunded liability. The actuarially determined rates and amounts for each plan for the fiscal years ended June 30, 2016, through June 30, 2018, are as follows:

City's Required Employer Contribution Rate

	<u>Fiscal Year 2015-16</u>		<u>Fiscal Year 2016-17</u>		<u>Fiscal Year 2017-18⁽¹⁾</u>	
	<u>Employer</u> <u>Normal</u> <u>Cost Rate</u>	<u>Employer</u> <u>Payment of</u> <u>Unfunded Li</u> <u>ability</u>	<u>Employer</u> <u>Normal</u> <u>Cost Rate</u>	<u>Employer</u> <u>Payment of</u> <u>Unfunded Lia</u> <u>bility</u>	<u>Employer</u> <u>Normal</u> <u>Cost Rate</u>	<u>Employer</u> <u>Payment of</u> <u>Unfunded Lia</u> <u>bility</u>
Miscellaneous Plan - Classic	11.0%	\$875,921	11.7%	\$1,075,481	11.7%	\$1,235,651
Miscellaneous Plan - PEPRA	6.2	(89)	6.5	1,306	6.5	1,457
Safety-Police Plan - Classic	18.5	1,576,109	19.7	2,092,601	19.7	2,507,647
Safety-Police Plan - PEPRA	11.1	(332)	12.0	60	12.0	523
Safety-Fire Plan - PEPRA	11.1	(2)	12.0	1,057	12.0	1,142

(1) Projected.

Source: CalPERS Actuarial Reports dated November 2015 and August 2016.

On July 18, 2016, CalPERS announced preliminary investment returns for the 12-month period ended June 30, 2016, of 0.61%. Such returns are significantly lower than CalPERS' current assumed rate of investment return (7.50%) and, along with other factors (including future investment returns and contributions rates), may result in increased required contributions in the future.

The City's total contributions to each plan in fiscal years 2012-13, 2013-14 and 2014-15 were as follows:

Miscellaneous Plan

<u>Fiscal Year</u>	<u>Total City Contribution</u>
2012-13	\$1,269,431
2013-14	1,511,741
2014-15	977,135

Safety-Police Plan

<u>Fiscal Year</u>	<u>Total City Contribution</u>
2012-13	\$3,579,144
2013-14	3,494,417
2014-15	2,717,810

Safety-Fire Plan

<u>Fiscal Year</u>	<u>Total City Contribution</u>
2012-13	\$0
2013-14	0
2014-15	0

Funded Status. The following table sets forth the schedule of funding for the City's Miscellaneous, Safety-Police, and Safety-Fire pension plans for the fiscal years ended June 30, 2013, 2014, and 2015.

Miscellaneous Plan

Miscellaneous Plan - Classic

Valuation Date (June 30)	Accrued Liability	Market Value of Assets	Unfunded Liability	Funded Ratio ⁽¹⁾	Annual Covered Payroll
2013	\$42,755,940	\$29,062,863	\$13,693,077	68.0%	\$5,203,067
2014	46,959,878	33,698,514	13,261,364	71.8	5,046,833
2015	47,489,811	32,338,793	15,151,018	68.1	3,590,461

Miscellaneous Plan - PEPRA

Valuation Date (June 30)	Accrued Liability	Market Value of Assets	Unfunded Liability	Funded Ratio ⁽¹⁾	Annual Covered Payroll
2013	\$3,760	\$5,045	\$(1,285)	134.2%	\$196,385
2014	36,372	39,493	(3,121)	108.6	379,384
2015	94,864	91,611	3,253	96.6	760,207

(1) Based on the market value of assets.

Source: CalPERS Actuarial Report Dated August 2016.

Safety-Police Plan

Safety-Police Plan - Classic

Valuation Date (June 30)	Accrued Liability	Market Value of Assets	Unfunded Liability	Funded Ratio ⁽¹⁾	Annual Covered Payroll
2013	\$101,809,265	\$72,547,569	\$29,261,696	71.3%	\$8,321,279
2014	111,959,814	83,778,367	28,181,447	74.8	7,916,094
2015	115,010,168	81,703,497	33,306,671	71.0	7,504,349

Safety-Police Plan - PEPRA

Valuation Date (June 30)	Accrued Liability	Market Value of Assets	Unfunded Liability	Funded Ratio ⁽¹⁾	Annual Covered Payroll
2013	\$10,241	\$15,031	\$(4,790)	146.8%	\$149,861
2014	77,935	86,859	(8,924)	111.5	374,425
2015	224,314	218,077	6,237	97.2	885,722

(1) Based on the market value of assets.

Source: CalPERS Actuarial Report Dated August 2016.

Safety-Fire PEPRA Plan

Valuation Date (June 30)	Accrued Liability	Market Value of Assets	Unfunded Liability	Funded Ratio ⁽¹⁾	Annual Covered Payroll
2013	\$58	\$85	\$(27)	146.6%	\$74,780
2014	34,081	35,559	(1,478)	104.3	177,928
2015	47,385	44,669	2,716	94.3	100,525

(1) Based on the market value of assets.

Source: CalPERS Actuarial Report Dated August 2016.

Recent Actions Taken by CalPERS. At its April 17, 2013, meeting, CalPERS' Board of Administration (the "**Board of Administration**") approved a recommendation to change the CalPERS amortization and smoothing policies. Prior to this change, CalPERS employed an amortization and smoothing policy that spread investment returns over a 15-year period with experience gains and losses paid for over a rolling 30-year period. After this change, CalPERS will employ an amortization and smoothing policy that will pay for all gains and losses over a 20-year period with a five-year ramp-up, and five-year ramp-down, period. The new amortization and smoothing policy was used for the first time in the June 30, 2013, actuarial valuations in setting employer contribution rates for fiscal year 2015-16.

On February 18, 2014, the CalPERS Board approved new demographic actuarial assumptions based on a 2013 study of recent experience. The largest impact, applying to all benefit groups, is a new 20-year mortality projection reflecting longer life expectancies and that longevity will continue to increase. Because retirement benefits will be paid out for more years, the cost of those benefits will increase as a result. The Board of Administration also assumed earlier retirements for Police 3%@50, Fire 3%@55, and Miscellaneous 2.7%@55 and 3%@60, which will increase costs for those groups. As a result of these changes, rates will increase beginning in fiscal year 2016-17 (based on the June 30, 2014 valuation) with full impact in fiscal year 2020-21.

On November 18, 2015, the CalPERS Board adopted a funding risk mitigation policy intended to incrementally lower its discount rate – its assumed rate of investment return – in years of good investment returns, help pay down the pension fund's unfunded liability, and provide greater predictability and less volatility in contribution rates for employers. The policy establishes a mechanism to reduce the discount rate by a minimum of 0.05 percentage points to a maximum of 0.25 percentage points in years when investment returns outperform the existing discount rate, currently 7.5%, by at least four percentage points. CalPERS staff modeling anticipates the policy will result in a lowering of the discount rate to 6.5% in about 21 years, improve funding levels gradually over time and cut risk in the pension system by lowering the volatility of investment returns. More information about the funding risk mitigation policy can be accessed through CalPERS' web site at the following website address: <https://www.calpers.ca.gov/page/newsroom/calpers-news/2015/adopts-funding-risk-mitigation-policy>. *The reference to this Internet website is provided for reference and convenience only. The information contained within the website may not be current, has not been reviewed by the City and is not incorporated in this Official Statement by reference.*

Other Post Employment Benefits (“OPEB”)

Description of Postretirement Healthcare Benefits (OPEB). The City does not provide health care benefits to its retired employees; however, the City provides postretirement health care benefits to employees who retire in good standing from the City by allowing them to maintain their health plan benefit level at the time of retirement at the retiree’s own cost, if permitted by the health insurance carrier. The City’s medical insurance providers charge the City the same premiums for retirees who are not yet eligible for Medicare as they charge for active employees. Since retirees typically have higher health care costs than active employees, the retiree premium rates are being subsidized by the inclusion of active lives in setting rates. As of June 30, 2015, there were 18 participants paying for these health care benefits.

The City’s Comprehensive Annual Financial Report for the fiscal year ended June 30, 2015, and in particular Note 10 thereto, includes information about the City’s postemployment healthcare liabilities and funding.

Funding Policy and Actuarial Assumptions. The annual required contribution (“ARC”) was determined as part of a June 30, 2014 actuarial valuation using the projected unit credit cost method. This is a cost method that takes into account the benefits that are expected to be paid for current actives and retirees. The actuarial assumptions included (a) 4.0% investment rate of return and (b) 4.5% to 7.0% medical cost trend rate assumptions. The health care cost trend rate is the rate of change in per capita health claims costs over time as a result of factors such as medical inflation, utilization of healthcare services, plan design, and technological developments. Projections of benefits for financial reporting purposes are based on the substantive plan (the plan as understood by the City and the plan members) and include the types of benefits provided at the time of each valuation and the historical pattern of sharing benefit costs between the City and plan members to that point. The actuarial methods and assumptions used include techniques that smooth the effects of short-term volatility in actuarial accrued liabilities and the actuarial value of assets. Actuarial calculations reflect a long-term perspective and actuarial valuations involve estimates of the value of reported amounts and assumptions about the probability of events far into the future. Actuarially determined amounts are subject to revision at least biannually as results are compared to past expectations and new estimates are made about the future. The City’s OPEB funded actuarial accrued liability is being amortized on a level dollar using a 30 year amortization period on an open basis.

Funding Progress and Funded Status. Generally accepted accounting principals permit contributions to be treated as OPEB assets and deducted from the Actuarial Accrued Liability when such contributions are placed in an irrevocable trust or equivalent arrangement or made by implicate rate subsidies. During the fiscal year ended June 30, 2015, the City has calculated and recorded the Net OPEB Obligation, representing the difference between the ARC and contributions, as presented below:

OPEB Components for Fiscal Year 2014-15

	Net OPEB Obligation (Asset)
Annual required contribution	\$ 623,857
Interest on net OPEB obligation	51,198
Adjustment to annual required contribution	<u>(71,173)</u>
Annual OPEB cost (expense)	603,882
Contribution/Benefits made	<u>(310,262)</u>
Change in net OPEB obligation	293,620
Net OPEB Obligation - beginning of year	<u>1,573,570</u>
Net OPEB Obligation - end of year	<u>\$ 1,867,190</u>

Source: City of El Cerrito Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2015.

The annual OPEB costs and actual contributions for the last three fiscal years are set forth below:

Fiscal Year Ended June 30,	Annual OPEB Cost	Actual Contribution	Percentage of Annual OPEB Cost Contributed	Net OPEB Obligation (Asset)
2013	\$461,099	\$195,931	42.5%	\$1,279,950
2014	603,882	310,262	51.4	1,573,570
2015	603,882	310,262	51.4	1,867,190

Investment Policies and Procedures

The City invests its funds in accordance with the City's Investment and Portfolio Policy (the "**Investment Policy**"), which is subject to annual review and approval by the City Council. The purpose of the Investment Policy is to establish the investment goals of safety, liquidity, and return on investments (in that order). The Investment Policy complies with the provisions of the California Government Code, Sections 53600 through 53659 (the authority governing investments for municipal governments in the State). The Investment Policy limits the City to investments authorized by State law (Sections 53601 et seq). In addition, the Investment Policy establishes further guidelines.

It is the policy of the City to invest public funds in a manner which provides for safety of principal while providing sufficient liquidity to cover the City's short and long-term needs while generating the appropriate yield.

The City Council receives monthly investment reports. According to the report for the month ended September 30, 2016, the City has invested funds as set forth in the table below.

Table B-9
CITY OF EL CERRITO
Investment Portfolio as of September 30, 2016

	Par Value	Cost Value	Market Value
LAIF	\$2,012,722.98	\$2,012,722.98	\$2,012,722.98
Prime Money Market	10,196.38	10,196.38	10,196.38
Union Bank/Blackrock Liquidity	185,412.72	185,412.72	185,412.72
Union Bank/Blackrock Liquidity	603,852.21	603,852.21	603,852.21
Union Bank/Blackrock Liquidity	741,280.20	741,280.20	741,280.20
Mechanics Bank	1,099,973.57	1,099,973.57	1,099,973.57
Total	\$4,653,438.06	\$4,653,438.06	\$4,653,438.06

Source: City of El Cerrito Quarterly Cash & Investment Report for Period Ending September 30, 2016.

Population

As of January 1, 2016 the population of the City was estimated to be 24,378. The following table presents population data for the last five years for the City, County and State.

Table B-10
COUNTY OF CONTRA COSTA
Population

Year	City of El Cerrito	County of Contra Costa	State of California
2012	23,748	1,069,977	37,881,357
2013	23,803	1,083,340	38,239,207
2014	23,980	1,097,172	38,567,459
2015	24,132	1,111,143	38,907,642
2016	24,378	1,123,429	39,255,883

Source: California State Department of Finance, Demographic Research Unit.

Employment and Industry

The Oakland-Hayward-Berkeley Metropolitan Division ("MD") encompasses Alameda and Contra Costa Counties. The unemployment rate in the Oakland-Hayward-Berkeley MD was 4.7% in August 2016, down from a revised 4.9% in July 2016, and below the year-ago estimate of 4.9%. This compares with an unadjusted unemployment rate of 5.6% for California and 5.0% for the nation during the same period. The unemployment rate was 4.6% in Alameda County and 4.7% in the County.

The table below lists employment by industry group for the County for the years 2011 to 2015.

Table B-11
CONTRA COSTA COUNTY
Annual Averages Civilian Labor Force, Employment and Unemployment,
Employment by Industry
(March 2015 Benchmark)

	2011	2012	2013	2014	2015
Civilian Labor Force ⁽¹⁾	1,316,300	1,336,300	1,344,100	1,355,600	1,374,800
Employment	1,182,400	1,218,700	1,245,500	1,275,000	1,308,100
Unemployment	133,900	117,500	98,600	80,600	66,700
Unemployment Rate	10.2%	8.8%	7.3%	5.9%	4.8%
<u>Wage and Salary Employment:</u> ⁽²⁾					
Agriculture	1,500	1,500	1,400	1,300	1,200
Mining, Logging and Construction	48,600	52,900	57,300	59,400	63,300
Manufacturing	79,700	79,900	80,100	82,800	86,600
Wholesale Trade	42,200	43,700	45,200	46,200	47,600
Retail Trade	101,200	104,100	107,700	109,900	113,000
Transportation, Warehousing and Utilities	32,200	32,900	33,500	35,600	38,300
Information	22,600	22,100	21,500	21,300	22,400
Finance and Insurance	32,900	33,400	33,500	32,600	32,800
Real Estate and Rental and Leasing	14,900	15,400	16,200	16,800	16,800
Professional and Business Services	157,500	166,500	173,400	178,800	183,000
Educational and Health Services	158,900	164,700	170,500	173,100	178,400
Leisure and Hospitality	88,200	91,800	97,200	102,100	106,300
Other Services	35,700	36,400	37,000	37,500	38,000
Federal Government	14,600	14,200	13,800	13,800	13,800
State Government	38,300	38,500	38,900	39,300	39,800
Local Government	111,000	110,100	110,600	113,400	115,200
Total, All Industries ⁽³⁾	980,100	1,008,000	1,037,500	1,063,600	1,096,300

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(3) Totals may not add due to rounding.

Source: Labor Division of the California State Employment Development Department.

Principal Employers

The following table shows the principal employers in the City, listed alphabetically, as shown in the City's Comprehensive Annual Financial Report for fiscal year ending June 30, 2013 (data for principal employers beyond Fiscal Year 2013 is not available).

Table B-12
CITY OF EL CERRITO
Principal Employers⁽¹⁾

Employer	
Barnes and Noble	Nation's
Bed Bath & Beyond	Pastime Hardware
City of El Cerrito	Prospect Sierra School
CVS Pharmacy	Romano's Macaroni Grill
El Cerrito Royale	Safeway
Fat Apple's Restaurant	Shields Nursing Center
Home Depot	Tehiyah Day School
Honda of El Cerrito	Trader Joe's
Lucky's	US Post Office
Mira Vista Golf and Country Club	West Contra Costa Unified School District

(1) Data not available for total employees for each employer.

Source: City Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2013.

Effective Buying Income

“Effective Buying Income” is defined as personal income less personal tax and nontax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor’s income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the total effective buying income for the City, the County, the State and the United States for the period 2011 through 2015:

Table B-13
CITY OF EL CERRITO
Effective Buying Income
2011 through 2015

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2011	City of El Cerrito	\$715,098	\$54,320
	Contra Costa County	30,416,350	60,777
	California	814,578,458	47,062
	United States	6,438,704,664	41,253
2012	City of El Cerrito	\$806,858	\$60,788
	Contra Costa County	33,604,875	61,167
	California	864,088,828	47,307
	United States	6,737,867,730	41,358
2013	City of El Cerrito	\$832,540	\$63,495
	Contra Costa County	32,061,585	61,731
	California	858,676,636	48,340
	United States	6,982,757,379	43,715
2014	City of El Cerrito	\$868,080	\$66,000
	Contra Costa County	33,833,478	64,090
	California	901,189,699	50,072
	United States	7,357,153,451	45,448
2015	City of El Cerrito	\$998,213	\$70,573
	Contra Costa County	37,417,068	68,074
	California	981,231,666	53,589
	United States	7,757,960,399	46,738

Source: The Nielsen Company (US), Inc.

Commercial Activity

Summaries of the historic taxable sales within the City and the County during the past five years in which data is available are shown in the following tables. Annual figures for calendar years 2015 and 2016 are not yet available.

Total taxable sales during calendar year 2014 in the City were reported to be \$268.6 million, a 2.3% decrease from the total taxable sales of \$275.0 million reported during calendar year 2013.

TABLE B-14
CITY OF EL CERRITO
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2010	431	\$229,600	580	\$246,574
2011	446	235,019	593	253,036
2012	436	249,128	579	273,354
2013	420	249,236	557	274,997
2014	431	243,093	564	268,591

Source: California State Board of Equalization, Taxable Sales in California (Sales & Use Tax).

Total taxable sales during calendar year 2014 in the County were reported to be \$15.0 billion, a 3.9% increase over the total taxable sales of \$14.5 billion reported during calendar year 2013.

TABLE B-15
CONTRA COSTA COUNTY
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2010	14,423	\$8,716,393	21,784	\$11,953,846
2011	13,930	9,300,418	21,153	12,799,857
2012	14,343	10,062,437	21,504	13,997,249
2013	14,511	10,677,018	21,449	14,471,988
2014	14,657	11,092,210	21,550	15,030,047

Source: California State Board of Equalization, Taxable Sales in California (Sales & Use Tax).

Construction Activity

The following tables show a five-year summary of the valuation of building permits issued in the City and the County.

TABLE B-16
CITY OF EL CERRITO
Building Permit Valuation
(Valuation in Thousands of Dollars)

	2011	2012	2013	2014	2015
<u>Permit Valuation</u>					
New Single-family	\$0.0	\$942.6	\$400.0	\$4,480.0	\$1,250.0
New Multi-family	0.0	0.0	0.0	9,065.1	23,027.3
Res. Alterations/Additions	<u>7,045.7</u>	<u>5,690.4</u>	<u>6,094.3</u>	<u>9,126.4</u>	<u>8,282.4</u>
Total Residential	\$7,045.7	\$6,633.0	\$6,494.3	\$22,671.5	\$32,559.7
New Commercial	\$0.0	\$919.0	\$685.5	\$458.2	\$103.1
New Industrial	0.0	0.0	0.0	0.0	0.0
New Other	0.0	0.0	1,661.6	4,235.6	1,452.7
Com. Alterations/Additions	<u>7,222.0</u>	<u>893.7</u>	<u>1,452.2</u>	<u>2,006.5</u>	<u>987.3</u>
Total Nonresidential	\$7,222.0	\$1,812.7	\$3,799.3	\$6,700.3	\$2,543.1
<u>New Dwelling Units</u>					
Single Family	0	17	1	5	3
Multiple Family	<u>0</u>	<u>0</u>	<u>0</u>	<u>57</u>	<u>131</u>
TOTAL	0	17	1	62	134

Source: Construction Industry Research Board, Building Permit Summary.

TABLE B-17
CONTRA COSTA COUNTY
Building Permit Valuation
(Valuation in Thousands of Dollars)

	2011	2012	2013	2014	2015
<u>Permit Valuation</u>					
New Single-family	\$211,417.9	\$340,255.7	\$469,376.5	\$402,109.1	\$629,638.5
New Multi-family	47,304.2	54,884.8	62,799.7	82,008.6	123,088.7
Res. Alterations/Additions	<u>233,174.2</u>	<u>179,471.7</u>	<u>195,787.4</u>	<u>256,617.8</u>	<u>301,221.7</u>
Total Residential	\$491,896.3	\$574,612.2	\$727,963.6	\$740,735.5	\$1,053,948.9
New Commercial	\$17,587.4	\$97,077.8	\$85,341.7	\$94,171.8	\$122,256.4
New Industrial	7,188.0	7,000.8	8,927.8	21,149.5	15,020.1
New Other	15,542.3	13,999.9	89,877.6	103,359.8	170,219.6
Com. Alterations/Additions	<u>214,585.0</u>	<u>124,147.2</u>	<u>220,737.0</u>	<u>191,855.7</u>	<u>219,320.4</u>
Total Nonresidential	\$254,902.7	\$242,225.7	\$404,884.1	\$410,536.8	\$526,816.5
<u>New Dwelling Units</u>					
Single Family	718	1,188	1,585	1,439	1,909
Multiple Family	<u>355</u>	<u>949</u>	<u>370</u>	<u>588</u>	<u>629</u>
TOTAL	1,073	2,137	1,955	2,027	2,538

Source: Construction Industry Research Board, Building Permit Summary.

Education

The City is part of the West Contra Costa Unified School District (“**WCCUSD**”), which also serves other west Contra Costa County communities. In the City, WCCUSD operates one early intervention preschool, three public elementary schools, one public middle school, and one public high school. Nearby higher education institutions include Contra Costa College and the University of California-Berkeley.

Transportation

Highly developed transportation facilities of the San Francisco-Oakland Metropolitan area are readily available to the residents of the City. The City is traversed by Interstate 80 (Eastshore Freeway). Five miles north, California Highway 4 runs east from I-80 to Concord, where freeway connections can be made to San Jose (I-680), the Central Valley (I-580), and Los Angeles (I-5). The community is also served by the Bay Area Rapid Transit (BART) system with stations near both the north and south boundaries of the City, the East Bay Paratransit Service and the AC Transit bus system.

APPENDIX C

**AUDITED FINANCIAL STATEMENTS
FOR THE YEAR ENDED JUNE 30, 2015**

APPENDIX D

PROPOSED FORM OF FINAL OPINION

APPENDIX E

FORM OF CONTINUING DISCLOSURE CERTIFICATE

\$ _____
City of El Cerrito
2017 Certificates of Participation
(2006 City Hall Lease Refinancing)

This Continuing Disclosure Certificate (this "Disclosure Certificate") is executed and delivered by the City of El Cerrito (the "City") in connection with the execution and delivery of the certificates of participation captioned above (the "Certificates"). The Certificates evidence the direct, undivided fractional interests of the owners thereof in lease payments to be made by the City under a Lease Agreement dated as of January 1, 2017 (the "Lease Agreement") between the Public Property Financing Corporation of California (the "Corporation"), as lessor, and the City as lessee. The Certificates will be delivered under a Trust Agreement dated as of January 1, 2017 (the "Trust Agreement") among the City, the Corporation and MUFG Union Bank, N.A., as trustee (the "Trustee"). The City covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the Certificates and in order to assist the Participating Underwriters in complying with Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

Section 2. Definitions. In addition to the definitions set forth in the Trust Agreement, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"*Annual Report*" means any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4.

"*Annual Report Date*" means the date that is nine months after the end of the City's fiscal year (currently March 31 based on the City's fiscal year end of June 30).

"*Dissemination Agent*" means, initially, Willdan Financial Services, or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

"*Listed Events*" means any of the events listed in Section 5(a).

"*MSRB*" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information that may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

"*Official Statement*" means the final official statement executed by the City in connection with the issuance of the Certificates.

“Participating Underwriter” means Stifel, Nicolaus & Company, as the original underwriter of the Certificates required to comply with the Rule in connection with offering of the Certificates.

“Rule” means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as it may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than the Annual Report Date, commencing March 31, 2017, with the report for the 2015-16 fiscal year, provide to the MSRB, in an electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4. Not later than 15 Business Days prior to the Annual Report Date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by 15 Business Days prior to the Annual Report Date the Dissemination Agent (if other than the City) has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with the previous sentence. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the Annual Report Date, if not available by that date. If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c). The City shall provide a written certification with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by the City hereunder.

(b) If the City does not provide (or cause the Dissemination Agent to provide) an Annual Report by the Annual Report Date, the City shall provide (or cause the Dissemination Agent to provide) to the MSRB and the Participating Underwriter, in an electronic format as prescribed by the MSRB, a notice in substantially the form attached as Exhibit A.

(c) With respect to each Annual Report, the Dissemination Agent shall:

- (i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and
- (ii) if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, and stating the date it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) Audited financial statements of the City prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the City's audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial

statements shall be filed in the same manner as the Annual Report when they become available.

(b) To the extent not contained in the audited financial statements filed under the preceding clause (a), the Annual Report shall contain information showing the following information for the most recently completed fiscal year:

(i) An update to Table B-3 in the Official Statement entitled "Statement of Revenues, Expenditures and Changes in Fund Balance General Fund."

(ii) An update to Table B-4 in the Official Statement entitled "Major Tax Revenues by Source - General Governmental Activities."

(iii) An update to Table B-5 in the Official Statement entitled "Assessed Value and Estimated Actual Value of Taxable Property."

(iv) An update to Table B-6 in the Official Statement entitled "Principal Property Tax Payers."

(c) In addition to any of the information expressly required to be provided under this Disclosure Certificate, the City shall provide such further material information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

(d) Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public on the MSRB's Internet web site or filed with the Securities and Exchange Commission. The City shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) The City shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Certificates:

- (1) Principal and interest payment delinquencies.
- (2) Non-payment related defaults, if material.
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (5) Substitution of credit or liquidity providers, or their failure to perform.
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.

- (7) Modifications to rights of security holders, if material.
- (8) Bond calls, if material, and tender offers.
- (9) Defeasances.
- (10) Release, substitution, or sale of property securing repayment of the securities, if material.
- (11) Rating changes.
- (12) Bankruptcy, insolvency, receivership or similar event of the obligated person. This event is considered to occur when any of the following occur: The appointment of a receiver, fiscal agent or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.
- (13) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, and, if the Listed Event is described in subsections (a)(2), (a)(6), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13) or (a)(14) above, the City determines that knowledge of the occurrence of that Listed Event would be material under applicable Federal securities law, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, and the Participating Underwriter in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Certificates under the Trust Agreement.

Section 6. Identifying Information for Filings with the MSRB. All documents provided to the MSRB under the Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Certificates. If such termination occurs prior to the final maturity of the Certificates, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(b).

Section 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any Dissemination Agent, with or without appointing a successor Dissemination Agent. Any Dissemination Agent may resign by providing 30 days' written notice to the City. The initial Dissemination Agent is Willdan Financial Services.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

- (a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Certificates, or type of business conducted;
- (b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the primary offering of the Certificates, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and
- (c) the proposed amendment or waiver either (i) is approved by holders of the Certificates in the manner provided in the Trust Agreement for amendments to the Trust Agreement with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the Certificates.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first Annual Report filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to this Disclosure Certificate modifying the accounting principles to be followed in preparing financial statements, the Annual Report for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative.

A notice of any amendment made pursuant to this Section 9 shall be filed in the same manner as for a Listed Event under Section 5(b).

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. If the City fails to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Certificates may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Trust Agreement, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and the holders and beneficial owners from time to time of the Certificates, and shall create no rights in any other person or entity.

Section 13. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be regarded as an original, and all of which shall constitute one and the same instrument.

Date: _____, 2017

CITY OF EL CERRITO

By _____
City Manager

**ACCEPTANCE OF DUTIES
AS DISSEMINATION AGENT**

WILLDAN FINANCIAL SERVICES

By _____
Authorized Officer

EXHIBIT A

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of El Cerrito

Name of Issue: \$_____ City of El Cerrito 2017 Certificates of Participation
(2006 City Hall Lease Refinancing)

Date of Issuance: _____, 2017

NOTICE IS HEREBY GIVEN that the City of El Cerrito has not provided an Annual Report with respect to the above-named Certificates as required by the Continuing Disclosure Certificate dated as of _____, 2017, executed by the City of El Cerrito. The City anticipates that the Annual Report will be filed by _____.

Dated: _____

DISSEMINATION AGENT:

By: _____
Its: _____

APPENDIX F

BOOK-ENTRY PROVISIONS

The following description of the Depository Trust Company, New York, New York (“DTC”), the procedures and record keeping with respect to beneficial ownership interests in the Certificates, payment of principal, interest and other payments with respect to the Certificates to DTC Direct and Indirect Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Certificates and other related transactions by and between DTC, DTC’s Direct and Indirect Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither DTC’s Direct and Indirect Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or DTC’s Direct and Indirect Participants, as the case may be.

*Neither the issuer of the Certificates (the “**Issuer**”) nor the trustee, fiscal agent or paying agent appointed with respect to the Certificates (the “**Agent**”) take any responsibility for the information contained in this Appendix.*

No assurances can be given that DTC, DTC’s Direct Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Certificates, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Certificates, or (c) prepayment or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Certificates, or that they will so do on a timely basis, or that DTC, DTC’s Direct Participants or Indirect Participants will act in the manner described in this Appendix. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC’s Direct Participants and Indirect Participants are on file with DTC.

1. DTC will act as securities depository for the securities (the “**Securities**”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“**Direct Participants**”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is

a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("**DTCC**"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("**Indirect Participants**"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com. *The information contained on this Internet site is not incorporated herein by reference.*

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("**Beneficial Owner**") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

APPENDIX G

CITY OF EL CERRITO STATEMENT OF INVESTMENT POLICY

APPENDIX H

SPECIMEN CERTIFICATE INSURANCE POLICY

\$ _____
CITY OF EL CERRITO
2017 CERTIFICATES OF PARTICIPATION (2006 CITY HALL LEASE REFINANCING)

CERTIFICATE PURCHASE CONTRACT

January __, 2017

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

Ladies and Gentlemen:

Stifel, Nicolaus & Company, Incorporated (the “**Underwriter**”) offers to enter into this Certificate Purchase Contract (this “**Purchase Contract**”) with the City of El Cerrito (the “**City**”). This offer is made subject to the City’s acceptance by execution of this Purchase Contract and delivery of the same to the Underwriter on or before 11:59 p.m. on the date hereof, and, if not so accepted, will be subject to withdrawal by the Underwriter upon notice delivered to the City at any time prior to such acceptance. Upon the City’s acceptance hereof, the Purchase Contract will be binding upon the City and the Underwriter. Capitalized terms that are used in this Purchase Contract and not otherwise defined have the meanings that are set forth in the Trust Agreement (as such term is defined herein).

Section 1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations that are set forth in this Purchase Contract, the Underwriter agrees to purchase, and the City agrees to cause to be sold and delivered to the Underwriter, all (but not less than all) of the \$_____ City of El Cerrito 2017 Certificates of Participation (2006 City Hall Lease Refinancing) (the “**Certificates**”) at a purchase price of \$_____ (being an amount equal to the principal amount of the Certificates, plus/less a net original issue premium/discount of \$_____ and less an Underwriter’s discount of \$_____). The obligations of the Underwriter to purchase, accept delivery of and pay for the Certificates shall be conditioned on the execution and delivery of all of the Certificates by MUFG Union Bank, N.A., as trustee (the “**Trustee**”) under the Trust Agreement, to the Underwriter at Closing (as such term is defined herein), upon the written request of the Public Property Financing Corporation of California (the “**Corporation**”).

Concurrently with the execution and delivery of the Certificates, the City will purchase a municipal bond insurance policy (the “**Policy**”) and a debt service reserve fund surety (the “**Reserve Policy**”) to be issued by _____ (the “**Insurer**”). In connection with the Closing, the Underwriter agrees to wire \$_____ to the Insurer as an accommodation to the City as payment of the premiums on the Policy and the Surety Policy.

Section 2. Certificate Terms; Authorizing Instruments.

(a) The Certificates shall be dated their date of delivery and shall mature and bear interest as shown on Exhibit A. The Certificates shall be as described in, and shall be executed and delivered and secured under, the Trust Agreement, dated as of January 1, 2017 (the “**Trust**

Agreement”), by and among the City, the Corporation and the Trustee. The Certificates are payable and subject to prepayment as provided in the Trust Agreement.

(b) The Certificates will be secured by Lease Payments (as such term is defined in the Trust Agreement) to be made by the City to the Corporation pursuant to a Lease Agreement, dated as of January 1, 2017 (the “**Lease**”), by and between the City and the Corporation.

(c) The net proceeds of the sale of the Certificates will be used: (i) to prepay all amounts that are due under the Facilities Lease, dated as of November 1, 2006 (the “**Prior Lease**”), by and between the City and the El Cerrito Public Public Financing Authority (the “**Authority**”), and thereby to cause the redemption in full of the El Cerrito Public Financing Authority Lease Revenue Bonds, Series 2006 (City Hall Project) (the “**Prior Obligations**”); (ii) to fund a Reserve Fund for the Certificates; and (iii) to pay the costs that are incurred in connection with the execution and delivery of the Certificates, including the premium for the Policy.

Section 3. Public Offering. The Underwriter agrees to make an initial bona fide public offering of all of the Certificates, at not in excess of the initial public offering yields or prices that are set forth on Exhibit A. Following the initial public offering of the Certificates, the offering prices may be changed from time to time by the Underwriter. The City acknowledges and agrees that: (a) the purchase and sale of the Certificates pursuant to this Purchase Contract is an arm’s-length commercial transaction between the City and the Underwriter, and the only obligations that the Underwriter has to the City with respect to the transaction that is contemplated hereby expressly are set forth in this Purchase Contract; (b) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as a principal, and is not acting as a Municipal Advisor (as such term is defined in Section 15B of The Securities Exchange Act of 1934, as amended) to the City; (c) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the City with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the City on other matters); (d) the Underwriter has financial and other interests that may differ from and be adverse to those of the City; and (e) the City has consulted its own legal, financial, accounting, tax and other advisors to the extent that it has deemed appropriate.

Section 4. Official Statement; Continuing Disclosure.

(a) The City has delivered to the Underwriter the Preliminary Official Statement dated December __, 2016 relating to the Certificates (the “**Preliminary Official Statement**”) and will deliver to the Underwriter the final Official Statement dated the date of this Purchase Contract (as amended and supplemented from time to time pursuant to Section 5(i), the “**Official Statement**”) within seven business days.

(b) The City hereby authorizes the use of the Official Statement and the information that is contained therein by the Underwriter in connection with the public offering and the sale of the Certificates. The City consents to the use by the Underwriter prior to the date hereof of the Preliminary Official Statement in connection with the public offering of the Certificates. The Underwriter hereby agrees that it will not send any confirmation requesting payment for the purchase of any Certificates unless the confirmation is accompanied by or preceded by the delivery of a copy of the Official Statement. The Underwriter agrees: (1) to provide the City with the final prices at which the Certificates are sold on a timely basis prior to the Closing; and (2) to take any and all other

actions that are necessary to comply with applicable Securities and Exchange Commission (“SEC”) rules and Municipal Securities Rulemaking Board (the “MSRB”) rules that govern the offering, sale and delivery of the Certificates to ultimate purchasers.

(c) In connection with the execution and delivery of the Certificates, and in order to assist the Underwriter in complying with the provisions of SEC Rule 15c2-12 (“**Rule 15c2-12**”), the City will execute a Continuing Disclosure Certificate (the “**Continuing Disclosure Undertaking**”) dated the date of the Closing, under which the City will undertake to provide certain financial and operating data as required by Rule 15c2-12. The form of the Continuing Disclosure Undertaking is attached as an appendix to the Preliminary Official Statement.

Section 5. Representations, Warranties and Covenants of the City. The City hereby represents, warrants and agrees with the Underwriter that:

(a) The City Council (the “**City Council**”) of the City has taken official action by Resolution (the “**City Resolution**”) adopted by a majority of the members of the City Council at a meeting duly called, noticed and conducted, at which a quorum was present and acting throughout, authorizing: (i) the execution, delivery and due performance of: (A) the Lease; (B) the Trust Agreement; (C) the Site and Facilities Lease; (D) the Continuing Disclosure Undertaking; (E) the Escrow Agreement; (F) [the Termination Agreement, dated as of January 1, 2017 (the “**Termination Agreement**”), by and among the City, the Corporation and the Trustee; and (G)] this Purchase Contract (collectively, the “**City Agreements**”) and the Official Statement; and (ii) the taking of any and all such actions as may be required on the part of the City to carry out, give effect to and consummate the transactions contemplated hereby.

(b) The City is a municipal corporation and general law city that is duly organized and existing under the laws of the State of California (the “**State**”) and has all necessary power and authority to adopt the City Resolution and to enter into and perform its duties under the City Agreements.

(c) By all necessary official action, the City has: (i) duly adopted the City Resolution; (ii) duly authorized the preparation and delivery of the Preliminary Official Statement; (iii) duly authorized the preparation, execution and delivery of the Official Statement; (iv) duly authorized and approved the execution and delivery of, and the performance of its obligations under, the City Agreements; and (iv) duly authorized the consummation by the City of all other transactions that are contemplated by the City Resolution, the City Agreements, the Preliminary Official Statement and the Official Statement. When executed and delivered, the City Agreements (assuming due authorization, execution and delivery by and enforceability against the other parties thereto, as applicable) will be in full force and effect and will each constitute the legal, valid and binding agreement or obligation of the City, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles that relate to or limit creditors’ rights generally, the application of equitable principles, the exercise of judicial discretion and the limitations on legal remedies against public entities in the State.

(d) At the time of the City’s acceptance hereof and at all times subsequent thereto up to and including the time of the Closing, the information and statements in the Official Statement (other than under the captions “THE CITY AND THE CORPORATION—The Corporation” and “CERTIFICATE INSURANCE”) do not and will not contain any untrue statement of a material fact

or omit to state a material fact that is required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (except that no representation is made with respect to information relating to DTC and DTC's book-entry system).

(e) As of the date hereof, except as described in the Preliminary Official Statement, there is no action, suit, proceeding or investigation before or by any court, public board or body pending against, and notice of which has been served on and received by, the City or, to the best knowledge of the City, threatened, wherein an unfavorable decision, ruling or finding would: (i) affect the creation, organization, existence or powers of the City, or the titles of its members or officers; (ii) in any way question or affect the validity or enforceability of City Agreements or the Certificates or the exclusion of the interest with respect to the Certificates from taxation; (iii) in any way question or affect the Purchase Contract or the transactions that are contemplated by the Purchase Contract, the Official Statement or any other agreement or instrument to which the City is a party relating to the Certificates; or (iv) have a material adverse effect on the ability of the City to make Lease Payments when due.

(f) There is no consent, approval, authorization or other order of, or filing or registration with, or certification by, any regulatory authority having jurisdiction over the City that is required for the execution and delivery of this Purchase Contract and the City Agreements or the consummation by the City of the other transactions that are contemplated by the Official Statement or the City Agreements.

(g) Any certificate that is signed by any official of the City who is authorized to do so shall be deemed a representation and warranty by the City to the Underwriter as to the statements that are made therein.

(h) The City is not in default, and at no time has the City defaulted in any material respect, on any bond, note or other obligation for borrowed money or any agreement under which any such obligation is or was outstanding.

(i) If any event occurs of which the City has knowledge between the date of this Purchase Contract and the date of the Closing that might or would cause the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact that is required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the City shall notify the Underwriter and, if in the opinion of the Underwriter, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the City will cooperate with the Underwriter in causing the Official Statement to be amended or supplemented in a form and in a manner approved by the Underwriter. All expenses thereby incurred will be paid by the City, and the Underwriter will file, or cause to be filed, the amended or supplemented Official Statement with the MSRB's Electronic Municipal Market Access system.

(j) Except as set forth in the Official Statement under the caption "CONTINUING DISCLOSURE," the City has complied in all material respects with its continuing disclosure undertakings in the past five years.

(k) The City will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order: (i) to qualify the Certificates for offer and sale under the Blue Sky or other securities laws and regulations

of such states and other jurisdictions of the United States as the Underwriter may designate; and (ii) to determine the eligibility of the Certificates for investment under the laws of such states and other jurisdictions. The City will not be required to execute a general or special consent to service of process or to qualify to do business in connection with any such qualification or determination in any jurisdiction.

(l) The City is not in any material respect in breach of or default under: (i) any applicable constitutional provision, law or administrative regulation of any state or of the United States, or any agency or instrumentality of either; (ii) any applicable judgment or decree; or (iii) any loan agreement, indenture, trust agreement, bond, note, resolution, agreement or other instrument to which the City is a party, which breach or default has or may have an adverse effect on the ability of the City to perform its obligations under the City Agreements, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument; and the adoption, execution and delivery of the City Agreements, if applicable, and compliance with the provisions on the City's part that are contained therein, will not conflict in any material way with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, trust agreement, bond, note, resolution, agreement or other instrument to which the City is a party, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City or under the terms of any such law, regulation or instrument, except as may be provided by the City Agreements.

(m) The financial statements relating to the receipts, expenditures and cash balances of the City as of June 30, 201[5] that are attached as an appendix to the Official Statement fairly represent the receipts, expenditures and cash balances of the City as of such date. Except as disclosed in the Official Statement or as otherwise disclosed in writing to the Underwriter, there has not been any materially adverse change in the financial condition of the City or in its operations since June 30, 201[5] and there has been no occurrence, circumstance or combination thereof that is reasonably expected to result in any such materially adverse change.

(n) The City will refrain from taking any action, or permitting any action to be taken, with regard to which the City may exercise control, that results in the loss of the tax-exempt status of the interest with respect to the Certificates.

Section 6. The Closing.

(a) At 8:00 A.M., Pacific Standard Time, on January __, 2017, or on such earlier or later time or date as may be agreed upon by the Underwriter and the City (the "**Closing**"), the City shall deliver or cause to be delivered to the Trustee the Certificates in definitive form, registered in the name of Cede & Co., as the nominee of DTC (so that the Certificates may be executed and delivered by the Trustee and credited to the account specified by the Underwriter under DTC's FAST procedures). Prior to the Closing, the City shall deliver, at the offices of Jones Hall, A Professional Law Corporation ("**Special Counsel**") in San Francisco, California, or at such other place as is mutually agreed upon by the Underwriter and the City, the other documents that are described in this Purchase Contract. On the date of the Closing, the Underwriter shall pay the purchase price of the Certificates as set forth in Section 1 in immediately available funds to the order of the Trustee.

(b) The Certificates shall be executed and delivered in fully registered form and shall be prepared and delivered as one Certificate for each maturity registered in the name of Cede & Co., as nominee of DTC. It is anticipated that CUSIP identification numbers will be inserted on the Certificates, but neither the failure to provide such numbers nor any error with respect thereto shall constitute a cause for failure or refusal by the Underwriter to accept delivery of the Certificates in accordance with the terms of this Purchase Contract.

Section 7. Conditions to Underwriter's Obligations. The Underwriter has entered into this Purchase Contract in reliance upon the representations and warranties of the City that are set forth herein and to be contained in the documents and instruments to be delivered on the date of the Closing, and upon the performance by the City of its obligations to be performed hereunder and the performance by the City and the Corporation of their respective obligations to be performed under the documents and instruments to be delivered at or prior to the date of the Closing. The Underwriter's obligations under this Purchase Contract are and shall also be subject to the following conditions:

(a) The representations and warranties of the City that are contained in this Purchase Contract shall be true and correct in all material respects on the date of this Purchase Contract and on and as of the date of the Closing as if made on the date of the Closing.

(b) The covenants, representations and warranties of the Corporation that are contained in the Lease, the Trust Agreement, the Site Lease, the Termination Agreement and the Assignment Agreement (collectively, the "**Corporation Agreements**") shall be true and correct in all material respects on and as of the date of the Closing.

(c) As of the date of the Closing, the Official Statement shall have been delivered within the time period set forth in Section 4 and shall not have been amended, modified or supplemented, except in any case as may have been agreed to by the Underwriter.

(d) (i) As of the date of the Closing: (A) the City Resolution; (B) the City Agreements; (C) the resolution of the Corporation approving and authorizing the execution of the Corporation Agreements (the "**Corporation Resolution**"); and (D) the Corporation Agreements shall be in full force and effect, and shall not have been amended, modified or supplemented, except as may have been agreed to by the City and the Underwriter; (ii) the City shall perform or shall have performed all of its obligations that are required under or specified in the City Resolution and the City Agreements to be performed at or prior to the date of the Closing; and (iii) the Corporation shall perform or shall have performed all of its obligations that are required under or specified in the Corporation Resolution and the Corporation Agreements to be performed at or prior to the date of the Closing.

(e) As of the date of the Closing, all necessary official action of the City relating to the City Agreements, the City Resolution and the Official Statement, and all necessary official action of the Corporation relating to the Corporation Agreements and the Corporation Resolution, shall have been taken, shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect.

(f) Subsequent to the date of this Purchase Contract, up to and including the date of the Closing, there shall not have occurred any change in the financial affairs of the City or the Corporation, as described in the Official Statement, the City Agreements and the Corporation

Agreements, which in the reasonable professional judgment of the Underwriter materially impairs the investment quality of the Certificates.

(g) As of or prior to the date of the Closing, the Underwriter shall have received each of the following documents:

(A) Certified copies of the City Resolution and the Corporation Resolution.

(B) Duly executed copies of the City Agreements and the Corporation Agreements.

(C) The Preliminary Official Statement and the Official Statement, with the Official Statement duly executed on behalf of the City.

(D) An approving opinion of Special Counsel, dated as of the Closing, as to the validity of the Certificates and the exclusion of interest on the Certificates from federal and State income taxation, addressed to the City, substantially in the form that is attached as an appendix to the Official Statement, and a reliance letter with respect thereto addressed to the Underwriter.

(E) A supplemental opinion of Special Counsel, dated as of the Closing, addressed to the Underwriter, to the effect that:

(1) The Purchase Contract has been duly executed and delivered by the City and is valid and binding upon the City, subject to laws relating to bankruptcy, insolvency, reorganization or creditors' rights generally and to the application of equitable principles;

(2) The Certificates are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Trust Agreement is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended; and

(3) The statements contained in the Official Statement on the cover and under the captions "INTRODUCTION" (excluding therefrom the statements pertaining to DTC or its book-entry system, "PLAN OF FINANCING," "THE CERTIFICATES" (excluding therefrom the statements pertaining to DTC or contained under the subcaption "—Book-Entry System"), "SECURITY FOR THE CERTIFICATES" and "TAX MATTERS," and in Appendices A and D, excluding any material that may be treated as included under such captions by cross-reference, insofar as such statements expressly summarize certain provisions of certain of the City Agreements and the form and content of Special Counsel's final approving opinion, are accurate in all material respects.

(F) A supplemental opinion of Special Counsel, dated as of the Closing, addressed to the City and the Underwriter, as to the defeasance of the Prior Obligations.

(G) A letter of Jones Hall, A Professional Law Corporation, acting as Disclosure Counsel to the City, dated as of the Closing, in form and substance satisfactory to the Underwriter.

(H) An opinion of the City Attorney, dated as of the Closing addressed to the City and the Underwriter, substantially in the form attached hereto as Exhibit E.

(I) An executed Rule 15c2-12 certificate of the City, dated as of the date of the Preliminary Official Statement, in the form attached hereto as Exhibit B.

(J) An executed closing certificate of the Corporation, dated as of the Closing, in the form attached hereto as Exhibit C.

(K) An executed closing certificate of the City, dated as of the Closing, in the form attached hereto as Exhibit D.

(L) The opinion of counsel of the Trustee, dated as of the Closing, addressed to the Corporation, the City and the Underwriter to the effect that:

(1) The Trustee is a national banking association that is duly organized, validly existing and in good standing under the laws of the United States of America, having full powers and authority and being qualified to enter into, accept and administer the trust created under the Trust Agreement and to enter into the Trust Agreement, the Assignment Agreement and the Escrow Agreement (collectively, the “**MUFG Documents**”); and

(2) The MUFG Documents have been duly authorized, executed and delivered by the Trustee, and, assuming due authorization, execution and delivery by the other parties thereto, the MUFG Documents constitute legal, valid and binding agreements of the Trustee that are enforceable in accordance with their respective terms, subject to laws relating to bankruptcy, insolvency or other laws affecting the enforcement of creditors’ rights generally and the application of equitable principles if equitable remedies are sought.

(M) A certificate or certificates, dated as of the Closing, in form and substance acceptable to the Underwriter, of an authorized officer of officers of the Trustee to the effect that the Trustee: (i) has accepted the duties imposed by the MUFG Documents; (ii) is authorized to carry out such duties in its capacities as Trustee, escrow agent and trustee for the Prior Obligations; and (iii) has executed and delivered the Certificates in its capacity as Trustee.

(N) Evidence of required filings with the California Debt and Investment Advisory Commission.

(O) A copy of the executed Blanket Issuer Letter of Representations by and between the City and/or the Corporation and DTC relating to the book-entry system.

(P) A title insurance policy insuring the Leased Property.

(Q) Evidence (or a certificate of an appropriate official of the City) that the City maintains property, casualty and rental interruption insurance for the Leased Property that meets the requirements of the Lease.

(R) Evidence that the ratings that are assigned to the Certificates as of the date of the Closing are as set forth in the Official Statement.

(S) A certified copy of the general resolution of the Trustee authorizing the execution and delivery of certain documents by certain officers of the Trustee, which resolution authorizes the execution and delivery of the MUFG Documents and the execution and delivery of the Certificates by the Trustee.

(T) An opinion of Stradling Yocca Carlson & Rauth, a Professional Corporation, counsel to the Underwriter, addressed to the Underwriter and in form and substance satisfactory to the Underwriter.

(U) A report of Lumesis as to compliance by the City and related entities with their respective continuing disclosure undertakings.

(V) An opinion of Parker & Covert LLP, counsel to the Corporation, dated as of the Closing, addressed to the City, the Corporation, the Trustee and the Underwriter, substantially in the form attached hereto as Exhibit F.

(W) A Tax Certificate with respect to maintaining the tax-exempt status of the Certificates, duly executed by the City, together with Form 8038-G, duly executed by the City.

(X) Specimen Certificates, duly executed by the Trustee.

(Y) A duly adopted local debt policy of the City that meets the requirements of Senate Bill No. 1029 (Statutes of 2016, Chapter 307).

(Z) An opinion of counsel to the Insurer addressed to the City and the Underwriter as to the due authorization and enforceability of the Policy and the Reserve Policy;

(AA) A certificate of the Insurer as to the accuracy of the information in Official Statement relating to the Insurer, the Policy and the Reserve Policy;

(BB) The Policy and the Reserve Policy, each duly executed by the Insurer.

(CC) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter or Special Counsel may reasonably request to evidence compliance by the Corporation and the City with legal requirements, the truth and accuracy, as of the date of the Closing, of the representations of the City that are set forth herein and of the Official Statement and the due performance or satisfaction by the Corporation and the City at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Corporation and the City.

All of the opinions, letters, certificates, instruments and other documents that are mentioned in this Purchase Contract shall be deemed to be in compliance with the provisions of this Purchase Contract if, but only if, they are in form and substance satisfactory to the Underwriter. If the City and the Corporation are unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Certificates that are contained in this Purchase Contract, or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Certificates shall be terminated for any reason that is permitted by this Purchase Contract, this Purchase Contract shall terminate and neither the Underwriter nor the City shall be under further obligations hereunder, except that the respective obligations of the Underwriter and the City that are set forth in Section 11 of this Purchase Contract shall continue in full force and effect.

Section 8. Conditions to City's Obligations. The performance by the City of its obligations under this Purchase Contract is conditioned upon: (i) the performance by the Underwriter of its obligations hereunder; and (ii) receipt by the City of opinions addressed to the City, receipt by

the Underwriter of opinions addressed to the Underwriter and the delivery of certificates being delivered on the date of the Closing by persons and entities other than the City.

Section 9. Termination Events. The Underwriter shall have the right to terminate the Underwriter's obligations under this Purchase Contract to purchase, to accept delivery of and to pay for the Certificates by notifying the City of its election to do so if, after the execution hereof and prior to the Closing, any of the following events occurs:

(A) the marketability of the Certificates or the market price thereof, in the reasonable opinion of the Underwriter, has been materially and adversely affected by any decision that has been issued by a court of the United States (including the United States Tax Court) or of the State, by any ruling or regulation (final, temporary or proposed) that has been issued by or on behalf of the Department of the Treasury of the United States, the Internal Revenue Service or other governmental agency of the United States, or any governmental agency of the State, or by a tentative decision or announcement by any member of the House Ways and Means Committee, the Senate Finance Committee or the Conference Committee with respect to contemplated legislation or by legislation enacted by, pending in, or favorably reported to either the House of Representatives or either House of the Legislature of the State, or formally proposed to the Congress of the United States by the President of the United States or to the Legislature of the State by the Governor of the State in an executive communication, affecting the tax status of the Corporation or the City, their property or income, their debt or contractual obligations (including the Certificates) or the interest thereon or any tax exemption granted or authorized by the Internal Revenue Code of 1986, as amended;

(B) the United States becomes engaged in hostilities that result in a declaration of war or a national emergency, or any other outbreak of hostilities occurs, or a local, national or international calamity or crisis occurs, financial or otherwise, the effect of such outbreak, calamity or crisis being such as, in the reasonable opinion of the Underwriter, would affect materially and adversely the ability of the Underwriter to market the Certificates;

(C) there occurs a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by the United States, New York or State authorities;

(D) a stop order, ruling, regulation or official statement by, or on behalf of, the SEC is issued or made to the effect that the issuance, offering or sale of the Certificates is or would be in violation of any provision of the Securities Act of 1933, as then in effect, the Securities Exchange Act of 1934, as then in effect, or the Trust Indenture Act of 1939, as then in effect;

(E) legislation is enacted by the House of Representatives or the Senate of the Congress of the United States of America, or a decision by a court of the United States of America is rendered, or a ruling or regulation by or on behalf of the SEC or other governmental agency having jurisdiction of the subject matter is made or proposed to the effect that the Certificates are not exempt from registration, qualification or other similar requirements of the Securities Act of 1933, as then in effect, or the Trust Indenture Act of 1939, as then in effect;

(F) in the reasonable judgment of the Underwriter, the market price of the Certificates, or the market price of obligations of the general character of the Certificates, might be materially and adversely affected because additional material restrictions that are not in force as of

the date hereof are imposed upon trading in securities generally by any governmental authority or by any national securities exchange;

(G) the Office of the Comptroller of the Currency, The New York Stock Exchange, or other national securities exchange, or any governmental authority, imposes, as to the Certificates or obligations of the general character of the Certificates, any material restrictions not now in force, or increases materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, or financial responsibility requirements of the Underwriter;

(H) a general banking moratorium is established by federal, New York or State authorities;

(I) any legislation, ordinance, rule or regulation is introduced in or enacted by any governmental body, department or agency in the State or a decision of a court of competent jurisdiction within the State is rendered, which, in the reasonable opinion of the Underwriter, after consultation with the City, materially adversely affects the market price of the Certificates;

(J) any federal or State court, authority or regulatory body takes action that materially and adversely affects the collection of Lease Payments under the Trust Agreement; or

(K) any rating of the Certificates is downgraded, suspended, withdrawn or placed on credit watch by a national rating service, which, in the reasonable opinion of the Underwriter, materially adversely affects the marketability or market price of the Certificates;

(L) an event occurs which in the reasonable opinion of the Underwriter requires a supplement or amendment to the Official Statement and: (i) the City refuses to prepare and furnish such supplement or amendment; or (ii) in the reasonable judgment of the Underwriter, the occurrence of such event materially and adversely affects the marketability of the Certificates or renders the enforcement of the sale contracts of the Certificates impracticable;

(M) an order, decree or injunction is issued by any court of competent jurisdiction, or order, ruling, regulation (final, temporary or proposed), official statement or other form of notice or communication is issued or made by or on behalf of the SEC, or any other governmental authority that has jurisdiction of the subject matter, to the effect that: (i) obligations of the general character of the Certificates, or the Certificates, including any or all underlying arrangements, are not exempt from registration under the Securities Act of 1933, as amended, or that the Trust Agreement is not exempt from qualification under the Trust Indenture Act of 1939, as amended; or (ii) the issuance, offering or sale of obligations of the general character of the Certificates, or the execution, offering or sale of the Certificates, including any or all underlying obligations, as contemplated hereby or by the Official Statement, is or would be in violation of the federal securities laws as amended and then in effect;

(N) additional material restrictions that are not in force as of the date hereof shall have been imposed upon trading in securities generally by any domestic governmental authority or by any domestic national securities exchange, which are material to the marketability of the Certificates; or

(O) the commencement of any action, suit or proceeding that is described in Section 5(e).

Section 10. Changes to Official Statement. After the Closing, the City will not adopt any amendment of or supplement to the Official Statement to which the Underwriter shall reasonably object in writing. Within 90 days after the Closing or within 25 days following the “end of the underwriting period” (as such term is defined herein), whichever occurs first, if any event that relates to or affects the Certificates, the Trustee, the City or the Corporation shall occur as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in any material respect in the light of the circumstances that exist at the time it is delivered to a purchaser, the City will forthwith prepare and furnish to the Underwriter an amendment or supplement that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances that exist at the time that the Official Statement is delivered to a purchaser, not misleading. The City shall cooperate with the Underwriter in the filing by the Underwriter of such amendment or supplement to the Official Statement with the MSRB.

As used herein, the term “**end of the underwriting period**” means the later of such time as: (i) the City causes the Certificates to be delivered to the Underwriter; or (ii) the Underwriter does not retain, directly or as a member of an underwriting syndicate, an unsold balance of the Certificates for sale to the public. Notwithstanding the foregoing, unless the Underwriter gives notice to the contrary, the “end of the underwriting period” shall be the date of the Closing. Any notice that is delivered pursuant to this provision shall be written notice delivered to the City at or prior to the date of the Closing and shall specify a date (other than the date of the Closing) to be deemed the “end of the underwriting period.”

Section 11. Payment of Expenses.

(a) The Underwriter shall be under no obligation to pay, and the City shall pay the following expenses incident to the performance of the Corporation’s and the City’s obligations hereunder:

- (i) the fees and disbursements of Special Counsel;
- (ii) the cost of printing and delivering the Certificates, the Preliminary Official Statement and the Official Statement (and any amendment or supplement prepared pursuant to Section 10 of this Purchase Contract);
- (iii) the fees and disbursements of accountants, advisors and any other experts or consultants retained by the Corporation or the City, including the City Attorney; and
- (iv) any other expenses and costs of the Corporation and the City incident to the performance of their respective obligations in connection with the authorization, execution and sale of the Certificates, including out-of-pocket expenses and regulatory expenses, reimbursement to the Underwriter for any meals and travel for City or Corporation employees or officers that were paid for by the Underwriter and any other expenses agreed to by the parties.

(b) The Underwriter shall pay all expenses incurred by it in connection with the public offering and distribution of the Certificates including, but not limited to:

(i) all advertising expenses in connection with the offering of the Certificates;
and

(ii) all out-of-pocket disbursements and expenses incurred by the Underwriter in connection with the offering and distribution of the Certificates (including without limitation the fees and expenses of its counsel and MSRB, CUSIP Bureau, California Debt and Investment Advisory Commission and California Public Securities Association fees, if any), except as provided in clause (a) above or as otherwise agreed to by the Underwriter and the City.

Section 12. Notices. Any notice or other communication to be given to the City under this Purchase Contract may be given by delivering the same in writing to the City at the address that is set forth on the first page of this Purchase Contract, and any notice or other communication to be given to the Underwriter under this Purchase Contract may be given by delivering the same in writing to:

Stifel, Nicolaus & Company, Incorporated
One Montgomery Street, 35th Floor
San Francisco, California 94104
Attention: Anna Van Degna

Section 13. Survival of Representations, Warranties, Agreements. All of the City's representations, warranties and agreements in this Purchase Contract shall remain operative and in full force and effect regardless of: (a) any investigations made by or on behalf of the Underwriter; or (b) delivery of and payment for the Certificates pursuant to this Purchase Contract. The agreements in this Section and in Section 11 shall survive any termination of this Purchase Contract.

Section 14. Benefit; No Assignment. This Purchase Contract is made solely for the benefit of the City and the Underwriter (including its successors and assigns), and no other person shall acquire or have any right hereunder or by virtue hereof. The rights and obligations created by this Purchase Contract are not subject to assignment by the Underwriter or the City without the prior written consent of the other party.

Section 15. Severability. In the event that any provision of this Purchase Contract is held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Purchase Contract.

Section 16. Counterparts. This Purchase Contract may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute the Purchase Contract by signing any such counterpart.

Section 17. Governing Law. This Purchase Contract shall be governed by the laws of the State.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Section 18. Effectiveness. This Purchase Contract shall become effective upon the execution of the acceptance hereof by an authorized officer of the City, and shall be valid and enforceable as of the time of such acceptance.

Very truly yours,

STIFEL, NICOLAUS & COMPANY,
INCORPORATED

By: _____
Title: Authorized Officer

Accepted:

CITY OF EL CERRITO

By: _____
City Manager

Time of Execution: _____ California Time

EXHIBIT A

\$ _____

**CITY OF EL CERRITO
2017 CERTIFICATES OF PARTICIPATION (2006 CITY HALL LEASE REFINANCING)**

MATURITY SCHEDULE

<i>Principal Payment Date (December 1)</i>	<i>Principal</i>	<i>Coupon</i>	<i>Yield</i>	<i>Price</i>
	\$	%	%	

*

* Term Certificate.

(c) Priced to first optional redemption date of ____ 1, 20__ at par.

EXHIBIT B

\$ ____ *

**CITY OF EL CERRITO
2017 CERTIFICATES OF PARTICIPATION (2006 CITY HALL LEASE REFINANCING)**

RULE 15c2-12 CERTIFICATE

The undersigned hereby certifies and represents that he or she is the duly appointed and acting representative of the City of El Cerrito (the “**City**”) and is duly authorized to execute and deliver this certificate on behalf of the City, and further hereby certifies and reconfirms on behalf of the City as follows:

(1) This certificate is delivered in connection with the offering and sale of the above-captioned certificates of participation (the “**Certificates**”) in order to enable the underwriter of the Certificates to comply with Securities and Exchange Commission Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (the “**Rule**”).

(2) In connection with the offering and sale of the Certificates, there has been prepared a Preliminary Official Statement, setting forth information concerning the Certificates and the City (the “**Preliminary Official Statement**”).

(3) As used herein, “**Permitted Omissions**” means the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Certificates depending on such matters, all with respect to the Certificates.

(4) The Preliminary Official Statement is, except for the Permitted Omissions, deemed final within the meaning of the Rule, and the information therein is accurate and complete except for the Permitted Omissions.

Dated: December __, 2016

CITY OF EL CERRITO

By: _____
City Manager

* Preliminary; subject to change.

EXHIBIT C

\$ _____

CITY OF EL CERRITO

2017 CERTIFICATES OF PARTICIPATION (2006 CITY HALL LEASE REFINANCING)

CLOSING CERTIFICATE OF THE CORPORATION

The undersigned hereby certifies and represents that the undersigned is the duly appointed and acting representative of the Public Property Financing Corporation of California (the “**Corporation**”) and is duly authorized to execute and deliver this certificate. The undersigned and further hereby certifies and reconfirms on behalf of the Corporation as follows:

(i) The covenants, representations and warranties of the Corporation that are contained in the Lease Agreement, dated as of January 1, 2017 (the “**Lease**”), by and between the Corporation and the City of El Cerrito, are true and correct in all material respects on and as of the date hereof, with the same effect as if made on the date hereof.

(ii) The resolution of the Corporation approving and authorizing the execution of the Lease, among other documents, was duly adopted at a meeting of the Corporation at which a quorum was present and acting throughout, is in full force and effect as of the date hereof and has not been amended, modified or supplemented, except as agreed to by the Underwriter.

(iii) The Corporation has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied on or prior to the date hereof relating to the above-captioned certificates of participation (the “**Certificates**”).

(iv) The statements and descriptions pertaining to the Corporation in the Official Statement dated January __, 2017 relating to the Certificates (the “**Official Statement**”) do not contain any untrue or misleading statement of a material fact and do not omit to state any material fact that is necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading.

(v) No event affecting the Corporation has occurred since the date of the Official Statement which either makes untrue or incorrect in any material respect as of the date hereof the statements or information regarding the Corporation contained in the Official Statement or is not reflected in the Official Statement but should be reflected therein in order to make the statements and information therein regarding the Corporation not misleading in any material respect.

Dated: January __, 2017

PUBLIC PROPERTY FINANCING
CORPORATION OF CALIFORNIA

By: _____
Authorized Signatory

EXHIBIT D

\$ _____

CITY OF EL CERRITO

2017 CERTIFICATES OF PARTICIPATION (2006 CITY HALL LEASE REFINANCING)

CLOSING CERTIFICATE OF THE CITY

The undersigned hereby certifies and represents that the undersigned is the duly appointed and acting representative of the City of El Cerrito (the “**City**”) and is duly authorized to execute and deliver this certificate. The undersigned further hereby certifies and reconfirms on behalf of the City as follows:

(i) The representations, warranties and covenants of the City that are contained in the Certificate Purchase Contract, dated January __, 2017 (the “**Purchase Contract**”), by and between the City and Stifel, Nicolaus & Company, Incorporated, as underwriter, are true and correct and in all material respects on and as of the date of the Closing, with the same effect as if made on the date of the Closing.

(ii) The City Resolution is in full force and effect at the date of the Closing and has not been amended, modified or supplemented, except as agreed to by the Underwriter.

(iii) The City has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied on or prior to the date of the Closing relating to the Certificates.

(iv) Subsequent to the date of the Official Statement and on or prior to the date of this certificate, there has been no adverse change in the condition (financial or otherwise) of the City, whether or not arising in the ordinary course of operations, as described in the Official Statement, that would materially and adversely affect the Certificates or the City’s performance under the City Agreements.

(v) The Official Statement (other than under the caption “THE CITY AND THE CORPORATION—The Corporation” and information relating to DTC and DTC’s book-entry system) does not contain any untrue or misleading statement of a material fact and does not omit to state any material fact that is necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading.

Capitalized terms used but not defined herein have the meanings given to such terms in the Purchase Contract.

Dated: January __, 2017

CITY OF EL CERRITO

By: _____
City Manager

EXHIBIT E

January __, 2017

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, California 94530

Stifel, Nicolaus & Company, Incorporated
One Montgomery Street, 35th Floor
San Francisco, California 94104

Public Property Financing Corporation of California
23945 Calabasas Road, Suite 103
Calabasas, California 91302

Opinion of City Attorney

with reference to

\$_____

CITY OF EL CERRITO

2017 CERTIFICATES OF PARTICIPATION (2006 CITY HALL LEASE REFINANCING)

Ladies and Gentlemen:

In my capacity as the City Attorney of the City of El Cerrito (the “**City**”), in connection with the execution and delivery of the above-referenced certificates of participation (the “**Certificates**”), I have examined such documents, certificates and records as I have deemed relevant and necessary as the basis for the opinion set forth herein. Capitalized terms used and not otherwise defined herein shall have the same meanings as assigned to them in the Certificate Purchase Contract, dated January __, 2017 (the “**Purchase Contract**”), by and between Stifel, Nicolaus & Company, Incorporated, as underwriter, and the City.

Relying on my examination described above and pertinent law and subject to the limitations and qualifications set forth hereinafter, I am of the following opinion:

1. The City is a municipal corporation and general law city organized and validly existing under the laws of the State of California.
2. The resolution of the City Council of the City (the “**City Resolution**”) relating to the Certificates has been duly adopted at a meeting of such City Council that was duly called and held on December 6, 2016 pursuant to law, with all required public notice and at which a quorum was present and acting throughout. The City Resolution is in full force and effect and has not been amended or repealed.
3. The City has duly authorized, executed and delivered the City Agreements. Assuming due authorization, execution and delivery by the other parties thereto, as necessary, the City Agreements constitute legal, valid and binding agreements of the City that are enforceable

against the City in accordance with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, debt adjustment, fraudulent conveyance or transfer, moratorium, reorganization or other laws affecting the enforcement of creditors' rights generally and equitable remedies if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and limitations on remedies against public agencies.

4. Except as disclosed in the Official Statement, there is no action, suit or proceeding before or by any court, public board or body pending (with service of process having been accomplished on the City) or, to the best of my knowledge, threatened wherein an unfavorable decision, ruling or finding would: (a) affect the creation, organization, existence or powers of the City or the titles of its officers to their respective offices; (b) in any way question or affect the validity or enforceability of the City Agreements or the Certificates; (c) find illegal, invalid or unenforceable the City Agreements or the transactions contemplated thereby, or any other agreement or instrument related to the execution and delivery of the Certificates to which the City is a party; or (d) have a material adverse effect on the ability of the City to make Lease Payments under the Lease when due.

5. The execution and delivery of the City Agreements and compliance with the provisions of each thereof, will not conflict with or constitute a breach of or default under any applicable law or administrative rule or regulation of the State of California, the United States or any department, division, agency or instrumentality of either thereof, or any applicable court or administrative decree or order or any loan agreement, note, resolution, indenture, trust agreement, contract, agreement or other instrument to which the City is a party or is otherwise subject or bound in a manner which would materially adversely affect the City's performance under the City Agreements.

6. The Certificates are payable from the Lease Payments and other amounts in the manner and to the extent provided in the Trust Agreement. The City is duly authorized to make such Lease Payments and Additional Payments (as such terms are defined in the Trust Agreement) and other amounts, and no further action of the part of the City or any other party is required to perfect the same or the interest of the Certificate Owners therein.

The opinion is based on such examination of the laws of the State of California as I deemed relevant for the purposes of this opinion. I have not considered the effect, if any, of the laws of any other jurisdiction upon matters covered by this opinion. I have assumed the genuineness of all documents and signatures, presented to me. I have not undertaken to verify independently, and have assumed, the accuracy of the factual matters represented, warranted or certified in such documents. I express no opinion as to the status of the Certificates, the interest thereon or the City Agreements under any federal securities laws, any state securities or "Blue Sky" law or any federal, state or local tax law. Without limiting any of the foregoing, I express no opinion as to any matter other than as expressly set forth above.

I am furnishing this opinion as City Attorney to the City. Except for the City, no attorney-client relationship has existed or exists between me and the addressees hereof in connection with the Certificates or by virtue of this opinion. This opinion is rendered solely in connection with the financing described herein, and may not be relied upon by you for any other purpose. I disclaim any obligation to update this opinion. This opinion shall not extend to, and may not be used, quoted,

referred to, or relied upon by any other person, firm, corporation or other entity without my prior written consent.

Respectfully submitted,

EXHIBIT F

January __, 2017

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, California 94530

Stifel, Nicolaus & Company, Incorporated
One Montgomery Street, 35th Floor
San Francisco, California 94104

Public Property Financing Corporation of California
23945 Calabasas Road, Suite 103
Calabasas, California 91302

MUFG Union Bank, N.A.
350 California Street, 11th Floor
San Francisco, California 94104

\$ _____

CITY OF EL CERRITO

2017 CERTIFICATES OF PARTICIPATION (2006 CITY HALL LEASE REFINANCING)

Ladies and Gentlemen:

We have acted as counsel to Public Property Financing Corporation of California (the “**Corporation**”) in connection with execution and delivery of the City of El Cerrito (the “**City**”) 2017 Certificates of Participation (2006 City Hall Lease Refinancing) evidencing principal in the aggregate amount of \$_____ (the “**Certificates**”). As such, we have examined that certain Termination Agreement dated as of January 1, 2017 (the “**Termination Agreement**”), by and between the City, the Corporation and MUFG Union Bank, N.A. (the “**Trustee**”), that certain Site and Facilities Lease, dated as of January 1, 2017 (the “**Site Lease**”), by and between the City and the Corporation, that certain Lease Agreement, dated January 1, 2017 (the “**Lease Agreement**”), by and between the Corporation and the City, that certain Assignment Agreement, dated January 1, 2017 (the “**Assignment Agreement**”), by and between the Corporation and the Trustee, and that certain Trust Agreement, dated January 1, 2017 (the “**Trust Agreement**”), by and between the Trustee, the Corporation and the City. The Termination Agreement, Site Lease, Lease Agreement, Assignment Agreement, and Trust Agreement are hereinafter referred to collectively as the “**Corporation Documents**.”

Based upon the foregoing, we are of the opinion, under existing law, as follows:

(i) the Corporation is duly organized and validly existing as a nonprofit public benefit corporation under the laws of the State of California and is possessed of full power to own and hold real and personal property and to lease and sell the same;

(ii) Resolution No. 2016-__ of the Corporation approving and authorizing the execution and delivery of the Corporation Documents, was duly adopted on _____, 2016 at a meeting of the governing body of the Corporation which was called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout;

(iii) the Corporation has full right and lawful authority to execute and deliver the Corporation Documents and such documents have been duly authorized, executed and delivered by and on behalf of the Corporation and, assuming the due authorization, execution and delivery by the other parties thereto, are legal, valid and binding obligations of the Corporation that are enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, moratorium, or similar laws, or by legal or equitable principles relating to or limiting creditors' rights generally;

(iv) to the best of our knowledge, after investigation, there is no action, suit, proceeding, inquiry, or investigation before or by any court or public board or body that is pending or threatened wherein an unfavorable decision, ruling, or finding would adversely affect the transactions that are contemplated by the Certificates, the Corporation Documents, or any other agreement, document, or certificate related to such transaction;

(v) insofar as it will have a material adverse effect on the ability of the Corporation to enter into, carry out or perform its obligations under the foregoing agreements or to consummate the transactions contemplated thereby, to the best of our knowledge, after investigation, the Corporation is not in material breach of or default under any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Corporation is a party or to which the Corporation or any of its property or assets is otherwise subject, and, to the best of our knowledge, no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument; and

(vi) no authorization, approval, consent, or order of any governmental agency or, to the best of our knowledge, any other person or corporation is required for the valid authorization, execution and delivery of the Corporation Documents on behalf of the Corporation that has not been obtained.

This opinion is rendered solely in connection with the financing described herein, and may not be relied upon by you for any other purpose. We disclaim any obligation to update this opinion. This opinion shall not extend to, and may not be used, quoted, referred to, or relied upon by any other person, firm, corporation or other entity without our prior written consent.

This opinion may be relied upon by Public Property Financing Corporation of California, the City of El Cerrito, Stifel, Nicolaus & Company, Incorporated, and MUFG Union Bank, N.A., and their successors and assigns.

Respectfully submitted,

Parker & Covert LLP

Douglas N. Yeoman
Counsel for Corporation



AGENDA BILL

Agenda Item No. 7(C)

Date: December 6, 2016
To: El Cerrito City Council
El Cerrito Public Financing Authority Board of Directors
From: Mark R. Rasiah, Finance Director/City Treasurer
Subject: Refinancing of 2008 Sales Tax Revenue Bonds (Street and Sidewalk Improvements)

ACTION REQUESTED

Staff recommends the City Council adopt a resolution authorizing the issuance and sale of sales tax revenue refunding bonds to refinance an outstanding installment payment obligation and approving related agreements and actions.

Staff also recommends that the Board of Directors of the El Cerrito Public Financing Authority adopt a resolution authorizing execution and delivery of any documents required to accomplish the proposed refinancing.

BACKGROUND

The El Cerrito Public Financing Authority (the "Authority") issued \$11,750,000 of sales tax revenue bonds (the "2008 Bonds") in June 2008 to fund street and sidewalk improvements secured by sales tax revenues generated from a February 5, 2008 sales tax measure ("Measure A") that was approved by voters. The 2008 Bonds funded approximately \$10,313,060 for projects with a portion of the bond proceeds held as a debt service reserve fund and the balance used for financing costs and capitalized interest.

The 2008 Bonds have an outstanding balance of \$9,740,000 with an average interest rate of 4.70% and a final maturity on May 1, 2037. Annual debt service is approximately \$740,000.

As the City Council is aware, the bond and U.S. Treasury markets have become very volatile since November 8, 2016 election. While the tax-exempt market has eroded over the last few weeks, interest rates are at levels generally considered to be historical lower rates. It is generally assumed that interest rates will rise in 2017 as the economy improves.

ANALYSIS

The City's Finance Department has tracked and analyzed the refinancing possibilities for the 2008 Bonds for the last few years taking into consideration market rates, financing costs and the credit rating of the City. The interest rate environment has

remained at historical low levels for the last year but is now anticipated to move up in 2017 as the economic cycle puts pressure on inflation and interest rates.

Based on current market rates, the City can reduce debt service on the 2008 Bonds and potentially generate cash flow savings between \$525,000 and \$830,000 between FY 2016/17 and FY 2035/36. Current market rates are approximately 3.65%-4.00%. All debt service savings from a refinancing of the 2008 Bonds will remain in the Measure A sales tax fund (Fund 211) and be available for additional street and sidewalk projects. Staff is working with NHA Advisors, LLC as the City's municipal advisor to determine the best strategy to capture the cash flow savings.

The proposed 2017 sales tax revenues refunding bonds (the "2017 Bonds") will be secured by a pledge of the Measure A sales tax revenues only. There will be no City General Fund obligation nor pledge of property as is required for the 2017 Certificates of Participation (COPs) financing. The City will make payments on the 2017 Bonds starting May 1, 2017 and is expected to recognize approximately \$400,000 in FY 2016/17 cash flow savings. Refunding savings will be determined at the time the 2017 Bonds interest rates are established.

The City currently plans to sell the bonds in a public offering through an underwriter. However, because of the uncertain nature of the financial markets, the resolution authorizes the City Manager and the Finance Director, after consultation with the City's municipal advisor and bond counsel, to determine if it would be in the best interests of the City to seek a private sale of the 2017 Bonds with one or more financial institutions in a private placement transaction.

Required Documents that are presented for City Council's consideration are:

Indenture of Trust – the City will pledge and make payments on the 2017 Bonds from revenues defined as proceeds from the Street Improvement Sales Tax and will covenant to maintain certain funds and, if it wishes to issue additional bonds payable from the Street Improvement Sales Tax, meet parity provisions as defined in the Indenture of Trust.

Escrow Deposit and Trust Agreement – the proceeds of the 2017 Bonds, along with moneys held by the trustee for the 2008 Bonds, will be deposited and held for the benefit of the 2008 Bonds until their redemption date, which can be any date on or after May 1, 2018. The City can cause redemption of the 2008 Bonds without a prepayment premium.

Bond Purchase Contract – this agreement provides for the sale of the 2017 Bonds to Stifel, Nicolaus & Company, Incorporated (the "Underwriter"), and includes representations and warranties made by the City, and specifies the conditions to the Underwriter's obligation to accept delivery of the 2017 Bonds.

Continuing Disclosure Certificate – this is a certificate by which the City agrees to provide annual disclosure reports and notices of certain events to the Municipal Securities Rulemaking Board (MSRB) via its Electronic Municipal Market Access (EMMA) service.

Preliminary Official Statement. The attached Preliminary Official Statement has been reviewed and approved for transmittal to the City Council by City staff and its financing team. The Preliminary Official Statement must include all facts that would-be material to an investor in the 2017 Bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the 2017 Bonds.

The Securities and Exchange Commission (the “SEC”), the agency with regulatory authority over the City’s compliance with the federal securities laws, has issued guidance as to the duties of the City Council with respect to its approval of the Preliminary Official Statement. In its “Report of Investigation in the Matter of County of Orange, California as it Relates to the Conduct of the Members of the Board of Supervisors” (Release No. 36761/January 24, 1996) (the “Release”), the SEC indicated that, if a member of the City Council has knowledge of any facts or circumstances that an investor would want to know about prior to investing in the 2017 Bonds, whether relating to their repayment, tax-exempt status, undisclosed conflicts of interest with interested parties, or otherwise, he or she should endeavor to discover whether such facts are adequately disclosed in the Preliminary Official Statement. In the Release, the SEC indicated that the steps that a member of the City Council could take include becoming familiar with the Preliminary Official Statement and questioning staff and consultants about the disclosure of such facts.

The key provisions of the Preliminary Official Statement include:

- The terms of the 2017 Bonds are summarized on the cover/inside cover and the section entitled “THE BONDS.”
- The security for the 2017 Bonds is described in the section entitled “SECURITY FOR THE BONDS.” The 2017 Bonds are payable from revenues of the City’s Street Improvement Sales Tax.
- Historical information about the Street Improvement Sales Tax is set forth in “THE STREET IMPROVEMENT SALES TAX.” Because the 2017 Bonds are not payable from any other sources of City funds, no information is provided about the City’s general fund.
- The key risk factors posed to owners of the 2017 BONDS are summarized in the section entitled “RISK FACTORS.”

STRATEGIC PLAN CONSIDERATIONS

The refinancing of the 2008 Sales Tax Revenue Bonds will help fulfill City of El Cerrito Strategic Plan Goal B: Achieve Long-term Financial Sustainability, specifically the objective of “Develop a financial plan to address ongoing and deferred maintenance of facilities and infrastructure.”

FINANCIAL CONSIDERATIONS

The City has the option to refinance the 2008 Bonds and structure the cash flow savings generated from a lower interest rate on the proposed 2017 Bonds. Staff is proposing to capture as much of the savings in the next few years. An alternative option includes the

restructuring for level cash flow savings for each year through final maturity. Staff's recommendation is to structure for maximum savings in the immediate future to provide cash flow to the Street Improvement Sales Tax fund.

A comparison of the 2008 Bonds and the proposed 2017 Bonds demonstrates the benefit of refinancing, based on market conditions as of November 21, 2017.

Description	2006 Bonds	2017 Bonds (Estimated)
Principal Amount	\$9,740,000	\$9,850,000*
Interest Rate	4.70%	3.65%-4.00%
Total Payments to Maturity	\$14,545,000	\$13,715,000*
Difference (Savings)		\$830,000 ^{*(1)}
Final Maturity	May 1, 2037	May 1, 2036
Average Annual Debt Service	\$740,000	\$715,000*

*Preliminary estimates, based on market conditions as of November 21, 2016

(1) Based on 11/21/16 market conditions, net present value (NPV) savings are 7.35% of refunded par. Market conditions are subject to change before January 2017 pricing. The refunding requires a minimum of 5% NPV savings; estimated cash flow savings at this level are closer to \$525,000.

LEGAL CONSIDERATIONS

The City Attorney has reviewed the proposed actions and found that legal considerations have been addressed.

Reviewed by:



Karen Pinkos
Assistant City Manager

Attachments:

1. City Council Resolution
2. El Cerrito Public Financing Authority Resolution
3. Draft Indenture of Trust
4. Draft Escrow Deposit and Trust Agreement
5. Draft Preliminary Official Statement
6. Draft Bond Purchase Contract

RESOLUTION NO. 2016-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO
AUTHORIZING THE ISSUANCE AND SALE OF SALES TAX REVENUE
REFUNDING BONDS TO REFINANCE AN OUTSTANDING INSTALLMENT
PAYMENT OBLIGATION, AND APPROVING RELATED AGREEMENTS AND
ACTIONS

WHEREAS, on February 5, 2008, the voters of the City of El Cerrito (the "City") approved the following Measure A (the "Street Improvement Sales Tax Measure"), with 71% of those voting on the measure voting in favor:

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, shall the City of El Cerrito incur debt to immediately begin and accelerate street improvements, paid by establishing a dedicated one-half cent sales tax used exclusively for street improvements, with citizens' oversight and independent audits of expenditures?; and

WHEREAS, the Street Improvement Sales Tax Measure authorized (a) the amendment of the El Cerrito Municipal Code to add Chapter 4.60, which authorizes the City to levy and impose new 1/2 cent transactions and use taxes on certain retailers and other commercial enterprises within the City (the "Street Improvement Sales Tax"), and (b) the incurrence of indebtedness by the City for the purpose of financing Pothole Repair and Street Improvement and Maintenance Services set forth in the Expenditure Plan for the administration and expenditure of the Street Improvement Sales Tax proceeds, as those terms are defined in Chapter 4.60 (the "Street Improvement Project") secured by and repayable exclusively from the proceeds of the Street Improvement Sales Tax, so long as the annual debt service in each year for such indebtedness is not in excess of 75% of the amount of Street Improvement Sales Tax proceeds projected by the City to be received in each year; and

WHEREAS, the El Cerrito Public Financing Authority (the "Authority") issued its \$11,750,000 El Cerrito Public Financing Authority Sales Tax Revenue Bonds, Series 2008 (the "2008 Bonds") to assist the City with the financing of the Street Improvement Project; and

WHEREAS, the 2008 Bonds were issued pursuant to a Trust Agreement, dated as of June 1, 2008, (the "2008 Trust Agreement"), by and between the Authority and MUFG Union Bank, N.A, as trustee; and

WHEREAS, in connection with the issuance of the 2008 Bonds, the City and the Authority entered into a Master Installment Sale Agreement, dated as of

June 1, 2008 (the "Master Installment Sale Agreement"), as supplemented by a First Supplemental Installment Sale Agreement, dated as of June 1, 2008 (the "First Supplemental Installment Sale Agreement"; together with the Master Installment Sale Agreement, the "2008 Installment Sale Agreement"), pursuant to which the City agreed to make certain installment payments (the "2008 Installment Payments") to the Authority to acquire the Street Improvement Project from the Authority; and

WHEREAS, the 2008 Bonds are secured by and payable from Revenues, which consist primarily of the 2008 Installment Payments; and

WHEREAS, the City currently has the right to prepay the 2008 Installment Payments becoming due and payable on or after May 1, 2019 on any date on or after May 1, 2018, at a prepayment price equal to the sum of the principal amount prepaid, plus accrued interest to the date of prepayment, without premium; and

WHEREAS, the 2008 Bonds maturing on or after May 1, 2019, are subject to optional redemption prior to their respective stated maturities on any date on or after May 1, 2018, at a price equal to the principal amount of the Series 2008 Bonds called for redemption, plus accrued interest to the redemption date, without premium; and

WHEREAS, in order to realize debt service savings, the City Council wishes at this time to refinance the 2008 Installment Payments, and the City is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), to issue its revenue bonds for that purpose; and

WHEREAS, to that end the City Council wishes to authorize the issuance and sale of City of El Cerrito 2017 Sales Tax Revenue Refunding Bonds (the "Refunding Bonds") under the Bond Law, which will be secured by a pledge of the proceeds of the Street Improvement Sales Tax; and

WHEREAS, the City Council wishes to authorize the City Manager and the Finance Director to determine the most cost-effective method of selling the Refunding Bonds; and

WHEREAS, the City Council of the City has duly considered such transaction and wishes at this time to approve the issuance of the Refunding Bonds as being in the public interests of the City.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito as follows:

Section 1. Issuance of Refunding Bonds; Approval of Indenture. The City Council hereby authorizes the issuance of the Refunding Bonds under the Bond Law, in the principal amount of not to exceed \$11,000,000, for the purpose of providing funds to refinance the 2008 Installment Payments and thereby provide funds to refund the outstanding 2008 Bonds.

The Refunding Bonds shall be issued under an Indenture of Trust between the City and MUFG Union Bank, N.A, as trustee, which is hereby approved in substantially the form on file with the City Clerk together with any changes therein or additions thereto deemed advisable by the City Manager or the Finance Director (each, an "Authorized Officer"), and the execution thereof by an Authorized Officer shall be conclusive evidence of the approval of such changes and additions. The City Council hereby authorizes and directs an Authorized Officer to execute, and the City Clerk to attest, said form of the Indenture of Trust for and in the name of the City. The City Council hereby authorizes the delivery and performance of the Indenture of Trust.

Section 2. Refinancing of 2008 Installment Payments. The City Council hereby authorizes and approves the refinancing of the 2008 Installment Payments from the proceeds of the Refunding Bonds. Such refinancing shall be accomplished under the Escrow Deposit and Trust Agreement between the City and MUFG Union Bank, N.A., as trustee for the 2008 Bonds, in substantially the form on file with the City Clerk together with any changes therein or additions thereto deemed advisable by an Authorized Officer, and the execution thereof by an Authorized Officer shall be conclusive evidence of the approval of such changes and additions. The City Council hereby authorizes and directs an Authorized Officer to execute the final form of the Escrow Deposit and Trust Agreement for and in the name of the City. The City Council hereby authorizes the delivery and performance of the Escrow Deposit and Trust Agreement.

Section 3. Negotiated Sale of Refunding Bonds. In accordance with Section 53583 of the Bond Law, the City Council hereby authorizes and directs the negotiated sale of the Refunding Bonds to Stifel, Nicolaus & Company, Incorporated, as underwriter (the "Underwriter") under the Bond Purchase Contract in substantially the form on file with the City Clerk together with any changes therein or additions thereto deemed advisable by an Authorized Officer, whose execution thereof shall be conclusive evidence of the approval of any such changes or additions. The amount of Underwriter's discount for the Refunding Bonds shall be not more than 1% of the par amount thereof, the net present value of any savings realized by the City from the refinancing of the 2008 Installment Payments and the 2008 Bonds shall be at least 5% of the outstanding principal amount of the 2008 Bonds and the annual debt service in each year for the Refunding Bonds shall not be in excess of 75% of the amount of Street Improvement Sales Tax proceeds projected by the City to be received in each year.

In the alternative, the City Council hereby authorizes and directs the City Manager and the Finance Director, following consultation with the City's financial advisor and bond counsel, to cause the Refunding Bonds to be sold on a private

placement basis to one or more financial institutions to be selected by the City Manager and the Finance Director, and each of the Authorized Officers, acting alone, is hereby authorized and directed to execute and deliver a purchase agreement with such institution for and in the name and on behalf of the City, and the City Council's approval of such purchase agreement shall be conclusively evidenced by the execution and delivery of such agreement. The City Council hereby authorizes the delivery and performance by the City of its obligations under such purchase agreement(s).

The City Council hereby authorizes the City Manager and the Finance Director to approve a rate lock agreement (which could result in a financial penalty being imposed on the City if the sale of the Refunding Bonds does not close) and to such other commercially reasonable terms as they determine will result in the lowest long-term financing.

Section 4. Official Statement. The City Council hereby approves the Preliminary Official Statement describing the Refunding Bonds in the form on file with the City Clerk, and authorizes an Authorized Officer to approve revisions to said Preliminary Official Statement. At the request of the Underwriter, an Authorized Officer shall execute a certificate deeming the Preliminary Official Statement, as so revised, to be nearly final within the meaning of Rule 15c2-12 of the Securities Exchange Act of 1934. Distribution of the Preliminary Official Statement by the Underwriter to prospective purchasers of the Refunding Bonds is hereby approved. An Authorized Officer is hereby authorized and directed to approve any changes in or additions to a final form of said Official Statement, and the execution thereof by an Authorized Officer shall be conclusive evidence of approval of any such changes and additions. The City Council hereby authorizes the distribution of the final Official Statement by the Underwriter. The final Official Statement shall be executed in the name and on behalf of the City by an Authorized Officer.

Section 5. Engagement of Professional Services. In connection with the issuance and sale of the Refunding Bonds, the City Council hereby authorizes the engagement of the services of NHA Advisors, LLC to act as municipal advisor to the City, and the firm of Jones Hall, A Professional Law Corporation, to act as bond counsel and disclosure counsel to the City. The City Administrator is hereby authorized and directed to execute an agreement with each such firm, in the respective forms on file with the City Clerk.

Section 6. Municipal Bond Insurance and Reserve Fund Insurance Policies. The Authorized Officers, each acting alone, are hereby authorized and directed to take all actions necessary to obtain one or more municipal bond insurance policies for the Refunding Bonds and reserve account insurance policies for the Refunding Bonds from a municipal bond insurance company if it is determined, upon consultation with the Financial Advisor and the Underwriter, that such insurance policies will reduce the true interest cost of the Refunding Bonds.

Section 7. Official Actions. The Mayor, the City Manager, the Finance Director, the City Clerk and any and all other officers of the City are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates (including a continuing disclosure certificate in substantially the form attached to the Preliminary Official Statement), requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the transactions described herein. Whenever in this resolution any officer of the City is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf if such officer is absent or unavailable.

Section 8. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

I CERTIFY that at a regular meeting on December 6, 2016 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on December XX, 2016.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

PUBLIC FINANCING AUTHORITY RESOLUTION NO. 2016-XX

RESOLUTION OF THE EL CERRITO PUBLIC FINANCING AUTHORITY
BOARD OF DIRECTORS APPROVING THE ISSUANCE AND SALE OF SALES
TAX REVENUE REFUNDING BONDS TO REDEEM OUTSTANDING BONDS,
AND APPROVING RELATED AGREEMENTS AND ACTIONS

WHEREAS, the City of El Cerrito (the "City") and the former El Cerrito Redevelopment Agency (the "Agency") entered into a Joint Exercise of Powers Agreement, dated as of October 1, 1990, (the "Joint Powers Agreement"), which Joint Powers Agreement creates and establishes the El Cerrito Public Financing Authority (the "Authority"); and

WHEREAS, pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act") and the Joint Powers Agreement, the Authority is authorized to issue bonds for financing public capital improvements whenever there are significant public benefits; and

WHEREAS, on February 5, 2008, the voters of the City of El Cerrito (the "City") approved the following Measure A (the "Street Improvement Sales Tax Measure"), with 71% of those voting on the measure voting in favor:

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, shall the City of El Cerrito incur debt to immediately begin and accelerate street improvements, paid by establishing a dedicated one-half cent sales tax used exclusively for street improvements, with citizens' oversight and independent audits of expenditures?; and

WHEREAS, the Street Improvement Sales Tax Measure authorized (a) the amendment of the El Cerrito Municipal Code to add Chapter 4.60, which authorizes the City to levy and impose new 1/2 cent transactions and use taxes on certain retailers and other commercial enterprises within the City (the "Street Improvement Sales Tax"), and (b) the incurrence of indebtedness by the City for the purpose of financing Pothole Repair and Street Improvement and Maintenance Services set forth in the Expenditure Plan for the administration and expenditure of the Street Improvement Sales Tax proceeds, as those terms are defined in Chapter 4.60 (the "Street Improvement Project") secured by and repayable exclusively from the proceeds of the Street Improvement Sales Tax, so long as the annual debt service in each year for such indebtedness is not in excess of 75% of the amount of Street Improvement Sales Tax proceeds projected by the City to be received in each year; and

WHEREAS, the Authority issued its \$11,750,000 El Cerrito Public Financing Authority Sales Tax Revenue Bonds, Series 2008 (the "2008 Bonds") to assist the City with the financing of the Street Improvement Project; and

WHEREAS, the 2008 Bonds were issued pursuant to a Trust Agreement, dated as of June 1, 2008, (the "2008 Trust Agreement"), by and between the Authority and MUFG Union Bank, N.A, as trustee; and

WHEREAS, in connection with the issuance of the 2008 Bonds, the City and the Authority entered into a Master Installment Sale Agreement, dated as of June 1, 2008 (the "Master Installment Sale Agreement"), as supplemented by a First Supplemental Installment Sale Agreement, dated as of June 1, 2008 (the "First Supplemental Installment Sale Agreement"; together with the Master Installment Sale Agreement, the "2008 Installment Sale Agreement"), pursuant to which the City agreed to make certain installment payments (the "2008 Installment Payments") to the Authority to acquire the Street Improvement Project from the Authority; and

WHEREAS, the 2008 Bonds are secured by and payable from Revenues, which consist primarily of the 2008 Installment Payments; and

WHEREAS, the City currently has the right to prepay the 2008 Installment Payments becoming due and payable on or after May 1, 2019 on any date on or after May 1, 2018, at a prepayment price equal to the sum of the principal amount prepaid, plus accrued interest to the date of prepayment, without premium; and

WHEREAS, the 2008 Bonds maturing on or after May 1, 2019, are subject to optional redemption prior to their respective stated maturities on any date on or after May 1, 2018, at a price equal to the principal amount of the Series 2008 Bonds called for redemption, plus accrued interest to the redemption date, without premium; and

WHEREAS, in order to realize debt service savings, the City at this time to refinance the 2008 Installment Payments, and the City is authorized under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), to issue its revenue bonds for that purpose; and

WHEREAS, to assist the City with the proposed refinancing, the Authority wishes to approve the City's issuance and sale of City of El Cerrito 2017 Sales Tax Revenue Refunding Bonds (the "Refunding Bonds") under the Bond Law, which will be secured by a pledge of the proceeds of the Street Improvement Sales Tax, all related documents to which the Authority may be a party and all related actions; and

NOW THEREFORE, BE IT RESOLVED by the Board of Directors of the El Cerrito Public Financing Authority that:

Section 1. Approval of Bonds. The Board of Directors of the Authority hereby approves the issuance of the Bonds by the City and the application of the proceeds of the Bonds to pay and redeem the 2008 Bonds.

Section 2. Escrow Deposit and Trust Agreement. The Board of Directors hereby authorizes and approves an Escrow Deposit and Trust Agreement between the City and MUFG Union Bank, N.A., as trustee for the 2008 Bonds, in substantially the form on file with the Board of Directors together with any changes therein or additions thereto deemed appropriate by the Chair, Vice Chair, Executive Director or Finance Director (the "Authorized Officers"), and the execution thereof by an Authorized Officer shall be conclusive evidence of the approval of such changes and additions. The Board of Directors hereby authorizes and directs an Authorized Officer to execute the final form of the Escrow Deposit and Trust Agreement for and in the name of the Authority. The Board of Directors hereby authorizes the delivery and performance of the Escrow Deposit and Trust Agreement.

Section 3. Official Actions. The Authorized Officers, the Secretary and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the transactions described herein. Whenever in this resolution any officer of the Authority is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf if such officer is absent or unavailable.

Section 4. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

I certify that at an adjourned regular meeting on December 6, 2016, the Board of Directors of the El Cerrito Public Financing Authority passed this resolution by the following votes:

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

IN WITNESS of this action, I sign this document on December __, 2016.

Gregory B Lyman, Chair

ATTEST:

Cheryl Morse, Secretary

INDENTURE OF TRUST

between the

CITY OF EL CERRITO

and

MUFG UNION BANK, N.A.,
as Trustee

Dated as of January 1, 2017

Relating to

\$ _____
City of El Cerrito
2017 Sales Tax Revenue Refunding Bonds

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INDENTURE OF TRUST

This INDENTURE OF TRUST, dated as of January 1, 2017, is between the CITY OF EL CERRITO, a general law city and municipal corporation organized and existing under the laws of the State of California (the "City"), and MUFG UNION BANK, N.A., a national banking association organized and existing under the laws of the United States of America, with a corporate trust office in San Francisco, California, and being qualified to accept and administer the trusts hereby created (the "Trustee").

B A C K G R O U N D :

1. On February 5, 2008, the voters of the City approved the following Measure A (the "Street Improvement Sales Tax Measure"), with 71% of those voting on the measure voting in favor:

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, shall the City of El Cerrito incur debt to immediately begin and accelerate street improvements, paid by establishing a dedicated one-half cent sales tax used exclusively for street improvements, with citizens' oversight and independent audits of expenditures?

2. The Street Improvement Sales Tax Measure authorized (a) the amendment of the El Cerrito Municipal Code to add Chapter 4.60, which authorizes the City to levy and impose new 1/2 cent transactions and use taxes on certain retailers and other commercial enterprises within the City (the "Street Improvement Sales Tax"), and (b) the incurrence of indebtedness by the City for the purpose of financing Pothole Repair and Street Improvement and Maintenance Services set forth in the Expenditure Plan for the administration and expenditure of the Street Improvement Sales Tax proceeds, as those terms are defined in Chapter 4.60 (the "Street Improvement Project" or the "2008 Project") secured by and repayable exclusively from the proceeds of the Street Improvement Sales Tax, so long as the annual debt service in each year for such indebtedness is not in excess of 75% of the amount of Street Improvement Sales Tax proceeds projected by the City to be received in each year.

3. The City determined that significant public benefits would accrue from the financing of the City's Street Improvement Project.

4. The El Cerrito Public Financing Authority (the "Authority") issued its \$11,750,000 El Cerrito Public Financing Authority Sales Tax Revenue Bonds, Series 2008 (the "2008 Bonds") to assist the City with the financing of the 2008 Project. The 2008 Bonds were issued pursuant to a Trust Agreement, dated as of June 1, 2008 (the "2008 Trust Agreement"), by and between the Authority and MUFG Union Bank, N.A., as trustee.

5. In connection with the issuance of the 2008 Bonds, the City and the Authority entered into a Master Installment Sale Agreement, dated as of June 1, 2008 (the "Master Installment Sale Agreement"), as supplemented by a First Supplemental Installment Sale Agreement, dated as of June 1, 2008 (the "First Supplemental Installment Sale Agreement"; together with the Master Installment Sale Agreement, the

"2008 Installment Sale Agreement"). Pursuant to the 2008 Installment Sale Agreement, the City agreed to make certain installment payments (the "2008 Installment Payments") to the Authority to acquire the 2008 Project from the Authority.

6. The 2008 Bonds are secured by and payable from Revenues, which consist primarily of the 2008 Installment Payments.

7. Under Section 2.04 of the First Supplemental Installment Sale Agreement, the City currently has the right to prepay the 2008 Installment Payments becoming due and payable on or after May 1, 2019 on any date on or after May 1, 2018, at a prepayment price equal to the sum of the principal amount prepaid, plus accrued interest to the date of prepayment, without premium.

8. Under Section 2.03(a) of the 2008 Trust Agreement, the 2008 Bonds maturing on or after May 1, 2019, are subject to optional redemption prior to their respective stated maturities on any date on or after May 1, 2018, at a price equal to the principal amount of the Series 2008 Bonds called for redemption, plus accrued interest to the redemption date, without premium.

9. The City wishes at this time to make a deposit of funds for the purpose of paying and prepaying the 2008 Installment Payments and thereby discharging its obligations under the 2008 Installment Sale Agreement, and causing a defeasance and redemption of the 2008 Bonds, and in order to provide funds for that purpose the City Council of the City has authorized the issuance of the City of El Cerrito 2017 Sales Tax Revenue Refunding Bonds in the aggregate principal amount of \$_____ (the "Bonds") under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law").

10. The Bonds will be secured by a pledge of and lien on the Revenues (as defined in this Indenture).

11. The City has determined that the scheduled annual debt service in each year for the Bonds is not in excess of 75% of the amount of Sales Tax proceeds projected by the City to be received in each year.

12. In order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof and of the interest and premium, if any, thereon, the City Council of the City has authorized the execution of this Indenture.

A G R E E M E N T :

In order to secure the payment of the principal of and the interest on all the Bonds under this Indenture according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt of which is hereby acknowledged, the City

and the Trustee hereby covenant and agree with one another, for the benefit of the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

SECTION 1.01. *Definitions.* Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms defined in Appendix A attached to this Indenture have the respective meanings specified in Appendix A when used in this Indenture.

SECTION 1.02. *Authorization.* Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Indenture, and has taken all actions necessary to authorize the execution hereof by the officers and persons signing it.

SECTION 1.03. *Interpretation.*

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; the words "herein," "hereof," "hereby," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

ISSUANCE OF BONDS

SECTION 2.01. *Authorization and Purpose of Bonds.* The City has reviewed all proceedings heretofore taken and has found, as a result of such review, and hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the City is now duly empowered, under each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture.

The City hereby authorizes the issuance of Bonds in the aggregate principal amount of \$_____ under the Bond Law for the purposes of providing funds to pay and prepay the 2008 Installment Payments, and thereby discharge the City's obligations under the 2008 Installment Sale Agreement, in accordance with the Escrow

Agreement. The Bonds are authorized and issued under, and are subject to the terms of, this Indenture and the Bond Law. The Bonds are designated the "City of El Cerrito 2017 Sales Tax Revenue Refunding Bonds".

SECTION 2.02. *Terms of the Bonds.* The Bonds are issuable in fully registered form without coupons in denominations of \$5,000 or any integral multiple thereof, so long as no Bond has more than one maturity date. The Bonds will be dated as of the Closing Date, and will mature on May 1 in the years and in the respective principal amounts and bear interest (calculated on the basis of a 360-day year comprised of twelve 30-day months) at the respective rates per annum, as set forth in the following table:

<u>Maturity Date</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Maturity Date</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>
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Interest on the Bonds is payable from the Interest Payment Date next preceding the date of authentication thereof unless:

- (a) a Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date, in which event it will bear interest from such Interest Payment Date,
- (b) a Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date, or
- (c) interest on any Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such Bond is registered on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than 10 days prior to such special record date.

The Trustee will pay interest on the Bonds by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the Bonds at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date. At the written request of the Owner of Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, the Trustee will pay interest on such Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which written request will remain in effect until rescinded in writing by the Owner. The Trustee will pay principal of the Bonds in lawful money of the

United States of America by check of the Trustee upon presentation and surrender thereof at the Office of the Trustee.

SECTION 2.03. *Redemption of Bonds.* The Bonds are subject to redemption prior to their stated maturity as described in this Section 2.03.

(a) Optional Redemption. The Bonds maturing on or before May 1, 20__ are not subject to optional redemption prior to maturity. The Bonds maturing on and after May 1, 20__, are subject to redemption, at the option of the City on any date on or after May 1, 20__, as a whole or in part, by such maturities as shall be determined by the City, and by lot within a maturity, from any available source of funds, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

The City shall be required to give the Trustee written notice of its intention to redeem Bonds under this subsection (a) with a designation of the principal amount and maturities to be redeemed at least forty-five (45) days prior to the date fixed for such redemption (or such later date as is acceptable to the Trustee).

(b) Mandatory Sinking Fund Redemption. The Bonds that are Term Bonds maturing May 1, 20__ shall be subject to mandatory redemption in whole, or in part by lot, on May 1 in each year, commencing May 1, 20__, as set forth below, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts and on May 1 in the respective years as set forth in the following table; provided however, that (i) in lieu of redemption thereof such Term Bonds may be purchased by the City pursuant to Section 2.03(g) hereof, and (ii) if some but not all of such Term Bonds have been redeemed pursuant to subsection (a) above, the total amount of all future sinking fund payments shall be reduced by the aggregate principal amount of such Term Bonds so redeemed, to be allocated among such sinking fund payments in integral multiples of \$5,000 as determined by the City (notice of which determination shall be given by the City to the Trustee) and shall include a revised sinking fund schedule.

[insert sinking fund tables]

(c) Notice of Redemption. The Trustee on behalf and at the expense of the City shall mail (by first class mail, postage prepaid) notice of any redemption at least twenty (20) but not more than forty-five (45) days prior to the redemption date, to (i) the Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) the Securities Depositories and to the Information Services; but such mailing shall not be a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the redemption date and the redemption price, shall state that optional redemption is conditioned upon the timely delivery of the redemption price by the City to the Trustee for deposit in the Redemption Account, shall designate the CUSIP number of the Bonds to be redeemed, shall state the individual number of each Bond to be redeemed or shall state that all Bonds between two stated numbers (both inclusive) or all of the Bonds Outstanding are to be redeemed, and shall require that such Bonds be then surrendered at the Principal Corporate Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

The City may provide notice to owners of the Bonds that it intends to redeem the Bonds on an optional basis, but that the redemption is subject to there being sufficient funds for that purpose. The City has the right to rescind any notice of the optional redemption of Bonds by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of optional redemption shall be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default. The City and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Trustee shall mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under this Section.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(d) Partial Redemption of Bonds. In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the City shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the City, a new Bond or Bonds of the same interest rate and maturity, of authorized denominations, in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

(e) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the Bonds so called for redemption shall have been duly deposited with the Trustee, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest shall accrue thereon from and after the redemption date specified in such notice.

(f) Manner of Redemption. Whenever any Bonds or portions thereof are to be selected for redemption by lot within a maturity, the Trustee shall make such selection, in such manner as the Trustee shall deem appropriate, and shall notify the City thereof to the extent Bonds are no longer held in book-entry form. All Bonds redeemed or purchased pursuant to this Section 2.03 shall be cancelled and destroyed.

(g) Purchase in Lieu of Redemption. In lieu of redemption of the Term Bonds pursuant to the preceding sub-paragraph (b), the City may at any time purchase the Term Bonds at public or private sale as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Debt Service Fund) as the City may in its discretion determine. The par amount of any Term Bonds so purchased by the City in any twelve-month period ending on April 15 in any year shall be credited towards and shall reduce the par amount of the Term Bonds required to be redeemed pursuant to subsection (b) on May 1 in each year; provided that evidence satisfactory to the Trustee of such purchase has been delivered to the Trustee by said April 15. In no event shall the City purchase any Term Bonds in lieu of redemption without canceling such Term Bonds.

SECTION 2.04. *Book Entry System.*

(a) Original Delivery. The Bonds will be initially delivered in the form of a separate single fully registered bond (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the Trustee shall register the ownership of each Bond on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Bonds shall be registered in the name of the Nominee on the Registration Books.

With respect to Bonds the ownership of which is registered in the name of the Nominee, the City and the Trustee have no responsibility or obligation to any Depository System Participant or to any person on behalf of which the Nominee holds an interest in the Bonds. Without limiting the generality of the immediately preceding sentence, neither the City nor the Trustee shall have any responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed if the City elects to redeem the Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Bond Owner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest on the Bonds or (v) any consent given or other action taken by the Depository as Owner of the Bonds. The City and the Trustee may treat and consider the person in whose name each Bond is registered as the absolute owner of such Bond for the purpose of payment of principal of and premium, if any, and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers of ownership of such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and the interest and premium, if any, on the Bonds only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than a Bond Owner shall receive a Bond evidencing the obligation of the City to make payments of principal, interest and premium, if any, under this Indenture. Upon delivery by the Depository to the City of written notice to the effect that the Depository has determined to substitute a new Nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the City shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Bonds for the Depository's book-entry system, the City shall execute and deliver to such Depository a letter representing such matters as shall be necessary to so qualify the Bonds. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the City or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Bond Owners. Upon the written acceptance by the Trustee, the Trustee shall agree to take all action reasonably necessary for all representations of the Trustee in such letter with respect to the Trustee to at all times be complied with. In addition to the execution and delivery of such letter, the City may take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. If either (i) the Depository determines not to continue to act as Depository for the Bonds, or (ii) the City determines to terminate the Depository as such, then the City shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the City and the Trustee in the issuance of replacement Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Bonds, and by surrendering the Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Bonds are to be issued. The Depository, by accepting delivery of the Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the City fails to identify another Securities Depository to replace the Depository, then the Bonds shall no longer be required to be registered in the Registration Books in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging Bonds shall designate, in accordance with the provisions hereof.

If the City determines that it is in the best interests of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, the City may notify the Depository System Participants of the availability of such certificated Bonds through the Depository. In such event, the Trustee will issue, transfer and exchange Bonds as required by the Depository and others in appropriate amounts; and whenever the Depository requests, the Trustee and the City shall cooperate with the Depository in taking appropriate action (i) to make available one or more separate certificates evidencing the Bonds to any Depository System Participant having Bonds credited to its account with the Depository, or (ii) to arrange for another Securities Depository to maintain custody of a single certificate evidencing such Bonds, all at the City's expense.

(d) Payments to the Nominee. Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium, if any, on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

SECTION 2.05. *Form and Execution of Bonds.* The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, are set forth in Appendix B attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

The Mayor of the City shall execute, and the City Clerk of the City shall attest each Bond. Either or both of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any Bond ceases to be such officer before the Closing Date, such signature will nevertheless be as effective as if the officer had remained in office until the Closing Date. Any Bond may be signed and attested on behalf of the City by such persons as at the actual date of the execution of such Bond are the proper officers of the City, duly authorized to execute debt instruments on behalf of the City, although on the date of such Bond any such person was not an officer of the City.

Only those Bonds bearing a certificate of authentication in the form set forth in Appendix B, manually executed and dated by the Trustee, are valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee is

conclusive evidence that such Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

SECTION 2.06. *Transfer and Exchange of Bonds.*

(a) Transfer. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. The Trustee shall collect any tax or other governmental charge on the transfer of any Bonds under this Section 2.06. Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Trustee shall authenticate and deliver to the transferee a new Bond or Bonds of like series, interest rate, maturity and aggregate principal amount. The City shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer of Bonds.

(b) Exchange. The Bonds may be exchanged at the Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of the same series, interest rate and maturity. The Trustee shall collect any tax or other governmental charge on the exchange of any Bonds under this subsection (b). The City shall pay the cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange of Bonds.

SECTION 2.07. *Registration Books.* The Trustee will keep or cause to be kept, at its Office, sufficient records for the registration and registration of transfer of the Bonds, which must at all times during normal business hours, and upon reasonable notice, be open to inspection by the City; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books, Bonds as hereinbefore provided.

SECTION 2.08. *Bonds Mutilated, Lost, Destroyed or Stolen.* If any Bond is mutilated, the City, at the expense of the Owner of such Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. The Trustee shall cancel every mutilated Bond surrendered to it and deliver such mutilated Bond to, or upon the order of, the City. If any Bond is lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence is satisfactory and if indemnity satisfactory to the Trustee is given, the City, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen. The Trustee may require payment of a sum not exceeding the actual cost of preparing each new Bond issued under this Section and of the expenses which may be incurred by the Trustee in connection therewith. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen will constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds issued under this Indenture.

Notwithstanding any other provision of this Section 2.08, in lieu of delivering a new Bond for which principal has become due for a Bond which has been mutilated, lost, destroyed or stolen, the Trustee may make payment of such Bond in accordance with its terms upon receipt of indemnity satisfactory to the Trustee.

ARTICLE III

ISSUE OF BONDS; PARITY DEBT

SECTION 3.01. *Issuance of Bonds.* Upon the execution and delivery of this Indenture, the City shall execute and deliver Bonds in the aggregate principal amount of \$_____ to the Trustee and the Trustee shall authenticate and deliver the Bonds to the Original Purchaser upon receipt of a Request of the City therefor.

SECTION 3.02. *Deposit and Application of Proceeds.* On the Closing Date, the Trustee shall apply the proceeds of the Bonds as follows:

- (a) The Trustee shall deposit the amount of \$_____ to the Costs of Issuance Fund.
- (b) The Trustee shall deposit the amount of \$_____ to the Reserve Fund, constituting the full amount of the Reserve Requirement.
- (c) The Trustee shall transfer the amount of \$_____, constituting the remainder of the Bond proceeds, to MUFG Union Bank, N.A., as trustee for the 2008 Bonds, for deposit and application in accordance with the Escrow Agreement.

SECTION 3.03. *Costs of Issuance Fund.* There is hereby established a separate fund to be known as the "Costs of Issuance Fund", to be held by the Trustee in trust. The Trustee shall disburse moneys in the Costs of Issuance Fund from time to time to pay Costs of Issuance upon submission of a Request of the City stating (a) the person to whom payment is to be made, (b) the amounts to be paid, (c) the purpose for which the obligation was incurred, (d) that such payment is a proper charge against the Costs of Issuance Fund, and (e) that such amounts have not been the subject of a prior Request of the City; in each case together with a statement or invoice for each amount requested thereunder. On June 1, 2017, the Trustee shall transfer any amounts remaining in the Costs of Issuance Fund to the Debt Service Fund to be applied to pay a portion of the interest next coming due and payable on the Bonds.

SECTION 3.04. *Reserve Fund.* There is hereby created a separate fund to be known as the "Reserve Fund", to be held in trust by the Trustee. An amount equal to the Reserve Requirement shall be maintained in the Reserve Fund at all times, subject to the provisions of Section 4.02(b)(ii), and any deficiency therein shall be replenished from the first available Revenues under Section 4.02(b)(ii). The Trustee shall promptly notify the City of the deficiency in the Reserve Fund. No deposit need be made in the Reserve Fund so long as the balance therein at least equals the Reserve Requirement. If the amount on deposit in the Reserve Fund exceeds the Reserve Requirement, the Trustee shall transfer such excess amount to the Debt Service Fund.

The Trustee shall apply amounts in the Reserve Fund for the purposes set forth in Section 4.02(b)(iii).

If the amounts on deposit in the Debt Service Fund on any Interest Payment Date are insufficient to pay the principal of and interest on the Bonds then coming due, the Trustee shall withdraw the amount of such insufficiency from the Reserve Fund and transfer it to the Debt Service Fund. On the date on which all Bonds are retired, any moneys then on deposit in the Reserve Fund will be withdrawn by the Trustee and paid to the City.

The City may at any time release all or a portion of the moneys in the Reserve Fund and replace them with a Qualified Reserve Account Credit Instrument. If the City wishes to meet the Reserve Requirement with a combination of cash and a Qualified Reserve Account Credit Instrument, the City shall use the cash on deposit in the Reserve Fund for the purposes of the Reserve Fund before drawing on the Qualified Reserve Account Credit Instrument.

SECTION 3.05. *Issuance of Parity Debt.* The City may issue Parity Debt in such principal amount as it determines, subject to the following conditions precedent:

- (a) No Event of Default (or no event with respect to which notice has been given and which, once all notice of grace periods have passed, would constitute an Event of Default) has occurred and is continuing.
- (b) During the last audited Fiscal Year, the Annual Revenues were at least equal to the Coverage Requirement for the Bonds and any outstanding Parity Debt, plus the proposed Parity Debt.
- (c) The Annual Debt Service in each year for the Bonds, any Outstanding Parity Debt and the proposed Parity Debt is not in excess of 75% of the amount of Sales Tax proceeds projected by the City to be received in each year.
- (d) If required by the Parity Debt Document for the proposed Parity Debt, a separate reserve has been or will be established therefor.
- (e) Interest on the Parity Debt must be payable on May 1 and November 1, and principal of the Parity Debt must be payable on May 1.

Notwithstanding the foregoing provisions, there shall be no limitations on the ability of the City to execute any Parity Debt at any time to refund any Bonds or outstanding Parity Debt as long as the principal and interest to maturity on the proposed Parity Debt is less than the remaining principal and interest to maturity on the Bonds or Parity Debt to be refunded.

The City shall deliver to the Trustee a Certificate of the City certifying that the conditions precedent to the issuance of such Parity Debt set forth in the foregoing subsections of this Section 3.05 have been satisfied.

SECTION 3.06. *Validity of Bonds.* The recital contained in the Bonds that they are issued under the Laws of the State of California is conclusive evidence of their validity and of the regularity of their issuance.

ARTICLE IV

REVENUES; FLOW OF FUNDS

SECTION 4.01. *Pledge of Revenues.* The Bonds and any Parity Debt are secured by a first and exclusive pledge of and lien on all of the Revenues. The Bonds and all Parity Debt shall be of equal rank with respect to the Revenues without preference, priority or distinction of any Bonds or Parity Debt over any other Bonds or Parity Debt.

In addition, the Bonds are secured by a pledge of all of the moneys in the Debt Service Fund and the Reserve Fund, including all amounts derived from the investment of such moneys.

So long as any of the Bonds are Outstanding, the Revenues and such moneys may not be used for any other purpose; except that out of the Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by Section 4.02.

SECTION 4.02. *Receipt, Deposit and Application of Revenues.*

(a) Establishment and Maintenance of Revenue Fund. The City has previously established the Revenue Fund, which shall be held and maintained by the City Manager for the purposes and uses set forth herein as long as the Bonds are Outstanding. The City shall deposit all Revenues in the Revenue Fund promptly upon the receipt thereof, and shall apply amounts in the Revenue Fund solely for the uses and purposes set forth herein and for the uses and purposes set forth in any Parity Debt Documents.

(b) Application of Amounts in Revenue Fund. The City shall withdraw amounts on deposit in the Revenue Fund and apply such amounts at the times and for the purposes, and in the priority, as follows:

- (i) *Debt Service Fund.* On or before the 3rd Business Day preceding each Interest Payment Date, so long as any Bonds remain Outstanding, the City shall:
 - (A) withdraw from the Revenue Fund and pay to the Trustee for deposit into the Debt Service Fund (which the Trustee shall establish and hold in trust hereunder) an amount which, together with other available amounts then on deposit in the Debt Service Fund, is at least equal to the aggregate amount of principal of and interest coming due and payable on the Bonds on (1) such Interest Payment Date and (2) on the next succeeding Interest Payment Date, and

- (B) withdraw from the Revenue Fund and transfer as required under any Parity Debt Documents for outstanding Parity Debt an amount which, together with other amounts then available for that purpose under the Parity Debt Documents, is at least equal to the aggregate amount of principal of and interest coming due and payable on the Parity Debt on (1) such Interest Payment Date and (2) on the next succeeding Interest Payment Date.

In the event that the amounts on deposit in the Revenue Fund are insufficient to pay all of the amounts described in the preceding clauses (A) and (B), then the available Revenues shall be transferred from the Revenue Fund to the Debt Service Fund and to the funds for outstanding Parity Debt on a pro rata basis based on the outstanding principal amount of the Bonds and any Parity Debt.

The Trustee shall apply amounts in the Debt Service Fund solely for the purpose of (A) paying the interest on the Outstanding Bonds when due and payable, and (B) paying the principal of the Bonds at the maturity thereof. Upon the payment of all Outstanding Bonds, the Trustee shall transfer any moneys remaining in the Debt Service Fund to the City for deposit into the Revenue Fund.

- (ii) *Reserve Fund.* On or before the 3rd Business Day preceding each Interest Payment Date, so long as any Bonds remain Outstanding, if the amount on deposit in the Reserve Fund is less than the Reserve Requirement or the amount on deposit in a reserve account for any outstanding Parity Debt is less than its required level, then the City shall:
 - (A) promptly withdraw the amount of such insufficiency from available Revenues on deposit in the Revenue Fund and transfer such amount to the Trustee for deposit in the Reserve Fund and
 - (B) promptly withdraw the amount of such insufficiency in the reserve account for any outstanding Parity Debt from available Revenues on deposit in the Revenue Fund and transfer such Revenues for deposit in the reserve account for any Parity Debt.

In the event that the amounts on deposit in the Revenue Fund are insufficient to pay all of the amounts described in the preceding sentence, then the available Revenues shall be transferred from the Revenue Fund to the Reserve Fund and for deposit in the reserve account for any outstanding Parity Debt on a pro rata basis based on the outstanding principal amount of the Bonds and any Parity Debt.

- (c) Other Uses of Revenue Fund. The City shall manage, conserve and apply moneys in the Revenue Fund in such a manner that all deposits required to be

made under this Section and under any Parity Debt Documents will be made at the times and in the amounts so required.

So long as no Event of Default has occurred and is continuing, and after the deposits described in the preceding subsection (a) have been made, the City may at any time use and apply moneys in the Revenue Fund for any one or more of the following purposes:

- (i) the payment, prepayment or redemption of any subordinate obligations or any unsecured obligations;
- (ii) the prepayment or redemption of any Bonds or other Parity Debt; or
- (iii) any other lawful purpose of the City relating to the Street Improvement Sales Tax.

SECTION 4.03. *Investments.*

(a) Investment of Funds Held by City. All moneys in the Revenue Fund shall be invested by the City from time to time in any securities in which the City may legally invest funds subject to its control.

(b) Investment of Funds Held by Trustee. The Trustee shall invest moneys in the funds and accounts held by it hereunder in Permitted Investments which will be available on or before the dates when such moneys are needed, as specified in the Request of the City delivered to the Trustee at least two Business Days in advance of the making of such investments. In the absence of any such direction from the City, the Trustee shall invest any such moneys solely in Permitted Investments described in clause (e) of the definition thereof.

(c) General Investment Provisions. Obligations purchased as an investment of moneys in any fund or account shall be deemed to be part of such fund or account. Whenever in this Indenture the City is required to transfer any moneys to the Trustee, such transfer may be accomplished by transferring a like amount of Permitted Investments. All interest or gain derived from the investment of amounts in any of the funds or accounts held by the Trustee hereunder shall be retained in the respective fund or account from which such investment was made; except that the Trustee shall deposit all interest or gain from the investment of amounts in the Reserve Fund in the Debt Service Fund to the extent not required to cause the balance in the Reserve Fund to equal the Reserve Requirement. For purposes of acquiring any investments hereunder, the Trustee may commingle funds held by it hereunder upon receipt by the Trustee of the Request of the City. The Trustee or an affiliate may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee has no liability for losses arising from any investments made under this Section.

The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the City periodic transaction statements which include detail for all investment transactions made by the Trustee hereunder.

The Trustee or any of its affiliates may act as sponsor, advisor or manager in connection with any investments made by the Trustee hereunder.

SECTION 4.04. *Valuation and Disposition of Investments.*

(a) Except as otherwise provided in subsection (b) of this Section, the City covenants that all investments of amounts deposited in any fund or account created by or under this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of Section 148 of the Tax Code) shall be acquired, disposed of and valued (as of the date that valuation is required by this Indenture or the Tax Code) at Fair Market Value as such term is defined in subsection (d) below. The Trustee has no duty in connection with the determination of Fair Market Value other than to follow the investment directions of the City in any Certificate or Request of the City.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code and investments in the Reserve Fund shall be valued at cost thereof (consisting of present value thereof within the meaning of Section 148 of the Tax Code); provided that the City must inform the Trustee which funds are subject to a yield restriction, and must provide the Trustee with any necessary valuation criteria or formulae.

(c) Except as provided in the preceding subsection (b), for the purpose of determining the amount in any fund, the Trustee shall value Permitted Investments credited to such fund at least annually at the Fair Market Value thereof. The Trustee may utilize and rely on computerized securities pricing services that may be available to it, including those available through its regular accounting system. If and as directed by the City in writing, the Trustee shall sell or present for redemption any Permitted Investment so purchased by the Trustee whenever it is necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited, and the Trustee has no liability or responsibility for any loss resulting therefrom.

(d) For purposes of this Section, the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, or (iii) the investment is a United States Treasury Security -- State and Local Government Series which is acquired in accordance with applicable regulations of the United States Bureau of Public Debt.

ARTICLE V

FINANCIAL COVENANTS

SECTION 5.01. *Punctual Payment; Compliance With Documents.* The City shall punctually pay or cause to be paid the interest and principal to become due with respect to all of the Bonds in strict conformity with the terms of the Bonds and of this Indenture, and will faithfully observe and perform all of the conditions, covenants and requirements of this Indenture and all Supplemental Indentures.

SECTION 5.02. *Records and Accounts.* The City will keep proper books of record and accounts with respect to the Revenues, in which complete and correct entries shall be made of all transactions relating to the Revenues. Said books shall, upon reasonable request, be subject to the inspection of the Trustee and the Owners of not less than 10% of the Outstanding Bonds or their representatives authorized in writing.

The City shall cause the books and accounts related to the Revenues to be audited annually by an Independent Accountant and will make available for inspection by the Bond Owners at the Office of the Trustee, upon reasonable request, a copy of the report of such Independent Accountant.

The books of record and accounts required by this Section may be combined with the audited financial statements of the City.

SECTION 5.03. *Superior and Subordinate Obligations.* The City may not issue or incur any additional bonds or other obligations having any priority in payment of principal or interest out of the Revenues over the Bonds. Nothing herein limits or affects the ability of the City to issue or incur (a) Parity Debt pursuant to Section 3.05, or (b) obligations which are either unsecured or which are secured by an interest in the Revenues which is junior and subordinate to the pledge of and lien upon the Revenues established hereunder.

SECTION 5.04. *Tax Covenants Relating to Bonds.*

(a) Generally. The City shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, interest on the Bonds to become includable in gross income for federal income tax purposes.

(b) Private Activity Bond Limitation. The City shall assure that the proceeds of the Bonds are not used in a manner which would cause the Bonds to become "private activity bonds" within the meaning of section 141(a) of the Tax Code or to meet the private loan financing test of Section 141(c) of the Tax Code.

(c) Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(d) No Arbitrage. The City shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the Bond proceeds which, if such action

had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Tax Code.

(e) Rebate of Excess Investment Earnings. The City shall calculate or cause to be calculated all amounts of excess investment earnings with respect to the Bonds which are required to be rebated to the United States of America under Section 148(f) of the Tax Code, at the times and in the manner required under the Tax Code. The City shall pay when due an amount equal to excess investment earnings to the United States of America in such amounts, at such times and in such manner as may be required under the Tax Code, such payments to be made from any source of legally available funds of the City. The City shall keep or cause to be kept, and retain or cause to be retained for a period of six years following the retirement of the Bonds, records of the determinations made under this subsection (e).

The Trustee has no duty to monitor the compliance by the City with any of the covenants contained in this Section 5.04.

SECTION 5.05. *Refunding of 2008 Installment Payments.* The City shall cause the proceeds of the Bonds to be applied to the payment and prepayment of the 2008 Installment Payments in accordance with the provisions of the 2008 Installment Sale Agreement and the Escrow Agreement. From and after the Closing Date, the City's obligations under the 2008 Installment Sale Agreement shall be fully discharged, and the 2008 Installment Payments shall no longer be secured by a pledge of or lien on the Revenues.

SECTION 5.06. *Continuing Disclosure.* The City will comply with and carry out all of the provisions of the Continuing Disclosure Certificate, which has been executed and delivered by the City on the Closing Date. Notwithstanding any other provision hereof, failure of the City to comply with the Continuing Disclosure Certificate does not constitute an Event of Default hereunder; *provided, however*, that any Participating Underwriter (as such term is defined in the Continuing Disclosure Certificate) or any Owner or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking specific performance by court order, to cause the City to comply with its obligations under this Section 5.06.

SECTION 5.07. *Repeal or Amendment of Street Improvement Sales Tax.* The City will take no action to repeal or withdraw the Street Improvement Sales Tax, nor take any action to amend the Street Improvement Sales Tax, Chapter 4.60 of the El Cerrito Municipal Code, or any other law governing the Street Improvement Sales Tax, that would result in a decrease in the amount of Revenues derived by the City from the Street Improvement Sales Tax, including, but not limited to, amendments to limit the categories of transactions subject to the Street Improvement Sales Tax.

SECTION 5.08. *Further Assurances.* The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds and the Trustee the rights and benefits provided in this Indenture.

ARTICLE VI

THE TRUSTEE

SECTION 6.01. *Duties, Immunities and Liabilities of Trustee.*

(a) Performance of Duties. The Trustee shall, prior to the occurrence of an Event of Default, and after the curing or waiving of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or duties will be read into this Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (which has not been cured or waived), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a reasonable corporate trustee would exercise or use.

(b) Removal of Trustee. The City may remove the Trustee at any time, and shall remove the Trustee (i) if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or (ii) if at any time the Trustee ceases to be eligible in accordance with subsection (e) of this Section 6.01, or becomes incapable of acting, or is adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property is appointed, or any public officer takes control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. The City may accomplish such removal by giving 30 days written notice to the Trustee, whereupon the City will appoint a successor Trustee by an instrument in writing.

(c) Resignation by Trustee. The Trustee may at any time resign by giving written notice of such resignation to the City, and by giving notice of such resignation by first class mail, postage prepaid, to the Bond Owners at their respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the City will promptly appoint a successor Trustee by an instrument in writing.

(d) Appointment of Successor Trustee. Any removal or resignation of the Trustee and appointment of a successor Trustee becomes effective upon acceptance of appointment by the successor Trustee. If no successor Trustee has been appointed and accepted appointment within 45 days following giving notice of removal or notice of resignation as aforesaid, the resigning Trustee, any Owner (on behalf of such Owner and all other Owners) may petition any federal or state court for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing and delivering to the City and to its predecessor Trustee a written acceptance thereof, and to the predecessor Trustee an instrument indemnifying the predecessor Trustee for any costs or claims arising during the time the successor Trustee serves as Trustee hereunder, and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless, upon the receipt by the predecessor Trustee of the Request of the City or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further

assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the City will execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the City shall mail or cause the successor Trustee to mail, by first class mail postage prepaid, a notice of the succession of such Trustee to the trusts hereunder to each rating agency which then maintains a rating on the Bonds, and to the Owners at the addresses shown on the Registration Books. If the City fails to mail such notice within 15 days after acceptance of appointment by the successor Trustee, the successor Trustee shall cause such notice to be mailed at the expense of the City.

(e) Qualifications of Trustee. Any Trustee appointed under the provisions of this Section in succession to the Trustee must:

- (i) be a company or bank having trust powers,
- (ii) have a corporate trust office in the State of California,
- (iii) have (or be part of a bank holding company system whose bank holding company has) a combined capital and surplus of at least \$75,000,000, and
- (iv) be subject to supervision or examination by federal or state authority.

If such bank or company publishes a report of condition at least annually, under law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such bank or company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (e), the Trustee shall resign immediately in the manner and with the effect specified in subsection (c) of this Section.

The City will maintain a Trustee which is qualified under the provisions of the foregoing provisions of this subsection (e), so long as any Bonds are Outstanding.

SECTION 6.02. *Merger or Consolidation.* Any bank or company into which the Trustee may be merged or converted or with which either of them may be consolidated or any bank or company resulting from any merger, conversion or consolidation to which it shall be a party or any bank or company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such bank or company shall be eligible under subsection (e) of Section 6.01, shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

SECTION 6.03. *Rights and Liabilities of Trustee.*

(a) The recitals of facts herein and in the Bonds contained are taken as statements of the City, and the Trustee has no responsibility for the correctness of the same, nor does it have any liability whatsoever therefor, nor make any representations as to the validity or sufficiency of this Indenture or of the Bonds nor shall it incur any responsibility in respect thereof, other than as expressly stated herein. The Trustee is, however, responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee is not liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee is not liable for the acts of any agents of the Trustee selected by it with due care. The Trustee may become the Owner of any Bonds with the same rights it would have if it were not Trustee and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of the Owners, whether or not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding. The Trustee, either as principal or agent, may engage in or be entrusted in any financial or other transaction with the City.

(b) The Trustee has no liability with respect to any action taken or omitted to be taken by it in accordance with the direction of the Owners of a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

(c) The Trustee has no liability for any action taken by it in good faith and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture, except for actions arising from the negligence or willful misconduct of the Trustee. The permissive right of the Trustee to do things enumerated hereunder is not construed as a mandatory duty.

(d) The Trustee will not be deemed to have knowledge of any Event of Default hereunder unless and until a responsible officer of the Trustee has actual knowledge thereof, or unless and until a responsible officer of the Trustee has received written notice thereof at its Office. Except as otherwise expressly provided herein, the Trustee is not bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of an Event of Default hereunder or thereunder. The Trustee is not responsible for the City's payment of principal and interest on the Bonds, the City's observance or performance of any other covenants, conditions or terms contained herein, or the validity or effectiveness of any collateral given to or held by it. Without limiting the generality of the foregoing, and notwithstanding anything herein to the contrary, the Trustee is not responsible for reviewing the contents of any financial statements furnished to the Trustee under Section 5.02 and may rely conclusively on a Certificate of the City (if any) to establish the City's compliance with its financial covenants hereunder, including, without limitation, its covenants regarding the deposit of Revenues into the Revenue Fund and the investment and application of moneys on deposit in the Revenue Fund (other than its covenants to transfer such moneys to the Trustee when due hereunder).

(e) No provision in this Indenture requires the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder. The Trustee is entitled to

receive interest on any moneys advanced by it hereunder, at the maximum rate permitted by law.

(f) The Trustee may establish additional accounts or subaccounts of the funds established hereunder as the Trustee deems necessary or prudent in furtherance of its duties under this Indenture.

(g) The Trustee has no responsibility or liability whatsoever with respect to any information, statement, or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Bonds, nor shall the Trustee have any obligation to review any such material, and any such review by the Trustee will not be deemed to create any obligation, duty or liability on the part of the Trustee.

(h) Before taking any action under Article VIII the Trustee may require indemnity satisfactory to the Trustee be furnished to it to hold the Trustee harmless from any expenses whatsoever and to protect it against any liability it may incur hereunder.

(i) The immunities extended to the Trustee also extend to its directors, officers, employees and agents.

(j) The permissive right of the Trustee to do things enumerated in this Indenture is not construed as a duty.

(k) The Trustee may execute any of the trusts or powers hereof and perform any of its duties through attorneys, agents and receivers and is not answerable for the conduct of the same if appointed by it with reasonable care.

(l) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee

SECTION 6.04. *Right to Rely on Documents.* The Trustee is protected in acting upon any notice, resolution, requisition, request, consent, order, certificate, report, opinion, facsimile transmission, electronic mail or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Trustee may consult with counsel, including, without limitation, Bond Counsel or other counsel of or to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustee hereunder in accordance therewith.

The Trustee is not bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and such person's title thereto is established to the satisfaction of the Trustee.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee deems it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of the City, which shall be full warrant to the Trustee for any action taken or suffered in good faith under the provisions of this Indenture in reliance upon such Certificate, but in its discretion the Trustee may (but has no duty to), in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable. The Trustee may conclusively rely on any certificate or report of any Independent Accountant appointed by the City.

The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions under this Indenture provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Trustee has received a current incumbency certificate containing the specimen signature of such designated person.

SECTION 6.05. *Preservation and Inspection of Documents.* All documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject during normal business hours, and upon reasonable prior written notice, to the inspection of the City and any Owner, and their agents and representatives duly authorized in writing.

SECTION 6.06. *Compensation and Indemnification.* Absent any agreement to the contrary, the City shall pay to the Trustee from time to time compensation for all services rendered under this Indenture and also all expenses, charges, legal and consulting fees and other disbursements and those of its attorneys (including any allocated costs of internal counsel), agents and employees, incurred in and about the performance of its powers and duties under this Indenture. The Trustee has a first lien on the Revenues and all funds and accounts held by the Trustee hereunder to secure the payment to the Trustee of all fees, costs and expenses, including compensation to its experts, attorneys and counsel incurred in declaring such Event of Default and in exercising the rights and remedies set forth in Article VIII.

The City further covenants and agrees to indemnify and save the Trustee and its officers, directors, agents and employees, harmless against any loss, expense and liabilities, whether or not litigated, which it may incur arising out of or in the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability and of enforcing any remedies hereunder and under any related documents, but excluding any and all losses, expenses and liabilities which are due to the negligence or willful misconduct of the Trustee, its officers, directors, agents or employees. The obligations of the City under this Section 6.06 shall survive resignation or removal of the Trustee under this Indenture and payment of the Bonds and discharge of this Indenture.

SECTION 6.07. *Accounting Records and Financial Statements.* The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards, in which complete and accurate entries shall be made of all transactions made by it relating to the proceeds of the Bonds and all funds and accounts established and held by the Trustee under this Indenture. Such books of record and account shall be available for inspection by the City at reasonable hours, during regular business hours, with reasonable prior notice and under reasonable circumstances. The Trustee shall furnish to the City, at least semiannually, an accounting (which may be in the form of its customary statements) of all transactions relating to the proceeds of the Bonds and all funds and accounts held by the Trustee under this Indenture.

ARTICLE VII

MODIFICATION AND AMENDMENT OF THIS INDENTURE

SECTION 7.01. Amendments Permitted.

(a) Amendment With Bond Owner Consent. This Indenture and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended by the City and the Trustee upon Request of the City at any time by the execution of a Supplemental Indenture, but only with the written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding with respect to all Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 9.05. Any such Supplemental Indenture becomes effective upon the execution and delivery thereof by the parties thereto and upon consent of the requisite Bond Owners. No such modification or amendment may:

- (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal thereof or interest thereon at the time and place and at the rate and in the currency provided therein, without the written consent of the Owner of such Bond, or
- (ii) permit the creation by the City of any mortgage, pledge or lien upon the Revenues superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as expressly permitted by this Indenture), or reduce the percentage of Bonds required for the affirmative vote or written consent to an amendment or modification, or
- (iii) modify any of the rights or obligations of the Trustee without its written consent.

(b) Amendment Without Bond Owner Consent. This Indenture and the rights and obligations of the City and of the Owners of the Bonds may also be modified or amended at any time by a Supplemental Indenture, without the consent of any Owners of the Bonds, for any one or more of the following purposes:

- (i) to add to the covenants and agreements of the City contained in this Indenture, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power herein reserved to or conferred upon the City;
- (ii) to cure any ambiguity, or to cure, correct or supplement any defective provision contained in this Indenture, or in any other respect whatsoever as the City deems necessary or desirable, provided under any circumstances that such modifications or amendments do not materially adversely affect the interests of the Owners in the opinion of Bond Counsel filed with the City and the Trustee;
- (iii) to provide for the issuance of Parity Debt under Section 3.05, and to provide the terms and conditions under which such Parity Debt may be issued, including but not limited to the establishment of special funds and accounts relating thereto and any other provisions relating solely thereto, subject to and in accordance with the provisions of Section 3.05; and
- (iv) to amend any provision hereof to assure the exclusion from gross income of interest on the Bonds for federal income tax purposes under the Tax Code, in the opinion of Bond Counsel filed with the City and the Trustee.

(c) Notice of Amendments. The City shall deliver or cause to be delivered a draft of any Supplemental Indenture to Moody's and S&P, to the extent such entity is rating the Bonds, at least 10 days prior to the effective date of such Supplemental Indenture under this Section 7.01.

SECTION 7.02. *Effect of Supplemental Indenture.* From and after the time any Supplemental Indenture becomes effective under this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

SECTION 7.03. *Endorsement or Replacement of Bonds After Amendment.* After the effective date of any amendment or modification hereof under this Article VII, the City may determine that any or all of the Bonds shall bear a notation, by endorsement in form approved by the City, as to such amendment or modification and in that case upon demand of the City the Owners of such Bonds shall present such Bonds for that purpose at the Office of the Trustee, and thereupon a suitable notation as to such action shall be made on such Bonds. In lieu of such notation, the City may determine that new Bonds shall be prepared and executed in exchange for any or all of the Bonds and in that case upon demand of the City the Owners of the Bonds shall present such Bonds for exchange at the Office of the Trustee without cost to such Owners.

SECTION 7.04. *Amendment by Mutual Consent.* The provisions of this Article VII shall not prevent any Owner from accepting any amendment as to the particular Bond held by such Owner.

SECTION 7.05. *Trustee's Reliance.* The Trustee may conclusively rely, and is protected in relying, upon a Certificate of the City and an opinion of counsel stating that all requirements of this Indenture relating to the amendment or modification hereof have been satisfied and that such amendments or modifications do not materially adversely affect the interests of the Owners.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES OF BOND OWNERS

SECTION 8.01. *Events of Default and Acceleration of Maturities.* Each of the following events constitutes an Event of Default hereunder:

- (a) Failure to pay any installment of the principal of any Bonds when due, whether at maturity as therein expressed, by proceedings for acceleration or otherwise.
- (b) Failure to pay any installment of interest on the Bonds when due.
- (c) Failure by the City to observe and perform any of the other covenants, agreements or conditions on its part contained in this Indenture or in the Bonds, if such failure has continued for a period of 60 days after written notice thereof, specifying such failure and requiring the same to be remedied, has been given to the City by the Trustee; *provided, however*, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 60-day period, such failure shall not constitute an Event of Default if the City institutes corrective action within such 60-day period and thereafter diligently and in good faith cures the failure in a reasonable period of time.
- (d) The City commences a voluntary case under Title 11 of the United States Code or any substitute or successor statute.
- (e) The occurrence and continuation of an event of default under and as defined in any Parity Debt Documents.

If an Event of Default occurs and is continuing, the Trustee may, and at the written direction of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding the Trustee shall, (a) declare the principal of the Bonds, together with the accrued interest thereon, to be due and payable immediately, and upon any such declaration the same will become immediately due and payable, anything in this Indenture or in the Bonds to the contrary notwithstanding, and (b) subject to the provisions of Section 8.06, exercise any other remedies available to the Trustee and the

Bond Owners in law or at equity to enforce the rights of the Bond Owners under this Indenture.

Immediately upon becoming aware of the occurrence of an Event of Default, but in no event later than five Business Days following becoming aware of such occurrence, the Trustee shall give notice of such Event of Default to the City by telephone confirmed in writing. Such notice shall also state whether the principal of the Bonds has been declared to be or have immediately become due and payable. With respect to any Event of Default described in clauses (a) or (b) above the Trustee shall, and with respect to any Event of Default described in clause (c) above the Trustee in its sole discretion may, also give such notice to the Bond Owners by first-class mail at their respective addresses set forth on the Registration Books, which shall include the statement that interest on the Bonds shall cease to accrue from and after the date, if any, on which the Trustee declares the Bonds to become due and payable under the preceding paragraph (but only to the extent that principal and any accrued, but unpaid, interest on the Bonds is actually paid on such date).

This provision, however, is subject to the condition that if, at any time after the principal of the Bonds has been so declared due and payable, and before any judgment or decree for the payment of the moneys due has been obtained or entered, the City shall deposit with the Trustee a sum sufficient to pay all principal on the Bonds matured prior to such declaration and all matured installments of interest (if any) upon all the Bonds, with interest on such overdue installments of principal and interest at an interest rate of 10% per annum, and the reasonable fees and expenses of the Trustee, including fees and expenses of its attorneys, and any and all other defaults known to the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) has been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate has been made therefor, then, and in every such case, the Owners of at least a majority in aggregate principal amount of the Bonds then Outstanding, by written notice to the City and to the Trustee, may, on behalf of the Owners of all of the Bonds, rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

SECTION 8.02. *Application of Funds Upon Acceleration.* All amounts received by the Trustee under any right given or action taken by the Trustee under the provisions of this Indenture shall be applied by the Trustee as follows and in the following order:

- (a) *First*, to the payment of any fees, costs and expenses incurred by the Trustee to protect the interests of the Owners of the Bonds; payment of the fees, costs and expenses of the Trustee (including fees and expenses of its counsel, including any allocated costs of internal counsel) incurred in and about the performance of its powers and duties under this Indenture and the payment of all fees, costs and expenses owing to the Trustee under Section 6.06, together with interest on all such amounts advanced by the Trustee at the maximum rate permitted by law.
- (b) *Second*, to the payment of the whole amount then owing and unpaid upon the Bonds for interest and principal, with interest on such overdue amounts at the respective rates of interest borne by

those Bonds, and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, then to the payment of such interest, principal and interest on overdue amounts without preference or priority among such interest, principal and interest on overdue amounts ratably to the aggregate of such interest, principal and interest on overdue amounts.

SECTION 8.03. *Power of Trustee to Control Proceedings.* If the Trustee, upon the happening of an Event of Default, takes any action, by judicial proceedings or otherwise, in the performance of its duties hereunder, whether upon its own discretion, upon the request of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, it has full power, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action. The Trustee may not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in principal amount of the Outstanding Bonds hereunder opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

SECTION 8.04. *Limitation on Owners' Right to Sue.* No Owner of any Bond has the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless:

- (a) said Owner has previously given to the Trustee written notice of the occurrence of an Event of Default;
- (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding have requested the Trustee in writing to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name;
- (c) said Owners have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and
- (d) the Trustee has failed to comply with such request for a period of 60 days after such written request has been received by, and said tender of indemnity has been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy hereunder; it being understood and intended that no one or more Owners has any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of this Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Bonds.

The right of any Owner of any Bond to receive payment of the principal of and premium, if any, and interest on such Bond as herein provided, shall not be impaired or

affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

SECTION 8.05. *Non-waiver.* Nothing in this Article VIII or in any other provision of this Indenture or in the Bonds, affects or impairs the obligation of the City, which is absolute and unconditional, to pay from the Revenues and other amounts pledged hereunder, the principal of and interest on the Bonds to the Bond Owners when due and payable as herein provided, or affects or impairs the right of action, which is also absolute and unconditional, of the Bond Owners to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.

A waiver of any default by any Owner shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners by the Bond Law or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners.

If a suit, action or proceeding to enforce any right or exercise any remedy is abandoned or determined adversely to the Owners, the City and the Owners will be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

SECTION 8.06. *Actions by Trustee as Attorney-in-Fact.* Any suit, action or proceeding which any Owner has the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners similarly situated and the Trustee is hereby appointed (and the successive respective Owners by taking and holding the Bonds shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owners for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact, subject to the provisions of Article VI. Notwithstanding the foregoing provisions of this Section 8.06, the Trustee has no duty to enforce any such right or remedy unless it has been indemnified to its satisfaction for any additional fees, charges and expenses of the Trustee related thereto, including without limitation, fees and charges of its attorneys and advisors.

SECTION 8.07. *Remedies Not Exclusive.* No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the Bond Law or any other law.

ARTICLE IX

MISCELLANEOUS

SECTION 9.01. *Limited Liability of the City.* Notwithstanding anything in this Indenture contained, the City is not required to advance any moneys derived from any source of income other than the Revenues for the payment of the principal of or interest on the Bonds, or for the performance of any covenants herein contained (except to the extent any such covenants are expressly payable hereunder from the Revenues). The City may, however, advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose and may be used by the City for such purpose without incurring indebtedness.

The Bonds are revenue bonds, payable exclusively from the Revenues and other funds as in this Indenture provided. The City is not liable, and the credit of the City is not pledged, for the payment of the interest on or principal of the Bonds. The Owners of the Bonds have no right to compel the forfeiture of any property of the City. The principal of and interest on the Bonds are not a debt of the City, or a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or upon any of its income, receipts or revenues except the Revenues and other funds pledged to the payment thereof as provided in this Indenture.

SECTION 9.02. *Benefits of Indenture Limited to Parties.* Nothing in this Indenture, expressed or implied, gives to any person other than the City and the Owners of the Bonds, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the City shall be for the sole and exclusive benefit of the Trustee and the Owners of the Bonds.

SECTION 9.03. *Defeasance of Bonds.* If the City pays and discharges the entire indebtedness on any Bonds in any one or more of the following ways:

- (a) by paying or causing to be paid the principal of and interest on such Bonds, as and when the same become due and payable;
- (b) by irrevocably depositing with the Trustee or an escrow bank, in trust, at or before maturity, an amount of cash which, together with the available amounts then on deposit in the funds and accounts established under this Indenture, is fully sufficient to pay such Bonds, including all principal thereof and interest thereon;
- (c) by irrevocably depositing with the Trustee or an escrow bank, in trust, Federal Securities in such amount as an Independent Accountant determines will, together with the interest to accrue thereon and available moneys then on deposit in any of the funds and accounts established under this Indenture, be fully sufficient to pay and discharge the indebtedness on such Bonds (including all principal thereof and interest thereon); or
- (d) by purchasing such Bonds prior to maturity and tendering such Bonds to the Trustee for cancellation;

then, at the election of the City, and notwithstanding that any such Bonds have not been surrendered for payment, the pledge of the Revenues and other funds provided for in this Indenture and all other obligations of the Trustee and the City under this Indenture with respect to such Bonds shall cease and terminate, except only:

- (a) the obligations of the City under Section 5.04,
- (b) the obligation of the Trustee to transfer and exchange Bonds hereunder,
- (c) the obligation of the City to pay or cause to be paid to the Owners of such Bonds, from the amounts so deposited with the Trustee, all sums due thereon, and
- (d) the obligations of the City to compensate and indemnify the Trustee under Section 6.06.

The City must file notice of such election with the Trustee. The Trustee shall pay any funds thereafter held by it, which are not required for said purpose, to the City.

In the case of a defeasance or payment of all of the Bonds Outstanding in accordance with this Section 9.03, the Trustee shall pay all amounts held by it in any funds or accounts hereunder, which are not required for said purpose or for payment of amounts due the Trustee under Section 6.06, to the City.

SECTION 9.04. *Execution of Documents and Proof of Ownership by Owners.* Any request, consent, declaration or other instrument which this Indenture may require or permit to be executed by any Owner may be in one or more instruments of similar tenor, and shall be executed by such Owner in person or by their attorneys appointed in writing.

Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, consent, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

The ownership of Bonds and the amount, maturity, number and date of ownership thereof are conclusively proved by the Registration Books.

Any request, declaration or other instrument or writing of the Owner of any Bond binds all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Trustee in good faith and in accordance therewith.

SECTION 9.05. *Disqualified Bonds.* In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the City (but excluding Bonds held in any employees' retirement fund)

must be disregarded and deemed not to be Outstanding for the purpose of any such determination. The Trustee will not be deemed to have knowledge that any Bond is owned or held by the City unless the City is the Registered Owner or the Trustee has received written notice to that effect.

SECTION 9.06. *Waiver of Personal Liability.* No member, officer, agent or employee of the City shall be individually or personally liable for the payment of the principal of or interest or any premium on the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

SECTION 9.07. *Destruction of Canceled Bonds.* Whenever in this Indenture provision is made for the surrender to the City of any Bonds which have been paid or canceled under the provisions of this Indenture, a certificate of destruction duly executed by the Trustee shall be deemed to be the equivalent of the surrender of such canceled Bonds and the City shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to. The City shall pay all costs of any microfilming of Bonds to be destroyed.

SECTION 9.08. *Funds and Accounts.* Any fund or account required by this Indenture to be established and maintained by the City or the Trustee may be established and maintained in the accounting records of the City or the Trustee, as the case may be, either as a fund or an account, and may, for the purpose of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account. All such records with respect to all such funds and accounts held by the City shall at all times be maintained in accordance with generally accepted accounting principles and all such records with respect to all such funds and accounts held by the Trustee shall be at all times maintained in accordance with corporate trust industry practices; in each case with due regard for the protection of the security of the Bonds and the rights of every Owner thereof.

SECTION 9.09. *Notices.* All written notices to be given under this Indenture shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. The City or the Trustee may, by written notice to the other parties, from time to time modify the address or number to which communications are to be given hereunder.

If to the City:

City of El Cerrito
10890 San Pablo Ave.
El Cerrito, CA 94530
Attention: City Manager
Fax: _____

If to the Trustee: MUFG Union Bank, N.A.
350 California Street,
11th Floor San Francisco, CA 94104
Attention: Corporate Trust Services
Phone: 415-273-2492
Email: AccountAdministration-
CorporateTrust@unionbank.com
And CashControlGroup-LosAngeles@unionbank.com

SECTION 9.10. *Unclaimed Moneys.* Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of the interest or premium (if any) on or principal of the Bonds which remains unclaimed for two years after the date when the payments of such interest, premium and principal have become payable, if such money was held by the Trustee at such date, or for two years after the date of deposit of such money if deposited with the Trustee after the date when the interest and premium (if any) on and principal of such Bonds have become payable, shall be repaid by the Trustee to the City as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the City for the payment of the principal of and interest on such Bonds.

SECTION 9.11. *Execution in Several Counterparts.* This Indenture may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the City and the Trustee shall preserve undestroyed, shall together constitute but one and the same instrument.

SECTION 9.12. *Governing Law.* This Indenture shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the City of El Cerrito has caused this Indenture to be signed in its name by its City Manager, and its seal to be affixed hereon and attested by its City Clerk, and MUFG Union Bank, N.A., in token of its acceptance of the trust created hereunder, has caused this Indenture to be signed in its corporate name by its officer identified below, all as of the day and year first above written.

CITY OF EL CERRITO

By _____
City Manager

[S E A L]

Attest:

City Clerk

MUFG UNION BANK, N.A., as Trustee

By _____
Authorized Officer

APPENDIX A

DEFINITIONS

"Annual Debt Service" means the amount of Debt Service on the Outstanding Bonds and all outstanding Parity Debt for a Fiscal Year

"Annual Revenues" means, for any Fiscal Year, the Revenues during such Fiscal Year."

"Authority" means the El Cerrito Public Financing Authority, a joint exercise of powers authority organized and existing under the laws of the State of California.

"Bond Counsel" means (a) Jones Hall, A Professional Law Corporation, or (b) any other attorney or firm of attorneys appointed by or acceptable to the City of nationally-recognized experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes under the Tax Code.

"Bond Law" means the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code, as in effect on the Closing Date or as thereafter amended in accordance with its terms.

"Bond Year" means any twelve-month period commencing on May 2 in a year and ending on the next succeeding May 1, both dates inclusive; except that the first Bond Year commences on the Closing Date and ends on May 1, 2017.

"Bonds" means the City of El Cerrito 2017 Sales Tax Revenue Refunding Bonds issued and at any time Outstanding.

"Business Day" means a day (other than a Saturday or a Sunday) on which banks are not required or authorized to remain closed in the state in which the Office of the Trustee is located, and on which the Federal Reserve Bank system is not closed.

"Certificate of the City" means a certificate in writing signed by the Mayor, the City Manager or the Finance Director of the City, or any other officer of the City duly authorized by the City Council for that purpose.

"City" means the City of El Cerrito, a general law city and municipal corporation organized and existing under the Constitution and laws of the State of California, and any successor thereto.

"Closing Date" means the date of delivery of the Bonds to the Original Purchaser.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the City relating to the authorization, issuance, sale and delivery of the Bonds and the current refunding of the 2008 Installment Payments and the 2008 Bonds, including but not limited to printing expenses, rating agency fees, filing and recording fees, initial fees, expenses and charges of the Trustee and its counsel, fees,

charges and disbursements of attorneys, financial advisors, accounting firms, consultants and other professionals, and any other cost, charge or fee in connection with the original issuance of the Bonds and the current refunding of the 2008 Installment Payments and the 2008 Bonds.

"Costs of Issuance Fund" means the fund by that name established and held by the Trustee under Section 3.03.

"Coverage Requirement" means, for any Fiscal Year, an amount of Annual Revenues equal to at least one hundred fifty percent (150%) of the Maximum Annual Debt Service. For purposes of calculating the Annual Debt Service there shall be excluded the amount of such Annual Debt Service paid from the proceeds of Parity Debt, as set forth in a Certificate of the City.

"Debt Service" means, with respect to any Fiscal Year, the sum obtained by totaling the following amounts for such Fiscal Year:

- (a) the aggregate amount of principal of and interest on the Outstanding Bonds coming due and payable in such Fiscal Year;
- (b) the principal amount of all outstanding Parity Debt, if any, coming due and payable by their terms in such Fiscal Year; and
- (c) the amount of interest which would be due during such Fiscal Year on the aggregate principal amount of all outstanding Parity Debt, if any, which would be outstanding in such Fiscal Year if such Parity Debt are retired as scheduled; *provided, however*, that with respect to any Parity Debt which bears interest at an adjustable rate, such interest shall be calculated at an assumed rate equal to ninety percent (90%) of the average RBI during the twelve (12) calendar month period immediately preceding the date in which such calculation is made (or, if and to the extent such index is not maintained for all or any portion of such period, any similar index of variable rate interest for tax-exempt obligations selected by the City in its sole discretion).

"Debt Service Fund" means the fund by that name established and held by the Trustee under Section 4.02(b)(ii).

"Depository" means (a) initially, DTC, and (b) any other Securities Depository acting as Depository under Section 2.04.

"Depository System Participant" means any participant in the Depository's book-entry system.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

"Escrow Agreement" means the Escrow Deposit and Trust Agreement dated as of January 1, 2017, between the City and MUFG Union Bank, N.A., as trustee for the 2008 Bonds, relating to the payment and prepayment of the 2008 Installment Payments and the discharge of the City's obligations under the 2008 Installment Sale Agreement.

“Event of Default” means any of the events described in Section 8.01.

“Federal Securities” means any of the following which at the time of investment are legal investments under the laws of the State of California for the funds purported to be invested therein: (a) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America); and (b) obligations of any agency, department or instrumentality of the United States of America the timely payment of principal of and interest on which are fully secured or guaranteed by the full faith and credit of the United States of America.

“Fiscal Year” means the period commencing on July 1 of each year and terminating on the next succeeding June 30, or such other period as may be established by the City as its official fiscal year period (written notice of which shall be given by the City to the Trustee).

“Indenture” means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture under the provisions hereof.

“Independent Accountant” means any accountant or firm of such accountants appointed and paid by the City, and who, or each of whom (a) is in fact independent and not under domination of the City; (b) does not have any substantial interest, direct or indirect, with the City; and (c) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or other audits of the books of or reports to the City.

“Information Services” means the Municipal Securities Rulemaking Board’s Electronic Municipal Market Access website; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other services providing information with respect to called bonds as the City designates in written notice filed with the Trustee.

“Interest Payment Date” means May 1 and November 1 in each year, beginning May 1, 2017, and continuing so long as any Bonds remain Outstanding.

“Maximum Annual Debt Service” means, as of the date of any calculation, the maximum amount of Debt Service on the Outstanding Bonds and all outstanding Parity Debt for the current or any future Fiscal Year.

“Nominee” means (a) initially, Cede & Co. as nominee of DTC, and (b) any other nominee of the Depository designated under Section 2.04(a).

“Office” means, with respect to the Trustee, the corporate trust office of the Trustee at the address set forth in Section 9.09, or at such other or additional offices as may be specified by the Trustee in writing to the City; except that for purposes of payment, exchange, transfer, surrender and cancellation of Bonds, such term means the corporate trust office of the Trustee in San Francisco, California.

“Original Purchaser” means Stifel, Nicolaus & Company, Incorporated, as the original purchasers of the Bonds upon their delivery by the Trustee on the Closing Date.

“Outstanding”, when used as of any particular time with reference to Bonds, means all Bonds theretofore, or thereupon being, authenticated and delivered by the Trustee under this Indenture except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds with respect to which all liability of the City has been discharged in accordance with Section 9.03; (c) Bonds for the transfer or exchange of or in lieu of or in substitution for which other Bonds shall have been authenticated and delivered by the Trustee under this Indenture; and (d) Bonds which are required to be disregarded and not deemed Outstanding under Section 9.05.

“Owner”, when used with respect to any Bond, means the person in whose name the ownership of such Bond is registered on the Registration Books.

“Parity Debt” means all bonds, notes, loan agreements, installment sale agreements, leases or other obligations of the City payable from and secured by a pledge of and lien on any of the Revenues issued or incurred on a parity with the Bonds under Section 3.05.

“Parity Debt Documents” means, with respect to any issue of Parity Debt, the agreement, indenture of trust, resolution or other instrument authorizing the issuance of such Parity Debt.

“Permitted Investments” means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein:

- (a) Federal Securities;
- (b) obligations of any federal agency which either (a) represent full faith and credit of the United States of America, or (b) are rated “AA” or better by S&P;
- (c) U.S. dollar denominated deposit accounts federal funds and banker’s acceptances with domestic commercial banks, which may include the Trustee, its parent holding company, if any, and their affiliates, which have a rating on their short term certificates of deposit on the date of purchase of “A” or better by S&P, maturing no more than 360 days after the date of purchase, provided that ratings on holding companies are not considered as the rating of the bank;
- (d) commercial paper which is rated at the time of purchase in the single highest classification, “A” or better by S&P, and which matures not more than 270 calendar days after the date of purchase;
- (e) investments in a money market fund, including those of an affiliate of the Trustee, rated in the highest short-term rating category by S&P, including funds for which the Trustee, its parent holding company, if any, or any affiliates or subsidiaries of the Trustee or such holding company provide investment advisory or other management services;

- (f) investment agreements with financial institutions whose long-term general credit rating is A or better from S&P, by the terms of which the Trustee may withdraw funds if such rating falls below "A"; and
- (g) the Local Agency Investment Fund of the State of California, created under Section 16429.1 of the California Government Code, to the extent the Trustee is authorized to register such investment in its name.

"Qualified Reserve Account Credit Instrument" means (an irrevocable standby or direct-pay letter of credit, insurance policy, or surety bond issued by a commercial bank or insurance company and deposited with the Trustee, provided that all of the following requirements are met at the time of acceptance thereof by the Trustee: (a) at the time of issuance of the letter of credit, insurance policy or surety bond, S&P or Moody's has assigned a long-term credit rating to such bank or insurance company or the instrument, as applicable, of one of the two highest rating categories (without regard to modifier); (b) such letter of credit, insurance policy or surety bond has a term of at least 12 months; (c) such letter of credit, insurance policy or surety bond has a stated amount at least equal to the Reserve Requirement or, if such letter of credit, insurance policy or surety bond is being provided with respect to only a portion of the Reserve Requirement, such letter of credit, insurance policy or surety bond has a stated amount at least equal to that portion of the Reserve Requirement with respect to which funds are proposed to be released; and (d) the Trustee is authorized pursuant to the terms of such letter of credit, insurance policy or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Debt Service Fund for the purpose of paying scheduled Debt Service on the Bonds.

"RBI" means the Bond Buyer Revenue Bond Index or comparable index, or, if no comparable index can be obtained, eighty percent (80%) of the interest rate on actively traded thirty (30) year United States Treasury Bonds, except that if no such United States Treasury Bonds are actively traded, it means eighty percent (80%) of the interest rate on actively traded United States Treasury obligations or other obligations generally recognized to constitute "benchmark securities" in the municipal bond industry.

"Record Date" means, with respect to any Interest Payment Date, the 15th calendar day of the month preceding such Interest Payment Date.

"Registration Books" means the books maintained by the Trustee under Section 2.07 for the registration and transfer of ownership of the Bonds.

"Request of the City" means a request in writing signed by the Mayor, the City Manager or the Finance Director of the City, or any other officer of the City duly authorized by the City Council for that purpose.

"Reserve Fund" means the fund by that name established pursuant and held by the Trustee under Section 3.04, and includes all accounts established therein.

"Reserve Requirement" means, as of the date of any calculation, the maximum amount of debt service on the Outstanding Bonds for the current or any future Bond Year. The City may meet all or a portion of the Reserve Requirement for the Bonds by depositing a Qualified Reserve Account Credit Instrument in the Reserve Fund.

"Revenue Fund" means the "City of El Cerrito Pothole Repair and Street Improvement and Maintenance Services Revenue Fund" held by the City Manager.

"Revenues" means, for any Fiscal Year, (1) all income and revenue received or receivable by the City during such Fiscal Year from the proceeds of the Street Improvement Sales Tax, and (2) all income from the investment of amounts on deposit in the Revenue Fund; but excludes in all cases any proceeds of taxes other than the Street Improvement Sales Tax and any refundable deposits made to establish credit, and excluding any income from the investment of amounts on deposit in the Improvement Fund.

"Securities Depositories" means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the City may designate in a Request of the City delivered by the City to the Trustee.

"S&P" means S&P Global Ratings, of New York, New York, and its successors.

"Street Improvement Sales Tax" means all of the special transactions and use taxes levied and imposed by the City pursuant to Chapter 4.60 of the El Cerrito Municipal Code, as approved by voters of the City on February 5, 2008, and as the same may be amended from time to time.

"Supplemental Indenture" means any indenture, agreement, resolution or other instrument hereafter duly adopted or executed in accordance with Section 7.01.

"Tax Code" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under said Code.

"Term Bonds" means the Bonds maturing on May 1, 20__.

"Trustee" means MUFG Union Bank, N.A., as Trustee hereunder, or any successor thereto appointed as Trustee under Article VI.

"2008 Bonds" has the meaning given that term in the Recitals.

"2008 Installment Payments" has the meaning given that term in the Recitals.

"2008 Installment Sale Agreement" has the meaning given that term in the Recitals.

"2008 Trust Agreement" has the meaning given that term in the Recitals.

APPENDIX B
FORM OF BOND

No. R-__

\$

CITY OF EL CERRITO
2016 SALES TAX REVENUE REFUNDING BOND

INTEREST RATE:	MATURITY DATE:	ISSUE DATE:	CUSIP:
_____ %	May 1, _____	_____, 2016	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of El Cerrito, a general law city and municipal corporation organized and existing under the Constitution and laws of the State of California (the "City") for value received, hereby promises to pay (but only out of the Revenues and other assets pledged therefor as hereinafter mentioned) to the Registered Owner stated above, or registered assigns, on the Maturity Date stated above, the Principal Amount stated above, in lawful money of the United States of America; and to pay interest thereon in like lawful money from the Interest Payment Date next preceding the date of authentication of this Bond (unless this Bond is authenticated as of a day during the period commencing after the fifteenth day of the month preceding an Interest Payment Date and ending on or before such Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or before April 15, 2017, in which event it shall bear interest from the Issue Date stated above) until payment of such principal sum shall be discharged as provided in the Indenture hereinafter mentioned, at the Interest Rate per annum stated above, payable semiannually on each May 1 and November 1, commencing May 1, 2017 (each, an "Interest Payment Date").

The principal hereof is payable by check at the Office (as defined in the Indenture referred to below) of MUFG Union Bank, N.A. (together with any successor trustee under the Indenture, the "Trustee"). Interest hereon is payable by check of the Trustee mailed on each Interest Payment Date to the Registered Owner as of the 15th day of the month preceding each Interest Payment Date (except with respect to payment of defaulted interest as provided in the Indenture hereinafter referred to) at the address shown on the registration books maintained by the Trustee. Payment of interest will be made by wire transfer in immediately available funds to an account in the United States of America to any Owner of Bonds in the aggregate principal amount of

\$1,000,000 or more who shall furnish written wire instructions to the Trustee before the 15th day of the month preceding the applicable Interest Payment Date.

This Bond is one of a duly authorized issue of bonds of the City designated as its "City of El Cerrito 2017 Sales Tax Revenue Refunding Bonds" (the "Bonds"), in the aggregate principal amount of \$_____, authorized under Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"), and issued under an Indenture of Trust, dated as of January 1, 2017 (the "Indenture"), between the City and the Trustee.

On February 5, 2008, the voters of the City approved Measure A (the "Street Improvement Sales Tax Measure"), authorizing (a) the amendment of the El Cerrito Municipal Code to add Chapter 4.60, which authorizes the City to levy and impose new 1/2 cent transactions and use taxes on certain retailers and other commercial enterprises within the City (the "Street Improvement Sales Tax"), and (b) the incurrence of indebtedness by the City for the purpose of financing Pothole Repair and Street Improvement and Maintenance Services set forth in the Expenditure Plan for the administration and expenditure of the Street Improvement Sales Tax proceeds, as those terms are defined in Chapter 46. The Bonds have been issued for the purpose of refinancing certain obligations of the City incurred to finance street and sidewalk improvements.

Reference is hereby made to the Indenture (a copy of which is on file at said Office of the Trustee) and all indentures supplemental thereto and to the Bond Law for a description of the rights thereunder of the owners of the Bonds, of the nature and extent of the security, of the rights, duties and immunities of the Trustee and of the rights and obligations of the City thereunder. The Registered Owner of this Bond, by acceptance hereof, assents and agrees to all the provisions of the Indenture.

The Bonds and the interest thereon are payable from Revenues (as such term is defined in the Indenture) and are secured by a pledge and assignment of said Revenues and by a pledge and assignment of amounts held in the Debt Service Fund and the Reserve Fund established under the Indenture, subject only to the provisions of the Indenture permitting the application thereof for the purposes and on the terms and conditions set forth in the Indenture. The City has the right under the Indenture to issue additional obligations on a parity with the Bonds, subject to the specific conditions set forth in the Indenture. The Bonds are special obligations of the City and are not a lien or charge upon the funds or property of the City, except to the extent of the aforesaid pledge and assignment.

The Bonds are issuable as fully registered Bonds in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations provided in the Indenture, Bonds may be exchanged, at said Office of the Trustee, for a like aggregate principal amount of Bonds of other authorized denominations of the same maturity.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at said office of the Trustee, but only in the manner, subject to the limitations provided in the Indenture, and upon surrender and cancellation of this Bond. Upon such transfer, a new Bond or Bonds, of authorized denomination or denominations, of the same maturity and for the same aggregate principal amount, will be issued to the transferee in exchange herefor. The City and the Trustee may treat the

Registered Owner hereof as the absolute owner hereof for all purposes, and the City and the Trustee shall not be affected by any notice to the contrary.

The Bonds maturing on or before May 1, 20__ are not subject to optional redemption prior to maturity. The Bonds maturing on and after May 1, 20__, are subject to redemption, at the option of the City on any date on or after May 1, 20__, as a whole or in part, by such maturities as determined by the City, and by lot within a maturity, from any available source of funds, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

The Bonds maturing May 1, 20__ are subject to mandatory redemption in whole, or in part by lot, on May 1 in each year, commencing May 1, 20__, as set forth below, at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the aggregate respective principal amounts and on May 1 in the respective years as set forth in the following table; provided however, that (i) in lieu of redemption thereof such Term Bonds may be purchased by the City, and (ii) if some but not all of such Term Bonds have been redeemed pursuant to an optional redemption, the total amount of all future sinking fund payments will be reduced by the aggregate principal amount of such Term Bonds so redeemed, to be allocated among such sinking fund payments in integral multiples of \$5,000 as determined by the City.

[insert sinking fund tables]

The Trustee on behalf and at the expense of the City will give notice of an optional redemption to owners of the Bonds as set forth in the Indenture. The City may provide notice to owners of the Bonds that it intends to redeem the Bonds on an optional basis, but that the redemption is subject to there being sufficient funds for that purpose. The City has the right to rescind any notice of the optional redemption of Bonds by written notice to the Trustee on or prior to the date fixed for redemption.

The Indenture and the rights and obligations of the City and of the owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time in the manner, to the extent, and upon the terms provided in the Indenture; provided that no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the City to pay the principal and interest at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee, all as more fully set forth in the Indenture.

Unless this Bond is presented by an authorized representative of The Depository Trust Company to the Trustee for registration or transfer, exchange or payment, and any Bond issued is registered in the name of Cede & Co. or such other name as requested by an authorized representative of The Depository Trust Company and any payment is made to Cede & Co., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered owner hereof, Cede & Co. has an interest herein.

It is hereby certified and recited that any and all things, conditions and acts required to exist, to have happened and to have been performed precedent to and in the

issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Bond Law, and by the constitution and laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any limit prescribed by the Bond Law and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond is not entitled to any benefit under the Indenture, or is not valid or obligatory for any purpose, until the certificate of authentication hereon endorsed has been signed by the Trustee.

IN WITNESS WHEREOF, City of El Cerrito has caused this Bond to be executed in its name and on its behalf by the facsimile signature of the Mayor of the City and its seal to be reproduced hereon by facsimile and attested to by the facsimile signature of the City Clerk of the City, all as of the Issue Date stated above.

CITY OF EL CERRITO

By _____
Mayor

Attest:

City Clerk

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture.

Dated: _____

MUFG UNION BANK, N.A.,
as Trustee

By _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned hereby sells, assigns and transfers unto _____ whose address and social security or other tax identifying number is _____, the within-mentioned Bond and hereby _____ irrevocably _____ constitute(s) _____ and _____ appoint(s) _____ attorney, to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Note: Signature(s) must be guaranteed by an eligible guarantor institution.

Note: The signature(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

ESCROW DEPOSIT AND TRUST AGREEMENT

This ESCROW DEPOSIT AND TRUST AGREEMENT (this "Agreement"), dated as of January 1, 2017, is between the CITY OF EL CERRITO, a general law city and municipal corporation organized and existing under the laws of the State of California (the "City"), and MUFG UNION BANK, N.A., a national banking association organized and existing under the laws of the United States of America, acting as escrow agent for the 2008 Installment Payments described below (the "Escrow Agent") and as 2008 Trustee (as defined below).

BACKGROUND:

1. On February 5, 2008, the voters of the City approved the following Measure A (the "Street Improvement Sales Tax Measure"), with 71% of those voting on the measure voting in favor:

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, shall the City of El Cerrito incur debt to immediately begin and accelerate street improvements, paid by establishing a dedicated one-half cent sales tax used exclusively for street improvements, with citizens' oversight and independent audits of expenditures?

2. The Street Improvement Sales Tax Measure authorized (a) the amendment of the El Cerrito Municipal Code to add Chapter 4.60, which authorizes the City to levy and impose new 1/2 cent transactions and use taxes on certain retailers and other commercial enterprises within the City (the "Street Improvement Sales Tax"), and (b) the incurrence of indebtedness by the City for the purpose of financing Pothole Repair and Street Improvement and Maintenance Services set forth in the Expenditure Plan for the administration and expenditure of the Street Improvement Sales Tax proceeds, as those terms are defined in Chapter 4.60 (the "Street Improvement Project" or the "2008 Project") secured by and repayable exclusively from the proceeds of the Street Improvement Sales Tax, so long as the annual debt service in each year for such indebtedness is not in excess of 75% of the amount of Street Improvement Sales Tax proceeds projected by the City to be received in each year.

4. The El Cerrito Public Financing Authority (the "Authority") issued its \$11,750,000 El Cerrito Public Financing Authority Sales Tax Revenue Bonds, Series 2008 (the "2008 Bonds") to assist the City with the financing of the 2008 Project. The 2008 Bonds were issued pursuant to a Trust Agreement, dated as of June 1, 2008 (the "2008 Trust Agreement"), by and between the Authority and MUFG Union Bank, N.A, as trustee (the "2008 Trustee").

5. In connection with the issuance of the 2008 Bonds, the City and the Authority entered into a Master Installment Sale Agreement, dated as of June 1, 2008 (the "Master Installment Sale Agreement"), as supplemented by a First Supplemental

Installment Sale Agreement, dated as of June 1, 2008 (the "First Supplemental Installment Sale Agreement"; together with the Master Installment Sale Agreement, the "2008 Installment Sale Agreement"). Pursuant to the 2008 Installment Sale Agreement, the City agreed to make certain installment payments (the "2008 Installment Payments") to the Authority to acquire the 2008 Project from the Authority.

6. The 2008 Bonds are secured by and payable from Revenues, which consist primarily of the 2008 Installment Payments.

7. Under Section 2.04 of the First Supplemental Installment Sale Agreement, the City currently has the right to prepay the 2008 Installment Payments becoming due and payable on or after May 1, 2019 on any date on or after May 1, 2018, at a prepayment price equal to the sum of the principal amount prepaid, plus accrued interest to the date of prepayment, without premium. Under Article VI of the Master Installment Sale Agreement, the 2008 Installment Payments will be deemed to have been paid if the City has deposited with the Authority either money in an amount which shall be sufficient, or Defeasance Securities (as defined in the Master Installment Sale Agreement), the interest on and principal of which when paid will provide money which, together with money, if any deposited with the Authority, shall be sufficient (as evidenced in a report of an Independent Certified Public Accountant, as defined in the Master Installment Sale Agreement) to pay when due the principal installments of such 2008 Installment Payments on and prior to their payment dates or their dates of prepayment, as applicable, and the prepayment premiums, if any.

8. Under Section 2.03(a) of the 2008 Trust Agreement, the 2008 Bonds maturing on or after May 1, 2019, are subject to optional redemption prior to their respective stated maturities on any date on or after May 1, 2018, at a price equal to the principal amount of the Series 2008 Bonds called for redemption, plus accrued interest to the redemption date, without premium. Under Article IX of the 2008 Trust Agreement, the 2008 Bonds may be deemed to have been paid upon a deposit of cash and Defeasance Securities with the 2008 Trustee in an amount determined by an Independent Certified Public Accountant (as defined in the 2008 Trust Agreement) to be sufficient to pay the 2008 Bonds.

9. The City wishes at this time to make a deposit of funds for the purpose of paying and prepaying the 2008 Installment Payments and thereby discharging its obligations under the 2008 Installment Sale Agreement, and causing a defeasance and redemption of the 2008 Bonds, and in order to provide funds for that purpose the City Council of the City has authorized the issuance of the City of El Cerrito 2017 Sales Tax Revenue Refunding Bonds in the aggregate principal amount of \$_____ (the "2017 Bonds") under the provisions of Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code (the "Bond Law"). The 2017 Bonds will be issued pursuant to an Indenture of Trust, dated as of January 1, 2017 (the "2017 Bond Indenture"), by and between the City and MUFG Union Bank, N.A., as trustee (the "2017 Bond Trustee").

10. The City wishes to appoint the Escrow Agent for the purpose of establishing an irrevocable escrow fund to be funded, invested, held and administered for the purpose of providing for the payment and prepayment of the 2008 Installment Payments in full and the defeasance and redemption of the 2008 Bonds.

A G R E E M E N T :

In consideration of the premises and the material covenants contained herein, the City and the Escrow Agent hereby agree as follows:

SECTION 1. *Appointment of Escrow Agent; Establishment of Escrow Fund.* The City hereby appoints the Escrow Agent to act as escrow agent for purposes of administering the funds required to (a) pay and prepay the 2008 Installment Payments in full in accordance with Section 2.04 of the 2008 Installment Sale Agreement, (b) discharge the City's obligations under the 2008 Installment Sale Agreement in accordance with Article VI of the 2008 Installment Sale Agreement, (iii) pay and redeem the 2008 Bonds pursuant to the terms of the 2008 Trust Agreement and (iv) defease the 2008 Bonds pursuant to Article IX of the 2008 Trust Agreement.

The Escrow Agent is hereby directed to establish an escrow fund (the "Escrow Fund") to be held by the Escrow Agent in trust as an irrevocable escrow securing the payment and prepayment of the 2008 Installment Payments in accordance with the 2008 Installment Sale Agreement and the payment, redemption and defeasance of the 2008 Bonds in accordance with the 2008 Trust Agreement. If at any time the Escrow Agent receives actual knowledge that the cash and securities in the Escrow Fund will not be sufficient to make any payment required by Section 4, the Escrow Agent shall notify the City of such fact and the City shall immediately cure such deficiency from any source of legally available funds. The Escrow Agent has no liability for any such insufficiency.

SECTION 2. *Deposit of Amounts in Escrow Fund.* On _____, 2017 (the "Closing Date"), the City shall cause to be transferred to the Escrow Agent for deposit into the Escrow Fund the amount of \$_____ in immediately available funds, to be derived from the following sources in the following amounts:

- (a) from the proceeds of the 2017 Bonds in the amount of \$_____;
and
- (b) from amounts held by the Escrow Agent, in its capacity as 2008 Trustee, in the funds and accounts established under the 2008 Trust Agreement, in the amount of \$_____.

SECTION 3. *Investment of Amounts in Escrow Fund.* On the Closing Date, the Escrow Agent shall invest moneys in the Escrow Fund in the securities described on the attached Exhibit B, which constitute Defeasance Securities as defined in the 2008 Installment Sale Agreement and the 2008 Trust Agreement, and shall hold the remaining \$___ uninvested.

SECTION 4. *Application of Amounts in Escrow Fund.* On _____, 2017, the Escrow Agent shall apply the amounts on deposit in the Escrow Fund to pay and prepay the 2008 Installment Payments and pay and redeem the 2008 Bonds in accordance with the schedule set forth on Exhibit A.

On May 2, 2018, following the payment and prepayment of the 2008 Installment Payments in full and the payment and redemption of the 2008 Bonds in full, the Escrow Agent shall transfer any amounts remaining on deposit in the Escrow Fund to the 2017

Bond Trustee to be applied to pay interest next coming due and payable on the 2017 Bonds.

SECTION 5. *Irrevocable Election to Prepay 2008 Installment Payments and Redeem the 2008 Bonds.* The City hereby irrevocably elects to prepay all of the 2008 Installment Payments on May 1, 2018, and to redeem the 2008 Bonds maturing on and after May 1, 2019 on May 1, 2018.

On the Closing Date, the 2008 Trustee is hereby instructed to mail pursuant to the 2008 Trust Agreement a notice of redemption to the owners of the 2008 Bonds and any other required recipients pursuant to the 2008 Trust Agreement in substantially the form of Exhibit C.

The 2008 Trustee is further hereby instructed to file on the Closing Date a defeasance notice for the 2008 Bonds in substantially the form of Exhibit D on the Municipal Securities Rulemaking Board's EMMA System.

SECTION 6. *Compensation to Escrow Agent.* The City shall pay the Escrow Agent full compensation for its services under this Agreement, including out-of-pocket costs such as publication costs, redemption expenses, legal fees and other costs and expenses relating hereto and, in addition, all fees, costs and expenses relating to the purchase, substitution or withdrawal of any securities after the date hereof. Under no circumstances shall amounts deposited in or credited to the Escrow Fund be deemed to be available for said purposes. The Escrow Agent has no lien upon or right of set off against the cash and securities at any time on deposit in the Escrow Fund.

The City shall indemnify, defend and hold harmless the Escrow Agent and its officers, directors, employees, representatives and agents, from and against and reimburse the Escrow Agent for any and all claims, obligations, liabilities, losses, damages, actions, suits, judgments, reasonable costs and expenses (including reasonable attorneys' and agents' fees and expenses) of whatever kind or nature regardless of their merit, demanded, asserted or claimed against the Escrow Agent directly or indirectly relating to, or arising from, claims against the Escrow Agent by reason of its participation in the transactions contemplated hereby, except to the extent caused by the Escrow Agent's negligence or willful misconduct. The provisions of this Section 7 shall survive the termination of this Agreement or the earlier resignation or removal of the Escrow Agent.

SECTION 7. *Immunities and Liability of Escrow Agent.* The Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement and no implied duties, covenants or obligations shall be read into this Agreement against the Escrow Agent. The Escrow Agent shall not have any liability hereunder except to the extent of its gross negligence or willful misconduct. In no event shall the Escrow Agent be liable for any special, indirect or consequential damages. The Escrow Agent shall not be liable for any loss from any investment made by it in accordance with the terms of this Agreement. The Escrow Agent may consult with legal counsel of its own choice and the Escrow Agent shall not be liable for any action taken or not taken by it in good faith in reliance upon the opinion or advice of such counsel. The Escrow Agent shall not be liable for the recitals or representations contained in this Agreement and shall not be responsible for the validity of this Agreement, the sufficiency of the Escrow Fund or the moneys and securities to pay the principal, interest and redemption premium with respect to the 2008 Installment Payments.

Whenever in the administration of this Agreement the Escrow Agent deems it necessary or desirable that a matter be proved or established prior to taking or not taking any action, such matter may be deemed to be conclusively proved and established by a certificate of an authorized representative of the City and shall be full protection for any action taken or not taken by the Escrow Agent in good faith reliance thereon.

The Escrow Agent may conclusively rely as to the truth and accuracy of the statements and correctness of any opinions or calculations provided to it in connection with this Agreement and shall be protected in acting, or refraining from acting, upon any notice, instruction, request, certificate, document, opinion or other writing furnished to the Escrow Agent in connection with this Agreement and believed by the Escrow Agent to be signed by the proper party, and it need not investigate any fact or matter stated therein.

None of the provisions of this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise to incur any liability, financial or otherwise, in the performance of any of its duties hereunder. The Escrow Agent may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys, custodians or nominees appointed with due care, and shall not be responsible for any willful misconduct or negligence on the part of any agent, attorney, custodian or nominee so appointed. The Escrow Agent shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Escrow Agent and could not have been avoided by exercising due care. Force majeure shall include acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

The Escrow Agent may at any time resign by giving 30 days written notice of resignation to the City. Upon receiving such notice of resignation, the City shall promptly appoint a successor and, upon the acceptance by the successor of such appointment, release the resigning Escrow Agent from its obligations hereunder by written instrument, a copy of which instrument shall be delivered to each of the City, the resigning Escrow Agent and the successor. If no successor shall have been so appointed and have accepted appointment within 30 days after the giving of such notice of resignation, the resigning Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor.

Any bank, corporation or association into which the Escrow Agent may be merged or converted or with which it may be consolidated, or any bank, corporation or association resulting from any merger, conversion or consolidation to which the Escrow Agent shall be a party, or any bank, corporation or association succeeding to all or substantially all of the corporate trust business of the Escrow Agent shall be the successor of the Escrow Agent hereunder without the execution or filing of any paper with any party hereto or any further act on the part of any of the parties hereto except on the part of any of the parties hereto where an instrument of transfer or assignment is required by law to effect such succession, anything herein to the contrary notwithstanding.

The Escrow Agent agrees to accept and act upon instructions or directions pursuant to this Agreement sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Escrow Agent shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the City elects to give the Escrow Agent e-mail or facsimile instructions (or instructions by a similar electronic method) and the Escrow Agent in its discretion elects to act upon such instructions, the Escrow Agent's understanding of such instructions shall be deemed controlling. The Escrow Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The City agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Escrow Agent, including without limitation the risk of the Escrow Agent acting on unauthorized instructions, and the risk of interception and misuse by third parties.

SECTION 8. *Termination of Agreement.* Upon payment and prepayment in full of the 2008 Installment Payments and the payment and redemption in full of the 2008 Bonds, and upon payment of all fees, expenses and charges of the Escrow Agent as described above, this Agreement shall terminate and the Escrow Agent shall be discharged from any further obligation or responsibility hereunder.

SECTION 9. *Execution in Counterparts.* This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 10. *Applicable Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California.

CITY OF EL CERRITO

By: _____
Scott Hanin, City Manager

MUFG UNION BANK, N.A., as Escrow
Agent

By _____
Authorized Officer

**ACKNOWLEDGEMENT OF THE BANK OF MUFG UNION BANK, N.A., AS 2008
TRUSTEE**

MUFG Union Bank, N.A., as 2008 Trustee, hereby acknowledges the provisions of this Agreement and, to the extent such provisions are applicable, MUFG Union Bank, N.A., in its capacity as 2008 Trustee, agrees to comply therewith.

MUFG UNION BANK, N.A.,
as 2008 Trustee

By: _____
Authorized Officer

EXHIBIT A

SCHEDULE OF PAYMENT AND PREPAYMENT OF 2008 INSTALLMENT PAYMENTS

SCHEDULE OF PAYMENT AND REDEMPTION OF 2008 BONDS

[illegible]

EXHIBIT B

SCHEDULE OF DEFEASANCE SECURITIES

Type of Security	CUSIP or ID	Purchase Date	Maturity Date	First Int Pmt Date	Par Amount	Rate	Purchase Price	Interest Class

EXHIBIT C

NOTICE OF FULL REDEMPTION TO THE HOLDERS OF

\$11,750,000

**El Cerrito Public Financing Authority
Sales Tax Revenue Bonds, Series 2008**

NOTICE IS HEREBY GIVEN that there have been called for full redemption on May 1, 2018 (the "Redemption Date") all of the above captioned bonds (the "Bonds") listed below, at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest to the Redemption Date, without premium (the "Redemption Price"):

<u>Maturity</u>	<u>Amount</u>	<u>Rate</u>	<u>Redemption Price</u>	<u>CUSIP No.*</u>
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The Bonds are being called pursuant to the redemption provisions of the Trust Agreement for the Bonds, dated as of ____, 2008, by and between the El Cerrito Public Financing Authority (the "Authority") and MUFG Union Bank, N.A., as trustee (the "Trustee") at the Redemption Price on May 1, 2018, on which date all interest on the Bonds will cease to accrue. Holders of the Bonds are requested to present their Bonds to the Trustee, at the following addresses:

If by Mail:

If by Hand or Overnight Mail:

El Cerrito Public Financing Authority
By: MUFG Union Bank, N.A.
as Trustee

Dated: ____, 2018

IMPORTANT TAX NOTICE

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act"), unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. **Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your securities.**

**Note: The Authority and Trustee shall not be responsible for the selection or use of the CUSIP numbers selected, nor is any representation made as to their correctness indicated in the notice or as printed on any Bond. They are included solely for the convenience of the holders.*

EXHIBIT D

FORM OF DEFEASANCE NOTICE

\$11,750,000

**El Cerrito Public Financing Authority
Sales Tax Revenue Bonds, Series 2008**

Date of Issuance: June 3, 2008

<u>Maturity Date</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>*CUSIP No.</u>
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NOTICE IS HEREBY GIVEN with respect to the above-captioned bonds (the "Bonds"), that the Bonds have been defeased and discharged under and within the meaning of that certain Trust Agreement, dated as of June 1, 2008 ("Trust Agreement"), by and between the El Cerrito Public Financing Authority (the "Authority") and MUFG Union Bank, N.A. as trustee (the "Trustee"). Funds for the payment of the Bonds have been deposited with MUFG Union Bank, N.A., as escrow agent ("Escrow Agent"), and are held in cash and invested in direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged. The sufficiency of the amounts on deposit with the Escrow Agent to pay principal of and interest on the Bonds to and including May 1, 2018 and to pay the redemption price of the Bonds on May 1, 2018 has been verified by an Independent Certified Public Accountant

As a consequence of the foregoing actions and in accordance with the Trust Agreement, the Bonds are no longer secured by a pledge of revenues under the Trust Agreement, and the Bonds are now payable solely from the moneys set aside in escrow as described above and, if necessary, from other legally available funds of the Authority.

The Authority has irrevocably elected to redeem all of the outstanding Refunded Bonds on May 1, 2018, at a redemption price equal to the principal amount thereof, plus accrued interest to the redemption date, without premium.

*The City and the Escrow Agent shall not be responsible for the selection or use of the CUSIP numbers selected, nor is any representation made as to their correctness indicated in the notice or as printed on any Bond. They are included solely for the convenience of the holders.

Dated: _____, 2017

**MUFG Union Bank, N.A.,
as Trustee**

PRELIMINARY OFFICIAL STATEMENT, DATED _____, 2016**NEW ISSUE-FULL BOOK-ENTRY****RATING: S&P: “__”
(See “RATING.”)**

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to certain qualifications described in this Official Statement, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for the purpose of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings. In the further opinion of Bond Counsel, such interest is exempt from California personal income taxes. See “TAX MATTERS.”

\$ _____ *

**CITY OF EL CERRITO
2017 SALES TAX REVENUE REFUNDING BONDS**

Dated: Date of Delivery**Due: May 1, as shown on inside cover**

The bonds captioned above (the “Bonds”) are being issued by the City of El Cerrito (the “City”) pursuant to an Indenture of Trust, dated as of January 1, 2017 (the “Indenture”), by and between the City and MUFG Union Bank, N.A., as trustee (the “Trustee”) to (i) refinance the City’s installment payment obligations under a Master Installment Sale Agreement, dated as of June 1, 2008, as supplemented by a First Supplemental Installment Sale Agreement, dated as of June 1, 2008, between the City and El Cerrito Public Financing Authority, in connection with the bonds captioned “\$11,750,000 El Cerrito Public Financing Authority Sales Tax Revenue Bonds, Series 2008,” which were issued on June 3, 2008, (ii) fund a deposit into a debt service reserve fund for the Bonds and (iii) pay the costs of issuing the Bonds.

The Bonds are being issued as fully registered bonds, registered in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), and will be available to ultimate purchasers in the denomination of \$5,000 or any integral multiple thereof, under the book-entry system maintained by DTC. Ultimate purchasers of Bonds will not receive physical certificates representing their interest in the Bonds. So long as the Bonds are registered in the name of Cede & Co., as nominee of DTC, references in this Official Statement to the owners shall mean Cede & Co., and shall not mean the ultimate purchasers of the Bonds. Interest on the Bonds will be payable semiannually on May 1 and November 1, commencing May 1, 2017. Payments of the principal of, premium, if any, and interest on the Bonds will be made directly to DTC, or its nominee, Cede & Co., by the Trustee, so long as DTC or Cede & Co. is the registered owner of the Bonds. Disbursements of such payments to DTC’s Participants is the responsibility of DTC and disbursements of such payments to the Beneficial Owners is the responsibility of DTC’s Participants and Indirect Participants, as more fully described in this Official Statement. See “APPENDIX E – DTC AND THE BOOK-ENTRY ONLY SYSTEM.”

The Bonds are secured by a first and exclusive pledge of and lien on all of the Revenues (as defined in this Official Statement), primarily consisting of all income and revenues from the City’s Street Improvement Sales Tax (as defined in this Official Statement). The Revenues are the sole source of payment of the Bonds. The pledge of Revenues under the Indenture secures only the obligations to pay for the Bonds and other obligations under the Indenture. See “SECURITY FOR THE BONDS - Pledge of Revenues.”

Under the Indenture, the City may issue or incur additional obligations payable on a parity with the Bonds, subject to certain conditions. See “SECURITY FOR THE BONDS - Issuance of Parity Debt.”

The Bonds are subject to optional and mandatory redemption prior to maturity as more fully described in this Official Statement. See “THE BONDS.”

THE OBLIGATION OF THE CITY TO PAY THE BONDS IS A SPECIAL OBLIGATION OF THE CITY PAYABLE SOLELY FROM THE REVENUES AND DOES NOT CONSTITUTE A DEBT OF THE CITY, THE STATE OF CALIFORNIA (THE “STATE”), OR ANY POLITICAL SUBDIVISION OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION, AND DOES NOT CONSTITUTE AN OBLIGATION FOR WHICH THE CITY, THE STATE, OR ANY POLITICAL SUBDIVISION OF THE STATE IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY, THE STATE, OR ANY POLITICAL SUBDIVISION OF THE STATE HAS LEVIED OR PLEDGED ANY FORM OF TAXATION.

For a discussion of some of the risks associated with the purchase of the Bonds, see “RISK FACTORS” and “CONSTITUTIONAL LIMITATIONS ON TAXES, RATES AND CHARGES.”

The following firm is serving as municipal advisor to the City:



This cover page contains information for quick reference only. It is not intended to be a summary of all factors relating to an investment in the Bonds. Investors should read the entire Official Statement before making any investment decision.

MATURITY SCHEDULE

(See Inside Cover)

The Bonds are offered when, as and if issued and accepted by the Underwriter, subject to the approval as to their legality by Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, and subject to certain other conditions. Jones Hall, A Professional Law Corporation, is also serving as Disclosure Counsel. Certain legal matters will be passed on for the City by Meyers Nave Riback Silver & Wilson, PLC, Oakland, California, and for the Underwriter by its counsel, Stradling Yocca Carlson & Rauth, a Professional

* Preliminary; subject to change.

Corporation, Newport Beach, California. It is anticipated that the Bonds in book-entry form will be available for delivery through the facilities DTC on or about _____, 2017.

STIFEL

Dated: _____, 2017

MATURITY SCHEDULE*

\$ _____ Serial Bonds
(Base CUSIP[†]: _____)

<u>Maturity</u> <u>(May 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>Yield</u>	<u>CUSIP</u> [†]
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\$ _____ % Term Bond Due May 1, ____ Price: _____ % CUSIP[†]: _____

* Preliminary; subject to change.

† Copyright 2016, CUSIP Global Services, and a registered trademark of the American Bankers Association. CUSIP data is provided by CUSIP Global Services, which is managed on behalf of American Bankers Association by S&P Capital IQ. Neither the City nor the Underwriter assumes any responsibility for the accuracy of the CUSIP data.

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

Use of Official Statement. This Official Statement is submitted in connection with the offer and sale of the Bonds referred to in this Official Statement and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not to be construed as a contract with the purchasers of the Bonds.

Estimates and Forecasts. This Official Statement contains statements which, to the extent they are not recitations of historical fact, constitute "forward-looking statements," within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. In this respect, such forward-looking statements are generally identified by the use of words "estimate," "project," "plan," "budget," "anticipate," "expect," "intend," or "believe" or the negative thereof or other variations thereon or comparable terminology.

The achievement of certain results or other expectations contained in such forward-looking statements involves known or unknown risks, uncertainties and other factors which may cause actual results, performance or achievements to be significantly different than those expressed or implied by such forward-looking statements. These risks and uncertainties include, but are not limited to, uncertainties relating to economic conditions, the effect of changes in the amounts and timing of receipt of revenues, the availability and sufficiency of Revenues, change in circumstances adversely affecting the projected use of proceeds, and risks involving pertinent court decisions. The City does not plan to issue any updates or revisions to those forward-looking statements if or when its expectations, or events, conditions or circumstances on which such statements are based change. Potential investors are cautioned that such statements are only predictions and that actual events or results may differ materially. In evaluating such statements, potential investors should specifically consider the various factors which could cause actual events or results to differ materially from those indicated by such forward-looking statements.

Limit of Offering. No dealer, broker, salesperson or other person has been authorized by the City to give any information or to make any representations in connection with the offer or sale of the Bonds other than those contained in this Official Statement and if given or made, such other information or representation must not be relied upon as having been authorized by the City, the Municipal Advisor or the Underwriter. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the Bonds by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

Involvement of Underwriter. The Underwriter has submitted the following statement for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as a part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Information Subject to Change. The information and expressions of opinions in this Official Statement are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City or any other entity described or referenced in this Official Statement since the date hereof. All summaries of the documents referred to in this Official Statement are made subject to the provisions of such documents, respectively, and do not purport to be complete statements of any or all of such provisions.

Stabilization of Prices. In connection with this offering, the Underwriter may over-allot or effect transactions which stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time. The Underwriter may offer and sell the Bonds to certain dealers and others at prices lower than the public offering prices set forth on the inside front cover page hereof and said public offering prices may be changed from time to time by the Underwriter.

THE BONDS HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON AN EXCEPTION FROM THE REGISTRATION REQUIREMENTS CONTAINED IN SUCH ACT, NOR HAVE THEY BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE.

Website. The City maintains a website; however, the information that the website contains is not part of this Official Statement and should not be relied upon in making an investment decision with respect to the Bonds.

CITY OF EL CERRITO

City Council

[Update when new titles available.]

Greg Lyman, *Mayor*

Janet Abelson, *Mayor Pro Tem*

Jan Bridges, *Council Member*

Mark Friedman, *Council Member*

Gabe Quinto, *Council Member*

City Officials

Scott Hanin, *City Manager*

Sky Woodruff, *City Attorney*

Cheryl Morse, *City Clerk*

Mark Rasiah, *Finance Director/City Treasurer*

Bond and Disclosure Counsel

Jones Hall, A Professional Law Corporation

San Francisco, California

Municipal Advisor

NHA Advisors

San Rafael, California

Verification Agent

Grant Thornton LLP

Minneapolis, Minnesota

Trustee and Escrow Agent

MUFG Union Bank, N.A.

San Francisco, California

[Regional Map]

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OFFICIAL STATEMENT

\$ _____ *

CITY OF EL CERRITO
2017 SALES TAX REVENUE REFUNDING BONDS

INTRODUCTION

The purpose of this Official Statement, including its cover page and appendices, is to provide information concerning the issuance, sale and delivery by the City of El Cerrito (the “City”) of the bonds captioned above (the “Bonds”).

Purposes of the Bonds. The City is issuing the Bonds to (i) refinance the City’s installment payment obligations (the “**2008 Installment Payments**”) under a Master Installment Sale Agreement, dated as of June 1, 2008, as supplemented by a First Supplemental Installment Sale Agreement (collectively, the “**2008 Installment Sale Agreement**”), dated as of June 1, 2008, between the City and El Cerrito Public Financing Authority (the “**Authority**”), in connection with the bonds captioned “\$11,750,000 El Cerrito Public Financing Authority Sales Tax Revenue Bonds, Series 2008” (the “**2008 Bonds**”), which were issued on June 3, 2008, and are outstanding in the aggregate principal amount of \$9,740,000 as of the date of this Official Statement, (ii) fund a deposit to a debt service reserve fund for the Bonds and (iii) pay the costs of issuing the Bonds. See “REFUNDING PLAN – Refinancing of the 2008 Installment Payments.”

Authority for Issuance. The City is issuing the Bonds pursuant to (i) an Indenture of Trust, dated as of January 1, 2017 (the “**Indenture**”), by and between the City and MUFG Union Bank, N.A., as trustee (the “**Trustee**”), (ii) Articles 10 and 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code, commencing with Section 53570 (the “**Bond Law**”) and (iii) a resolution adopted by the City Council of the City on December 6, 2016.

Security for the Bonds. The Bonds are secured by a first and exclusive pledge of and lien on all of the Revenues (as defined under the heading “SECURITY FOR THE BONDS”), primarily consisting of all income and revenues from the City’s Street Improvement Sales Tax (as defined under the heading “REFUNDING PLAN”). The Revenues are the sole source of payment of the Bonds. The pledge of Revenues under the Indenture secures only the obligations to pay for the Bonds and other obligations under the Indenture. See “SECURITY FOR THE BONDS – Pledge of Revenues.”

Reserve Fund. Concurrently with the issuance of the Bonds, the Trustee is to establish, maintain and hold in trust a separate fund designated as the Reserve Fund. Moneys available in the Reserve Fund will be used and withdrawn solely for the purpose of paying principal of and interest on the Bonds in the event funds deposited with the Trustee are insufficient. Amounts on deposit in the Reserve Fund will only be available for delinquencies in principal and interest payments. For more information concerning the Reserve Fund, see “SECURITY FOR THE BONDS.”

Issuance of Parity Debt. Under the Indenture, the City may issue or incur additional obligations payable on a parity with the Bonds, subject to certain conditions. Upon the issuance

* Preliminary; subject to change.

of the Bonds, there will be no obligations payable on a parity with the Bonds. See “SECURITY FOR THE BONDS – Issuance of Parity Debt.”

Redemption. The Bonds are subject to optional and mandatory redemption prior to maturity as more fully described in this Official Statement. See “THE BONDS.”

Legal Opinion. Upon delivery of the Bonds, Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel to the City, will release its final approving legal opinion with respect to the Bonds, regarding the validity and tax-exempt status of the Bonds, in the form attached hereto as APPENDIX D.

Summaries of Documents; Defined Terms. The summaries of documents, statutes, reports and other instruments referred to in this Official Statement do not purport to be complete, comprehensive or definitive, and each such summary and reference is qualified in its entirety by reference to each document, statute, report or instrument. The capitalization of any word not conventionally capitalized or otherwise defined in this Official Statement indicates that such word is defined in a particular agreement or other document and, as used in this Official Statement, has the meaning given it in such agreement or document. See “APPENDIX A – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS” for summaries of certain of such definitions.

THE BONDS

Description

The Bonds will be dated their date of issuance and will bear interest at the rates set forth on the cover page of this Official Statement, payable on May 1, 2017, and semiannually thereafter on May 1 and November 1. Subject to the redemption provisions set forth in the Indenture and described below, the Bonds will mature on the dates and in the amounts set forth on the inside cover page of this Official Statement.

Interest on the Bonds is payable from the Interest Payment Date next preceding the date of authentication thereof unless:

- (a) a Bond is authenticated on or before an Interest Payment Date and after the close of business on the preceding Record Date (as defined below), in which event it will bear interest from such Interest Payment Date;
- (b) a Bond is authenticated on or before the first Record Date, in which event interest thereon will be payable from the Closing Date; or
- (c) interest on any Bond is in default as of the date of authentication thereof, in which event interest thereon will be payable from the date to which interest has been paid in full, payable on each Interest Payment Date.

“Record Date” means, with respect to any Interest Payment Date, the 15th calendar day of the month preceding such Interest Payment Date.

Interest is payable on each Interest Payment Date to the persons in whose names the ownership of the Bonds is registered on the Registration Books at the close of business on the immediately preceding Record Date, except as provided below. Interest on any Bond which is not punctually paid or duly provided for on any Interest Payment Date is payable to the person in whose name the ownership of such Bond is registered on the Registration Books at the close of business on a special record date for the payment of such defaulted interest to be fixed by the Trustee, notice of which is given to such Owner by first-class mail not less than 10 days prior to such special record date.

The Trustee will pay interest on the Bonds by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Owners of the Bonds at their respective addresses shown on the Registration Books as of the close of business on the preceding Record Date. At the written request of the Owner of Bonds in an aggregate principal amount of at least \$1,000,000, which written request is on file with the Trustee as of any Record Date, the Trustee will pay interest on such Bonds on each succeeding Interest Payment Date by wire transfer in immediately available funds to such account of a financial institution within the United States of America as specified in such written request, which written request will remain in effect until rescinded in writing by the Owner. The Trustee will pay principal of the Bonds in lawful money of the United States of America by check of the Trustee upon presentation and surrender thereof at the Office of the Trustee.

Registration, Transfers and Exchanges

Registration. The Bonds will be executed and delivered as fully registered bonds, registered in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), and will be available to actual purchasers of the Bonds (the “Beneficial Owners”) in the denominations set forth above, under the book-entry system maintained by DTC, only through brokers and dealers who are or act through DTC’s participants. Beneficial Owners will not be entitled to receive physical delivery of the Bonds. In the event that the book-entry only system is no longer used with respect to the Bonds, the Bonds will be registered and transferred in accordance with the Trust Agreement. See “APPENDIX E – DTC AND THE BOOK-ENTRY ONLY SYSTEM”.

Transfer. Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. The Trustee will collect any tax or other governmental charge on any such transfer of any Bonds. Whenever any Bond or Bonds will be surrendered for transfer, the City will execute and the Trustee will authenticate and deliver to the transferee a new Bond or Bonds of like series, interest rate, maturity and aggregate principal amount.

Exchange. The Bonds may be exchanged at the Office of the Trustee for a like aggregate principal amount of Bonds of other authorized denominations and of the same series, interest rate and maturity. The Trustee will collect any tax or other governmental charge on any such exchange of any Bonds.

Redemption*

Optional Redemption. The Bonds maturing on or before May 1, 20__ are not subject to optional redemption prior to maturity. The Bonds maturing on and after May 1, 20__, are subject to redemption, at the option of the City on any date on or after May 1, 20__, as a whole or in part, by such maturities as will be determined by the City, and by lot within a maturity, from any available source of funds, at a redemption price equal to the principal amount of the Bonds to be redeemed, together with accrued interest thereon to the date fixed for redemption, without premium.

Mandatory Sinking Fund Redemption. The Bonds maturing on May 1, 20__, are Term Bonds subject to redemption prior to their respective stated maturities, on any May 1 on or after May 1, 20__, in part by lot, from mandatory sinking account payments at a redemption price equal to the principal amount thereof and interest accrued thereon to the date fixed for redemption date, without premium, as set forth below.

* Preliminary; subject to change.

Sinking Fund Redemption Date (May 1)	Principal Amount

(maturity)

However, (i) in lieu of redemption, such Term Bonds may be purchased by the City as described below under the heading “- Purchase In Lieu of Redemption,” and (ii) if some but not all of such Term Bonds have been redeemed as described above under the heading “- Optional Redemption,” the total amount of all future sinking fund payments will be reduced by the aggregate principal amount of such Term Bonds so redeemed, to be allocated among such sinking fund payments in integral multiples of \$5,000 as determined by the City (notice of which determination will be given by the City to the Trustee) and will include a revised sinking fund schedule.

Purchase in Lieu of Redemption. In lieu of redemption of the Term Bonds as described above under the heading “- Mandatory Sinking Fund Redemption,” the City may at any time purchase the Term Bonds at public or private sale as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Debt Service Fund) as the City may in its discretion determine. The par amount of any Term Bonds so purchased by the City in any 12-month period ending on February 15 in any year will be credited towards and will reduce the par amount of the Term Bonds required to be redeemed pursuant to mandatory sinking fund redemption on May 1 in each year; provided that evidence satisfactory to the Trustee of such purchase has been delivered to the Trustee by said February 15. In no event will the City purchase any Term Bonds in lieu of redemption without canceling such Term Bonds.

Partial Redemption of Bonds. In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the City will execute and the Trustee will authenticate and deliver to the Owner thereof, at the expense of the City, a new Bond or Bonds of the same interest rate and maturity, of authorized denominations, in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the Bonds so called for redemption will have been duly deposited with the Trustee, such Bonds so called will cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest will accrue thereon from and after the redemption date specified in such notice.

Manner of Redemption. Whenever any Bonds or portions thereof are to be selected for redemption by lot within a maturity, the Trustee will make such selection, in such manner as the Trustee deems appropriate, and will notify the City thereof to the extent Bonds are no longer held in book-entry form.

Notice of Redemption. The Trustee on behalf and at the expense of the City will mail (by first class mail, postage prepaid) notice of any redemption at least 20 but not more than 45 days prior to the redemption date, to (i) the Owners of any Bonds designated for redemption at

their respective addresses appearing on the Registration Books, and (ii) the Securities Depositories and Electronic Municipal Market Access website of the Municipal Securities Rulemaking Board; but such mailing will not be a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein will affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice will state the redemption date and the redemption price, will state that optional redemption is conditioned upon the timely delivery of the redemption price by the City to the Trustee for deposit in the Redemption Account, will designate the CUSIP number of the Bonds to be redeemed, will state the individual number of each Bond to be redeemed or will state that all Bonds between two stated numbers (both inclusive) or all of the Bonds Outstanding are to be redeemed, and will require that such Bonds be then surrendered at the Principal Corporate Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

The City may provide notice to owners of the Bonds that it intends to redeem the Bonds on an optional basis, but that the redemption is subject to there being sufficient funds for that purpose. The City has the right to rescind any notice of the optional redemption of Bonds by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of optional redemption will be cancelled and annulled if for any reason funds will not be or are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute an Event of Default. The City and the Trustee have no liability to the Owners or any other party related to or arising from such rescission of redemption. The Trustee will mail notice of such rescission of redemption in the same manner as the original notice of redemption was sent under this Section.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose will, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Debt Service Requirements on the Bonds

The amounts required to be set aside each Bond Year ending May 1 for principal, sinking account payments and interest relating to the Bonds, assuming no optional redemptions, are as follows:

<u>Bond Year Ending May 1</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			
2028			
2029			
2030			
2031			
2032			
2033			
2034			
2035			
2036			
Total			

REFUNDING PLAN

General

The City is issuing the Bonds to (i) refinance the 2008 Installment Payments, (ii) fund a deposit to a debt service reserve fund for the Bonds and (iii) pay the costs of issuing the Bonds.

Refinancing of the 2008 Installment Payments

On February 5, 2008, the voters of the City approved Measure A (the “**Street Improvement Sales Tax Measure**”), with 71% of those voting on the measure voting in favor. The Street Improvement Sales Tax Measure presented voters with the following question:

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, shall the City of El Cerrito incur debt to immediately begin and accelerate street improvements, paid by establishing a dedicated one-half cent sales tax used exclusively for street improvements, with citizens' oversight and independent audits of expenditures?

The Street Improvement Sales Tax Measure authorized (a) the amendment of the El Cerrito Municipal Code to add Chapter 4.60, authorizing the City to levy and impose 1/2 cent transactions and use taxes on certain retailers and other commercial enterprises within the City (the “**Street Improvement Sales Tax**”), and (b) the incurrence of indebtedness by the City for the purpose of financing the Pothole Repair and Street Improvement and Maintenance Services set forth in the Payment Expenditure Plan for the administration and expenditure of the Street Improvement Sales Tax proceeds, as those terms are defined in Chapter 4.60 (the “**2008 Project**”), secured by and repayable exclusively from the proceeds of the Street Improvement Sales Tax, so long as the annual debt service in each year for such indebtedness is not in excess of 75% of the amount of Street Improvement Sales Tax proceeds projected by the City to be received in each year.

The Authority issued the 2008 Bonds to assist the City with the financing of the 2008 Project. The 2008 Bonds were issued pursuant to a Trust Agreement, dated as of June 1, 2008, by and between the Authority and MUFG Union Bank, N.A., as trustee. The 2008 Bonds are secured by and payable primarily from the 2008 Installment Payments.

Pursuant to the 2008 Installment Sale Agreement, the City may prepay the 2008 Installment Payments becoming due and payable on or after May 1, 2019, on any date on or after May 1, 2018, at a prepayment price equal to the sum of the principal amount prepaid, plus accrued interest to the date of prepayment, without premium.

The Bonds are being issued to pay and prepay the 2008 Installment Payments, thereby discharging the City's obligations under the 2008 Installment Sale Agreement, and causing a defeasance and redemption of the 2008 Bonds.

Pursuant to an Escrow Deposit and Trust Agreement, dated as of January 1, 2017 (the “**Escrow Agreement**”), between the City and MUFG Union Bank, N.A., as escrow agent (the “**Escrow Agent**”), the City will cause to be transferred to the Escrow Agent for deposit into the escrow fund established under the Escrow Agreement (the “**Escrow Fund**”) the amount of

\$_____, of which \$_____ will be invested in State and Local Government Series and the remainder will be held in cash.

On May 1, 2017, November 1, 2017 and May 1, 2018, the Escrow Agent will apply the amounts on deposit in the Escrow Fund to pay the 2008 Installment Payments that are due and payable on such dates, and on May 1, 2018 (the "**Prepayment Date**"), the Escrow Agent will prepay the remainder of the then-outstanding 2008 Installment Payments, causing the redemption of the 2008 Bonds. Under the Escrow Agreement, the City irrevocably elects to prepay all of the 2008 Installment Payments on the Prepayment Date and redeem the 2008 Bonds maturing on and after May 1, 2019, on the Prepayment Date. See "VERIFICATION OF MATHEMATICAL ACCURACY."

The moneys held by the Escrow Agent in the Escrow Fund are pledged to the payment and prepayment of the 2008 Installment Payments and payment and redemption of the 2008 Bonds and will not be available for payment of the Bonds unless excess moneys remain in the Escrow Fund after the redemption of the 2008 Bonds.

ESTIMATED SOURCES AND USES OF FUNDS

The following table sets forth the estimated sources and uses of funds related to the issuance of the Bonds.

Sources of Funds	\$
Principal Amount of Bonds	
Plus/Less: Net Original Issue Premium/Discount	
Funds Relating to 2008 Bonds	
Total Sources of Funds	\$
 Uses of Funds	
Deposit into Escrow Fund ⁽¹⁾	\$
Deposit into Reserve Fund ⁽²⁾	
Costs of Issuance ⁽³⁾	
Underwriter's Discount	
Total Uses of Funds	\$

(1) See "REFUNDING PLAN."

(2) Equals Reserve Requirement. See "SECURITY FOR THE BONDS."

(3) Includes legal fees, Municipal Advisor's fees, Verification Agent's fees, printing costs, rating agency fees and other miscellaneous expenses.

SECURITY FOR THE BONDS

Pledge of Revenues

Pursuant to the Indenture, the Bonds and any Parity Debt (as defined under the heading “– Issuance of Parity Debt”) are secured by a first and exclusive pledge of and lien on all the Revenues. “**Revenues**” means, for any Fiscal Year, (1) all income and revenue received or receivable by the City from the proceeds of the Street Improvement Sales Tax and (2) all income from the investment of amounts on deposit in the Revenue Fund; but excluding in all cases any proceeds of taxes other than the Street Improvement Sales Tax and any refundable deposits made to establish credit, and excluding any income from the investment of amounts on deposit in the Improvement Fund.

In addition, the Bonds are secured by a pledge of all of the moneys in the Debt Service Fund and the Reserve Fund, including all amounts derived from the investment of such moneys.

So long as any of the Bonds are Outstanding, the Revenues and such moneys may not be used for any other purpose; except that out of the Revenues there may be apportioned such sums, for such purposes, as are expressly permitted by the Indenture.

Revenue Fund; Debt Service Fund; Reserve Fund

Revenue Fund. The City has previously established the Revenue Fund, which will be held and maintained by the City Manager for the purposes and uses set forth in the Indenture as long as the Bonds are Outstanding. The City will deposit all Revenues in the Revenue Fund promptly upon the receipt thereof, and will apply amounts in the Revenue Fund solely for the uses and purposes set forth in the Indenture and for the uses and purposes set forth in any Parity Debt Documents.

Flow of Funds. The City will withdraw amounts on deposit in the Revenue Fund and apply such amounts at the times and for the purposes, and in the priority, as follows:

- (i) Debt Service Fund. On or before the 3rd Business Day preceding each Interest Payment Date, so long as any Bonds remain Outstanding, the City will
 - (A) withdraw from the Revenue Fund and pay to the Trustee for deposit into the Debt Service Fund (which the Trustee will establish and hold in trust under the Indenture) an amount which, together with other available amounts then on deposit in the Debt Service Fund, is at least equal to the aggregate amount of principal of and interest coming due and payable on the Bonds on (1) such Interest Payment Date and (2) the next succeeding Interest Payment Date, and
 - (B) withdraw from the Revenue Fund and transfer as required under any Parity Debt Documents for outstanding Parity Debt an amount which, together with other amounts then available for that purpose under the Parity Debt Documents, is at least equal to the aggregate amount of principal of and interest coming due and payable on the Parity Debt on (1) such Interest Payment Date and (2) the next succeeding Interest Payment Date.

In the event that the amounts on deposit in the Revenue Fund are insufficient to pay all of the amounts described in the preceding clauses (A) and (B), then the available Revenues will be transferred from the Revenue Fund to the Debt Service Fund and to the funds for outstanding Parity Debt on a pro rata basis based on the outstanding principal amount of the Bonds and any Parity Debt.

The Trustee will apply amounts in the Debt Service Fund solely for the purpose of (A) paying the interest on the Outstanding Bonds when due and payable, and (B) paying the principal of the Bonds at the maturity thereof. Upon the payment of all Outstanding Bonds, the Trustee will transfer any moneys remaining in the Debt Service Fund to the City for deposit into the Revenue Fund.

- (ii) Reserve Fund. On or before the third Business Day preceding each Interest Payment Date, so long as any Bonds remain Outstanding, if the amount on deposit in the Reserve Fund is less than the Reserve Requirement or the amount on deposit in a reserve account for any outstanding Parity Debt is less than its required level, then the City will:
 - (A) promptly withdraw the amount of such insufficiency from available Revenues on deposit in the Revenue Fund, and transfer such amount to the Trustee for deposit in the Reserve Fund, and
 - (B) promptly withdraw the amount of such insufficiency in the reserve account for any outstanding Parity Debt from available Revenues on deposit in the Revenue Fund and transfer such Revenues for deposit in the reserve account for any Parity Debt.

In the event that the amounts on deposit in the Revenue Fund are insufficient to pay all of the amounts described in the preceding sentence, then the available Revenues will be transferred from the Revenue Fund to the Reserve Fund and for deposit in the reserve account for any outstanding Parity Debt on a pro rata basis based on the outstanding principal amount of the Bonds and any Parity Debt.

- (iii) Other Uses of Revenue Fund. The City will manage, conserve and apply moneys in the Revenue Fund in such a manner that all deposits required to be made under this Section and under any Parity Debt Documents will be made at the times and in the amounts so required.

So long as no Event of Default has occurred and is continuing, and after the deposits described above have been made, the City may at any time use and apply moneys in the Revenue Fund for any one or more of the following purposes:

- (i) the payment, prepayment or redemption of any subordinate obligations or any unsecured obligations;
- (ii) the prepayment or redemption of any Bonds or other Parity Debt; or

- (iii) any other lawful purpose of the City relating to the Street Improvement Sales Tax.

Issuance of Parity Debt

Under the terms of the Indenture, the City may issue Parity Debt in such principal amount as it determines, subject to the following conditions precedent:

- (a) No Event of Default (or no event with respect to which notice has been given and which, once all notice of grace periods have passed, would constitute an Event of Default) has occurred and is continuing.
- (b) During the last audited Fiscal Year, the Annual Revenues were at least equal to the Coverage Requirement (as defined below) for the Bonds and any outstanding Parity Debt, plus the proposed Parity Debt.
- (c) The Annual Debt Service in each year for the Bonds, any Outstanding Parity Debt and the proposed Parity Debt is not in excess of 75% of the amount of Sales Tax proceeds projected by the City to be received in each year.
- (d) If required by the Parity Debt Document for the proposed Parity Debt, a separate reserve has been or will be established therefor.
- (e) Interest on the Parity Debt must be payable on May 1 and November 1, and principal of the Parity Debt must be payable on May 1.

Notwithstanding the foregoing provisions, there will be no limitations on the ability of the City to execute any Parity Debt at any time to refund any Bonds or outstanding Parity Debt as long as the principal and interest to maturity on the proposed Parity Debt is less than the remaining principal and interest to maturity on the Bonds or Parity Debt to be refunded.

The City will deliver to the Trustee a Certificate of the City certifying that the foregoing conditions have been satisfied.

“Annual Debt Service” means the amount of Debt Service (defined below) on the Outstanding Bonds and all outstanding Parity Debt for a Fiscal Year.

“Coverage Requirement” means, for any Fiscal Year, an amount of Annual Revenues equal to at least 150% of the Maximum Annual Debt Service. For purposes of calculating the Annual Debt Service there will be excluded the amount of such Annual Debt Service paid from the proceeds of Parity Debt, as set forth in a Certificate of the City.

“Debt Service” means, with respect to any Fiscal Year, the sum obtained by totaling the following amounts for such Fiscal Year:

- (a) the aggregate amount of principal of and interest on the Outstanding Bonds coming due and payable in such Fiscal Year;
- (b) the principal amount of all outstanding Parity Debt, if any, coming due and payable by their terms in such Fiscal Year; and

(c) the amount of interest which would be due during such Fiscal Year on the aggregate principal amount of all outstanding Parity Debt, if any, which would be outstanding in such Fiscal Year if such Parity Debt are retired as scheduled; *provided, however*, that with respect to any Parity Debt which bears interest at an adjustable rate, such interest shall be calculated at an assumed rate equal to 90% of the average RBI (defined below) during the 12 calendar month period immediately preceding the date in which such calculation is made.

"Parity Debt" means all bonds, notes, loan agreements, installment sale agreements, leases or other obligations of the City payable from and secured by a pledge of and lien on any of the Revenues issued or incurred on a parity with the Bonds subject to the conditions described above.

"RBI" means the Bond Buyer Revenue Bond Index or comparable index, or, if no comparable index can be obtained, 80% of the interest rate on actively traded 30 year United States Treasury Bonds, except that if no such United States Treasury Bonds are actively traded, it means 80% of the interest rate on actively traded United States Treasury obligations or other obligations generally recognized to constitute "benchmark securities" in the municipal bond industry.

Issuance of Subordinate Obligations

The City may at any time execute any obligations that are either unsecured or that are secured by an interest in the Revenues which is junior and subordinate to the pledge of and lien upon the Revenues established in the Indenture.

THE STREET IMPROVEMENT SALES TAX

General

The Street Improvement Sales Tax Measure authorized the imposition of the Street Improvement Sales Tax upon the approval of the electorate of the City, as described under the heading "REFUNDING PLAN." Since the Street Improvement Sales Tax Measure does not provide for automatic expiration of the Street Improvement Sales Tax, there is no statutory termination provision for the Street Improvement Sales Tax.

The Street Improvement Sales Tax is a retail transactions and use tax of one half of one percent (0.5%) of the gross receipts of retailers from the sale of all tangible personal property sold at retail in the City and a use tax at the same rate upon the storage, use or other consumption in the City of such property purchased from any retailer for storage, use or other consumption in the City, subject to certain limited exceptions. The most important exemptions from the Street Improvement Sales Tax are the sales of food products for home consumption, prescription medicine, edible livestock and their feed, seed and fertilizer used in raising food for human consumption, and gas, electricity and water, when delivered to consumers through mains, lines and pipes. Additionally, occasional sales, i.e., sales of property not held or used by a seller in the course of activities for which he or she is required to hold a seller's permit, are generally exempt from the Street Improvement Sales Tax; however, the "occasional sales" exemption does not apply to the sale of an entire business and other sales of machinery and equipment used in a business. Sales of property to be used outside the City that are shipped to a point outside the City pursuant to the contract of sale are exempt from the Street Improvement Sales Tax (including, for example, the sales of automobiles and water craft to individuals who do not reside in the City).

Street Improvement Sales Tax revenues are net of an administrative fee paid to the California State Board of Equalization (the "**Board of Equalization**") for the collection and disbursement of the Street Improvement Sales Tax. The fees for fiscal years 2008-09 through 2015-16 are shown in Table 1 under the heading "– Collection."

Collection

Collection of the Street Improvement Sales Tax is administered by the Board of Equalization pursuant to an Agreement for State Administration, approved by the City Council on April 21, 2008 (the "**BOE Agreement**"), between the City and the Board of Equalization. Pursuant to the BOE Agreement and its procedures, the Board of Equalization projects receipts of the Street Improvement Sales Tax on a quarterly basis and remits an advance of such receipts to the City at least twice per quarter based on such projection. During the last month of each quarter, the Board of Equalization adjusts the amount remitted to reflect the actual receipts of the Street Improvement Sales Tax for the quarter.

The Board of Equalization began collecting the Street Improvement Sales Tax in July 2008 and first distributed the proceeds to the City in October 2008. Proceeds of the Street Improvement Sales Tax received by the City will be deposited into and held in a special fund established by the City and paid to the Trustee on the 15th day prior to May 1 and November 1 in each year in an amount sufficient to pay interest on and principal of the Bonds. See "SECURITY FOR THE BONDS."

Historical Street Improvement Sales Tax Revenues

The following table shows actual Street Improvement Sales Tax revenues (including the Street Improvement Sales Tax) reported by the City, disaggregated by category, from fiscal year 2008-09 through fiscal year 2015-16.

TABLE 1
City of El Cerrito
Actual Street Improvement Sales Tax Revenues Received
Fiscal Year 2008-09 Through 2015-16

<u>Fiscal Year</u>	<u>Street Improvement Sales Tax Received</u>
2008-09	\$1,348,938
2009-10	1,334,628
2010-11	1,375,828
2011-12	1,546,542
2012-13 ⁽¹⁾	1,141,958
2013-14	1,453,527
2014-15	1,399,734
2015-16 ⁽²⁾	1,800,598
2016-17 ⁽³⁾	1,485,000

- (1) In April 2013, the Board of Equalization found that the Street Improvement Sales Tax revenues had been over-allocated to the City by \$292,357 from fiscal year 2009 through 2013, and the June 2013 remittance was reduced in that amount.
- (2) Unaudited.
- (3) Budgeted.
- Source: City of El Cerrito.

The following table shows the estimated debt service coverage on the Bonds based on the amount of Street Improvement Sales Tax revenues for fiscal year 2015-16 and the maximum annual debt service coverage on the Bonds.

TABLE 2
City of El Cerrito
Maximum Annual Debt Service Coverage

<u>Fiscal Year 2015-16 Street Improvement Sales Tax Revenues</u>	<u>Maximum Annual Debt Service on the Bonds</u>	<u>Debt Service Coverage</u>
\$1,800,598	\$ _____*	_____x*

* Preliminary; subject to change.
Source: Stifel, Nicolaus & Company, Incorporated.

For additional information regarding the City's historical Street Improvement Sales Tax revenues, see Note 9.C of "APPENDIX F – COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR FISCAL YEAR ENDED JUNE 30, 2015."

The following table shows aggregate Street Improvement Sales Tax revenues generated from the 10 highest Street Improvement Sales Tax revenue-generating businesses during the past five years.

TABLE 3
City of El Cerrito
Top 10 Street Improvement Sales Tax Generators as Percent of Total
Fiscal Years 2011-12 through 2015-16

Fiscal Year	Top Ten Generators Sales Tax Revenues	Street Improvement Sales Tax Revenues	Revenues as a % of Total
2015-16	\$391,480	\$1,800,598	22%
2014-15	433,266	1,399,734	31
2013-14	429,572	1,453,527	30
2012-13	392,278	1,141,958	34
2011-12	573,125	1,546,542	37

Source: City of El Cerrito.

The diagram on the following page includes a map of the City showing the locations and trade names of these 10 highest Street Improvement Sales Tax generating businesses in the second quarter of 2016, all of which are located along the City's main commercial corridor, San Pablo Avenue.

[DIAGRAM]

The City's principal commercial activity is centered around San Pablo Avenue, the main thoroughfare extending from the east end of the City to the west end of the City. In 2011, the City completed a multi-year effort and investment of approximately \$7 million in infrastructure improvements and redevelopment projects to improve the San Pablo Avenue business district. As shown in the diagram on the previous page, the distribution of the City's top 10 taxpayers extends from the south end of San Pablo Avenue, the location of the El Cerrito Plaza, to the north end, where the City's automobile retailers are located adjacent to the Interstate 80 freeway.

In addition, in September 2014, the City adopted the San Pablo Avenue Specific Plan (the "**Specific Plan**"), the purpose of which is to articulate a vision for the future of San Pablo Avenue, identify improvements, and adopt context-sensitive regulations that can be applied along its length and to adjacent areas. The Specific Plan creates a framework for transforming San Pablo Avenue into a multimodal corridor that functions as a place that provides a multitude of opportunities for living, working and community life. The Specific Plan's key principles are to deepen a sense of place and community identity, attract private investment, strengthen partnerships, enhance the public realm, promote the everyday use of transit, walking, and biking, and foster environmental sustainability.

Additional Sales Taxes Collected in the City

The following sales taxes, including the Street Improvements Sales Tax, are collected in the City:

Rate	Purpose
7.50%	Statewide
0.50	Contra Costa County Transportation Authority
0.50	Bay Area Rapid Transit District
0.50	Street Improvements Sales Tax
<u>1.00</u>	City General Fund (Measure R) ⁽¹⁾
10.00%	Total

(1) Approved by electorate in November 2014. The levy of the tax began on April 1, 2015, and ends on March 31, 2027. The collection of Measure R sales taxes has not materially impacted Street Improvement Sales Tax revenues.

Tax Revenue Interruption Insurance

The City currently maintains insurance coverage (the “**Tax Revenue Interruption Insurance**”) to provide the City with up to 97.5% of its ordinary sales tax revenues lost as a result of damage to or destruction of real or personal property that wholly or partially prevents the generation of sales tax revenues. The Tax Revenue Interruption Insurance pertains only to certain of City’s highest sales tax revenue generating taxpayers and/or properties, as identified in the policy. The Tax Revenue Interruption Insurance was expanded in 2009 to cover the Street Improvement Sales Tax.

The Tax Revenue Interruption Insurance coverage does not extend to publicly owned real or personal property, and only provides coverage for the length of time as would be required with exercise of due diligence and dispatch to rebuild, replace or repair the contributing property commencing from the date of damage to the contributing property. None of the provisions of the Street Improvement Sales Tax Measure or the Indenture require the City to maintain the Tax Revenue Interruption Insurance. The City currently expects to continue to maintain the Tax Revenue Interruption Insurance coverage so long as it is economically feasible; however no assurance can be given that such insurance coverage will be maintained or available while the Bonds are outstanding.

RISK FACTORS

The following section describes certain risk factors affecting the payment of and security for the Bonds. The following discussion of risks is not meant to be an exhaustive list of the risks associated with the purchase of the Bonds, and the order presented does not necessarily reflect the relative importance of the various issues. Potential investors are advised to consider the following factors, along with all other information in this Official Statement, in evaluating the Bonds. There can be no assurance that other risk factors will not become material in the future.

Investment of Funds

All funds and accounts held under the Indenture are required to be invested in Permitted Investments as provided under the Indenture. See APPENDIX A attached hereto for a summary of the definition of Permitted Investments. All investments, including the Permitted Investments and those authorized by law from time to time for investments by public agencies, contain a certain degree of risk. Such risks include, but are not limited to, a lower rate of return than expected, loss of market value and loss or delayed receipt of principal. The occurrence of these events with respect to amounts held under the Indenture or by the City could have a material adverse effect on the security of the Bonds.

Limited Obligations

The payment of principal of or interest on the Bonds represents a limited obligation of the City and is not secured by a legal or equitable pledge or charge or lien upon any property of the City or any of its income or receipts, except the Revenues. The obligation of the City to pay principal of or interest on the Bonds does not constitute an obligation of the City to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation.

Limitations on Remedies and Limited Recourse on Default

The ability of the City to comply with its covenants under the Indenture and to generate Revenues sufficient to pay principal of or interest on the Bonds may be adversely affected by actions and events outside of the control of the City and may be adversely affected by actions taken (or not taken) by voters, property owners, taxpayers or persons obligated to pay assessments, fees and charges. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES, RATES AND CHARGES – Articles XIIC and XIID of the California Constitution." Failure by the City to pay principal or interest on the Bonds required to be made under the Indenture constitutes an event of default under the Indenture, and the Trustee is permitted to pursue remedies at law or in equity to enforce the City's obligation to make such payments.

The remedies available to the owners of the Bonds upon the occurrence of an event of default under the Indenture are in many respects dependent upon judicial actions that are often subject to discretion and delay and could prove both expensive and time consuming to obtain.

In addition to the limitations on remedies contained in the Indenture, the rights and obligations under the Indenture may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against public entities in the State. The opinion to be delivered by Bond Counsel concurrently with the issuance of the Bonds will be subject to such limitations and the various other legal opinions to be delivered concurrently with

the issuance of the Bonds will be similarly qualified. See “APPENDIX D – PROPOSED FORM OF OPINION OF BOND COUNSEL”.

If the City fails to comply with its covenants under the Indenture or fails to pay principal of or interest on the Bonds, there can be no assurance of the availability of remedies adequate to protect the interest of the holders of the Bonds.

Economy of the County and the State

The Bonds are secured by a pledge of Street Improvement Sales Tax revenues, which consist of the Street Improvement Sales Tax less an administrative fee paid to the Board of Equalization. The level of Street Improvement Sales Tax revenues collected at any time is dependent upon the level of retail sales within the City, which level of retail sales is, in turn, dependent upon the level of economic activity in the City's economic area, and in the State generally. As a result, any substantial deterioration in the level of economic activity within the City, the City's economic area, or in the State or a natural disaster could have a material adverse impact upon the level of Street Improvement Sales Tax revenues and therefore upon the ability of the City to pay principal of and interest on the Bonds. For information relating to current economic conditions within the City, County of Contra Costa, and the State see “APPENDIX C – GENERAL INFORMATION ABOUT THE CITY OF EL CERRITO.”

The Street Improvement Sales Tax

With limited exceptions, the Street Improvement Sales Tax is imposed upon the same transactions and items subject to the sales tax levied statewide by the State. The State Legislature or the voters within the State, through the initiative process, could change or limit the transactions and items upon which the statewide sales tax and the Street Improvement Sales Tax are imposed. In particular, future legislation could limit the type of internet-based transactions subject to the Street Improvement Sales Tax. Any such change or limitation could have an adverse impact on the revenues collected pursuant to the Street Improvement Sales Tax. In addition, the Board of Equalization could change its collection procedures and therefore affect the City's receipt of Street Improvement Sales Tax revenues. For a further description of the Street Improvement Sales Tax, see “THE STREET IMPROVEMENT SALES TAX.”

Increases in Sales Tax Rate May Cause Declines in Street Improvement Sales Tax Revenues

The Street Improvements Sales Tax is in addition to the sales or use tax levied statewide by the State. On November 6, 2012, State voters approved Proposition 30, which, among other things, increased the statewide tax rate by one quarter of one percent (increasing the statewide rate from 7.25% to 7.50%) for four years, effective January 1, 2013, through December 31, 2016; the tax increase was extended by 12 years on November 8, 2016, when State voter approved Proposition 55. Furthermore, in November 2014, voters in the City approved the levy of an additional 1% sales tax from April 1, 2015, through March 31, 2027; as of the date of this Official Statement, the levy of such tax has not had a material impact on Street Improvement Sales Tax revenues.

However, additional future increases, if any, in the State sales tax, the City sales tax or the sales tax levied in the County could have an adverse effect on consumer spending decisions and consumption, resulting in a reduction of Street Improvement Sales Tax revenues.

Increased Internet Use May Reduce Street Improvement Sales Tax Revenues

The increasing use of the Internet to conduct electronic commerce may affect the levels of Street Improvement Sales Tax receipts. Internet sales of physical products by businesses located in the State, and Internet sales of physical products delivered to the State by businesses located outside of the State are generally subject to the Street Improvement Sales Tax. It is possible, however, that some of these transactions may avoid taxation either through error or deliberate non-reporting, and this potentially reduces the amount of Street Improvement Sales Tax revenues. As a result, the more that Internet use increases, along with a failure to collect sales taxes on such Internet purchases, the more Street Improvement Sales Tax revenues may be reduced.

Issuance of Parity Debt

Subject to certain restrictions, the City is permitted to issue Additional Bonds that constitute additional charges against its Street Improvement Sales Tax without the consent of Owners of the Bonds. See "SECURITY FOR THE BONDS - Issuance of Parity Debt." If Parity Debt issued or incurred by the City, the funds available to pay debt service on the Bonds may be decreased.

Proposition 218

On November 5, 1996, voters in the State approved an initiative known as the Right to Vote on Taxes Act ("**Proposition 218**"). Proposition 218 added Articles XIII C and XIII D to the California Constitution. Article XIII C requires majority voter approval for the imposition, extension or increase of general taxes and two-thirds voter approval for the imposition, extension or increase of special taxes by a local government, which is defined to include local or regional governmental agencies such as the City. Article XIII C also removes limitations that may have applied to the voter initiative power with regard to reducing or repealing previously authorized local taxes, even previously voter-approved taxes like the Street Improvement Sales Tax. However, an attempt by voters to use the initiative provisions under Proposition 218 to rescind or reduce the levy and collection of the Street Improvement Sales Tax in a manner which would prevent the payment of debt service on the Bonds may violate the Impairment Clause of the United States Constitution and, accordingly, could be precluded. Any specific interpretation and application of Proposition 218 to such an action would ultimately be determined by the courts. See "CONSTITUTIONAL AND STATUTORY LIMITATIONS ON TAXES, RATES AND CHARGES."

Further Initiatives

Proposition 218 was adopted as a measure that qualified for the ballot pursuant to California's initiative process. From time to time other initiative measures could be adopted, which may affect the City's ability to levy and collect the Street Improvement Sales Tax, or to change the type of transactions that are exempt from the Street Improvement Sales Tax.

Loss of Tax Exemption

As discussed under "TAX MATTERS," interest on the Bonds could become includable in federal gross income, possibly from the date of issuance of the Bonds, as a result of acts or omissions of the City subsequent to the issuance of the Bonds. Should interest become

includable in federal gross income, the Bonds are not subject to redemption by reason thereof and will remain outstanding until maturity or earlier redemption.

Secondary Market for Bonds

There can be no guarantee that there will be a secondary market for the Bonds or, if a secondary market exists, that any Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

CONSTITUTIONAL LIMITATIONS ON TAXES, RATES AND CHARGES

Articles XIIC and XIID of the California Constitution

Proposition 218, a State ballot initiative known as the "Right to Vote on Taxes Act," was approved by the voters on November 5, 1996. The initiative added Articles XIIC and XIID to the California Constitution, creating additional requirements for the imposition by most local governments of "general taxes," "special taxes," "assessments," "fees," and "charges." The City is a local government within the meaning of Articles XIIC and XIID. Articles XIIC and XIID became effective, pursuant to their terms, as of November 6, 1996, although compliance with some of their provisions were deferred until July 1, 1997, and certain of their provisions purport to apply to any tax imposed for general governmental purposes (i.e., "general taxes") imposed, extended or increased on or after January 1, 1995 and prior to November 6, 1996.

Article XIID imposes substantive and procedural requirements on the imposition, extension or increase of "fee" or "charge" subject to its provisions. A "fee" or "charge" subject to Article XIID includes any levy, other than an ad valorem tax, special tax or assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership. Article XIID prohibits, among other things, the imposition of any proposed fee or charge, and the increase of any existing fee or charge, in the event written protests against the proposed fee or charge are presented at a required public hearing on the fee or charge by a majority of owners of the parcels upon which the fee or charge is to be imposed. Generally, voters residing within the district who do not own property within the district are not entitled to vote for any assessment; however, if a court so determines, under certain circumstances, an assessment may not be imposed unless approved by a two-thirds vote of the electorate residing in the affected area, in addition to being approved by the property owners through the required public hearing. The City has complied with the procedural requirements related to public hearings in connection with its fees and charges subject to Article XIID.

Article XIID also provides that "standby charges" are considered "assessments" and must follow the procedures required for "assessments" under Article XIID and imposes several procedural requirements for the imposition of any assessment, which may include (1) various notice requirements, including the requirement to mail a ballot to owners of the affected property; (2) the substitution of a property owner ballot procedure for the traditional written protest procedure, and providing that "majority protest" exists when ballots (weighted according to proportional financial obligation) submitted in opposition exceed ballots in favor of the assessments; and (3) the requirement that the levying entity "separate the general benefits from

the special benefits conferred on a parcel" of land. Any change to the City's current standby charge could require notice to property owners and approval by a majority of such owners returning mail-in ballots approving or rejecting any imposition or increase of such standby charge. Article XIID also precludes standby charges for services that are not immediately available to the parcel being charged. This could adversely impact the ability of the City to collect standby charges on undeveloped land.

Article XIID provides that all existing, new or increased assessments are to comply with its provisions beginning July 1, 1997. Existing assessments imposed on or before November 5, 1996, and "imposed exclusively to finance the capital costs or maintenance and operations expenses for among other things water" are exempted from some of the provisions of Article XIID applicable to assessments.

Article XIIC extends the people's initiative power to reduce or repeal previously authorized local taxes, assessments, fees and charges. This extension of the initiative power is not limited by the terms of Article XIIC to fees, taxes, assessment fees and charges imposed after November 6, 1996, and absent other authority could result in retroactive reduction in any existing taxes, assessments, fees or charges. It is not clear what scope the courts will give the initiative provisions of Article XIIC.

No assurance may be given that Articles XIIC and XIID will not have a material adverse impact on the City's Street Improvement Sales Tax revenues.

Other Initiative Measures

Articles XIIC and XIID were adopted pursuant to California's constitutional initiative process. From time to time other initiative measures could be adopted by California voters, placing additional limitations on the ability of the City to increase revenues.

TAX MATTERS

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings.

The opinions set forth in the preceding paragraph are subject to the condition that the City comply with all requirements of the Internal Revenue Code of 1986, as amended (the "Tax Code") that must be satisfied subsequent to the issuance of the Bonds. The City has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds.

If the initial offering price to the public (excluding bond houses and brokers) at which a Bond is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public (excluding bond houses and

brokers) at which a Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "original issue premium" for purposes of federal income taxes and State of California personal income taxes. *De minimis* original issue discount and original issue premium is disregarded.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Bonds to determine taxable gain upon disposition (including sale, redemption, or payment on maturity) of such Bond. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Bonds who purchase the Bonds after the initial offering of a substantial amount of such maturity. Owners of such Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such Bonds under federal individual and corporate alternative minimum taxes.

Under the Tax Code, original issue premium is amortized on an annual basis over the term of the Bond (said term being the shorter of the Bond's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the Bond for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a Bond is amortized each year over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized Bond premium is not deductible for federal income tax purposes. Owners of premium Bonds, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Bonds.

Current and future legislative proposals, if enacted into law, clarification of the Tax Code or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such legislative proposals, clarification of the Tax Code or court decisions may also affect the market price for, or marketability of, the Bonds. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

In the further opinion of Bond Counsel, interest on the Bonds is exempt from California personal income taxes.

Current and future legislative proposals, if enacted into law, clarification of the Tax Code or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest.

The introduction or enactment of any such legislative proposals, clarification of the Tax Code or court decisions may also affect the market price for, or marketability of, the Bonds. Prospective purchasers of the Bonds should consult their own tax advisors regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

Owners of the Bonds should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may have federal or state tax consequences other than as described above. Bond Counsel expresses no opinion regarding any federal or state tax consequences arising with respect to the Bonds other than as expressly described above.

CERTAIN LEGAL MATTERS

Upon the delivery of the Bonds, Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel to the City, will issue its opinion approving the validity of the Bonds, the proposed form of which opinion is set forth in APPENDIX D hereto. Certain legal matters will be passed upon for the City by Jones Hall as Disclosure Counsel and for the City by the City Attorney. Jones Hall expresses no opinion regarding the accuracy, completeness or fairness of information contained in this Official Statement.

CONTINUING DISCLOSURE

The City has covenanted for the benefit of owners of the Bonds to provide certain financial information and operating data relating to the City by not later than each March 31 after the end of the City's fiscal year (which is currently June 30) in each year commencing with the report for the 2015-16 fiscal year (the "**Annual Report**"), which is due on March 31, 2017 and to provide notices of the occurrence of certain enumerated events. The Annual Report will be filed with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access website. The notices of enumerated events will be filed by the City with the Municipal Securities Rulemaking Board. These covenants have been made in order to assist the Underwriter in complying with Securities Exchange Commission Rule 15c2-12(b)(5) (the "**Rule**"). The specific nature of the information to be contained in the Annual Report or the notices of material events by the City is set forth in "APPENDIX B – FORM OF CONTINUING DISCLOSURE CERTIFICATE."

The City is not aware of any instances in the past five years in which either it or its related entities failed to comply in all material respects with their respective continuing disclosure undertakings.

ABSENCE OF LITIGATION

To the best knowledge of the City, there is no action, suit, proceeding or investigation at law or in equity before or by any court or governmental agency or body pending or threatened against the City to restrain or enjoin the authorization, execution or delivery of the Bonds, the pledge of the Revenues or the collection of the payments to be made pursuant to the Indenture, the obligation of the City to pay principal of or interest on the Bonds from the Revenues made pursuant to the Indenture, or in any way contesting or affecting the validity of the Bonds, the Indenture or the agreement for the sale of the Bonds.

In addition, there is no litigation pending or threatened against the City which, in the opinion of the City Attorney, would materially adversely affect the sources of payment for the Bonds.

VERIFICATION OF MATHEMATICAL ACCURACY

Grant Thornton LLP, Minneapolis, Minnesota, the Verification Agent, upon delivery of the Bonds, will deliver a report on the mathematical accuracy of certain computations contained in schedules provided to them, which were prepared by the Underwriter, relating to (1) the sufficiency of the anticipated receipts from the moneys deposited in the Escrow Fund to pay, when due, the principal, interest and redemption requirements of the 2008 Bonds, and (2) the yield on the Bonds.

RATING

S&P Global Ratings (“**S&P**”) has assigned its municipal bond rating of “___” to the Bonds. This rating reflects only the view of S&P, and an explanation of the significance of the rating, and any outlook assigned to or associated with the rating, should be obtained from S&P.

Generally, a rating agency bases its rating on the information and materials furnished to it and on investigations, studies and assumptions of its own. The City has provided certain additional information and materials to S&P (some of which, to the extent not deemed material to investors, may not appear in this Official Statement).

There is no assurance that this rating will continue for any given period of time or that the rating will not be revised downward or withdrawn entirely by S&P, if in the judgment of S&P, circumstances so warrant. Any such downward revision or withdrawal of the rating on the Bonds may have an adverse effect on the market price or marketability of the Bonds.

PROFESSIONALS INVOLVED IN THE OFFERING

Jones Hall, A Professional Law Corporation, San Francisco, California is acting as Bond Counsel and as Disclosure Counsel to the City with respect to the Bonds, and will receive compensation from the City contingent upon the sale and delivery of the Bonds. NHA Advisors, San Rafael, California is acting as Municipal Advisor to the City with respect to the Bonds, and will receive compensation from the City contingent upon the sale and delivery of the Bonds. The Municipal Advisor is not responsible for, and undertakes no responsibility for the accuracy, completeness or fairness of, the Official Statement.

UNDERWRITING

The Bonds are being purchased by Stifel, Nicolaus & Company, Incorporated (the “**Underwriter**”). The Underwriter has agreed to purchase the Bonds, subject to certain conditions, at a price equal to \$_____ (representing the principal amount of the Bonds, less Underwriter's discount of \$_____, less/plus net original issue discount/premium of \$_____). The Underwriter is committed to purchase all of the Bonds if any are purchased.

The Bonds are offered for sale at the initial prices stated on the cover page of this Official Statement, which may be changed from time to time by the Underwriter. The Bonds may be offered and sold to certain dealers at prices lower than the public offering prices.

MISCELLANEOUS

References are made in this Official Statement to certain documents and reports which are brief summaries thereof which do not purport to be complete or definitive and reference is made to such documents and reports for full and complete statements of the contents thereof. Copies of the Indenture, Escrow Agreement and other documents referred to in this Official Statement may be obtained from the Trustee or from the City.

Any statements in this Official Statement involving matters of opinion, whether or not expressly so stated, are intended as such and not as representations of fact. This Official Statement is not to be construed as a contract or agreement between the City and the purchasers or owners of any of the Bonds.

The execution and delivery of this Official Statement have been duly authorized by the City.

CITY OF EL CERRITO

By: _____
Scott Hanin
City Manager

APPENDIX A

SUMMARY OF PRINCIPAL LEGAL DOCUMENTS

APPENDIX B

FORM OF CONTINUING DISCLOSURE CERTIFICATE

\$ _____
CITY OF EL CERRITO
2017 SALES TAX REVENUE REFUNDING BONDS

This CONTINUING DISCLOSURE CERTIFICATE (this "Disclosure Certificate") is executed and delivered by the CITY OF EL CERRITO (the "City") in connection with the execution and delivery of the bonds captioned above (the "Bonds"). The Bonds are being executed and delivered pursuant to an Indenture of Trust, dated as of January 1, 2017 (the "Indenture"), by and between the City and MUFG Union Bank, N.A., as trustee.

The City covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth above and in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

"*Annual Report*" means any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Annual Report Date*" means the each March 31 after the end of the City's fiscal year.

"*Dissemination Agent*" means initially Willdan Financial Services, or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

"*Listed Events*" means any of the events listed in Section 5(a) of this Disclosure Certificate.

"*MSRB*" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information that may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

"*Official Statement*" means the final official statement executed by the City in connection with the issuance of the Bonds.

"*Participating Underwriter*" means the original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as it may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than the Annual Report Date, commencing March 31, 2017, with the report for the 2015-16 fiscal year, provide to the MSRB, in an electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than 15 Business Days prior to the Annual Report Date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by 15 Business Days prior to the Annual Report Date the Dissemination Agent (if other than the City) has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with the previous sentence. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the Annual Report Date, if not available by that date. If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c). The City shall provide a written certification with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by the City hereunder.

(b) If the City does not provide (or cause the Dissemination Agent to provide) an Annual Report by the Annual Report Date, the City shall provide (or cause the Dissemination Agent to provide) to the MSRB, in an electronic format as prescribed by the MSRB, a notice in substantially the form attached as Exhibit A.

(c) With respect to each Annual Report, the Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, and stating the date it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) The City's audited financial statements prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If the City's audited financial statements are not available by the Annual Report Date, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) To the extent not contained in the audited financial statements filed under the preceding clause (a), the Annual Report shall contain information showing the following information for the most recently completed fiscal year:

(i) An update to Table 1 in the Official Statement entitled "Actual Street Improvement Sales Tax Revenues Received."

(ii) An update to Table 3 in the Official Statement entitled "Top 10 Street Improvement Sales Tax Generators as Percent of Total."

(c) In addition to any of the information expressly required to be provided under this Disclosure Certificate, the City shall provide such further material information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

(d) Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public on the MSRB's Internet web site or filed with the Securities and Exchange Commission. The City shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) The City shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Bonds:

- (1) Principal and interest payment delinquencies.
- (2) Non-payment related defaults, if material.
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (5) Substitution of credit or liquidity providers, or their failure to perform.
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds.
- (7) Modifications to rights of Bond holders, if material.
- (8) Bond calls, if material, and tender offers.
- (9) Defeasances.
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material.
- (11) Rating changes.

- (12) Bankruptcy, insolvency, receivership or similar event of the City or other obligated person.
- (13) The consummation of a merger, consolidation, or acquisition involving the City or an obligated person, or the sale of all or substantially all of the assets of the City or an obligated person (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
- (14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds under the Indenture.

(c) The City acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), and (a)(14) of this Section 5 contain the qualifier "if material" and that subparagraph (a)(6) also contains the qualifier "material" with respect to certain notices, determinations or other events affecting the tax status of the Bonds. The City shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that it determines the event's occurrence is material for purposes of U.S. federal securities law. Whenever the City obtains knowledge of the occurrence of any of these Listed Events, the City will as soon as possible determine if such event would be material under applicable federal securities law. If such event is determined to be material, the City will cause a notice to be filed as set forth in paragraph (b) above.

(d) For purposes of this Disclosure Certificate, any event described in paragraph (a)(12) above is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

Section 6. Identifying Information for Filings with the MSRB. All documents provided to the MSRB under the Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City

shall give notice of such termination in the same manner as for a Listed Event under Section 5(b).

Section 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any Dissemination Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent and any successor may resign by providing 30 days' written notice to the City.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by holders of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the Bonds.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first Annual Report filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to this Disclosure Certificate modifying the accounting principles to be followed in preparing financial statements, the Annual Report for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative.

A notice of any amendment made pursuant to this Section 9 shall be filed in the same manner as for a Listed Event under Section 5(c).

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. If the City fails to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. (a) The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have no duty or obligation to review any information provided to it by the City hereunder, and shall not be deemed to be acting in any fiduciary capacity for the City, the Bond holders or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

(b) The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time, and shall be reimbursed for all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder.

Section 13. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and the holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 14. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be regarded as an original, and all of which shall constitute one and the same instrument.

Date: _____, 2017

CITY OF EL CERRITO

By: _____

Name: _____

Title: _____

**ACCEPTANCE OF DUTIES
AS DISSEMINATION AGENT**

WILLDAN FINANCIAL SERVICES

By _____
Authorized Officer

EXHIBIT A

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: City of El Cerrito

Name of Issue: City of El Cerrito 2017 Sales Tax Revenue Refunding Bonds

Date of Issuance: _____, 2017

NOTICE IS HEREBY GIVEN that the City has not provided an Annual Report with respect to the above-named Bonds as required by the Continuing Disclosure Certificate dated _____, 2017. The City anticipates that the Annual Report will be filed by _____.

Dated: _____

DISSEMINATION AGENT:

By: _____
Its: _____

APPENDIX C

GENERAL INFORMATION ABOUT THE CITY OF EL CERRITO

The following information regarding the City and the surrounding area is presented as general background data. The Bonds are payable solely from the sources described herein (see "SECURITY FOR THE BONDS"). The taxing power of the City, the County of Contra Costa, the State of California or any political subdivision thereof is not pledged to the payment of the Bonds.

General

The City is a general law City that was incorporated on August 1, 1917. Located in western Contra Costa County (the "**County**"), it has a geographical area of approximately 3.9 square miles and forms part of the highly urbanized area along the eastern shore of San Francisco Bay. Interstate Highway 80 passes near the west boundary of the community; the crest of the Berkeley Hills and Wildcat Canyon Regional Park define the eastern boundary. Surrounding cities include the Cities of Richmond, San Pablo, Berkeley and Albany. The community is served by the Bay Area Rapid Transit system with stations near both the north and south boundaries of the City.

The City is organized as a council-manager form of local municipal government. The City Council consists of five members elected at-large for four-year, overlapping terms. The Council from among its members selects the Mayor for a one-year term. The Mayor and City Council provide community leadership, develop policies to guide the City in delivering services and achieving community goals, and encourage citizen understanding and involvement.

The City Manager is appointed by the City Council and is responsible for administration of municipal affairs. All municipal departments operate under the supervision of the City Manager. Through the City Manager, City staff, using the resources appropriated by the Council in the budget to achieve desired service results in the community, carries out the policies of the Council.

City Services

The City provides a full range of services, including police and fire protection; building permits and inspections; parks and recreation facilities and services, planning and environmental services, construction and maintenance of streets, public buildings, and other infrastructure and operation of a state of the art Recycling Center.

Population

As of January 1, 2016 the population of the City was estimated to be 24,378. The following table presents population data for the last five years for the City, surrounding cities, the County and State.

**CITY OF EL CERRITO, SURROUNDING CITIES*, COUNTY OF CONTRA COSTA
AND STATE OF CALIFORNIA
2012 through 2016 Population Estimates
As of January 1**

Year	City of El Cerrito	Surrounding Cities	County of Contra Costa	State of California
2012	23,748	269,070	1,069,977	37,881,357
2013	23,803	272,208	1,083,340	38,239,207
2014	23,980	274,724	1,097,172	38,567,459
2015	24,132	277,830	1,111,143	38,907,642
2016	24,378	280,015	1,123,429	39,255,883

* Includes Cities of Richmond, San Pablo, Berkeley and Albany
Source: California Department of Finance (Demographic Research Unit)

Employment and Industry

The Oakland-Hayward-Berkeley Metropolitan Division (“**MD**”) encompasses Alameda and Contra Costa Counties. The unemployment rate in the Oakland-Hayward-Berkeley MD was 4.7% in August 2016, down from a revised 4.9% in July 2016, and below the year-ago estimate of 4.9%. This compares with an unadjusted unemployment rate of 5.6% for California and 5.0% for the nation during the same period. The unemployment rate was 4.6% in Alameda County and 4.7% in the County.

The following table lists employment by industry group for the County for the years 2011 to 2015.

CONTRA COSTA COUNTY
Annual Averages Civilian Labor Force, Employment and Unemployment,
Employment by Industry
(March 2015 Benchmark)

	2011	2012	2013	2014	2015
Civilian Labor Force ⁽¹⁾	1,316,300	1,336,300	1,344,100	1,355,600	1,374,800
Employment	1,182,400	1,218,700	1,245,500	1,275,000	1,308,100
Unemployment	133,900	117,500	98,600	80,600	66,700
Unemployment Rate	10.2%	8.8%	7.3%	5.9%	4.8%
<u>Wage and Salary Employment: ⁽²⁾</u>					
Agriculture	1,500	1,500	1,400	1,300	1,200
Mining, Logging and Construction	48,600	52,900	57,300	59,400	63,300
Manufacturing	79,700	79,900	80,100	82,800	86,600
Wholesale Trade	42,200	43,700	45,200	46,200	47,600
Retail Trade	101,200	104,100	107,700	109,900	113,000
Transportation, Warehousing and Utilities	32,200	32,900	33,500	35,600	38,300
Information	22,600	22,100	21,500	21,300	22,400
Finance and Insurance	32,900	33,400	33,500	32,600	32,800
Real Estate and Rental and Leasing	14,900	15,400	16,200	16,800	16,800
Professional and Business Services	157,500	166,500	173,400	178,800	183,000
Educational and Health Services	158,900	164,700	170,500	173,100	178,400
Leisure and Hospitality	88,200	91,800	97,200	102,100	106,300
Other Services	35,700	36,400	37,000	37,500	38,000
Federal Government	14,600	14,200	13,800	13,800	13,800
State Government	38,300	38,500	38,900	39,300	39,800
Local Government	111,000	110,100	110,600	113,400	115,200
Total, All Industries ⁽³⁾	980,100	1,008,000	1,037,500	1,063,600	1,096,300

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(3) Totals may not add due to rounding.

Source: Labor Division of the California State Employment Development Department.

CITY OF EL CERRITO
Annual Unemployment Averages
(March 2015 Benchmark)

Calendar Year	Unemployment Rate
2016	3.9% ⁽¹⁾
2015	5.4
2014	5.4
2013	6.3
2012	9.3

(1) Represents the City's unemployment rate for the month of September 2016. The City's annual unemployment rate for 2016 is not yet available.

Sources: City of El Cerrito Comprehensive Annual Financial Report for June 30, 2015; Labor Division of the California State Employment Development Department.

Principal Employers

The following table shows the principal employers in the City, listed alphabetically, as shown in the City's Comprehensive Annual Financial Report for fiscal year ending June 30, 2013 (data for principal employers beyond Fiscal Year 2013 is not available).

CITY OF EL CERRITO Principal Employers⁽¹⁾

Employer	
Barnes and Noble	Nation's
Bed Bath & Beyond	Pastime Hardware
City of El Cerrito	Prospect Sierra School
CVS Pharmacy	Romano's Macaroni Grill
El Cerrito Royale	Safeway
Fat Apple's Restaurant	Shields Nursing Center
Home Depot	Tehiyah Day School
Honda of El Cerrito	Trader Joe's
Lucky's	US Post Office
Mira Vista Golf and Country Club	West Contra Costa Unified School District

(1) Data not available for total employees for each employer.

Source: City Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2013.

The table below lists the major employers in the County, listed alphabetically.

CONTRA COSTA COUNTY Major Employers March 2016

Employer Name	Location	Industry
AAA Northern Ca Nevada & Utah	Walnut Creek	Automobile Clubs
BART	Richmond	Transit Lines
Bio-Rad Laboratories Inc.	Hercules	Physicians & Surgeons Equip & Supls-Mfrs
Chevron Corp	Richmond	Service Stations-Gasoline & Oil
Chevron Corp	San Ramon	Oil Refiners (Mfrs)
Chevron Global Downstream LLC	San Ramon	Petroleum Products (Whls)
Chevron Technology Ventures	San Ramon	Technology Assistance Programs
Chevron-Corp	Not Available	Real Estate
Contra-Costa Regional Med Ctr	Martinez	Hospitals
Department of Veterans Affairs	Martinez	Clinics
Inspira Financial Co	Walnut Creek	Financial Advisory Services
Job Connections	Danville	Personnel Consultants
John Muir Medical Center	Concord	Hospitals
John Muir Medical Center	Walnut Creek	Hospitals
Kaiser Permanente Antioch Med	Antioch	Physicians & Surgeons
Kaiser Permanente Martinez Med	Martinez	Clinics
Kaiser Permanente Walnut Creek	Walnut Creek	Physicians & Surgeons
La Raza Market	Richmond	Grocers-Retail
Liberty Tax Svc	Antioch	Tax Return Preparation & Filing
San Ramon Regional Medical Center	San Ramon	Hospitals
Shell Oil Products	Martinez	Oil & Gas Producers
St Marys College	Moraga	Schools-Universities & Colleges Academic
Sutter Delta Medical Center	Antioch	Hospitals
US Veterans Medical Center	Martinez	Outpatient Services
USS-POSCO Industries	Pittsburg	Steel Mills (mfrs)

Source: State of California Employment Development Department, extracted from the America's Labor Market Information System (ALMIS) Employer Database, 2016 2nd Edition.

Commercial Activity

Summaries of the historic taxable sales within the City and the County are shown in the following tables. Neither annual nor quarterly figures for calendar years 2015 and 2016 are available.

Total taxable sales in the City during calendar year 2014 were reported to be \$268.6 million, a 2.3% decrease over the total taxable sales of \$275 million reported during calendar year 2013.

CITY OF EL CERRITO
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Valuations in Thousands of Dollars)

Type of Business	2011		2012		2013		2014	
	<u>Permits</u>	<u>Taxable Transactions</u>	<u>Permits</u>	<u>Taxable Transactions</u>	<u>Permits</u>	<u>Taxable Transactions</u>	<u>Permits</u>	<u>Taxable Transactions</u>
Retail & Food Services								
Motor Vehicle & Parts Dealers	14	N/A	13	N/A	10	N/A	12	N/A
Home Furnishings & Appliance Stores	25	12,361	26	12,861	24	13,232	25	12,403
Bldg. Matrl. & Garden Equip. & Supplies	9	16,830	7	20,212	7	13,084	5	N/A
Food & Beverage Stores	18	23,400	18	26,630	17	26,370	18	26,680
Gasoline Stations	5	20,786	5	21,556	6	19,503	6	19,212
Clothing & Clothing Accessories Stores	42	24,772	48	24,316	38	25,437	27	25,258
General Merchandise Stores	6	N/A	4	N/A	4	N/A	5	N/A
Food Services & Drinking Places	67	30,354	68	32,114	72	35,149	77	37,162
Other Retail Group	260	106,516 ⁽¹⁾	247	111,440 ⁽¹⁾	242	116,462 ⁽¹⁾	256	122,377 ⁽¹⁾
Total Retail & Food Services	446	235,019	436	249,128	420	249,236	431	243,093
All Other Outlets	147	18,017	143	24,226	137	25,761	133	25,498
Total All Outlets	593	\$253,036	579	\$273,354	557	\$274,997	564	\$268,591

(1) Some sales omitted because their publication would result in the disclosure of confidential information.
Source: California State Board of Equalization, Taxable Sales in California (Sales & Use Tax).

Total taxable sales during calendar year 2014 in the County were reported to be \$15 billion, a 3.9% increase over the total taxable sales of \$14.5 billion reported during calendar year 2013.

CONTRA COSTA COUNTY
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Valuations in Thousands of Dollars)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2010	14,423	\$8,716,393	21,784	\$11,953,846
2011	13,930	9,300,418	21,153	12,799,857
2012	14,343	10,062,437	21,504	13,997,249
2013	14,511	10,677,018	21,449	14,471,988
2014	14,657	11,092,210	21,550	15,030,047

Source: California State Board of Equalization, Taxable Sales in California (Sales & Use Tax).

The following table shows a comparison of taxable transactions for the City and surrounding cities for the years 2010 through 2014. Annual figures for calendar years 2015 and 2016 are not yet available.

CITY OF EL CERRITO
Change in Total Taxable Transactions
City of El Cerrito and Surrounding Cities
(Valuations in Thousands of Dollars)

City	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>% Change from 2010 to 2014</u>
El Cerrito	\$246,574	\$253,036	\$273,354	\$274,997	\$268,591	8.93%
Albany	191,439	187,052	193,201	202,489	205,283	7.23
Berkeley	1,270,060	1,323,027	1,423,376	1,459,772	1,547,107	21.81
Richmond	1,069,512	1,124,265	1,191,003	1,257,817	1,317,380	23.18
San Pablo	142,225	152,982	165,422	174,564	178,639	25.60

Effective Buying Income

“Effective Buying Income” is defined as personal income less personal tax and non-tax payments, a number often referred to as “disposable” or “after-tax” income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor's income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), non-tax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as “disposable personal income.”

The following table summarizes the total effective buying income for the City, surrounding cities, the County, the State and the United States for the period 2011 through 2015.

**CITY OF EL CERRITO, SURROUNDING CITIES, CONTRA COSTA COUNTY
AND THE STATE OF CALIFORNIA
Effective Buying Income
As of January 1, 2011 through 2015**

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2011	City of El Cerrito	\$715,098	\$54,320
	Surrounding Cities:		
	Albany	468,748	50,678
	Berkeley	3,060,805	43,939
	Richmond	1,877,713	42,424
	San Pablo	391,620	36,863
	Contra Costa County	30,416,350	60,777
	California	814,578,458	47,062
	United States	6,438,704,664	41,253
2012	City of El Cerrito	\$806,858	\$60,788
	Surrounding Cities:		
	Albany	571,370	55,529
	Berkeley	3,581,245	46,898
	Richmond	2,078,610	43,388
	San Pablo	423,058	38,981
	Contra Costa County	33,604,875	61,167
	California	864,088,828	47,307
	United States	6,737,867,730	41,358
2013	City of El Cerrito	\$832,540	\$63,495
	Surrounding Cities:		
	Albany	586,193	56,332
	Berkeley	3,513,983	48,301
	Richmond	2,122,810	44,498
	San Pablo	411,178	38,105
	Contra Costa County	32,061,585	61,731
	California	858,676,636	48,340
	United States	6,982,757,379	43,715
2014	City of El Cerrito	\$868,080	\$66,000
	Surrounding Cities:		
	Albany	655,768	60,681
	Berkeley	3,909,548	52,592
	Richmond	2,283,500	47,018
	San Pablo	437,283	39,992
	Contra Costa County	33,833,478	64,090
	California	901,189,699	50,072
	United States	7,357,153,451	45,448
2015	City of El Cerrito	\$998,213	\$70,573
	Surrounding Cities:		
	Albany	764,065	70,531
	Berkeley	4,264,478	56,194
	Richmond	2,424,073	47,929
	San Pablo	469,095	41,072
	Contra Costa County	37,417,068	68,074
	California	981,231,666	53,589
	United States	7,757,960,399	46,738

Source: The Nielsen Company (US), Inc.

Construction Activity

The following tables show a five-year summary of the valuation of building permits issued in the City and the County.

CITY OF EL CERRITO Building Permit Valuation (Valuations in Thousands of Dollars)

	2011	2012	2013	2014	2015
<u>Permit Valuation</u>					
New Single-family	\$0.0	\$942.6	\$400.0	\$4,480.0	\$1,250.0
New Multi-family	0.0	0.0	0.0	9,065.1	23,027.3
Res. Alterations/Additions	<u>7,045.7</u>	<u>5,690.4</u>	<u>6,094.3</u>	<u>9,126.4</u>	<u>8,282.4</u>
Total Residential	7,045.7	6,633.0	6,494.3	22,671.5	32,559.7
 New Commercial	0.0	919.0	685.5	458.2	103.1
New Industrial	0.0	0.0	0.0	0.0	0.0
New Other	0.0	0.0	1,661.6	4,235.6	1,452.7
Com. Alterations/Additions	<u>7,222.0</u>	<u>893.7</u>	<u>1,452.2</u>	<u>2,006.5</u>	<u>987.3</u>
Total Nonresidential	7,222.0	1,812.7	3,799.3	6,700.3	2,543.1
 <u>New Dwelling Units</u>					
Single Family	0	17	1	5	3
Multiple Family	<u>0</u>	<u>0</u>	<u>0</u>	<u>57</u>	<u>131</u>
TOTAL	0	17	1	62	134

Source: Construction Industry Research Board, Building Permit Summary.

CONTRA COSTA COUNTY Building Permit Valuation (Valuations in Thousands of Dollars)

	2011	2012	2013	2014	2015
<u>Permit Valuation</u>					
New Single-family	\$211,417.9	\$340,255.7	\$469,376.5	\$402,109.1	\$629,638.5
New Multi-family	47,304.2	54,884.8	62,799.7	82,008.6	123,088.7
Res. Alterations/Additions	<u>233,174.2</u>	<u>179,471.7</u>	<u>195,787.4</u>	<u>256,617.8</u>	<u>301,221.7</u>
Total Residential	491,896.3	574,612.2	727,963.6	740,735.5	1,053,948.9
 New Commercial	17,587.4	97,077.8	85,341.7	94,171.8	122,256.4
New Industrial	7,188.0	7,000.8	8,927.8	21,149.5	15,020.1
New Other	15,542.3	13,999.9	89,877.6	103,359.8	170,219.6
Com. Alterations/Additions	<u>214,585.0</u>	<u>124,147.2</u>	<u>220,737.0</u>	<u>191,855.7</u>	<u>219,320.4</u>
Total Nonresidential	254,902.7	242,225.7	404,884.1	410,536.8	526,816.5
 <u>New Dwelling Units</u>					
Single Family	718	1,188	1,585	1,439	1,909
Multiple Family	<u>355</u>	<u>949</u>	<u>370</u>	<u>588</u>	<u>629</u>
TOTAL	1,073	2,137	1,955	2,027	2,538

Source: Construction Industry Research Board, Building Permit Summary.

Education

The City is part of the West Contra Costa Unified School District (“**WCCUSD**”), which also serves other West County Communities. In the City, WCCUSD operates one early intervention preschool, three public elementary schools, one public middle school, and one public high school. Nearby higher education institutions include Contra Costa College and the University of California-Berkeley.

Transportation

Highly developed transportation facilities of the San Francisco-Oakland Metropolitan area are readily available to the residents of the City. The City is traversed by Interstate 80 (Eastshore Freeway). Five miles north, California Highway 4 runs east from I-80 to Concord, where freeway connections can be made to San Jose (I-680), the Central Valley (I-580), and Los Angeles (I-5). The community is also served by the Bay Area Rapid Transit (BART) system with stations near both the north and south boundaries of the City, the East Bay Paratransit Service and the AC Transit bus system.

APPENDIX D
FORM OF BOND COUNSEL OPINION

APPENDIX E

DTC AND THE BOOK-ENTRY ONLY SYSTEM

The following description of the Depository Trust Company ("DTC"), the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal, interest and other payments on the Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Bonds and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.

Neither the issuer of the Bonds (the "Issuer") nor the trustee, fiscal agent or paying agent appointed with respect to the Bonds (the "Agent") take any responsibility for the information contained in this Appendix.

No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current "Rules" applicable to DTC are on file with the Securities and Exchange Commission and the current "Procedures" of DTC to be followed in dealing with DTC Participants are on file with DTC.

1. The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the securities (the "Securities"). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds \$500 million, one certificate will be issued with respect to each \$500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is

a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org. *The information contained on this Internet site is not incorporated herein by reference.*

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

APPENDIX F

**COMPREHENSIVE ANNUAL FINANCIAL REPORT
FOR FISCAL YEAR ENDED JUNE 30, 2015**

\$ _____
CITY OF EL CERRITO
2017 SALES TAX REVENUE REFUNDING BONDS

BOND PURCHASE CONTRACT

January __, 2017

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

Ladies and Gentlemen:

Stifel, Nicolaus & Company, Incorporated (the “**Underwriter**”) offers to enter into this Bond Purchase Contract (this “**Purchase Contract**”) with the City of El Cerrito (the “**Agency**”). This offer is made subject to the Agency’s acceptance by execution of this Purchase Contract and delivery of the same to the Underwriter on or before 11:59 p.m., California time, on the date hereof, and, if not so accepted, will be subject to withdrawal by the Underwriter upon notice delivered to the Agency at any time prior to such acceptance. Upon the Agency’s acceptance hereof, the Purchase Contract will be binding upon the Agency and the Underwriter. Capitalized terms that are used in this Purchase Contract and not otherwise defined have the respective meanings given to such terms in the Indenture (as such term is defined below).

Section 1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations set forth in this Purchase Contract, the Underwriter agrees to purchase from the Agency, and the Agency agrees to sell and deliver to the Underwriter, all (but not less than all) of the \$ _____ City of El Cerrito 2017 Sales Tax Revenue Refunding Bonds (the “**Bonds**”) at a purchase price of \$ _____ (being an amount equal to the principal amount of the Bonds plus/less a net original issue premium/discount of \$ _____ and less an Underwriter’s discount of \$ _____). The obligations of the Underwriter to purchase, accept delivery of and pay for the Bonds shall be conditioned on the sale and delivery of all of the Bonds by the Agency to the Underwriter at Closing (as such term is defined herein).

Section 2. Bond Terms; Authorizing Instruments.

(a) The Bonds shall be dated their date of delivery and shall mature and bear interest as set forth on Exhibit A. The Bonds shall be as described in, and shall be issued and secured under, an Indenture of Trust (the “**Indenture**”), dated as of January 1, 2017, by and between the Agency and MUFG Union Bank, N.A., as trustee (the “**Trustee**”). The Bonds are payable and subject to redemption as provided in the Indenture and as described in the Official Statement (as such term is defined herein).

(b) The Bonds will be issued pursuant to the Government Code Section 53570 *et seq.* (the “**Law**”). The Bonds are payable from and secured by the Agency’s pledge of Revenues under and as defined in the Indenture.

(c) The net proceeds of the sale of the Bonds will be used: (i) to refund the El Cerrito Public Financing Authority Sales Tax Revenue Bonds, Series 2008 (the “**2008 Bonds**”); (ii) to fund a deposit to the Reserve Fund for the Bonds; and (iii) to pay costs incurred in connection with the issuance of the Bonds.

Section 3. Public Offering. The Underwriter agrees to make an initial bona fide public offering of all of the Bonds, at not in excess of the initial public offering yields or prices set forth on Exhibit A. Following the initial public offering of the Bonds, the offering prices may be changed from time to time by the Underwriter. The Agency acknowledges and agrees that: (a) the purchase and sale of the Bonds pursuant to this Purchase Contract is an arm’s-length commercial transaction between the Agency and the Underwriter, and the only obligations that the Underwriter has to the Agency with respect to the transaction that is contemplated hereby expressly are set forth in this Purchase Contract; (b) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as principal and is not acting as a Municipal Advisor (as such term is defined in Section 15B of The Securities Exchange Act of 1934, as amended) to the Agency; (c) the Underwriter has not assumed an advisory or fiduciary responsibility in favor of the Agency with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriter has provided other services or is currently providing other services to the Agency on other matters); (d) the Underwriter has financial and other interests that may differ from and be adverse to those of the Agency; and (e) the Agency has consulted its own legal, financial, accounting, tax and other advisors to the extent that it has deemed appropriate.

Section 4. Official Statement; Continuing Disclosure.

(a) The Agency has delivered to the Underwriter the Preliminary Official Statement dated December __, 2016 (the “**Preliminary Official Statement**”) and will deliver to the Underwriter the final Official Statement dated the date of this Purchase Contract (as amended and supplemented from time to time pursuant to Section 5(i) of this Purchase Contract, the “**Official Statement**”) within seven business days.

(b) The Agency authorizes the use of the Official Statement and the information contained therein by the Underwriter in connection with the public offering and the sale of the Bonds. The Agency consents to the use by the Underwriter prior to the date hereof of the Preliminary Official Statement in connection with the public offering of the Bonds. The Underwriter agrees that it will not send any confirmation requesting payment for the purchase of any Bonds unless the confirmation is accompanied by or preceded by the delivery of a copy of the Official Statement. The Underwriter agrees: (i) to provide the Agency with final pricing information on the Bonds on a timely basis prior to the Closing; and (ii) to take any and all other actions necessary to comply with applicable rules of the Securities and Exchange Commission (the “**SEC**”) and the Municipal Securities Rulemaking Board (the “**MSRB**”) governing the offering, sale and delivery of the Bonds to ultimate purchasers.

(c) In connection with the issuance of the Bonds, and in order to assist the Underwriter in complying with the provisions of SEC Rule 15c2-12 (**"Rule 15c2-12"**), the Agency will enter into a Continuing Disclosure Certificate (the **"Continuing Disclosure Undertaking"**) dated the date of the Closing, under which the Agency will undertake to provide certain financial and operating data as required by Rule 15c2-12. The form of the Continuing Disclosure Undertaking is attached as an appendix to the Preliminary Official Statement.

Section 5. Representations, Warranties and Covenants of the Agency. The Agency hereby represents, warrants and agrees with the Underwriter that:

(a) The City Council of the Agency has taken official action by resolution (the **"Agency Resolution"**) adopted by a majority of the members of the City Council of the Agency at a regular meeting that was duly called, noticed and conducted, at which a quorum was present and acting throughout, authorizing the execution, delivery and due performance of: (i) the Indenture; (ii) the Continuing Disclosure Undertaking; (iii) the Escrow Deposit and Trust Agreement, dated as of January 1, 2017 (the **"Escrow Agreement"**), by and between the Agency and MUFG Union Bank, N.A., as escrow agent (the **"Escrow Agent"**), related to the 2008 Bonds; and (iv) this Purchase Contract (collectively, the **"Agency Agreements"**) and the Official Statement, and the taking of any and all such action as may be required on the part of the Agency to carry out, give effect to and consummate the transactions that are contemplated hereby.

(b) The Agency is a general law city that is duly organized and existing under the laws of the State of California (the **"State"**) and has all necessary power and authority to adopt the Agency Resolution and to enter into and perform its duties under the Agency Agreements.

(c) By all necessary official action, the Agency has: (i) duly authorized the preparation and delivery of the Preliminary Official Statement and the preparation, execution and delivery of the Official Statement; (ii) duly authorized and approved the execution and delivery of, and the performance of its obligations under, the Bonds and the Agency Agreements; and (iii) duly authorized the consummation by the Agency of all other transactions contemplated by the Agency Resolution, the Agency Agreements, the Preliminary Official Statement and the Official Statement. When executed and delivered, the Agency Agreements (assuming due authorization, execution and delivery by and enforceability against the other parties thereto) will be in full force and effect and each will constitute legal, valid and binding agreements or obligations of the Agency, enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally, the application of equitable principles, the exercise of judicial discretion and the limitations on legal remedies against public entities in the State.

(d) At the time of the Agency's acceptance hereof and at all times subsequent thereto up to and including the time of the Closing, the information and statements in the Official Statement do not and will not contain any untrue statement of a material fact or omit to state a material fact that is required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not

misleading (except that no representation is made with respect to information relating to DTC (as such term is defined herein) or DTC's book-entry system).

(e) As of the date hereof, except as described in the Preliminary Official Statement, there is no action, suit, proceeding or investigation before or by any court, public board or body that is pending against, and notice of which has been served on and received by, the Agency, or, to the best knowledge of the Agency, threatened, wherein an unfavorable decision, ruling or finding would: (i) affect the creation, organization, existence or powers of the Agency, or the titles of its members or officers; (ii) in any way question or affect the validity or enforceability of the Agency Agreements, the Bonds or the exclusion of the interest on the Bonds from taxation; or (iii) in any way question or affect the Purchase Contract or the transactions contemplated by the Purchase Contract, the Official Statement, or any other agreement or instrument to which the Agency is a party relating to the Bonds.

(f) There is no consent, approval, authorization or other order of, filing or registration with, or certification by, any regulatory authority that has jurisdiction over the Agency that is required for the execution and delivery of this Purchase Contract and the other Agency Agreements or the consummation by the Agency of the other transactions that are contemplated by the Official Statement or the Agency Agreements.

(g) Any certificate that is signed by any official of the Agency who is authorized to do so shall be deemed a representation and warranty by the Agency to the Underwriter as to the statements made therein.

(h) The Agency is not in default, and at no time has the Agency defaulted in any material respect, on any bond, note or other obligation for borrowed money or any agreement under which any such obligation is or was outstanding.

(i) If any event occurs of which the Agency has knowledge between the date of this Purchase Contract and the date of the Closing that might or would cause the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact that is required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Agency will notify the Underwriter and if, in the opinion of the Underwriter, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Agency will cooperate with the Underwriter in causing the Official Statement to be amended or supplemented in a form and in a manner that is approved by the Underwriter. All expenses that are thereby incurred will be paid by the Agency, and the Underwriter will file, or cause to be filed, the amended or supplemented Official Statement with the MSRB's Electronic Municipal Market Access database ("**EMMA**").

(j) The Agency will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order: (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate; and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions. The Agency will not be

required to execute a general or special consent to service of process or to qualify to do business in connection with any such qualification or determination in any jurisdiction.

(k) The Agency is not in any material respect in breach of or default under: (i) any applicable constitutional provision, law or administrative regulation of any state or of the United States, or any agency or instrumentality of either; (ii) any applicable judgment or decree; or (iii) any loan agreement, indenture, trust agreement, bond, note, resolution, agreement or other instrument to which the Agency is a party, which breach or default has or may have an adverse effect on the ability of the Agency to perform its obligations under the Agency Agreements, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument; and the adoption, execution and delivery of the Agency Agreements, if applicable, and compliance with the provisions on the Agency's part contained therein, will not conflict in any material way with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, trust agreement, bond, note, resolution, agreement or other instrument to which the Agency is a party, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Agency or under the terms of any such law, regulation or instrument, except as may be provided by the Agency Agreements.

(l) Except as set forth in the Official Statement under the caption "CONTINUING DISCLOSURE," the Agency has complied in all material respects with its continuing disclosure undertakings in the past five years.

(m) The financial statements relating to the receipts, expenditures and cash balances of the Agency as of June 30, 201[6] attached as an appendix to the Official Statement fairly represent the receipts, expenditures and cash balances of the Agency as of such date. Except as disclosed in the Official Statement or otherwise disclosed in writing to the Underwriter, there has not been any materially adverse change in the financial condition of the Agency or in its operations since June 30, 201[6] and there has been no occurrence, circumstance or combination thereof that is reasonably expected to result in any such materially adverse change.

(n) The Agency will refrain from taking any action, or permitting any action to be taken, with regard to which the Agency may exercise control, that results in the loss of the tax-exempt status of the interest on the Bonds.

Section 6. The Closing.

(a) At 8:00 A.M., California time, on January __, 2017, or on such earlier or later time or date as may be agreed upon by the Underwriter and the Agency (the "**Closing**"), the Agency shall deliver, or cause to be delivered, to the Trustee the Bonds in definitive form, registered in the name of Cede & Co., as the nominee of The Depository Trust Company, New York, New York ("**DTC**") (so that the Bonds may be authenticated by the Trustee and credited to the account that is specified by the Underwriter under DTC's FAST procedures). Prior to the Closing, the Agency shall deliver, at the offices of Jones Hall, A Professional Law Corporation ("**Bond Counsel**") in San Francisco, California, or at such other place as

is mutually agreed upon by the Underwriter and the Agency, the other documents that are described in this Purchase Contract. On the date of the Closing, the Underwriter shall pay the purchase price of the Bonds as set forth in Section 1 of this Purchase Contract in immediately available funds to the order of the Trustee.

(b) The Bonds shall be issued in fully registered form and shall be prepared and delivered as one Bond for each maturity registered in the name of a nominee of DTC. It is anticipated that CUSIP identification numbers will be inserted on the Bonds, but neither the failure to provide such numbers nor any error with respect thereto shall constitute a cause for failure or refusal by the Underwriter to accept delivery of the Bonds in accordance with the terms of this Purchase Contract.

Section 7. Conditions to Underwriter's Obligations. The Underwriter has entered into this Purchase Contract in reliance upon the representations and warranties of the Agency contained herein and to be contained in the documents and instruments to be delivered on the date of the Closing, and upon the performance by the Agency of its obligations to be performed hereunder and under such documents and instruments to be delivered at or prior to the date of the Closing. The Underwriter's obligations under this Purchase Contract are and shall also be subject to the following conditions:

(a) The representations and warranties of the Agency that are contained in this Purchase Contract shall be true and correct in all material respects on the date of this Purchase Contract and on and as of the date of the Closing as if made on the date of the Closing.

(b) As of the date of the Closing, the Official Statement shall not have been amended, modified or supplemented, except in any case as may have been agreed to by the Underwriter.

(c) (i) As of the date of the Closing, the Agency Resolution and the Agency Agreements shall be in full force and effect, and shall not have been amended, modified or supplemented, except as may have been agreed to by the Agency and the Underwriter; and (ii) the Agency shall perform or shall have performed all of its obligations that are required under or specified in the Agency Resolution and the Agency Agreements to be performed at or prior to the date of the Closing.

(d) As of the date of the Closing, all necessary official action of the Agency relating to the Agency Agreements, the Agency Resolution and the Official Statement shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect.

(e) Subsequent to the date of this Purchase Contract, up to and including the date of the Closing, there shall not have occurred any change in the financial affairs of the Agency, as described in the Official Statement, which in the reasonable professional judgment of the Underwriter materially impairs the investment quality of the Bonds.

(f) As of or prior to the date of the Closing, the Underwriter shall have received each of the following documents:

(A) Certified copies of the Agency Resolution.

(B) Duly executed copies of the Agency Agreements.

(C) The Preliminary Official Statement and the Official Statement, with the Official Statement duly executed on behalf of the Agency.

(D) An approving opinion of Bond Counsel, dated the date of the Closing, as to the validity of the Bonds and the exclusion of interest on the Bonds from federal and State income taxation, addressed to the Agency, substantially in the form attached as an appendix to the Official Statement, and a reliance letter with respect thereto addressed to the Underwriter.

(E) A supplemental opinion or opinions of Bond Counsel, dated the date of the Closing, addressed to the Underwriter, to the effect that:

(1) The Purchase Contract has been duly executed and delivered by the Agency and (assuming due authorization, execution and delivery by and enforceability against the Underwriter) is valid and binding upon the Agency, subject to laws relating to bankruptcy, insolvency, reorganization or creditors' rights generally and to the application of equitable principles;

(2) The Bonds are exempt from registration pursuant to the Securities Act of 1933, as amended, and the Indenture is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended;

(3) The statements contained in the Official Statement on the cover and under the captions "INTRODUCTION," "THE BONDS" (excluding therefrom the statements pertaining to DTC), "REFUNDING PLAN," "SECURITY FOR THE BONDS" and "TAX MATTERS," and in Appendices A and D, excluding any material that may be treated as included under such captions by cross-reference, insofar as such statements expressly summarize certain provisions of the Bonds, the Agency Agreements and the form and content of Bond Counsel's final approving opinion, are accurate in all material respects; and

(4) The 2008 Bonds have been defeased in accordance with the provisions of the indenture pursuant to which they were issued.

(F) An opinion of the City Attorney, dated the date of the Closing, addressed to the Agency and the Underwriter, substantially in the form attached hereto as Exhibit D.

(G) An executed Rule 15c2-12 certificate of the Agency, dated the date of the Preliminary Official Statement, substantially in the form attached hereto as Exhibit B.

(H) An executed closing certificate of the Agency, dated the date of the Closing, substantially in the form attached hereto as Exhibit C.

(I) The opinion or opinions of counsel of the Trustee and the Escrow Agent, addressed to the Agency and the Underwriter, substantially to the effect that:

(1) The Trustee and Escrow Agent is a national banking association that is duly organized, validly existing and in good standing under the laws of the United States of America, having full powers and authority and being qualified to enter into, accept and administer the trust created under the Indenture and the Escrow Agreement (the “**MUFG Documents**”) and to enter into the MUFG Documents; and

(2) The MUFG Documents have been duly authorized, executed and delivered by the Trustee and the Escrow Agent, as applicable, and, assuming due authorization, execution and delivery by the Agency, the MUFG Documents constitute the legal, valid and binding agreements of the Trustee and the Escrow Agent, as applicable, enforceable in accordance with their respective terms, subject to laws relating in bankruptcy, insolvency or other laws affecting the enforcement of creditors’ rights generally and the application of equitable principles if equitable remedies are sought.

(J) A certificate or certificates, dated the date of the Closing, in form and substance acceptable to the Underwriter, of an authorized officer of officers of the Trustee and the Escrow Agent to the effect that the Trustee and the Escrow Agent are duly authorized to enter into the MUFG Documents, have accepted the respective duties imposed by the MUFG Documents and are authorized to carry out such duties, and that the Trustee has duly authenticated the Bonds.

(K) Evidence of required filings with the California Debt and Investment Advisory Commission.

(L) A copy of the executed Blanket Issuer Letter of Representations by and between the Agency and DTC relating to the book-entry system.

(M) An executed verification report relating to the 2008 Bonds, among other matters.

(N) Evidence that the ratings that have been assigned to the Bonds as of the date of the Closing are as set forth in the Official Statement.

(O) A certified copy of the general resolution of the Trustee and the Escrow Agent authorizing the execution and delivery of certain documents by certain officers of the Trustee and the Escrow Agent, which resolution authorizes the execution and delivery of the MUFG Documents and the authentication and delivery of the Bonds by the Trustee.

(P) An opinion of Stradling Yocca Carlson & Rauth, a Professional Corporation, counsel to the Underwriter, addressed to the Underwriter and in form and substance satisfactory to the Underwriter.

(Q) A report of Lumesis as to compliance by the Agency and related entities with their respective continuing disclosure undertakings.

(R) A Tax Certificate with respect to maintaining the tax-exempt status of the Bonds, duly executed by the Agency, together with Form 8038-G, duly executed by the Agency.

(S) An letter of Jones Hall, A Professional Law Corporation, as Disclosure Counsel, to the effect that, based upon an examination that they have made, and without having undertaken to determine independently or assuming any responsibility for the accuracy or completeness or fairness of the statements contained in the Official Statement, as a matter of fact and not opinion, such counsel advises that, in its capacity as Disclosure Counsel, no facts came to the attention of the attorneys in such firm rendering legal services in connection with such representation that caused such counsel to believe that the Official Statement as of its date and as of the Closing (except for: (1) the expressions of opinion, the assumptions, the projections, the financial statements, or other financial, numerical, economic, demographic or statistical data contained in the Official Statement; (2) any CUSIP numbers or information relating thereto; and (3) any information with respect to DTC and DTC's book-entry system) contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(T) A certificate of NHA Advisors, the Agency's municipal advisor, dated the date of the Closing, substantially to the effect that the scheduled annual debt service in each year for the Bonds is not in excess of 75% of the amount of Street Improvement Sales Tax (as such term is defined in the Official Statement) proceeds that are projected by the Agency to be received in each year.

(U) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter or Bond Counsel may reasonably request to evidence compliance by the Agency with legal requirements, the truth and accuracy, as of the date of the Closing, of the representations of the Agency contained herein and of the Official Statement and the due performance or satisfaction by the Agency at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the Agency.

All of the opinions, letters, certificates, instruments and other documents that are mentioned in this Purchase Contract shall be deemed to be in compliance with the provisions of this Purchase Contract if, but only if, they are in form and substance satisfactory to the Underwriter. If the Agency is unable to satisfy the conditions to the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds as set forth in this Purchase Contract, or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate and neither the Underwriter nor the Agency shall be under any further obligations hereunder, except that the respective obligations of the Agency and the Underwriter that are set forth in Section 11 of this Purchase Contract shall continue in full force and effect.

Section 8. Conditions to Agency's Obligations. The performance by the Agency of its obligations under this Purchase Contract is conditioned upon: (i) the performance by the Underwriter of its obligations hereunder; and (ii) receipt by the Agency of opinions addressed to the Agency, receipt by the Underwriter of opinions addressed to

the Underwriter and the delivery of certificates on the date of the Closing by persons and entities other than the Agency.

Section 9. Termination Events. The Underwriter shall have the right to terminate the Underwriter's obligations under this Purchase Contract to purchase, accept delivery of and pay for the Bonds by notifying the Agency of its election to do so if, after the execution hereof and prior to the Closing, any of the following events occurs:

(a) the marketability of the Bonds or the market price thereof, in the reasonable opinion of the Underwriter, has been materially and adversely affected by any decision that is issued by a court of the United States (including the United States Tax Court) or of the State, by any ruling or regulation (final, temporary or proposed) that is issued by or on behalf of the Department of the Treasury of the United States, the Internal Revenue Service, or other governmental agency of the United States, or any governmental agency of the State, or by a tentative decision or announcement by any member of the House Ways and Means Committee, the Senate Finance Committee, or the Conference Committee with respect to contemplated legislation or by legislation enacted by, pending in, or favorably reported to either the House of Representatives or either House of the Legislature of the State, or formally proposed to the Congress of the United States by the President of the United States or to the Legislature of the State by the Governor of the State in an executive communication, affecting the tax status of the Agency, its property or income, its debt or contractual obligations (including the Bonds) or the interest thereon or any tax exemption granted or authorized by the Internal Revenue Code of 1986, as amended;

(b) the United States becomes engaged in hostilities that result in a declaration of war or a national emergency, or any other outbreak of hostilities occurs, or a local, national or international calamity or crisis occurs, financial or otherwise, the effect of such outbreak, calamity or crisis being such as, in the reasonable opinion of the Underwriter, would affect materially and adversely the ability of the Underwriter to market the Bonds;

(c) there occurs a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by the United States, New York or State authorities;

(d) a stop order, ruling, regulation or official statement by, or on behalf of, the SEC is issued or made to the effect that the issuance, offering or sale of the Bonds or obligations similar to the Bonds is or would be in violation of any provision of the Securities Act of 1933, as then in effect, the Securities Exchange Act of 1934, as then in effect, or the Trust Indenture Act of 1939, as then in effect;

(e) legislation is enacted by the House of Representatives or the Senate of the Congress of the United States of America, a decision by a court of the United States of America is rendered or a ruling or regulation by or on behalf of the SEC or other governmental agency having jurisdiction of the subject matter is made or proposed to the effect that the Bonds are not exempt from registration, qualification or other similar requirements of the Securities Act of 1933, as then in effect, or of the Trust Indenture Act of 1939, as then in effect;

(f) in the reasonable judgment of the Underwriter, the market price of the Bonds, or the market price of obligations of the general character of the Bonds, might be materially and adversely affected because additional material restrictions that are not in force as of the date hereof are imposed upon trading in securities generally by any governmental authority or by any national securities exchange;

(g) the Office of the Comptroller of the Currency, The New York Stock Exchange, or other national securities exchange, or any governmental authority, imposes, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increases materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, or financial responsibility requirements of the Underwriter;

(h) a general banking moratorium is established by federal, New York or State authorities;

(i) any legislation, ordinance, rule or regulation is introduced in or enacted by any governmental body, department or agency in the State or a decision of a court of competent jurisdiction within the State is rendered, which, in the reasonable opinion of the Underwriter, after consultation with the Agency, materially adversely affects the market price of the Bonds;

(j) any federal or State court, authority or regulatory body takes action materially and adversely affecting the collection of revenues that are pledged under the Indenture;

(k) any rating of the Bonds is downgraded, suspended, withdrawn or placed on credit watch or similar status by a national rating service, which, in the reasonable opinion of the Underwriter, materially adversely affects the marketability or market price of the Bonds;

(l) an event occurs which in the reasonable opinion of the Underwriter requires a supplement or amendment to the Official Statement and: (i) the Agency refuses to prepare and furnish such supplement or amendment; or (ii) in the reasonable judgment of the Underwriter, the occurrence of such event materially and adversely affects the marketability of the Bonds or renders the enforcement of the sale contracts of the Bonds impracticable;

(m) an order, decree or injunction that is issued by any court of competent jurisdiction, or order, ruling, regulation (final, temporary or proposed), official statement or other form of notice or communication that is issued or made by or on behalf of the SEC, or any other governmental authority having jurisdiction of the subject matter, to the effect that: (i) obligations of the general character of the Bonds, or the Bonds, including any or all underlying arrangements, are not exempt from registration under the Securities Act of 1933, as amended, or that the Indenture is not exempt from qualification under the Trust Indenture Act of 1939, as amended; or (ii) the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including any or all underlying obligations, as contemplated hereby or by the Official Statement, is or would be in violation of the federal securities laws as amended and then in effect;

(n) additional material restrictions that are not in force as of the date hereof shall have been imposed upon trading in securities generally by any domestic governmental authority or by any domestic national securities exchange, which are material to the marketability of the Bonds; or

(o) the commencement of any action, suit or proceeding described in Section 5(e).

Section 10. Changes in Official Statement. After the Closing, the Agency will not adopt any amendment of or supplement to the Official Statement to which the Underwriter shall reasonably object in writing. Within 90 days after the Closing or within 25 days following the “end of the underwriting period” (as such term is defined below), whichever occurs first, if any event relating to or affecting the Bonds, the Trustee or the Agency occurs as a result of which it is necessary, in the opinion of the Underwriter, to amend or supplement the Official Statement in order to make the Official Statement not misleading in any material respect in the light of the circumstances existing at the time that it is delivered to a purchaser, the Agency will forthwith prepare and furnish to the Underwriter an amendment or supplement that will amend or supplement the Official Statement so that it will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at the time that the Official Statement is delivered to a purchaser, not misleading. The Agency will cooperate with the Underwriter in the filing by the Underwriter of such amendment or supplement to the Official Statement with the MSRB.

As used herein, the term “**end of the underwriting period**” means the later of such time as: (i) the Agency delivers the Bonds to the Underwriter; or (ii) the Underwriter does not retain, directly or as a member of an underwriting syndicate, an unsold balance of the Bonds for sale to the public. Notwithstanding the foregoing, unless the Underwriter gives notice to the contrary, the “end of the underwriting period” will be the date of the Closing. Any notice that is delivered pursuant to this provision will be written notice delivered to the Agency at or prior to the date of the Closing and will specify a date (other than the date of the Closing) to be deemed the “end of the underwriting period.”

Section 11. Payment of Expenses.

(a) The Underwriter shall be under no obligation to pay, and the Agency shall pay the following expenses incident to the performance of the Agency’s obligations hereunder:

- (i) the fees and disbursements of Bond Counsel;
- (ii) the cost of printing and delivering the Bonds, the Preliminary Official Statement and the Official Statement (and any amendment or supplement that is prepared pursuant to Section 10 of this Purchase Contract);
- (iii) the fees and disbursements of accountants, advisors and any other experts or consultants retained by the Agency, including the City Attorney; and
- (iv) any other expenses and costs of the Agency that are incident to the performance of its obligations in connection with the authorization, issuance and sale of the

Bonds, including out-of-pocket expenses and regulatory expenses, reimbursement to the Underwriter for any meals and travel for Agency employees or officers that were paid for by the Underwriter and any other expenses agreed to by the parties.

(b) The Underwriter shall pay all expenses incurred by it in connection with the public offering and distribution of the Bonds including, but not limited to:

(i) all advertising expenses in connection with the offering of the Bonds;
and

(ii) all out-of-pocket disbursements and expenses incurred by the Underwriter in connection with the offering and distribution of the Bonds (including, without limitation, the fees and expenses of its counsel and MSRB, CUSIP Bureau, California Debt and Investment Advisory Commission and California Public Securities Association fees, if any), except as provided in clause (a) above or as otherwise agreed to by the Underwriter and the Agency.

Section 12. Notices. Any notice or other communication to be given to the Agency under this Purchase Contract may be given by delivering the same in writing to the Agency at the address that is set forth on the first page of this Purchase Contract, and any notice or other communication to be given to the Underwriter under this Purchase Contract may be given by delivering the same in writing to:

Stifel, Nicolaus & Company, Incorporated
One Montgomery Street, 35th Floor
San Francisco, California 94104
Attention: Anna Van Degna

Section 13. Survival of Representations, Warranties, Agreements. All of the Agency's representations, warranties and agreements that are contained in this Purchase Contract shall remain operative and in full force and effect regardless of: (a) any investigations made by or on behalf of the Underwriter; or (b) delivery of and payment for the Bonds pursuant to this Purchase Contract. The agreements contained in this Section and in Section 11 shall survive the termination of this Purchase Contract.

Section 14. Benefit; No Assignment. This Purchase Contract is made solely for the benefit of the Agency and the Underwriter (including their successors and assigns), and no other person shall acquire or have any right hereunder or by virtue hereof. The rights and obligations created by this Purchase Contract are not subject to assignment by the Underwriter or the Agency without the prior written consent of the other parties hereto.

Section 15. Severability. In the event that any provision of this Purchase Contract is held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Purchase Contract.

Section 16. Counterparts. This Purchase Contract may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute the Purchase Contract by signing any such counterpart.

Section 17. Governing Law. This Purchase Contract shall be governed by the laws of the State.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Section 18. Effectiveness. This Purchase Contract shall become effective upon the execution of the acceptance hereof by an authorized officer of the Agency, and shall be valid and enforceable as of the time of such acceptance.

Very truly yours,

STIFEL, NICOLAUS & COMPANY,
INCORPORATED

By: _____
Title: Authorized Officer

Accepted:

CITY OF EL CERRITO

By: _____
Title: Authorized Officer

Time of Execution: _____ California Time

EXHIBIT A

\$ _____

CITY OF EL CERRITO
2017 SALES TAX REVENUE REFUNDING BONDS

MATURITY SCHEDULE

<i>Principal Payment Date (May 1)</i>	<i>Principal</i>	<i>Coupon</i>	<i>Yield</i>	<i>Price</i>
	\$	%	%	

* Term Bond.

(c) Priced to first optional redemption date of ____ 1, 20__ at par.

EXHIBIT B

\$ _____ *

CITY OF EL CERRITO
2017 SALES TAX REVENUE REFUNDING BONDS

RULE 15c2-12 CERTIFICATE

The undersigned hereby certifies and represents that the undersigned is the duly appointed and acting representative of the City of El Cerrito (the "**Agency**"), and as such is duly authorized to execute and deliver this Certificate on behalf of the Agency, and further hereby certifies and reconfirms on behalf of the Agency as follows:

(1) This Certificate is delivered in connection with the offering and sale of the above captioned bonds (the "**Bonds**") in order to enable the underwriter of the Bonds to comply with Securities and Exchange Commission Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (the "**Rule**").

(2) In connection with the offering and sale of the Bonds, there has been prepared a Preliminary Official Statement, setting forth information concerning the Bonds and the Agency (the "**Preliminary Official Statement**").

(3) As used herein, "**Permitted Omissions**" means the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters, all with respect to the Bonds.

(4) The Preliminary Official Statement is, except for the Permitted Omissions, deemed final within the meaning of the Rule, and the information therein is accurate and complete except for the Permitted Omissions.

Dated: December __, 2016

CITY OF EL CERRITO

By: _____
City Manager

* *Preliminary; subject to change.*

EXHIBIT C

\$ _____

CITY OF EL CERRITO
2017 SALES TAX REVENUE REFUNDING BONDS

CLOSING CERTIFICATE OF THE AGENCY

The undersigned hereby certifies and represents that the undersigned is the duly appointed and acting representative of the City of El Cerrito (the "**Agency**"), and is duly authorized to execute and deliver this Certificate and further hereby certifies and reconfirms on behalf of the Agency as follows:

(i) The representations, warranties and covenants of the Agency that are contained in the Bond Purchase Contract, dated January __, 2017 (the "**Purchase Contract**"), by and between the Agency and Stifel, Nicolaus & Company, Incorporated, as underwriter, are true and correct and in all material respects on and as of the date of the Closing, with the same effect as if made on the date of the Closing.

(ii) The Agency Resolution is in full force and effect at the date of the Closing and has not been amended, modified or supplemented, except as agreed to by the Agency and the Underwriter.

(iii) The Agency has complied with all of the agreements and satisfied all of the conditions on its part to be performed or satisfied on or prior to the date of the Closing.

(iv) The statements and descriptions in the Official Statement that pertain to the Agency do not contain any untrue or misleading statement of a material fact and do not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading.

Capitalized terms used but not defined herein have the meanings given to such terms in the Purchase Contract.

Dated: January __, 2017

CITY OF EL CERRITO

By: _____
City Manager

EXHIBIT D

January __, 2017

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, California 94530

Stifel, Nicolaus & Company,
Incorporated
One Montgomery Street, 35th Floor
San Francisco, California 94104

Opinion of City Attorney

with reference to

\$ _____

CITY OF EL CERRITO 2017 SALES TAX REVENUE REFUNDING BONDS

Ladies and Gentlemen:

In my capacity as the City Attorney of the City of El Cerrito (the “**Agency**”), in connection with the issuance by the Agency of the above-referenced bonds (the “**Bonds**”), I have examined such documents, certificates and records as I have deemed relevant and necessary as the basis for the opinion set forth herein. Capitalized terms that are used and not otherwise defined herein have the same meanings as assigned to them in the Bond Purchase Contract, dated January __, 2017 (the “**Purchase Contract**”), by and between Stifel, Nicolaus & Company, Incorporated, as underwriter, and the Agency.

Relying on my examination described above and pertinent law and subject to the limitations and qualifications set forth hereinafter, I am of the following opinion:

1. The Agency is a general law city that is duly organized and existing under the laws of the State of California, and has all necessary power and authority to adopt the Agency Resolution and to enter into and perform its duties under the Agency Agreements.

2. Resolution No. ____ of the Agency (the “**Agency Resolution**”) has been duly adopted at a meeting of the City Council of the Agency that was duly called and held on December 6, 2016 pursuant to law, with all required public notice and at which a quorum was present and acting throughout. The Agency Resolution is in full force and effect and has not been amended or repealed.

3. The Agency has duly authorized, executed and delivered the Agency Agreements. Assuming due authorization, execution and delivery by the other parties thereto, as necessary, the Agency Agreements constitute legal, valid and binding agreements of the Agency enforceable against the Agency in accordance with their terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, debt adjustment, fraudulent conveyance or transfer, moratorium, reorganization or other

laws affecting the enforcement of creditors' rights generally and equitable remedies if equitable remedies are sought, to the exercise of judicial discretion in appropriate cases and limitations on remedies against public agencies.

4. Except as disclosed in the Official Statement, there is no action, suit or proceeding before or by any court, public board or body pending (with service of process having been accomplished on the Agency) or, to the best of my knowledge, threatened wherein an unfavorable decision, ruling or finding would: (a) affect the creation, organization, existence or powers of the Agency or the titles of its officers to their respective offices; (b) in any way question or affect the validity or enforceability of the Agency Agreements or the Bonds; (c) render illegal, invalid or unenforceable the Agency Agreements or the transactions contemplated thereby, or any other agreement or instrument related to the issuance of the Bonds to which the Agency is a party; or (d) have a material adverse effect on the ability of the Agency to make payments of principal of and interest on the Bonds when due.

5. The execution and delivery of the Agency Agreements and compliance with the provisions of each thereof will not conflict with or constitute a breach of or default under any applicable law or administrative rule or regulation of the State of California, the United States or any department, division, agency or instrumentality of either thereof, any applicable court or administrative decree or order or any loan agreement, note, resolution, indenture, trust agreement, contract, agreement or other instrument to which the Agency is a party or is otherwise subject or bound in a manner that would materially adversely affect the Agency's performance under the Agency Agreements.

The opinion is based on such examination of the laws of the State of California as I have deemed relevant for the purposes of this opinion. I have not considered the effect, if any, of the laws of any other jurisdiction upon matters covered by this opinion. I have assumed the genuineness of all documents and signatures, presented to me. I have not undertaken to verify independently, and have assumed, the accuracy of the factual matters represented, warranted or certified in such documents. I express no opinion as to the status of the Bonds, the interest thereon or the Agency Agreements under any federal securities laws or any state securities or "Blue Sky" law or any federal, state or local tax law. Without limiting any of the foregoing, I express no opinion as to any matter other than as expressly set forth above.

I am furnishing this opinion as City Attorney to the Agency. Except for the Agency, no attorney-client relationship has existed or exists between me and the addressees hereof in connection with the Bonds or by virtue of this opinion. This opinion is rendered solely in connection with the financing described herein, and may not be relied upon by you for any other purpose. I disclaim any obligation to update this opinion. This opinion shall not extend to, and may not be used, quoted, referred to, or relied upon by any other person, firm, corporation or other entity without my prior written consent.

Respectfully submitted,