



AGENDA

REGULAR CITY COUNCIL MEETING

Tuesday, June 2, 2015 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Jan Bridges

Councilmember Janet Abelson
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.*)

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. PRESENTATIONS

A. **Proclamation Recognizing and Commending Captain Michael Regan** – *Presentation by Sylvia Moir, Police Chief.*

Approve a proclamation drawing special public attention to Police Captain Michael W. Regan, for his record of service to and concern for the protection of life and property in the

local community, and extending the City Council's sincere best wishes for continued success in all future endeavors.

B. Committee on Aging Workplan – *Presentation by Shirley Cressey, Chair, Committee on Aging.*

Receive a presentation regarding the Committee on Aging's accomplishments, goals and workplan.

C. Human Relations Commission Workplan – *Presentation by Georgina Edwards, Chair and Rochelle Pardue-Okimoto, Vice-Chair, Human Relations Commission.*

Receive a presentation regarding the Human Relations Commission's accomplishments, goals and workplan.

D. Del Norte BART Station Improvements – *Presentation by Sadie Graham, Senior Planner, BART Planning + Development.*

Receive a presentation regarding the Del Norte BART Station Improvement Program.

E. Citizens' Streets Oversight Committee Annual Report – *Presentation by Matt Kelly, Committee Member.*

Receive a presentation regarding the Citizens' Street Oversight Committee's review of expenditures of revenue collected pursuant to El Cerrito Municipal Code Chapter 4.60 to determine whether such funds were expended for the purposes specified in the current Street Repair and Maintenance Expenditure Plan.

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

A. Minutes for Approval

Approve the May 19, 2015 Regular City Council meeting minutes.

B. Pride Month Proclamation

Approve a proclamation declaring the month of June as Lesbian, Gay, Bi-Sexual, Transgender (LGBT) Pride Month in the City of El Cerrito, and inviting everyone to reflect on ways we all can live and work together with a commitment toward mutual respect and understanding. Pride Month will also be recognized by flying the rainbow flag at City Hall during the month of June.

C. Loving Day Proclamation

Approve a proclamation declaring June 12, 2015 as "Loving Day" in the City of El Cerrito and authorizing the Mayor to send letters of support to federal and state elected officials urging the recognition of Loving Day.

D. Below Market Rate Housing Agreement – Creekside Walk Ventures Project

Adopt a resolution authorizing the City Manager to execute a Below Market Rate Housing Regulatory and Resale Restriction Agreement and Declaration of Restrictive Covenants for the Creekside Walk Ventures project and finding that the Agreement satisfies Condition of Approval #41 for the project (Section C of Exhibit C of City Council Resolution No. 2006-01).

E. CAFR and MOIC Policies

Receive and file the Comprehensive Annual Financial Report (CAFR) and the Memorandum on Internal Control and Required Communications (MOIC) for the fiscal year that ended on June 30, 2014.

6. PUBLIC HEARINGS

A. Confirm the Diagram and Levy the Assessment for Fiscal Year 2015-16 for Landscape and Lighting Assessment District No. 1988-1

Conduct a public hearing and upon conclusion adopt a resolution adopt a resolution setting the annual Landscape and Lighting Assessment for Fiscal Year 2015-16 as \$72 per residential parcel and as noted in the Engineer's Report for other classes of properties.

B. Fiscal Year 2015-16 Storm Drain Annual Report and Fees

Conduct a public hearing and upon conclusion adopt a resolution approving the Fiscal Year 2015-16 Storm Drain Annual Report and directing that storm drain fees be collected on the property tax rolls.

7. POLICY MATTERS

A. Survey Results Regarding a Future Revenue Measure for a Library Facility

Receive a presentation from Godbe Research on the results of their survey of El Cerrito residents to ascertain voter opinions related to a future revenue measure to fund a new library facility, and discuss and provide comments and feedback.

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

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

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regular City Council meeting is Tuesday, June 16, 2015 at 7:00 p.m. at City Hall, 10890 San Pablo Avenue, El Cerrito, California.

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.

CITY COUNCIL OF THE CITY OF EL CERRITO PROCLAMATION

Commending Police Captain Michael W. Regan, for His Service to the City of El Cerrito and for His Continued Success Upon His Retirement from City Service

WHEREAS, the men and women who devote their time and energy as Professional Law Enforcement Officers have assumed responsibilities essential for the safety of their fellow citizens; and

WHEREAS, Michael W. Regan, Police Captain of the El Cerrito Police Department, has served his community with pride, and upon the occasion of his retirement, is deserving of recognition and the highest commendation; and

WHEREAS, Michael W. Regan, demonstrated his commitment to increasing the level of formal education throughout the Police Department by obtaining a Bachelor of Science Degree from California State University Long Beach on January 23, 2009; and

WHEREAS, Michael W. Regan began his law enforcement career with the Martinez Police Department in 1987, serving as a Reserve Police Officer; and

WHEREAS, Michael W. Regan served citizens of Alameda County as a Deputy Sheriff from November 1987 to December 1988; and

WHEREAS, Michael W. Regan was hired by the El Cerrito Police Department on December 11th, 1988 and served the citizens of El Cerrito for 26 years; and

WHEREAS, Michael W. Regan been appointed to the assignments of Traffic Enforcement Officer (September 16, 1990), rank of Senior Officer (January 14, 1991), Detective Bureau (June 21, 1993), rank of Police Corporal (January 15, 1995), rank of Police Sergeant (July 1, 1998), rank of Police Commander (March 5, 2006), rank of Police Captain (December 27, 2009) and has performed his duties with competence and efficiency; and

WHEREAS, while pursuing his career, Captain Michael W. Regan served on local and statewide committees, to include, the California Peace Officers' Association Award Committee, the California Police Chiefs' Association Law and Legislation committee, and the California Police Chiefs' Association Medical Marijuana Dispensary Task Force; and

WHEREAS, Captain Michael W. Regan has served the citizens of Contra Costa County and the City of El Cerrito, and in retiring from his position as a Police Captain, brings to close a career with the El Cerrito Police Department that spans 26 years.

NOW THEREFORE, the City Council of the City of El Cerrito takes great pride and pleasure in drawing special public attention to Captain Michael W. Regan, for his record of service to and concern for the protection of life and property in the local community, and extends to him sincere best wishes for continued success in all future endeavors.

Dated: June 2, 2015

Mark Friedman, Mayor

EL CERRITO COMMITTEE ON AGING

June 2, 2015

MISSION STATEMENT

- Committee was formed to document and advise the Council about the needs of older and disabled residents.
- Develop comprehensive plans for implementing programs to address these needs by:
 - 1) establishing liaisons with other interested groups;
 - 2) utilizing the resource of talents offered by El Cerrito's older and/or disabled adults

MISSION STATEMENT

- Formulate presentations at the Senior Center and at Committee meetings that are helpful to the well-being of our focus community members.
- Determine its own internal organization, election of chairperson, regular meeting dates and places, and other procedural actions as may be appropriate.

BACKGROUND ON THE COMMITTEE

- Members of the Committee are appointed by the City Council upon the Committee's recommendation.
- Membership is open to any and all interested adult residents of El Cerrito.
- Must attend three consecutive monthly meetings before being considered for membership.

BACKGROUND ON THE COMMITTEE

- Regular meetings occur at El Cerrito City Hall Council Chambers at 3:00 p.m. on the third Wednesday of the month and are open to the public.
- The Chair, Vice-Chair, Secretary and a Member at Large are elected by Committee members annually and serve during the year as the Executive Committee.

BACKGROUND ON THE COMMITTEE

- Currently elected officers for 2015-16 are:

Chairperson: Shirley Cressey

Vice-Chair: Nola Veganes Chavez

Secretary: Kim Marlia

Members at Large: Karen Christian; Callie Major

Additional Members: Mark Guthrie; Kimi Honda; Janet James; Dr. Pansy Kwong; Willa Sudduth; Joanna Kim Selby; Vera Gibbs Winston; Jennifer Haller; Steve Lipson and Kenneth Epley

BACKGROUND ON THE COMMITTEE

- Several members of the Committee can act as representatives to other agencies within the County, such as the Area Agency on Aging Advisory Council, County Health Committee, West County Coalition, and Eskaton Hazel Shirley Manor, to name a few.

GOALS AND OBJECTIVES

The Committee on Aging deals with the immediate concerns of residents and supports the improvement of their quality of life. When appropriate, recommendations for action are made to the City Council.

The Committee, with Council support, has established specific long-term goals:

GOALS AND OBJECTIVES

- Affordable housing options for older and disabled residents.
- Adequate space and facilities for and the provision of qualifying programs and service for seniors.
- Improved accessible public transportation and paratransit services for persons unable to use public transit facilities.

GOALS AND OBJECTIVES

- Increased support services to assist frail older adults and their families both within and outside of their homes.
- Continue the Guest Speaker Presentations.

GOALS AND OBJECTIVES

In pursuit of its goals the Committee has the assistance of the Senior Services Supervisor, who attends all of the meetings of the Committee and provides it with current information on the status of available programs and facilities.

GOALS AND OBJECTIVES

Together with the Senior Services Supervisor, the Committee continuously evaluates the services being provided and makes suggestions and recommendations pertaining to such services.

ACCOMPLISHMENTS

The Committee has guided the development of El Cerrito's network of programs and services for our older and disabled residents. These include:

- Worked with post office to install a mail box on one way street so seniors would not have to exit vehicle to drop off mail.

ACCOMPLISHMENTS

- Worked with Public Works to have a “Stop Ahead” sign at intersection where stop sign is blocked by tree.
- Presented guest speakers on a variety of topics, including ways to make your house safer to navigate; planning for future care of aging loved ones; easy-to-use gadgets for the home; scam alerts; elder health issues.





COSMETIC
DENTISTRY
DR. JAMES M. HARRIS
DENTIST
510-526-9072
1000 S. KIRK AVE. SUITE 100
SAN JOSE, CA 95128

CHASE

La Belle
NAILS & SALON
510-529-4818

ONE WAY







Human Relations Commission

2015 WORK PLAN

AND

2014 ACCOMPLISHMENTS

Members: Makalia Aga, Mande Glueck, Georgina Edwards, Rochelle Pardue-Okimoto, Lydia Hughes, Margo Hunter Parisi.

MISSION STATEMENT:

The Human Relations Commission develops positive human relations through education, encouragement of greater respect and understanding between people, their equal opportunity rights under the law and the recognition of the racial, ethnic, religious and cultural diversity of the El Cerrito community.

The purpose of the Human Relations Commission is to initiate educational and cultural programs, promote tolerance and mutual respect between all persons. When requested by the City Council, the Commission will evaluate and make recommendations regarding discrimination charges levied against the City, upon the direction of the council. Commission members shall be generally representative of the demographics of the City including the racial, religious, age, gender, ethnic, and other groups.

The goal of the Commission is to support positive human relations by promoting recognition, education, respect, understanding and appreciation of the rich diversity of our community. Contributing to the City's vibrancy, diversity is reflected in areas such as ethnicity, race, language, gender, sexual orientation, physical and mental ability status, religion, and age.

Enabling Legislation: E.C.M.C. 2.04.270

2015 WORK PLAN

GOAL/OBJECTIVE	PROPOSED ACTIVITIES	PRIORITY RANKING	TIMELINE FOR COMPLETION
LOVING DAY To recognize June 12th, specifically, and the month of June, generally, as a celebration of multiculturalism and hope for our future.	1. Research the history of Loving Day. 2. Talk to appropriate experts like Ken Tanabe on his activities. 3. Prepare a Proclamation to present to the City Council of El Cerrito for them to approve at their June 2nd meeting. 4. Write a letter for citizens to sign and send to a member of the State Legislature in support of Loving Day and month. Put the letter on a portion of the City Website. People may copy, sign and send or write their own.	1	JUNE 1-30, 2015
INVITING STUDENTS TO PARTICIPATE AS A STUDENT MEMBER OF THE COMMISSION. Involve students in the HRC meetings, events and planned future events for the betterment and cultural diversity of the El Cerrito community.	1. Make contact with our high school educators, counselors and student council to invite applicants. 2. Review applications from students. 3. Interview applicants as early in school year as possible. 4. Select student commissioner, and invite to meetings. 5. Assign duties based on HRC events and outreach opportunities.	2	August – May 2016
HONORING MARTIN LUTHER KING Jr. On his birthday, arranging for and participating in a Parade in the City of El Cerrito	1. All activities will be done as they were done in preparation in 2014. We will be doing the activities as early as November of 2015. 2. One additional activity will be one member of the Human Relations Commission will offer a workshop on Leadership using Martin Luther King Jr. as one of the outstanding examples. 3. Assembly for change makers in our schools - to encourage students to become leaders of positive change.	3	December – January 2016

PRIOR YEAR (2014) ACCOMPLISHMENTS

GOAL/OBJECTIVE	ACTIVITIES SUPPORTING GOAL	STATUS
1.Recognition of 50th anniversary of the Wilderness Act	Proclamation brought to city council in August 2014.	Completed
2. Recognition of Human Rights Day	Proclamation brought to city council in November 2014.	Completed
3.Recognition of Women's History Month	Proclamation brought to city council in March 2014.	Completed
4.Recognition of Asian Pacific American Month	Proclamation brought to city council in May 2014.	Completed
5.Community celebration of Dr. Martin Luther King Jr. and parade, 26th year	Successful rally at the DMV, march to the high school and program at the high school honoring Maya Angelou. Marchers were offered diversity signs to carry in march. Participation from many community groups including Tibetan Association of N CA, El Cerrito High School students, First 5, Elementary schools, Oakland Black Cowboy Association, East Bay Masonic lodge, Girl and Boy Scouts of America, elected officials and more. Keynote speaker: Darrell Wesley, Chaplain, US Navy. Approximately 400 attendees.	Completed

ONGOING PROJECTS

PROJECT	ACTIVITIES
Recognition of important events and milestones in society via recommendations of proclamations to the City Council and consideration of a larger community event based on significant events.	1. HRC to create and deliver proclamations to El Cerrito City Council. 2. HRC to discuss possible events to more publicly recognize event in community.



El Cerrito Del Norte Station Improvements

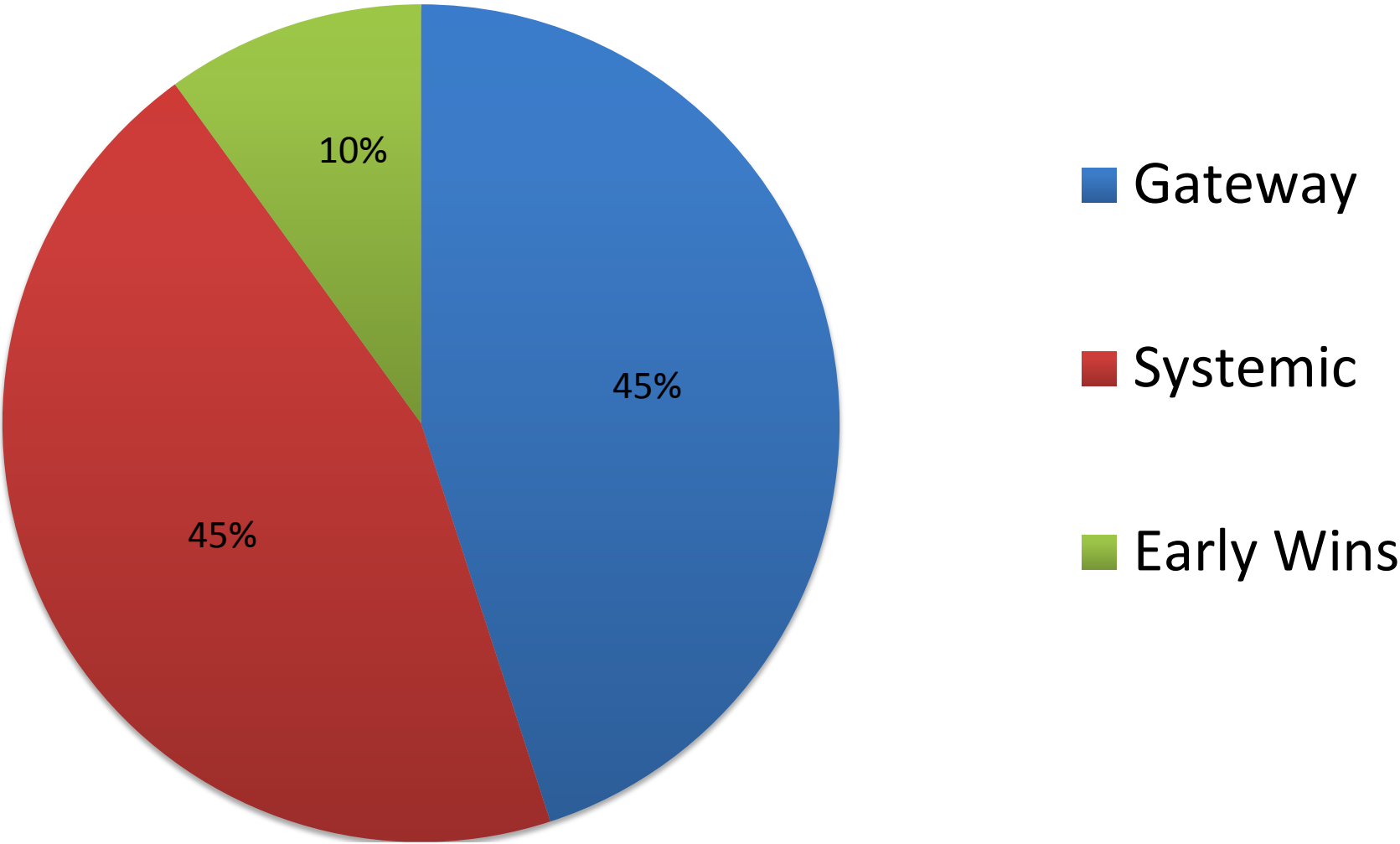
June 2, 2015

1. Station Modernization Overview
2. Funding and Timeline
3. Project Scope
4. Discussion



View 1 - From southwest looking toward new glass stair tower and BART police substation

\$150 M (Prop 1B), **\$10 M** (BART), **\$80 M** (Dedicated Local)
* Does not include new funding (Alameda County BB \$90M + SF Prop A \$30M)



BART Station Modernization Program Goals

Make Transit Work			
Maintain Reliability	Increase Station Capacity	Advance Sustainability	Improve Employee Environment
Connect to Community			
Connect to BART	Expand Universal Design	Incorporate Community Input	
Create Place			
Enhance Customer Experience	Ensure Safety and Security	Leverage Partnerships	
Implementation			
Project Readiness	Project Efficiency		

Station Modernization

January 2015

- BART System
- - - BART - Under Construction
- Previous Station Modernizations (2008)
- Gateway**
- Conceptual Design
- Preliminary Engineering



0 2.5 5 Miles

GIS Data: BART, ABAG, MTC

Priority Development Areas (PDAs)



Timeline

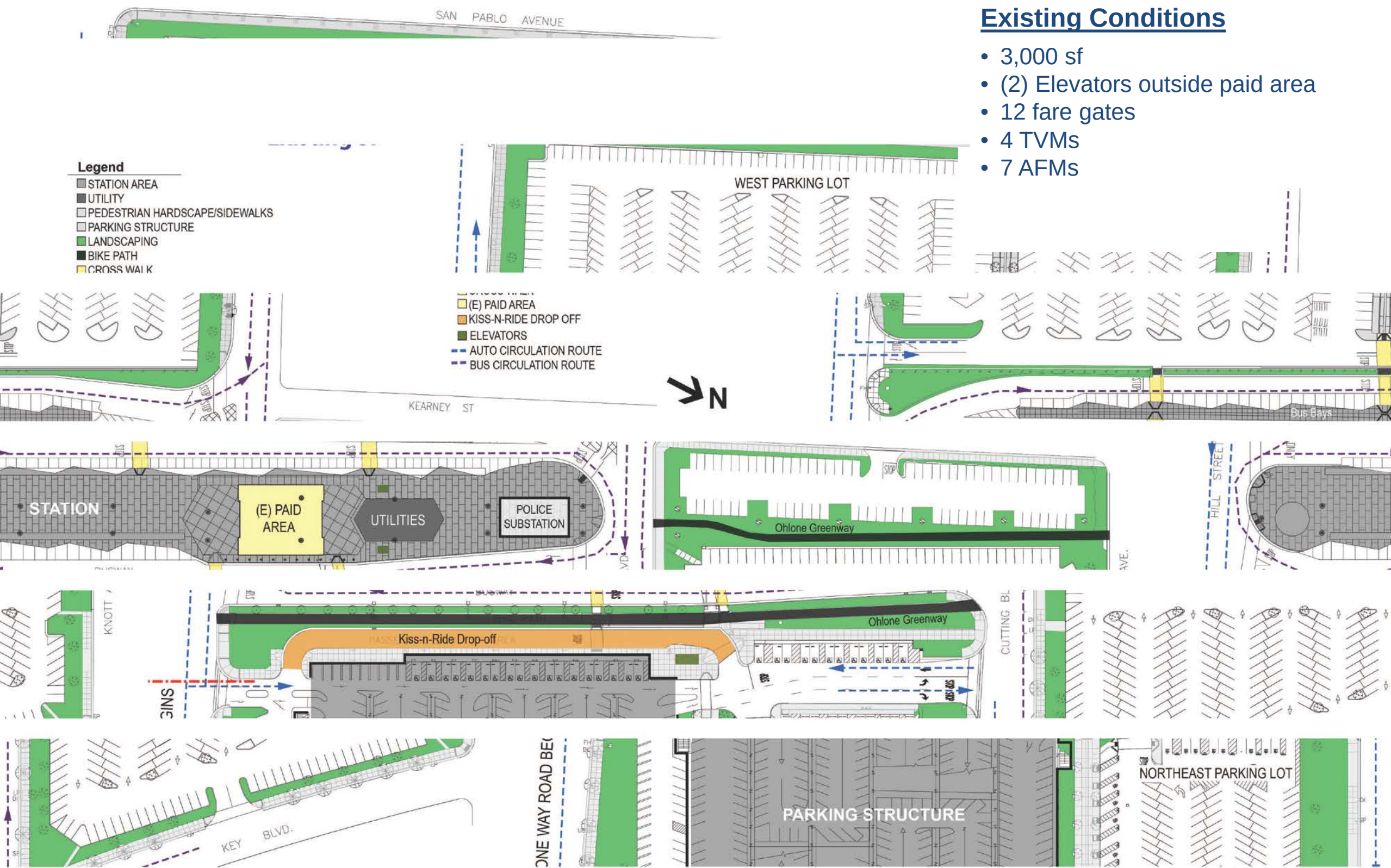
- 65% Design Documents – May 2015
- Community Outreach – June 16th 2015
- 95% Design Documents – September 2015
- Issue for Bid – December 2015
- Procurement/Bidding – January – March 2016
- Construction – April 2016 – December 2016

Cost Estimate

- \$23.8 Million Dollars (including allowances, and escalation)

Available Funds

- \$11,136,987 Prop 1B BART
- \$9,003,000 BART Meas J (to be requested June 2015)
- \$1,600,000 Lifeline Grant
- **\$21,736,987 Total**
- (2,063,013)

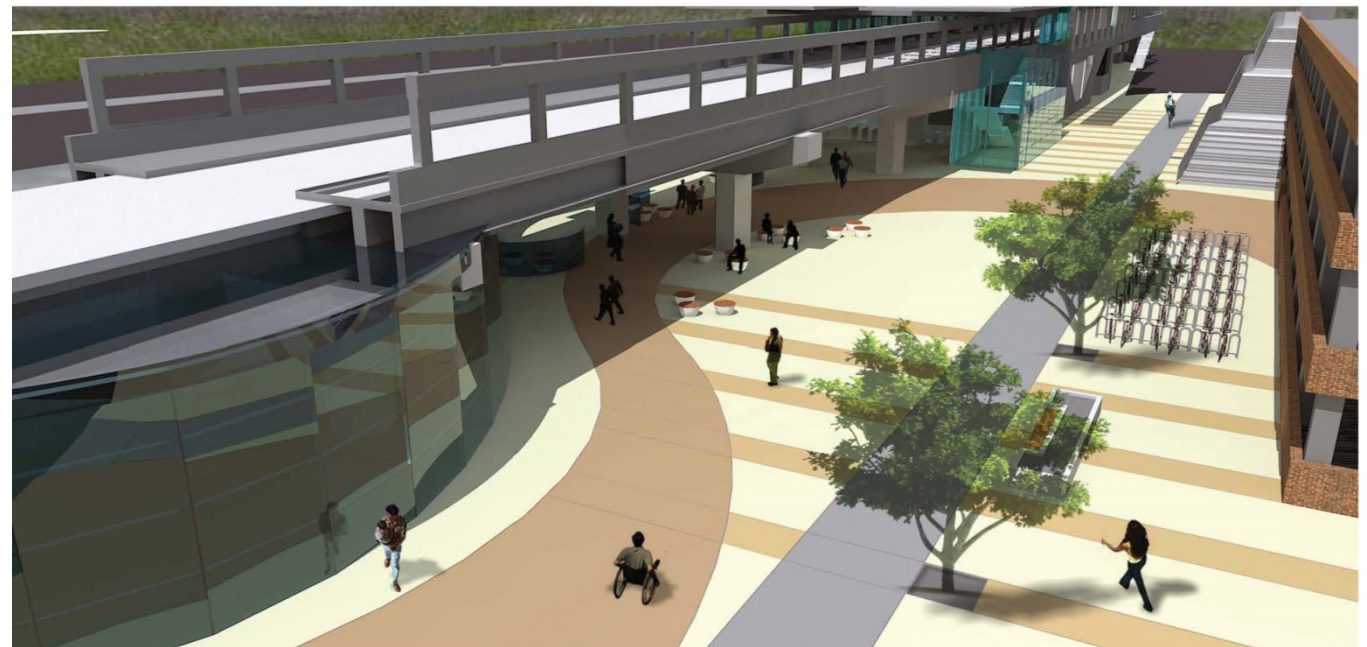
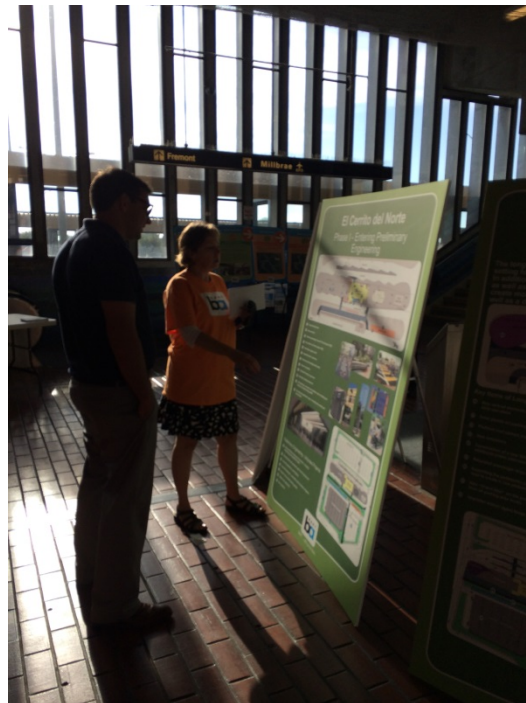
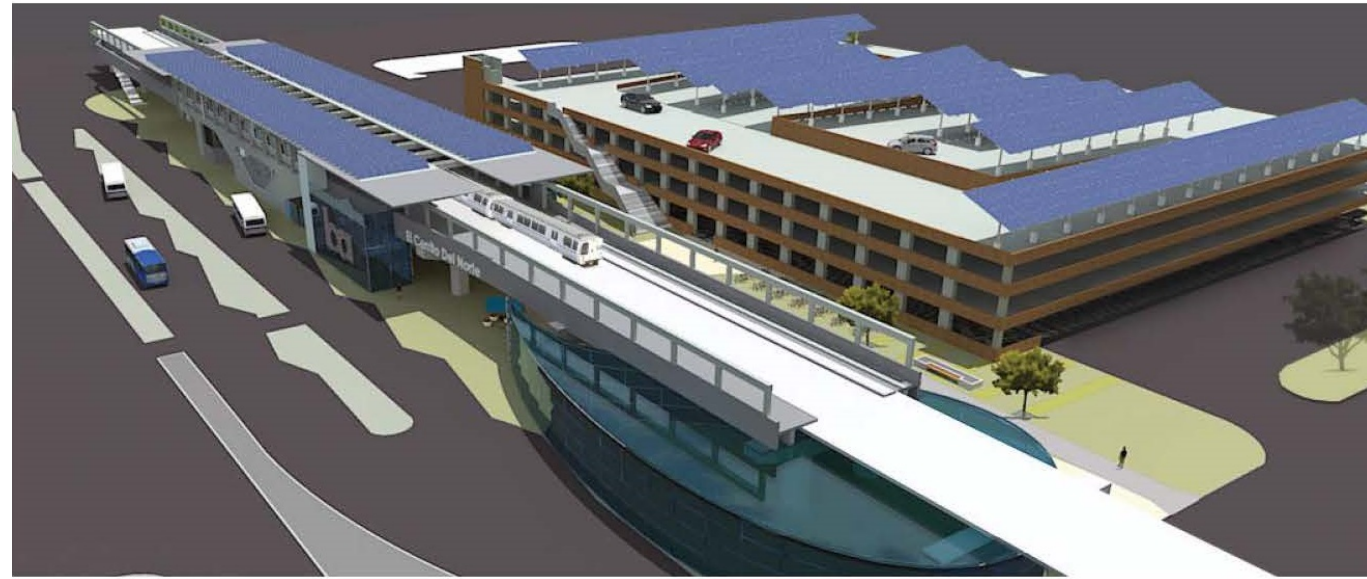


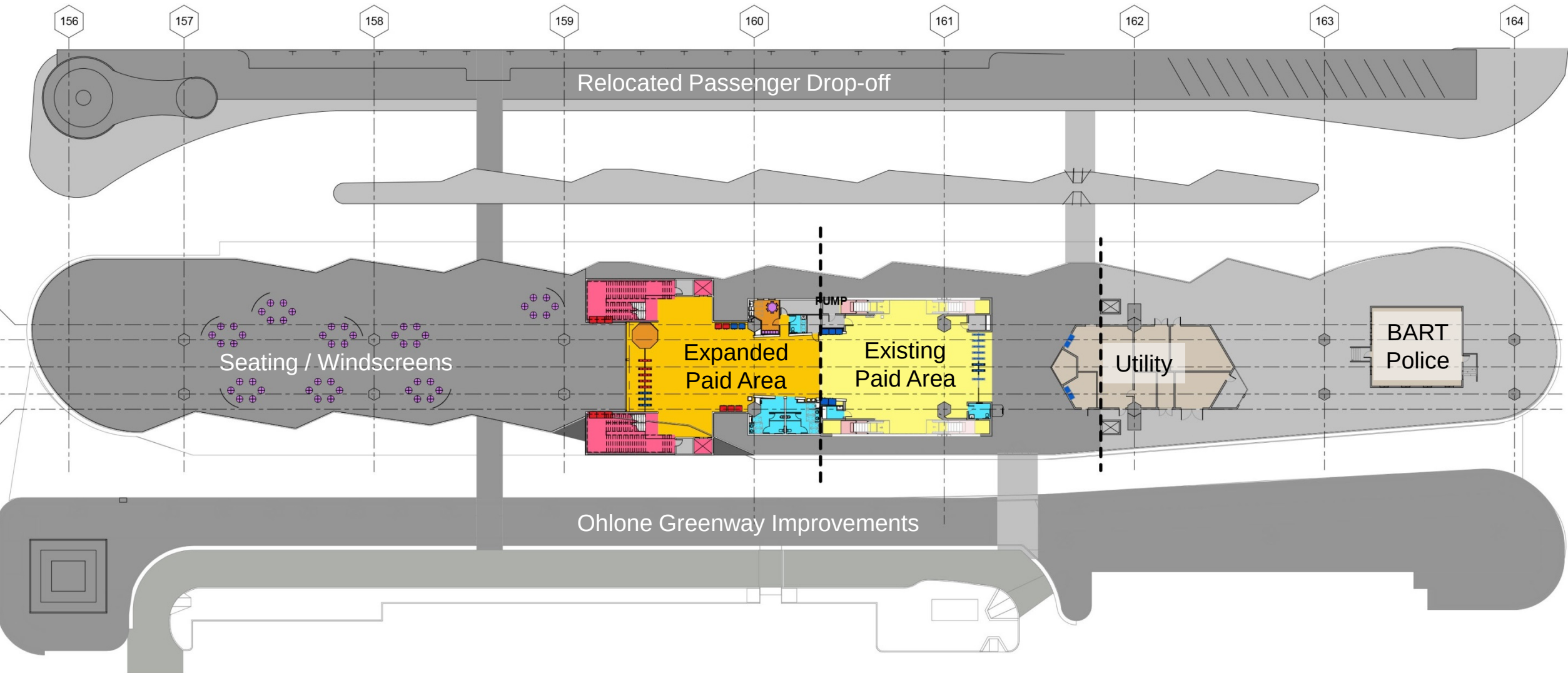
Existing Conditions

- 3,000 sf
- (2) Elevators outside paid area
- 12 fare gates
- 4 TVMs
- 7 AFMs

Goals

1. Improve Passenger Experience
2. Highlight Sustainability
3. Improve Station Access
4. Engage the Surrounding Community
5. Maintain Options for Future Development





Base Project

- Expanded Paid Area
- New elevators
- New Stairs
- Glass stair & elevator enclosure
- New station agent booth
- Station agent break room upgrades
- Refurbish mosaic tile artwork
- Provide new public artwork
- Relocate bike racks
- Trash & recycling receptacles
- LED lighting and metal panel soffit
- Relocate passenger drop-off
- New seating & wind screens
- New Bus operator Bathrooms
- New Patron Bathrooms
- Replace & repair door hardware (CNI)
- Replace ADA tactile wayfinding tiles

Option

- Enhanced Ohlone Greenway Connection
- Enhanced bike path
- Perimeter site signage
- Improved site lighting
- Storm drain improvements
- Station main sign, logo, directional & wayfinding signage

Department Legend

- (E) PAID AREA
- (N) PAID AREA
- RESTROOM
- UTILITY
- VERT. TRANSPORTATION
- STAFF
- (N) PAVING
- (E) PAVING
- KISS-N-RIDE
- (E) EQUIPMENT RELOCATED
- (N) EQUIPMENT



5. Concrete topping surface
6. 88" concrete stair
7. 3500 lb hydraulic elevator
8. Overhead coiling grille
9. Not used on sheet
10. Point supported glass curtain wall system
11. New art installation

12. Refurbish existing mosaic tile art
13. Station agent booth
14. New public restrooms
15. Bus Operator restroom
16. New staff restroom

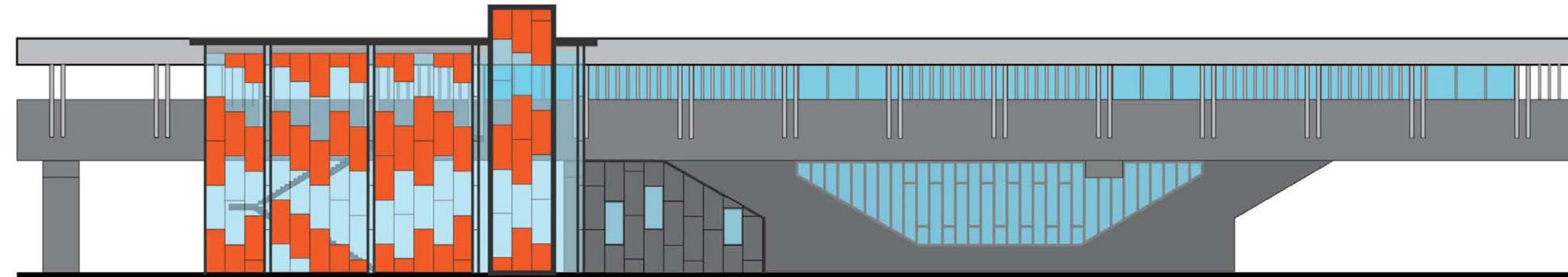


El Cerrito BART Stations Modernization Concept Study
Final Report - DRAFT

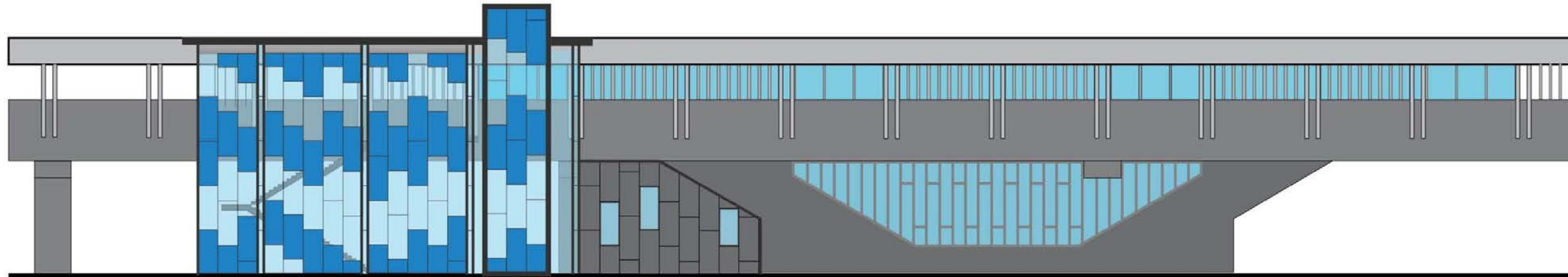


AE³ Partners, Inc. + KKCS, Inc.

27



Glass curtainwall with metal panel

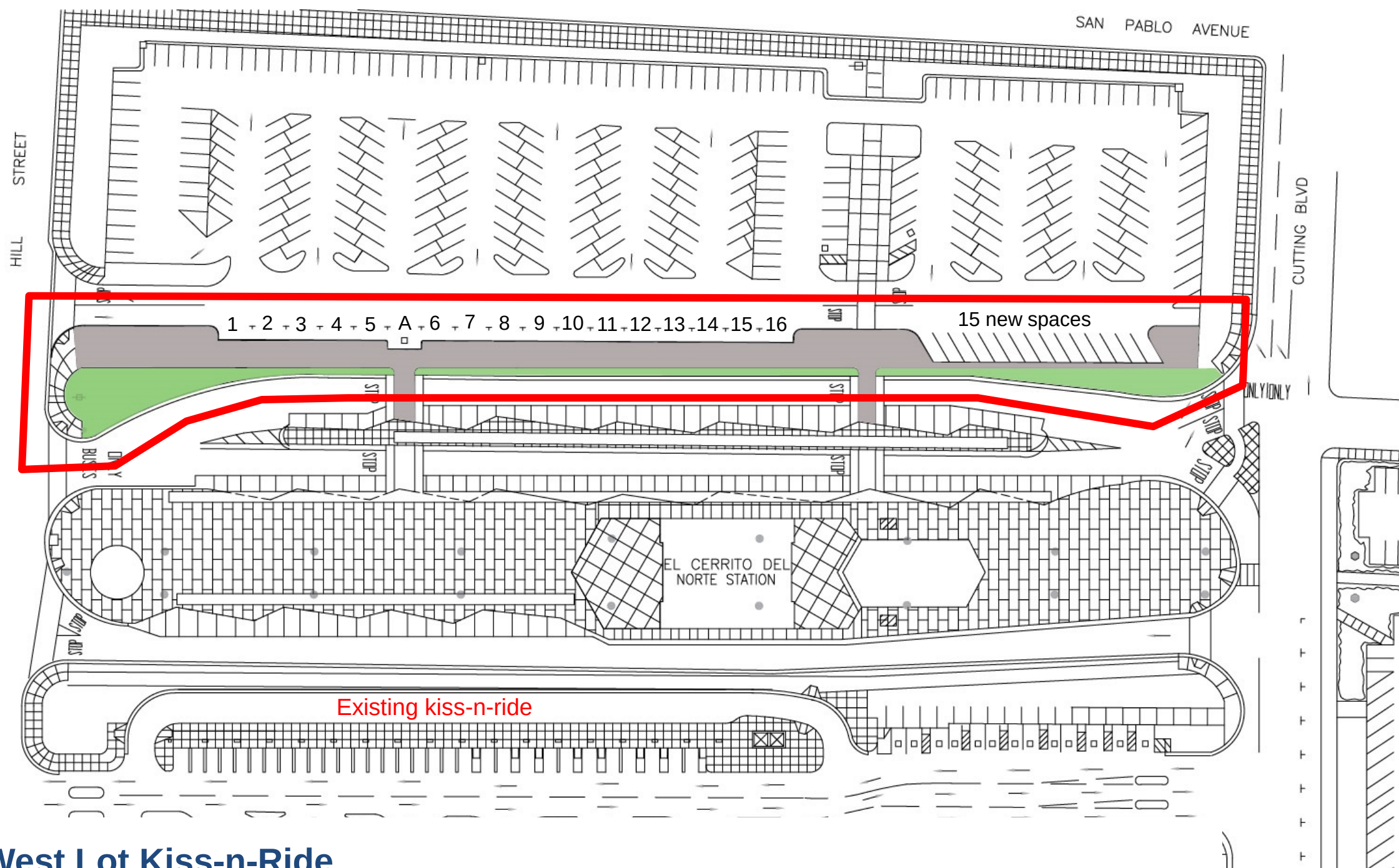


Glass curtainwall with metal panel



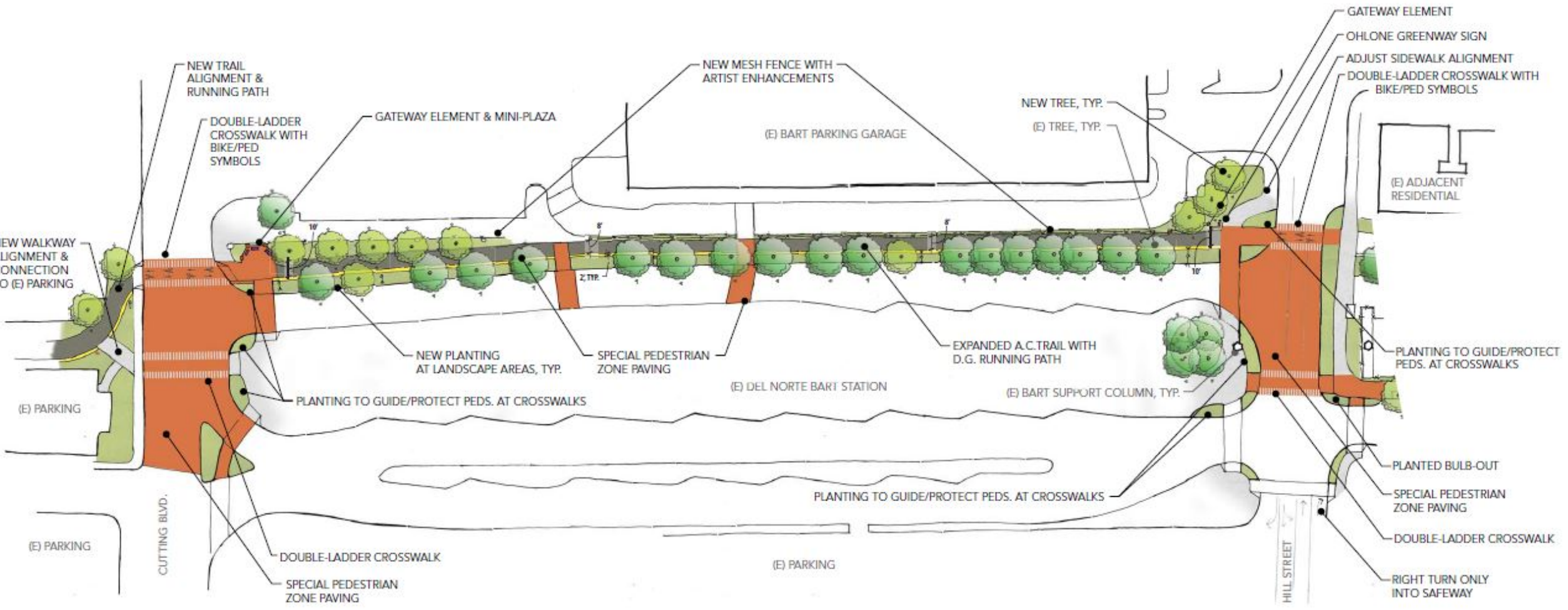
BART EL CERRITO DEL NORTE STATION IMPROVEMENTS
EXPANDED PAID AREA CONCEPTS

Exterior Elevations - Option 2
9 December 2014



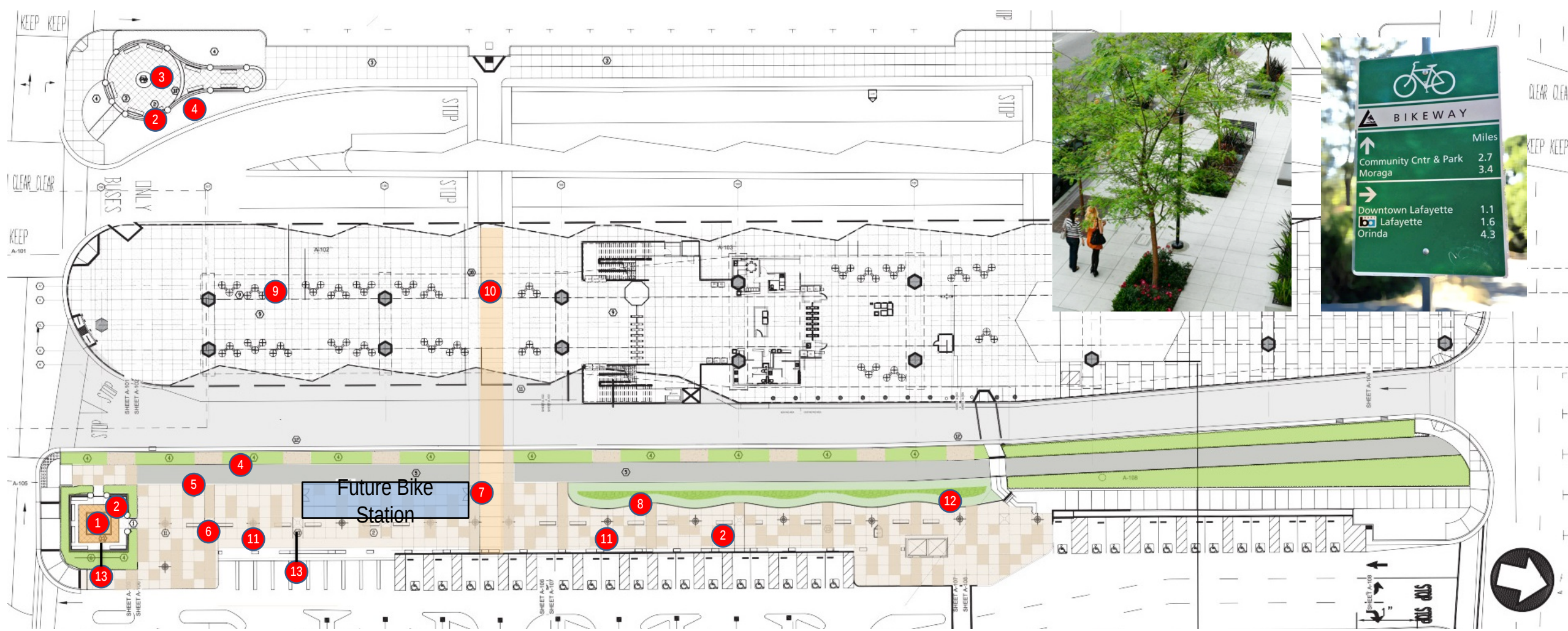
West Lot Kiss-n-Ride

- 16 cars plus 1 BART approved ADA van drop off.
- Requires relocating driveway and end islands to the west.
- Parking added where space available, net loss of 38 spots in the west lot.



Plan View
Ohlone Greenway, Del Norte Bart, Hill Street to Cutting Boulevard

0 15 30 60 FEET
April 2013



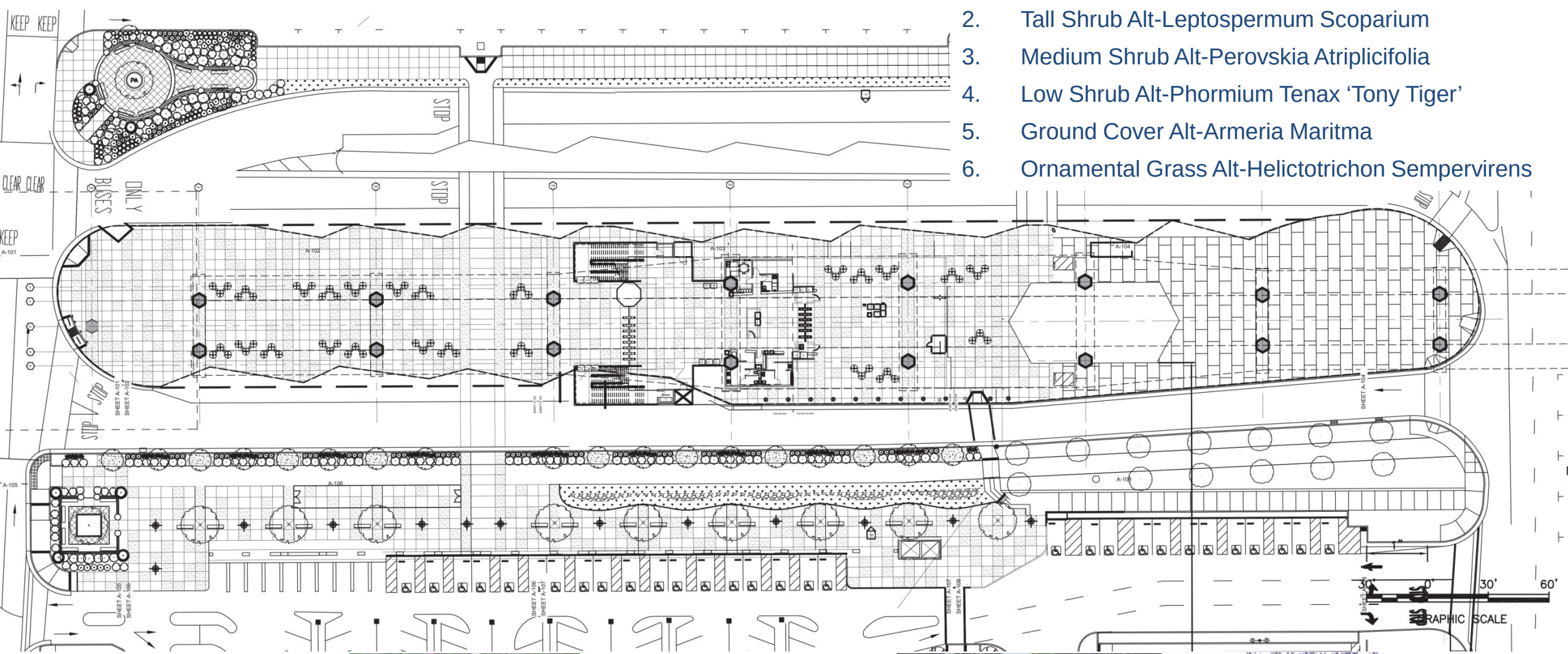
Key Notes

- | | |
|------------------------------------|------------------------------------|
| 1. Pocket Park | 8. Biofiltration Zone |
| 2. Bench Seating | 9. Station Plaza Seating Pods |
| 3. Drop-Off Waiting Area | 10. Decorative Accent Paving Bands |
| 4. Planting Area | 11. Light Standard |
| 5. Bike Lane | 12. Cobble Treatment |
| 6. Decorative Walls With Pilasters | 13. Tree Grates |
| 7. Paving Field | |



Plant Types

- 1. Tree Alt-Carpinus Betulus ‘Fastigiata’
- 2. Tall Shrub Alt-Leptospermum Scoparium
- 3. Medium Shrub Alt-Perovskia Atriplicifolia
- 4. Low Shrub Alt-Phormium Tenax ‘Tony Tiger’
- 5. Ground Cover Alt-Armeria Maritma
- 6. Ornamental Grass Alt-Helictotrichon Sempervirens





Questions / Further Discussion?



Date: April 27, 2015
To: El Cerrito City Council
From: Citizens Street Oversight Committee
Subject: Annual Report to City Council and Citizens of El Cerrito

On this date, the Citizens Street Oversight Committee met to review expenditures of revenue collected pursuant to Chapter 4.60 of the El Cerrito Municipal Code to determine whether such funds were expended for the purposes specified in the current Street Repair and Maintenance Expenditure Plan. The expenditures reviewed were reported for Fiscal Year 2013-14, and were summarized in the City's Comprehensive Annual Financial Report. Further, the Committee reviewed the Agreed Upon Procedures Report issued by the City's independent auditors, Maze and Associates, which indicated that nothing came to their attention that caused them to believe that the City had failed to comply with the terms, covenants and conditions of the Master Installment Sale Agreement related to the bond issue. The Committee also reviewed a detailed list of vendors to whom the expenditures were made.

By a unanimous vote as indicated below, the Committee found that the expenditures were an appropriate use of the Pothole and Local Street Improvement and Maintenance Transactions and Use Tax. The Committee is hereby reporting their findings to the City Council and the citizens of the City of El Cerrito pursuant to Section 2.04.320 C of the El Cerrito Municipal Code.

AYES: Vice Chair Kessler, and Committee Members Miller, Kelly, Keller, and Ma
NOES: None
ABSENT: None

EL CERRITO CITY COUNCIL

MINUTES

REGULAR CITY COUNCIL MEETING

Tuesday, May 19, 2015 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Jan Bridges

Councilmember Janet Abelson
Councilmember Gabriel Quinto

ROLL CALL

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

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Friedman convened the regular City Council meeting at 7:00 p.m.

1. **PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE** was led by Mayor Pro Tem Lyman.

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Pro Tem Lyman reported that he, Mayor Friedman and Councilmember Quinto attended the Association of Bay Area Governments (ABAG) General Assembly on April 23 and received a presentation on water issues, the future of water and diversification of the water supply. The conference also included a breakout session for the upcoming Plan Bay Area process which may also be presented to the City Council at some point in the future. The East Bay Municipal Utility District (EBMUD) recently informed the City that water supplies are at a critical low and that there are new use restrictions in force. Landscape watering is limited to two days or less per week for Landscape and EBMUD encourages the use of hose shut-off valves, a broom or air blower to clean hardscape such as driveways and sidewalks rather than water and to turn off any fountain or decorative feature that uses potable water unless it is recirculated. Customers within the EBMUD district are expected to cut use by 20 percent.

Councilmember Abelson reported that she attended a Local Government Commission Policy Makers event in Oakland on May 14 regarding the drought and water issues. Speakers from the State Division of Regional Water Management and the City of San Jose's Environmental Quality Department made presentations. It was interesting to understand the perspective of San Jose, one of the top ten largest cities in the Nation, regarding its aggressive approach to water management and how it plans to cut potable water use by 30 percent.

Mayor Friedman stated that a former Mayor of El Cerrito, Sandi Potter, was on the panel at the ABAG Assembly he attended with Mayor Pro Tem Lyman and Councilmember Quinto. Ms. Potter noted several El Cerrito projects and initiatives during the discussion. Mayor Friedman also attended a separate ABAG Assembly meeting via teleconference with delegates of 36 other cities. Taste of Ethiopia, a new restaurant in El Cerrito near Del Norte BART station, held its grand opening recently. Mayor Friedman noted that he attended this event with Councilmember Abelson, reported that the food is good and encouraged all who may be interested in Ethiopian food to try the restaurant.

3. **ORAL COMMUNICATIONS FROM THE PUBLIC**

Cordel Hindler, Richmond, expressed concerns regarding the presence of El Cerrito Police cars driving through his neighborhood. Mr. Hindler also asked if there is a Youth Council in El Cerrito and noted that the City of Richmond has one.

Susan Schwartz, Friends of Five Creeks, expressed appreciation for Dave Weinstein's work on the Hillside Festival over the weekend. Ms. Schwarz updated the City Council with the volunteer group's progress controlling fire-prone scotch broom in the Hillside Natural Area. Ms. Schwartz said that El Cerrito needs to budget realistically to maintain its Hillside Areas. The City is blessed to have so many dedicated volunteers but volunteers cannot be directed like staff. Despite Environmental Programs Manager, Stephen Preé's heroic efforts volunteers are not able to control the plantings. A paid staff coordinator is recommended. Budgeting for maintenance of Cerrito Creek is also needed. Yearly mowing in the Hillside area is not going to stop the growth of pampas grass, fennel or other fire prone invasive plants. Natural areas require maintenance that is different from the greenway and fields. Ms. Schwartz concluded by saying that El Cerrito has a wonderful environmental record and that she hopes the City will do what is needed to keep the natural areas as the City's "jewel in the crown."

Karl Mulligan, El Cerrito, thanked the City Council for the work it is doing and noted that El Cerrito is a nice place to live. Mr. Mulligan expressed concerns about the City's contract with County Animal Services and the work the County is doing and stated that the services are far less than exemplary. Mr. Mulligan stated that his dog was seized without a lawful order and confined in a 4'x10' cage for fourteen days without exercise. Mr. Mulligan encouraged all to review the contract, have a public meeting and consider how the contract affects members of the community.

Ralph Boniello, El Cerrito and Board Member of Friends of Five Creeks, thanked all who participated in and organized the Hillside Festival this year. Mr. Boniello said he seconds the points made by Ms. Schwartz regarding the Hillside Natural Area and the need for additional money for maintenance. He also expressed concerns regarding trees in the Hillside Natural Area, particularly those that are fire prone. Mr. Boniello said he would like to see dedicated money allocated to maintenance in the Hillside Natural Area that addresses fire fuel on a long term rather than emergency basis.

Tom Gehling, El Cerrito and El Cerrito Trail Trekkers, stated that he supported the Priority Conservation Area (PCA) designations on the agenda this evening and asked that the Fairview Open Space also be designated.

Howdy Goudey, El Cerrito, stated that he would like to see the PCA applications expanded to include more properties. The PCA designation does not change the development rights of properties but may bring additional funding and grant opportunities. The PCA designation

should not be seen as imposing something negative on a private property but rather as bringing resources to a private property owner who has special amenities on a site such as creeks. Mr. Goudey stated that he hopes the City Council will discuss the possibility of including Fairview Open Space and other private parcels around the Hillside Natural Area in the application.

4. PRESENTATIONS

A. Economic Development Committee Workplan – Presentation by Tess Taylor, Chair and Wendy H. Brawer, Vice Chair.

Receive a presentation regarding the Economic Development Committee’s accomplishments, goals and workplan.

Action: Received presentation.

B. Smart Corridor Interstate 80 Integrated Corridor Mobility Project – Presentation by Caltrans/Circlepoint Consultants.

Presenters: Ivy Morrison and Hisham Noeimi, Circlepoint Consultants.

Action: Received presentation.

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5O

Moved, seconded (Lyman/Bridges) and carried unanimously to approve Consent Calendar Item Nos. 5(A) through 5(F) and 5(H) through 5(J) and 5(L) through 5(O) in one motion as indicated below. Consent Calendar Item Nos. 5(G) and 5(K) were removed from the Consent Calendar at the request of Mayor Pro Tem Lyman and voted on separately as indicated below.

A. Minutes for Approval

Approve the March 28, 2015 Special City Council Worksession and April 21, 2015 Regular City Council meeting minutes.

Action: Approved minutes.

B. National Public Works Week Proclamation

Approve a proclamation recognizing May 17 through May 23, 2015 as “National Public Works Week” in the City of El Cerrito and encouraging all residents and civic organizations to acquaint themselves with the issues involved in providing public works services and recognizing the contributions public works personnel make every day to the City’s health, safety, comfort and quality of life.

Action: Approved proclamation.

C. Bike to Work Month Proclamation

Approve a proclamation declaring May 2015 as Bike to Work Month in the City of El Cerrito and recognizing the value of increased bicycle use and encouraging participation in bicycling activities throughout the month of May.

Action: Approved proclamation.

D. CalFresh Awareness Month Proclamation

At the request of Mayor Friedman, approve a proclamation declaring May 2015 as CalFresh Awareness Month in the City of El Cerrito.

Action: Approved proclamation.

E. Asian American and Pacific Islander Heritage Month Proclamation

At the request of the Human Relations Commission, approve a proclamation declaring the Month of May 2015 Asian American and Pacific Islander Heritage Month in the City of El Cerrito and inviting everyone to reflect on the notable accomplishments and outstanding services provided by Asian Americans and Pacific Islanders to the Nation, California and the City of El Cerrito.

Action: Approved proclamation.

F. Jewish American Heritage Month Proclamation

At the request of the Human Relations Commission, approve a proclamation declaring May 2015 as Jewish American Heritage Month in the City of El Cerrito and calling upon all residents to celebrate Jewish Americans who have helped weave the fabric of not only American history, culture and society but also the City of El Cerrito, to visit www.JewishHeritageMonth.gov to learn more about the heritage and contributions of Jewish Americans, and to observe this month with solemn remembrance, appropriate programs, activities and ceremonies.

Action: Approved proclamation.

G. Ordinance Establishing the Measure A Swim Center Parcel Tax Rates for Fiscal Year 2015-15.

Introduce by title, waive any further reading and approve an ordinance establishing the Measure A Swim Center Parcel Tax rates for Fiscal Year 2015-16, equal to the approved Fiscal Year rates of \$38.61 per single-family residential unit, \$29.73 per multi-family residential unit and \$270.66 per acre of non-residential property.

Action: Removed from the Consent Calendar at the request of Mayor Pro Tem Lyman for the purposes of discussing an increase in the assessment rate. Referred to the Parks and Recreation Commission for further discussion and analysis.

H. Landscape and Lighting Assessment District No. 1988-1.

Accept the Engineer's Report specifying assessments for the Landscape and Lighting Assessment District and adopt a Resolution of Intention to Order Improvements pursuant to the Landscape and Lighting Act of 1972, and setting the time, date, and place of the public hearing as June 2, 2015 at 7:00 p.m.

Action: Adopted Resolution No. 2015-34.

I. Stop Signs at Various Locations

Adopt two separate resolutions authorizing the Public Works Director/City Engineer to install stop signs on: 1) Mono Avenue at Conlon Avenue; and 2) Brewster Drive at Buckingham Drive. *Exempt from CEQA.*

Actions: Adopted Resolution Nos. 2015-35 and 2015-36.

J. Castro Park Field Renovation, City Project No. C-5032

Adopt a resolution taking the following actions: 1) Approve plans for the Castro Park Field Renovation; 2) Amend the Capital Improvement Program and the Fiscal Year 2014-15 Adopted Budget to appropriate \$200,000 in the Capital Improvements Fund (Fund 301) for the Castro Park Field Renovation, City Project No. C-5032; and 3) Authorize the City Manager to award a contract, contingent on successful negotiations with Bauman Landscape and Construction, Inc. (the lowest responsible bidder for the project), for a deductive change

order after undergoing a value engineering process which is not inconsistent with the budget for the Castro Park Field Renovation, City Project No. C-5032. *Exempt from CEQA.*

Action: Adopted Resolution No. 2015–37.

K. Priority Conservation Areas Designation

Adopt a resolution supporting the designation of the Hillside Natural Area, Lower Cerrito Creek, and the Ohlone Greenway as Association of Bay Area Governments Priority Conservation Areas. *Exempt from CEQA.*

Speakers: Howdy Goudey, El Cerrito, expanded on statements made during the general comment period by requesting additional explanation regarding legal issues affecting PCA designation for some private properties.

Pamela Austin, El Cerrito, thanked staff for its work on the PCA designation and stated that she strongly hopes that the list will be submitted within the deadline. PCA designation is important for the City. Ms. Austin stated that she would not want the application held up for the Fairview property. The request to include the Fairview property with the other properties proposed for designation is consistent with the Wells Fargo property listed in the application. Fairview is a natural extension of the Hillside Area with a number of natural resource assets that would be of benefit to residents.

Action: Removed from the Consent Calendar at the request of Councilmember Lyman to acknowledge comments received from the public on this item. Moved, seconded (Lyman/Abelson) and carried unanimously to adopt Resolution No. 2015–38.

L. Declare El Cerrito a Honey Bee Haven

At the request of the Environmental Quality Committee, adopt a resolution declaring the City of El Cerrito to be a Honey Bee Haven and authorizing the City of El Cerrito to be added to the honeybeehaven.org map.

Action: Adopted Resolution No. 2015–39.

M. Economic Development Committee Appointment

Approve an Economic Development Committee recommendation to appoint Tom Petersen to the Economic Development Committee effective May 20, 2015.

Action: Approved recommendation.

N. Committee on Aging Appointment

Approve a Committee on Aging recommendation to appoint Kenneth Epley to the Committee on Aging, effective May 19, 2015.

Action: Approved recommendation.

O. Annual Progress Report on the General Plan 2014

Receive and file the General Plan Annual Progress Report.

Action: Received and filed as revised to include a modification to page ten of the progress report as noted by Mayor Pro Tem Lyman to recognize the historic stone lined channel on the 1715 Elm Street property.

6. PUBLIC HEARINGS

A. Appeal of the Planning Commission's Approval of a Design Review Application for the Project Proposed for 1715 Elm Street

Staff recommends that the City Council review the information in the record, conduct a public hearing to consider testimony from the public and upon conclusion of the public hearing adopt a resolution making findings upholding the decision of the Planning Commission to approve the design review application for the project at 1715 Elm Street. *The City completed environmental review of the project when the City Council adopted the initial study/mitigated negative declaration on August 19, 2014. Staff has reviewed the project and the evidence in the record and determined that no substantial evidence exists that would support findings required for subsequent or supplemental environmental review.*

STAFF PRESENTATION:

Margaret Kavanaugh-Lynch, Development Services Manager, delivered the staff presentation. City Attorney Woodruff further explained the scope and purview of the City Council's consideration this evening.

PUBLIC HEARING:

Mayor Friedman opened the public hearing.

APPELLANT PRESENTATION: Howdy Goudey, and Robin Mitchell, El Cerrito, made the appellant presentation.

APPLICANT REBUTTAL: Carl Campos, Project Architect, LCA Architects.

PUBLIC TESTIMONY. Seven speakers.

Tom Panas, El Cerrito, queried whether the handling of stormwater on the site needs to be reconsidered for the site. Mr. Panas noted that between the additional water being added to the creek during a storm and the turbulence that will be created in the creek channel it appears that there may be a possibility that creek overflow may undermine the stone walls of the creek. A much better solution would be a stormwater retention system as recommended by the State Water Resources Control Board instead of the system as proposed.

Arlin Robins, El Cerrito, stated the City is willing to encroach upon an existing ordinance and mandate that protects the creek for the sake of a developer who is trying to make the highest possible profit. There is a lot that could be done with the property to protect the existing creek by fifteen feet on either side. It is the responsibility of the Council and staff to look at the whole project and its impacts not only on the Elm Street property but also on the environment and people. Ms. Robins urged the City to take one more look and see if there is a way to reduce the size of the project and number of units and increase the distance between the building and the creek.

BJ Thorsnes, El Cerrito, stated that everyone is concerned about the creek, particularly the fact that buildings will be four feet from the creek. Ms. Thorsnes stated that the community does not agree with what the City is doing on many things and said that the community needs a better dialogue about development.

Ralph Boniello, El Cerrito, spoke in support of the creek and stated that the creek ordinance protects the aesthetic quality of creeks and noted that creeks are a rare natural resource in El Cerrito. As a resident who serves on a city committee and works on city policy, Mr. Boniello stated that is very disappointed that the City is not following the creeks ordinance and that resident comments have been ignored. Mr. Boniello asked the City Council to revisit the issue and reconsider the creek, what the Council is telling residents and its

decision.

Franklin Leong, El Cerrito, cited El Cerrito Municipal Code Section 19.12.040 and noted that state agency permits have not been obtained. Mr. Leong stated that he spoke with a representative of the Desert Research Institute and was told that placing a building so close to the creek is very dangerous.

Henia Pines, El Cerrito, stated that El Niño is predicted next year which will be a big disaster for all involved and asked who will be responsible [for any damage resulting from a storm]. Ms. Pines stated that no one agrees with the City Council and asked the Council to reconsider the project.

Howdy Goudey, El Cerrito, stated that the City should demand more from its development partners to create a positive outcome for the community. Mr. Goudey expressed concerns regarding stormwater management, impacts resulting from a ten-year rainfall event and stated that the City is opening itself up to potential liability over this issue.

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

Action: Moved, seconded (Bridges/Abelson; Ayes – Councilmembers Abelson, Bridges and Mayor Friedman; Noes – Mayor Pro Tem Lyman and Councilmember Quinto; Abstain – None) and carried to adopt Resolution No. 2015–40 making findings, denying the appeal and upholding the Planning Commission’s approval of the design review application for 1715 Elm Street as amended by Councilmember Bridges to include the following three conditions: 1) Decrease the amount of hardscape adjacent to the stone lined channel; 2) Consider a fence that sits along the creek on the side of the historic structure that is in keeping with the look of the historic structure itself; and 3) Add riparian plantings along the rock lined channel.

B. Master Fee Schedule

Conduct a public hearing and upon conclusion adopt a resolution approving the Fiscal Year 2015-16 Master Fee Schedule.

Presenter: Lisa Malek-Zadeh, Finance Director.

Mayor Friedman opened the public hearing.

Speakers: Tom Panas, El Cerrito, reminded all that he previously pointed out that most if not all volunteer organizations are grossly out of compliance with the business license regulations. Mr. Panas previously suggested a one-time amnesty and business license fee changes for volunteer organizations be considered.

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

Action: Moved, seconded (Lyman/Bridges) and carried unanimously to adopt Resolution No. 2015–41 as amended to include a revised Section 5 (Business Licenses) of Exhibit A to the resolution.

7. POLICY MATTERS – None

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

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

Councilmember Bridges reported that she attended the May 11 Tree Committee meeting. Two potential new members who both have credentials in forestry, also attended. The Tree

Committee is working on the urban greening plan and also looked at the City's revised tree list.

Mayor Pro Tem Lyman reported that he attended the last West County Integrated Waste Management Authority (WCIWMA) meeting. The WCIWMA Board has interviewed candidates for executive director and provided direction to the recruiter.

7. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:06 p.m.

COMMUNICATIONS (*Distributed May 14, 2015*)

Item No. 5(K) Priority Conservation Areas Designation

1. Comments regarding the proposed Planned Conservation Area Applications – *Submitted by Howdy Goudey, El Cerrito.*

SUPPLEMENTAL REPORTS AND COMMUNICATIONS (*Distributed at the May 19, 2015 City Council meeting.*)

Item No. 4(B) Smart Corridor Interstate 80 Integrated Corridor Mobility Project

2. Revised powerpoint presentation – *Submitted by Dana Koefoed, Project Coordinator/Administrator, Circlepoint Consultants.*

Item No. 5(K) Priority Conservation Areas Designation

3. Revised comments regarding the proposed Planned Conservation Area Applications – *Submitted by Howdy Goudey, El Cerrito.*

Item No. 5(O) General Plan Annual Progress Report

4. Revised page 10 of the Progress Report – *Submitted by Sean Moss, Senior Planner.*

Item No. 6(A) Appeal of the Planning Commission's Approval of a Design Review Application for the Project Proposed for 1715 Elm Street

5. Comments in support of the Elm Street Project – *Submitted by Rebecca Benassini, El Cerrito.*
6. Comments against the Elm Street Project – *Submitted by Arlin Robins, El Cerrito.*
7. Powerpoint presentation – *Submitted by Margaret Kavanaugh-Lynch, Development Services Manager.*
8. Appellant presentation materials – *Submitted by Howdy Goudey, El Cerrito.*
9. Comments regarding stormwater management on the property – *Submitted by Tom Panas, El Cerrito.*

Item No. 6(B) Master Fee Schedule

10. Revised Section V (Business Licenses) of Exhibit A to the Resolution – *Submitted by Lisa Malek-Zadeh, Finance Director.*

Other:

11. Fire-prone invasive plants, Hillside Natural Area, main section – *Submitted by Susan Schwartz, Friends of Five Creeks.*

***CITY COUNCIL OF THE CITY OF EL CERRITO PROCLAMATION
Recognizing June as LGBT Pride Month in the City of El Cerrito***

WHEREAS, the City of El Cerrito has a diverse Lesbian, Gay, Bisexual, Transgender (LGBT) community and is committed to supporting visibility, dignity and equity for all people in the community; and

WHEREAS, many of the residents, students, city employees, and business owners within the City of El Cerrito who contribute to the enrichment of our City are a part of the lesbian, gay, bisexual, transgender, and questioning community; and

WHEREAS, various advancements have been made with respect to equitable treatment of lesbians, gay men, bisexual, transgendered, and questioning persons throughout the nation, but there continues to be some opposition against people from this community and around the world making it important for cities like El Cerrito to stand up and show support for our residents who are affected; and

WHEREAS, several cities across the United States recognize and celebrate June as LGBT Pride Month; and

WHEREAS, June has become a symbolic month in which lesbians, gay men, bisexual people, transgender, and supporters come together in various celebrations of pride; and

WHEREAS, the rainbow flag, also known as the LGBT pride flag or gay pride flag, has been used since the 1970s as a symbol of Lesbian, Gay, Bisexual, Transgender pride and LGBT social movements; and

WHEREAS, flying the rainbow flag at City Hall throughout the month of June further symbolizes the City's celebration of diversity and support for the Lesbian, Gay, Bisexual, Transgender community.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby declare the month of June as LGBT Pride Month in the City of El Cerrito, and invites everyone to reflect on ways we all can live and work together with a commitment toward mutual respect and understanding, and further, recognizes Pride Month by flying the rainbow flag at City Hall during the month of June.

Dated: June 2, 2015

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 5(C)

Date: June 2, 2015
To: El Cerrito City Council
From: Karen Pinkos, Assistant City Manager, Staff Liaison to
Human Relations Commission
Subject: Proclamation Declaring June 12, 2015 as “Loving Day”

ACTION REQUESTED

Approve a proclamation declaring June 12, 2015 as “Loving Day” in the City of El Cerrito and authorize the Mayor to send letters of support to federal and state elected officials urging the recognition of Loving Day.

BACKGROUND/ANALYSIS

Part of the mission of the City’s Human Relations Commission (HRC) is to recognize the racial, ethnic, religious and cultural diversity of the El Cerrito community. The HRC has endeavored to do this in part by recommending to the City Council the adoption of proclamations or resolutions to honor diverse communities, cultures, and events. At its May 6, 2015 meeting, the HRC unanimously moved to recommend that the City Council recognize “Loving Day” for the first time on June 12, 2015.

Loving Day is a movement that began in 2004 by then-graduate student Ken Tanabe in New York to recognize the day that the United States Supreme Court issued its landmark ruling in *Loving v Virginia* (1967) that outlawed interracial marriage in the United States. Mildred and Richard Loving, an interracial couple, were married in 1958 in Washington, DC because it was illegal for them to marry in their home state of Virginia. When they tried to return home to live permanently, they were arrested, convicted, and threatened with jail time unless they left the state. The Lovings decided to fight this ruling, eventually winning in a unanimous decision by the U.S. Supreme Court after nine years of appeals. This ruling is considered one of the most notable civil rights decisions in U.S. history.

Loving Day has grown into a celebration of multicultural community, and provides an annual opportunity for people to learn history's lessons while envisioning ways to improve the future. More information on Loving Day can be found at www.lovingday.org. To that end, the HRC requests that in considering this proclamation, that the Mayor be authorized to send letters to Federal and State elected officials informing them of the City’s action. The intent of the letter is to encourage more cities, the State of California, and the Federal Government to celebrate Loving Day as a day of recognition for civil rights, multicultural communities, and bringing people together of different races, cultures, nationalities, and religious beliefs.

STRATEGIC PLAN CONSIDERATIONS

Adoption of the proposed proclamation would help fulfill Goal C: Deepen a Sense of Place and Community Identity. Specifically, adoption of the proposed proclamation would contribute to achieving the following strategies:

- *Celebrate the City's diversity by welcoming residents of all ages and cultures and encouraging their civic involvement.*
- *Promote arts, culture, and community celebrations.*

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Accompanying Proclamation
2. Proposed Letter to Elected Officials

***CITY COUNCIL OF THE CITY OF EL CERRITO PROCLAMATION
Recognizing June 12, 2015 as Loving Day in the City of El Cerrito***

WHEREAS, Mildred and Richard Loving were arrested in 1958 for violating Virginia's felony law prohibiting interracial marriage; and

WHEREAS, the Loving family was convicted of violating the law and given a suspended sentence provided that they did not return to their home in the Commonwealth of Virginia as a couple for 25 years; and

WHEREAS, the Loving family did not back down but took their case to the United States Supreme Court and won, overturning their conviction and creating a landmark civil rights victory; and

WHEREAS, their case *Loving v Virginia (1967)* ended all laws prohibiting interracial marriage nationwide, paving the way for all consenting adults to marry the one they love; and

WHEREAS, an annual celebration known as Loving Day is held on June 12 in communities throughout the nation to commemorate and celebrate the anniversary of the 1967 Supreme Court decision; and

WHEREAS, our country, state and region are moving forward in the 21st Century as a multiracial and multicultural society; and

WHEREAS, the City of El Cerrito joins other communities to find a common vision from our interwoven past to build a society free of racism for the benefit of our collective future.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby declare June 12, 2015 as Loving Day in the City of El Cerrito, and invites everyone to recognize this day as a celebration of multiculturalism, and to reflect on the Loving family and all of the pioneers who have and will continue to fight for the civil right to love.

Dated: June 2, 2015

Mark Friedman, Mayor



OFFICE OF THE MAYOR
Mark Friedman

Agenda Item No. 5(C)
Attachment 2

June 3, 2015

President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

RE: Proclamation declaring June 12, 2015 “Loving Day” in the City of El Cerrito

Dear President Obama,

On June 2, 2015, the City Council of the City of El Cerrito issued a proclamation declaring June 12, 2015 “Loving Day” in the City of El Cerrito. The City Council would like to encourage you, along with your colleagues in the United States Congress, to recognize “Loving Day” at the Federal level by proclamation as an official day of celebration in the United States.

Loving Day is a movement that began in 2004 by then-graduate student Ken Tanabe in New York to recognize the day that the United States Supreme Court issued its landmark ruling in *Loving v Virginia* (1967) that outlawed interracial marriage in the United States. As you know, this ruling is considered one of the most notable civil rights decisions in U.S. history. Loving Day has grown into a celebration of multicultural community, and provides an annual opportunity for people to learn history's lessons while envisioning ways to improve the future. More information on Loving Day can be found at www.lovingday.org.

To that end, the City Council, upon recommendation of the City's Human Relations Commission, proclaimed June 12, 2015 “Loving Day” in the City of El Cerrito to encourage our community to recognize this day as a celebration of multiculturalism, and to reflect on the Loving family and all of the pioneers who have and will continue to fight for the civil right to love. We respectfully request that you consider issuing a proclamation as well, to celebrate Loving Day in the United States as a day of recognition for civil rights, multicultural communities, and bringing people together of different races, cultures, nationalities, and religious beliefs.

Sincerely,

Mark Friedman, Mayor
City of El Cerrito

cc: U.S. Senator Dianne Feinstein
U. S. Senator Barbara Boxer
Congressman Mark DeSaulnier
Governor Edmund G. Brown, Jr., State of California
California Senator Loni Hancock
California Assembly Member Tony Thurmond



OFFICE OF THE MAYOR
Mark Friedman

Agenda Item No. 5(C)
Attachment 2

June 3, 2015

Governor Edmund G. Brown, Jr.
State of California
c/o State Capitol, Suite 1173
Sacramento, CA 95814

RE: Proclamation declaring June 12, 2015 “Loving Day” in the City of El Cerrito

Dear Governor Brown,

On June 2, 2015, the City Council of the City of El Cerrito issued a proclamation declaring June 12, 2015 “Loving Day” in the City of El Cerrito. The City Council would like to encourage you, along with your colleagues in the California Legislature, to recognize “Loving Day” at the State level by proclamation as an official day of celebration in California.

Loving Day is a movement that began in 2004 by then-graduate student Ken Tanabe in New York to recognize the day that the United States Supreme Court issued its landmark ruling in *Loving v Virginia* (1967) that outlawed interracial marriage in the United States. As you know, this ruling is considered one of the most notable civil rights decisions in U.S. history. Loving Day has grown into a celebration of multicultural community, and provides an annual opportunity for people to learn history's lessons while envisioning ways to improve the future. More information on Loving Day can be found at www.lovingday.org.

To that end, the City Council, upon recommendation of the City’s Human Relations Commission, proclaimed June 12, 2015 “Loving Day” in the City of El Cerrito to encourage our community to recognize this day as a celebration of multiculturalism, and to reflect on the Loving family and all of the pioneers who have and will continue to fight for the civil right to love. We respectfully request that you consider issuing a proclamation as well, to celebrate Loving Day in California as a day of recognition for civil rights, multicultural communities, and bringing people together of different races, cultures, nationalities, and religious beliefs.

Sincerely,

Mark Friedman, Mayor
City of El Cerrito

cc: California Senator Loni Hancock
California Assembly Member Tony Thurmond



AGENDA BILL

Agenda Item No. 5(D)

Date: June 2, 2015

To: El Cerrito City Council

From: Melanie Mintz, Interim Community Development Director
Margaret Kavanaugh-Lynch, Development Services Manager

Subject: Below Market Rate Housing Agreement- Creekside Walk Ventures Project

ACTION REQUESTED

Adopt a resolution authorizing the City Manager to execute a Below Market Rate Housing Regulatory and Resale Restriction Agreement and Declaration of Restrictive Covenants for the Creekside Walk Ventures project and finding that the Agreement satisfies Condition of Approval #41 for the project (Section C of Exhibit C of City Council Resolution No. 2006-01).

BACKGROUND

Ever since the El Cerrito Plaza Shopping Center redevelopment project's inception, multifamily residential units were envisioned as a part of the overall development. Since that time, the project and its EIR has been the subject of numerous public hearings, summarized in a project chronology provided as Attachment 2. The most recent public hearing on this project occurred on April 2, 2014 at which the Design Review Board found that the building permit was in compliance with specific relevant mitigations and conditions of approval. Since that time, staff and the project sponsor have been working through the numerous Conditions of Approval of the project. The project sponsor recently informed the City that it has received project financing and is ready to begin construction. Staff is working to finalize all actions needed to be completed prior to issuance of the building permit. Prior to the beginning of construction, staff has required the development team to host a community meeting to discuss the project's construction schedule and other details about the construction period. The meeting is currently scheduled for June 3, 5-7 pm at El Cerrito City Hall.

The 128-unit residential project was approved under the City's Incentives Program (Zoning Ordinance Chapter 19.23) which encourages project enhancements by allowing flexibility in the application of zoning requirements. The project received a reduction in parking and relief from private open space requirements due to its provision of affordable housing, proximity to the El Cerrito Plaza BART station and provision of open space and contribution to public open space improvements, through the daylighting of Cerrito Creek along the project southern edge and provision of a connection to the Ohlone Greenway.

The item before City Council tonight is to approve a Below Market Rate Housing Agreement in fulfillment of Condition #41 which requires that the developer provide 15

percent of the units as affordable to low and moderate income households. The item before Council tonight is solely implementation of Condition #41.

ANALYSIS

Condition #41 which specifies the below market requirement for the project was at the time structured to conform to the procedures of California Redevelopment Law, e.g. utilization of an Owner Participation Agreement with the Redevelopment Agency (RDA). Because the Redevelopment Agency was dissolved by Assembly Bill 26 and Assembly Bill 1484, implementation of this condition is now the responsibility of the City.

Condition #41: Owner Participation Agreement. The developer will negotiate an Owner Participation Agreement with the El Cerrito Redevelopment Agency as provided in the Agency's Owner Participation Rules. As part of the Owner Participation Agreement, the developer will be required to provide 15 percent of the units as affordable to low and moderate income households. The units shall be provided in proportion to the City's Regional Housing Needs Allocation, with 32% being affordable to low-income households and 68% being affordable to moderate-income households. The maximum purchase price for each affordable unit shall be determined in keeping with Health & Safety Code Section 50052.5 and the median income definitions in place for Contra Costa County at the time of sale. The developer will record an affordability covenant prior to commencement of construction. Upon sale of each affordable unit, the buyer will be required to execute a resale restriction. Prior to any necessary subdivision of land, the affordable units will be specifically designated on the subdivision map. (Resolution 2006-01)

Similarly, at the time of project approval, the project was envisioned to be a for-sale condominium project. Due to market conditions, including project financing requirements, the project sponsor will be initially offering the units as rental with the option to offer the units for sale at a later date when the market conditions improve.

As such, the Below Market Rate Housing Regulatory and Resale Restriction Agreement and Declaration of Restrictive Covenants ("Agreement") (Exhibit A to Attachment 1) is structured to require that the onsite below market units be restricted at the required affordability levels during the rental period and upon sale. A condominium map will be prepared and recorded as contemplated in the project application and approvals prior to Certificate of Occupancy in preparation for eventual sale of the units. The Agreement also incorporates as exhibits template documents which will come into place at the time when the developer/project owner sells the below market rate units. These include a Resale Restriction, a Homebuyer Note and a Homebuyer Deed of Trust. The developer will agree to the form of these at the time of entering into the proposed Agreement, however, they can be modified subject to the approval of the City at the time the owner proposed to sell the units which could be sometime in the future, when standard practice for affordable housing may differ.

Key provisions of the Agreement include:

- A requirement that the units remain affordable to low and moderate income households for a minimum of 55-years for rental restrictions.
- If the units are sold, the resale restriction would be for 59-years with the term renewing upon resale.
- If the units are sold, the City will have an option to purchase the units if the owner cannot find an eligible purchaser. The City can assign its options to an affordable housing non profit or to an eligible purchaser. The options give the City more certainty that the units will remain affordable for the term of the restriction.
- If the units become for sale units and an eligible purchaser cannot be found, the unit can be sold at fair market value and the difference between fair market value and the approved below market price will be paid to the City to be utilized in its Affordable Housing program.
- The affordable units are required to include a mix of unit sizes and bedrooms.
- In accordance with Condition #41, six of the units will be affordable to Low Income Households and thirteen will be affordable to Moderate Income Households.

Implementation of the Agreement will require staff time to monitor compliance with the provisions. Depending upon what happens in the intervening years, when this project converts to ownership, it will be the first below market units in ownership in the City's affordable housing portfolio. The Agreement specifies that the developer pay an annual per unit fee for each rental unit to help cover the costs of monitoring compliance with the Agreement both during the rental and ownership periods.

STRATEGIC PLAN CONSIDERATIONS

Implementation of the Below Market Rate Agreement fulfills the Strategic Plan *Goal C: Deepen a sense of place and community identity by promoting strong neighborhoods and celebrating the City's diversity*. It also fulfills Goal H2 of the City's recently adopted 2015-2023 Housing Element (Resolution No. 2015-33). (Note: The Housing Element was adopted by Council and has been forwarded to the State Department of Housing and Community Development for certification.)

GOAL H2: New Housing Development

Encourage the development of housing at all income levels to meet regional housing needs allocation by facilitating housing development and minimizing the impact of potential governmental constraints on the development of housing.

And, specifically, Policy H2.2:

Encourage the construction of transit-oriented developments (TODs) that seek to maximize opportunities for the use of public transit and transportation corridors through high-density residential and mixed-use projects along those corridors in

accordance with the San Pablo Avenue Specific Plan and the City's Incentives Program.

ENVIRONMENTAL CONSIDERATIONS

The Creekside Walk project's Final Supplemental Environmental Impact Report (FSEIR) was approved on January 30, 2006 and serves as the environmental document for the project's approval. The City has further found on the basis of substantial evidence, that this action does not create substantial changes in the Project analyzed in the FSEIR that would require revisions to the FSEIR. In making this determination, the City noted that there have not been substantial changes in the circumstances under which the Project is being undertaken which would require revisions to the FSEIR and there is no new information which was not known at the time the FSEIR was certified that would show that the Project will have a significant effect that has not been previously analyzed. Further, there are no significant impacts that were identified in the FSEIR will be more severe or that mitigation measures or alternatives previously found not to be feasible would in fact now be feasible.

FINANCIAL CONSIDERATIONS

There are financial costs associated with implementing Condition of Approval #41. Some of those costs will be covered by the proposed fees contained within the Agreement. Other costs of implementation and monitoring will be borne by existing City staff and/or consultants paid for through the Community Development and City Housing funds (Funds 231 and 232.) No new appropriations are requested.

LEGAL CONSIDERATIONS

The City Attorney and affordable housing counsel have consulted with staff regarding use of the Agreement to satisfy Condition of Approval #41 and have prepared and reviewed the Agreement and associated documents to ensure that the below market rate units are rented to qualified renters and sold to qualifying purchasers when sold.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution
Exhibit A: Below Market Rate Affordable Housing Agreement
2. Project Chronology

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE A BELOW MARKET RATE HOUSING REGULATORY AND RESALE RESTRICTION AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS FOR THE CREEKSIDE WALK VENTURES PROJECT AND FINDING THAT THE AGREEMENT SATISFIES CONDITION #41 OF THE PROJECT CONDITIONS OF APPROVAL

WHEREAS, City of El Cerrito Resolution 2006-01 certified the Final Subsequent Environmental Impact Report (FSEIR), adopted environmental findings, mitigation measures, approved the Mitigation Monitoring and Report Program and approved a use permit with conditions allowing the Creekside at El Cerrito Plaza condominium development (“Project”) at the southeast corner of El Cerrito Plaza;; and

WHEREAS, Condition #41 of the Conditions of Approval specified that the developer negotiate an Owner Participation Agreement with the El Cerrito Redevelopment Agency to provide 15 percent of the units as affordable to low and moderate income households in proportion to the City’s Regional Housing Needs Allocation; and

WHEREAS, the Redevelopment Agency was dissolved by the State of California and implementation of this condition is now the responsibility of the City; and

WHEREAS, the 128-unit residential project was approved under the City’s Incentive Program (El Cerrito Municipal Code Chapter 19.23) which encourages project enhancements by allowing flexibility in the application of zoning requirements; and

WHEREAS, the project received a reduction in parking and relief from private open space requirements due to its provision of affordable housing, proximity to the El Cerrito Plaza BART station and provision of public open space improvements, including the daylighting of Cerrito Creek along the project’s southern edge and provision of a public connection to the Ohlone Greenway; and

WHEREAS, the Project will be mapped and recorded as a condominium project to eventually be able to offer both market rate and below market rate units for sale; and

WHEREAS, the Project will initially be operated as a rental project offering both market rate and below market rate units as rental units; and

WHEREAS, a Below Market Rate Housing Regulatory and Resale Restriction Agreement and Declaration of Restrictive Covenants (“Agreement”) has been prepared for the Project (Exhibit A); and

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Attachment 1

WHEREAS, the Agreement requires that the onsite below market units be restricted at the affordability levels required by Condition of Approval #41 during the rental period and upon sale and requires that if and when the below market rate units are sold, the below market rate homebuyers will be required to enter into a Resale Restriction and Promissory Note with the City in accordance with the exhibits attached to the Agreement; and

WHEREAS, implementation of the Agreement will require staff time to monitor compliance and the Agreement includes a provision wherein the developer agrees to pay an annual per-unit fee for each below market rate unit to help cover a portion of the costs of monitoring compliance during both the rental and ownership periods; and

WHEREAS, implementation of the Agreement fulfills Strategic Plan Goal C: Deepen a sense of place and community identity by promoting strong neighborhoods and Goal H2 of the City's Housing Element to "encourage the development of housing at all income levels to meet regional housing needs allocation by facilitating housing development;" and

WHEREAS, the FSEIR for the project was approved on January 30, 2006 and serves as the environmental document for the project and the City has made finding that no additional environmental review is required in accordance with CEQA Guidelines 15162; and

NOW THEREFORE, BE IT RESOLVED, the City Council of the City of El Cerrito does hereby authorize the City Manager to execute a Below Market Rate Housing Regulatory and Resale Restriction Agreement and Declaration of Restrictive Covenants for the Creekside Walk Ventures project substantially in the form on file with the City Clerk subject to such changes as are approved by the City Manager and finds that the Agreement satisfies Condition of Approval #41 for the project (Section C of Exhibit C of City Council Resolution No. 2006-01) and authorizes the City Manager or his designee to take all actions necessary in accordance with the Agreement to implement the Agreement.

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

I CERTIFY that at a regular meeting on June 2, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

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Attachment 1

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June _____, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of El Cerrito
Community Development Department
10890 San Pablo Ave
El Cerrito, CA 94530
Attn: Community Development Director

No fee for recording pursuant to
Government Code Section 27383

(Space above for Recorder's Use)

APN: 504-170-022

**BELOW MARKET RATE HOUSING
REGULATORY AND RESALE RESTRICTION AGREEMENT AND DECLARATION
OF RESTRICTIVE COVENANTS
(On-site Inclusionary: Initial Rental with Condo Map and Potential Future Sale)**

This BELOW MARKET RATE HOUSING REGULATORY AND RESALE RESTRICTION AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS ("**Agreement**") is entered into as of this __ day of _____, 2015, by and between the CITY OF EL CERRITO, a California municipal corporation (the "**City**"), and CREEKSIDE WALK VENTURES, LLC, a California limited liability company (the "**Developer**") (together the "**Parties**"), with reference to the following facts:

RECITALS

A. Developer is the owner of certain real property located at **STREET ADDRESS TO BE INSERTED** in the City, which is more particularly described in attached Exhibit A incorporated herein by this reference (the "**Property**").

B. Developer has applied for and received a discretionary approval from the City to construct a total of one hundred twenty-eight (128) residential units in a development known as Creekside (hereinafter referred to as the "**Project**") on the Property and will apply for a final subdivision map for the Property prior to obtaining certificates of occupancy for the Project. On January 30, 2006, the City Council approved the Project's land use entitlement application, including incentives to develop in the form of relief from certain development standards (the "**Regulatory Incentives**") subject to certain conditions of approval (the "**Project Conditions**").

C. The Regulatory Incentives include increased height over what is otherwise allowed on the Property, up to fifty-nine (59) feet, a reduction in parking requirements by fifteen (15) parking spaces, and an exemption from the otherwise-applicable private open space requirement.

D. The Project Conditions require that fifteen percent (15%) of the one hundred twenty eight (128) residential units developed in the Project ("**Units**") be affordable to low and

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moderate income households (the "**BMR Units**" or individually, the "**BMR Unit**"). Specifically, four and eight-tenths percent (4.8%) of the Units shall be affordable to low income households and ten and two-tenths percent (10.2%) of the Units shall be affordable to moderate income households. Developer intends to meet the requirements of the Project Conditions by providing nineteen (19) BMR Units, six (6) Units affordable to low income households and thirteen (13) Units affordable to moderate income households, on the Property as part of the Project.

E. Developer will apply for a final subdivision map allowing the Units in the Project to be sold individually but intends to rent all Units in the Project upon completion of construction. To provide affordable units meeting the requirements of the Project Conditions, Developer shall sell or rent, as applicable, all BMR Units to Eligible Households at Affordable Sales Prices and Affordable Rents as described in this Agreement.

F. Pursuant to the Project Conditions, the Developer is required to provide the BMR Units and to execute and record this Agreement prior to issuance of any building permit for the Project.

G. In consideration of certain valuable land use and economic benefits conferred by the City upon the Property, including the Regulatory Incentives, Developer, for itself, its successors, heirs, grantees and assigns, hereby agrees to comply with the Project Conditions and the terms of this Agreement as applied to the Property.

H. Developer acknowledges and agrees that the Project Conditions provided adequate and proper notice pursuant to Government Code Section 66020 of Developer's right to protest any requirements for fees, dedications, reservations, and other exactions as may be included in this Agreement, that no protest in compliance with Section 66020 was made within ninety (90) days of the date that notice was given, and that the period has expired in which Developer may protest any and all fees, dedications, reservations, and other exactions as may be included in this Agreement.

I. Developer has agreed that the City's approval of the Regulatory Incentives are non-monetary forms of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code and that the Project will not be subject to the provisions of the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.50 et seq., the "Costa-Hawkins Act") that otherwise prohibit the City from regulating or restricting the rental rates for the BMR Units. Pursuant to Civil Code Sections 1954.52(b) and 1954.53(a)(2), the Developer has agreed to the limitations on rent contained in this Agreement in consideration for the City's approval of the Regulatory Incentives. Further, the Developer agrees that this Agreement complies with all Federal, State, and City laws and ordinances and is fully enforceable.

AGREEMENT

NOW, THEREFORE, it is mutually agreed by and between the Parties as follows. The Parties agree and acknowledge that the above recitals are true and accurate, and are incorporated into this Agreement by this reference.

ARTICLE 1.
DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. The following terms have the following meanings in this Agreement:

(a) "Affordable Sales Price" means the maximum allowable sales price for a BMR Unit in effect at the time of its initial (first) sale to an Eligible Household. The Affordable Sales Price is a price that includes a reasonable down payment and results in projected average monthly housing payments during the first calendar year of a household's occupancy, including interest, principal, mortgage insurance, property taxes, homeowners' insurance, homeowners' association dues, if any, and a reasonable allowance for utilities, property maintenance and repairs, not exceeding the following:

(i) BMR Units affordable to Low Income Households: One-twelfth (1/12th) of thirty percent (30%) of seventy percent (70%) of Median Income.

(ii) BMR Units affordable to Moderate Income Households: One-twelfth (1/12th) of thirty percent (30%) of one hundred ten percent (110%) of Median Income. The Director may adjust the percentage of Median Income to between eighty percent (80%) and one hundred ten percent (110%) to address major shifts in the housing market or other related economic conditions affecting the demand for BMR Units.

The Affordable Sales Price shall be determined for a household size based on the number of bedrooms in the Unit plus one. The Director shall determine the sales prices of BMR Units by any reasonable method so long as average monthly housing payments do not exceed those permitted by this subparagraph (a). Affordable Sales Prices are adjusted annually by the Director and shall be provided to the Developer annually upon such adjustment.

(b) "Affordable Rent" means the total of monthly payments by the Tenant of a BMR Unit for all of the following: (1) use and occupancy of the BMR Unit and land and all facilities associated with the BMR Unit, including but not limited to parking, bicycle storage, storage lockers, and use of all common areas; (2) any separately charged fees or service charges assessed by the Developer which are required of all tenants of Units in the Project, except security deposits; (3) an allowance for utilities paid by the Tenant as established by the Contra Costa County Housing Authority, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service or cable TV; and (4) any other interest, taxes, fees or charges for use of the land or associated facilities that are assessed by a public or private entity other than the Developer and paid by the Tenant. Affordable Rent shall be adjusted annually by the Director and shall be provided to the Developer annually upon such adjustment; provided, however, Affordable Rent shall not exceed the following:

(i) BMR Units affordable to Low Income Households: One-twelfth (1/12th) of thirty percent (30%) of sixty percent (60%) of Median Income.

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(ii) BMR Units affordable to Moderate Income Households: One-twelfth (1/12th) of thirty percent (30%) of one hundred ten percent (110%) of Median Income. The Director may adjust the percentage of Median Income to between eighty percent (80%) and one hundred ten percent (110%) to address major shifts in the housing market or other related economic conditions affecting the demand for BMR Units.

(c) "Agreement" is this Below Market Rate Housing Regulatory and Resale Restriction Agreement and Declaration of Restrictive Covenants.

(d) "BMR Units" are the nineteen (19) Units affordable to low and moderate income households.

(e) "City" is defined in the first paragraph on page 1 of this Agreement.

(f) "Developer" is defined in the first paragraph on page 1 of this Agreement.

(g) "Director" means the Community Development Director of the City or successor position.

(h) "Eligible Household" means a household which has been determined to be eligible to rent or purchase a BMR Unit, as applicable, in compliance with the Project Conditions and this Agreement.

(i) "Homebuyer/City Deed of Trust" means the deed of trust, in the form provided by the City, executed by each buyer of a BMR Unit at the time of purchase of the BMR Unit that secures the buyer's performance under the Resale Restriction and the Homebuyer/City Note.

(j) "Homebuyer/City Note" means the promissory note, in the form provided by the City and, executed by each buyer of a BMR Unit at the time of purchase of the BMR Unit.

(k) "Homebuyer Resale Restrictions" means the Resale Restrictions, the Homebuyer/City Note and the Homebuyer/City Deed of Trust, collectively. The Homebuyer Resale Restrictions shall substantially comply with the form of the documents attached as Exhibit E and incorporated herein by this reference

(l) "Household Income" means the combined gross, pre-tax income of all adult occupants of the applicant household.

(m) "Low Income Household" means a household with a Household Income at or below eighty (80%) of Median Income.

(n) "Market Rate Units" are Units in the Project that are not BMR Units.

(o) "Median Income" means the median Household Income in Contra Costa County as determined periodically by the State of California pursuant to California Code of Regulations, Title 25, Section 6932 (or successor provision), or as otherwise established by the City.

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(p) "Moderate Income Household" means a household with a Household Income between eighty percent (80%) and one hundred twenty percent (120%) of Median Income.

(q) "Parties" are defined in the first paragraph on page 1 of this Agreement.

(r) "Project" is defined in Recital B.

(s) "Project Conditions" are defined in Recital B.

(t) "Property" is defined in Recital A.

(u) "Regulatory Incentives" are defined in Recital B.

(v) "Resale Restriction" means the Occupancy, Resale and Refinancing Restriction Agreement with Option to Purchase, in the form provided by the City, to be executed by each buyer of a BMR Unit and recorded against the BMR Unit at the time of purchase by the buyer.

(w) "Tenant" is a household occupying a BMR Unit pursuant to a valid lease with the Developer.

(x) "Term" shall mean the term of the rental restrictions included as part of this Agreement and shall run for a fifty-five (55) year period from the date that a certificate of occupancy is issued for the last BMR Unit to be completed unless earlier terminated pursuant to Section 5.2 of this Agreement.

(y) "Units" are defined in Recital D.

(z) "Waiting List" shall mean the list of Eligible Households qualified to purchase BMR Units who have applied to rent or purchase a BMR Unit, and which shall be maintained by the Developer.

Section 1.2. Exhibits. The following exhibits are attached to this Agreement:

Exhibit A Legal Description of the Property

Exhibit B Map Showing Location of BMR Units and Schedule of BMR Units.

Exhibit C Affordable Rents and Maximum Income Level of Tenants for BMR Units

Exhibit D Affordable Sales Prices for BMR Units and Maximum Income Level of Eligible Households

Exhibit E Form of Homebuyer Resale Restrictions

ARTICLE 2.
CONSTRUCTION OF PROJECT AND BMR UNITS

Section 2.1. Construction of BMR Units. The BMR Units shall be constructed in proportion to construction of the Market Rate Units. No certificates of occupancy or final inspections shall be issued for any Market Rate Units unless a proportional number (generally one certificate of occupancy for a BMR Unit for each seven Market-Rate Units issued certificates of occupancy) of certificates of occupancy or final inspections have been issued for BMR Units. The Director may approve a modified construction schedule if this timing requirement will create unreasonable delays in the issuance of certificates of occupancy for Market Rate Units and if the Developer provides satisfactory assurance, as approved by the Director at the Director's sole discretion, that the BMR Units will be completed.

Section 2.2. Number of BMR Units. As a condition to the satisfaction of Developer's affordable housing requirements for the Project pursuant to the Project Conditions, the Developer shall provide BMR Units as follows:

(a) At initial occupancy of the Project, Developer shall rent nineteen (19) BMR Units to Low and Moderate Income Households at Affordable Rents as specified in Article 3 below.

(b) If Units in the Project are offered for sale, the nineteen (19) BMR Units shall be sold at Affordable Sales Prices to Low and Moderate Income Households at an Affordable Sales Prices for BMR Units.

(c) After the expiration of the Term, if Developer has not offered Units in the Project for sale, Developer shall have no affordable housing obligations until or unless Developer elects to offer Units in the Project for sale. Prior to the expiration of the Term, Developer shall provide all notifications required by Government Code Sections 65863.10 and 65863.11 or successor provisions or any other notification required by any state, federal, or local law.

Section 2.3. Appearance, Size and Bedroom Count of BMR Units.

(a) Appearance and Use of BMR Units. The design, square footage, appearance, and general quality of the BMR Units shall be compatible with those of the Market Rate Units and consistent with the designs provided for the Project land use approvals. Developer shall allocate and assign parking spaces, bicycle storage, storage lockers, and other spaces reserved for use by individual Units to the BMR Units on the same basis as for the Market Rate Units, and Tenants of the BMR Units shall have equal access to the Project's common areas as is given to the residents of the Market -Rate Units, but any fee charged for use of common areas or for spaces reserved for individual Units shall be included in the Tenant's Rent. Once completed, the BMR Units shall not be kept vacant or used for any purpose except for residential use and, if vacant, shall be marketed and offered for rent to Eligible Households at Affordable Rents.

(b) Location and Characteristics of BMR Units. The BMR Units shall be located within the Project with the characteristics as shown in the attached Exhibit B incorporated herein by this reference.

(c) Change in Location of BMR Units. The BMR Units shown in Exhibit B shall be deemed approved by the City upon recordation of this Agreement. If, after recordation of this Agreement, Developer wants to change the location or plan type of any BMR Unit within the Project, Developer shall submit a written request for such change to the Director, who shall have sole discretion to approve or deny such request.

ARTICLE 3.

RENT REGULATORY PROVISIONS

The provisions of this Article 3 are applicable until the earlier to occur of the following: (1) expiration of the Term; or (2) Developer's determination to offer Units in the Project for sale.

Section 3.1. Affordability and Occupancy Covenants.

(a) Occupancy Requirements. The BMR Units shall be rented to and occupied by or, if vacant, available for occupancy by Low and Moderate Income Households. The BMR Units shall not be kept vacant or used for any purpose except for residential use and shall be offered for rent to Eligible Households at Affordable Rents.

(b) Allowable Rent. Subject to the provisions of subparagraph (e) of this Section below, six (6) of the BMR Units (three (3) one-bedroom Units and three (3) two-bedroom Units) shall be rented to Low Income Households at Affordable Rent for Low Income Households and thirteen (13) of the BMR Units (six (6) one-bedroom Units, six (6) two-bedroom Units, and one (1) three-bedroom Unit) shall be rented to Moderate Income Households at Affordable Rent for Moderate Income Households.

(c) City Approval of Rents. Initial rents for all BMR Units shall be approved by the City prior to occupancy. All rent increases shall also be subject to City approval. The Developer shall not charge any fee other than rent to any Tenant of BMR Units for any housing or other services provided by Developer.

(d) Schedule of Affordable Rents. The City has provided the Developer with a schedule of Affordable Rents for the BMR Units in effect on the date of this Agreement (and subject to change annually thereafter), set forth in attached Exhibit C, incorporated herein by this reference.

(e) Increased Income of Tenants.

(i) Increase from Low Income to at or below Moderate Income. If, upon annual recertification of a Tenant's income, the Developer determines that a former Low Income Household's income has increased and exceeds the qualifying income for a Low Income Household, but does not exceed the qualifying limit for a Moderate Income Household, then, upon expiration of the Tenant's lease and after thirty (30) days written notice to the Tenant, the

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Tenant's rent may be increased to Affordable Rent for Moderate Income Households and the next available BMR Unit shall be made available to a Low Income Household.

(ii) Increase from Low or Moderate Income to Above Moderate Income. If, upon recertification of a Tenant's income, the Developer determines that the Tenant's income has increased and exceeds the qualifying income for a Moderate Income Household, then the Affordable Rent shall remain the rent for the unit and the Unit shall continue to qualify as a BMR Unit in the applicable income category, and the next available Unit shall be rented to a Low Income Household or a Moderate Income Household, as necessary to meet the requirements of 3.1 above, provided, however, that at such time as the next available Unit is rented to a Low Income Household or a Moderate Income Household, as the case may be, the Rent applicable to the non-qualifying Unit shall no longer be restricted by this Agreement.

(f) Section 8 Vouchers and Certificate Holders. The Developer will review applications from prospective tenants who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or any successor on the same basis as all other prospective tenants,. The Developer shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants, nor shall the Developer apply or permit the application of management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of Units by such prospective tenants.

(g) Lease Provisions. The Developer shall use a form of Tenant lease approved by the City for the BMR Units. The Tenant lease shall, among other matters:

(i) provide for termination of the lease for failure: (1) to provide any information required under this Agreement or reasonably requested by the Developer to establish or recertify the Tenant's qualification, or the qualification of the Tenant's household, for occupancy of the BMR Units in accordance with this Agreement, or (2) to qualify as a Low or Moderate Income Household as a result of any material misrepresentation made by such Tenant with respect to the income computation or certification;

(ii) provide that the rent may not be raised more often than once every twelve (12) months. The Developer will provide each Tenant with at least thirty (30) days written notice of any increase in rent applicable to such Tenant, and with such further notice as may be required by subparagraph (e) of this Section;

(iii) prohibit subleasing of the BMR Unit or any portion of the Unit, contain nondiscrimination provisions, and include the Tenant's obligation to inform the Developer of any need for maintenance or repair;

(iv) include reasonable rules of conduct consistent with California law;
and

(v) allow termination of the tenancy only for good cause, including violation of the terms and conditions of the lease, violations of applicable federal, state, or local law, or other good cause.

(h) Security Deposits. Any security deposits collected by Developer or Developer's agent shall be kept separate and apart from all other funds in a trust account with a depository insured by the Federal Deposit Insurance Corporation or other comparable federal deposit insurance program and shall be held and disbursed in accordance with California law. The balance in the trust account shall at all times equal or exceed the aggregate of all outstanding obligations, plus accrued interest thereon.

(i) Agreement to Limitation on Rents. The Developer hereby covenants that the City's approval of the Regulatory Incentives is a non-monetary form of assistance specified in Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code. The Developer further covenants that it has agreed to limit rents of the BMR Units under Civil Code Sections 1954.52(b) and 1954.53(a)(2), as provided in this Agreement and the Project Conditions, in consideration for the Regulatory Incentives. The Costa-Hawkins Act provides that, where a developer has received such assistance, certain provisions of the Costa-Hawkins Act do not apply if a developer has so agreed by contract. The Developer hereby agrees that any BMR Units provided pursuant to this Agreement are not subject to Civil Code Section 1954.52(a) or any other provision of the Costa-Hawkins Act inconsistent with controls on rents. The Developer further covenants that this Agreement complies with all Federal, State, and City laws and ordinances and that the terms of this Agreement are fully enforceable.

Section 3.2. Income Certification and Reporting.

(a) Notification to City. At least sixty (60) days before starting to market the BMR Units, the Developer shall notify City of the availability of the BMR Units and provide to the City its management policies and the proposed form of lease and proposed rents for the BMR Units for City review and approval.

(b) Income Certification. The Developer will obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications for each Tenant renting any of the BMR Units. Developer shall verify that the income statement provided by an applicant or Tenant is accurate by taking two or more of the following steps as a part of the verification process: (a) obtain a minimum of the three (3) most current pay stubs for all adults age eighteen (18) or older; (b) obtain an income tax return for the most recent tax year; (iii) conduct a credit agency or similar search; (c) obtain the three (3) most current savings and checking account bank statements; (d) obtain an income verification form from the applicant's current employer; (e) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (f) if the applicant is unemployed and has no such tax return, obtain another form of independent verification. Copies of Tenant income certifications shall be made available to the City upon request.

(c) Reports to City.

(i) Annual Report. The Developer shall submit to the City on April 1st of each year, a report in a form acceptable to the City verifying compliance by Developer with the terms of this Agreement and certified as correct by the Developer under penalty of perjury. The annual report shall include without limitation the following information:

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a. Certifications of eligibility for all Tenants of BMR Units at the time of initial occupancy and upon the yearly anniversary of their continuing tenancies. Such certification shall include:

i. Verified income statements. Developer shall retain in the Tenant's file all verifications of Tenant's income obtained as required in subparagraph (b) of this Section.

ii. Number of persons in each BMR Unit.

b. Certification of the amount of rent charged for the year for all BMR Units.

c. Other information reasonably required by the City.

(ii) Other Reports. Within fifteen (15) days after receipt of a written request, Developer shall provide any other information or completed forms requested by the City to ensure compliance with this Agreement.

Section 3.3. Management of Property and Property Maintenance.

(a) Management Responsibilities. The Developer is responsible for all management functions with respect to the Project, including, without limitation, the certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. The City shall have no responsibility over management of the Project. Developer shall retain a resident manager.

(b) Approval of Management Policies. The Developer shall submit its written management policies with respect to the Project to the City for its review and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement.

(c) Property Maintenance. The Developer agrees to maintain all of the BMR Units and all interior and exterior improvements, including landscaping, on the Property in good condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus, and officials, and in accordance with the following maintenance conditions:

(i) The City places prime importance on quality maintenance to ensure that all developments within the City which include affordable housing units are not allowed to deteriorate due to below-average maintenance. The Developer shall make all repairs and replacements necessary to keep the improvements in good condition and repair.

(ii) In the event that the Developer breaches any of the covenants contained in this Section 3.3 and such default continues for a period of ten (10) days after written

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notice from the City with respect to graffiti, debris, waste material, and general maintenance or thirty (30) days after written notice from the City with respect to landscaping and building improvements, then the City, in addition to whatever other remedy it may have at law or in equity, shall have the right (but is not required) to enter upon the Property and perform or cause to be performed all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Property, as specified in a correction plan approved by the City, and to attach a lien on the Property, or to assess the Property, in the amount of the expenditures arising from such acts and work of protection, maintenance, and preservation by the City and/or costs of such cure, plus an administrative charge equal to fifteen percent (15%) of the amount of such expenditures, which amounts shall be promptly paid by the Developer to the City upon demand.

(d) Taxes and Assessments. Developer shall pay all real and personal property taxes, assessments, if any, and charges and all franchise, income, employment, old age benefit, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that Developer shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event Developer exercises its right to contest any tax, assessment, or charge against it, Developer, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest. If Developer cures any breach of this Section 3.3, there shall be no ongoing breach or default under this Agreement.

(e) Insurance. The Developer shall maintain a standard all risk property insurance policy equal to the replacement value of the Project (adjusted at least every five (5) years by appraisal, if requested by City), naming the City as an additional insured and loss payee. If the Project is damaged or destroyed, and the Developer elects not to rebuild or repair the Project, the Developer shall pay the City the portion of any insurance proceeds received by the Developer for such destruction or damage to the BMR Units which is in excess of the Affordable Sales Price for the BMR Units.

ARTICLE 4.
SALE OF BMR UNITS

Section 4.1. Decision of Developer to Sell Units in the Project. In the event that the Developer determines to offer the Units in the Project for sale, the following shall apply.

(a) Notification to City. Developer shall notify City within five (5) business days of submitting an application to the Department of Real Estate for a public report to offer Units in the Project for sale. Developer shall also provide the City with a copy of Developer's application for a public report. At least one hundred twenty (120) days before offering a BMR Unit for sale, the Developer shall provide the City with written notice of the proposed sale of the BMR Unit including the Unit size (square footage and number of bedrooms), lot/building/unit number, street address, Developer name and Tract number, and required income level of the Unit, using the Notice of Intent to Sell form provided by the City. City shall notify Developer

within thirty (30) days of the receipt of Developer's notification of the Affordable Sales Prices currently applicable to each BMR Unit.

(b) Sale During Term; Notification to Tenants. If the Developer determines to offer Units in the Project for sale prior to expiration of the Term, Developer shall provide all notices to Tenants of the BMR Units required by state law. Each BMR Unit shall first be offered for sale to the existing Tenant at the Affordable Sales Price. For a period of one hundred twenty (120) days after the BMR Units are offered for sale, Tenants of BMR Units shall have the right of first refusal to purchase their BMR Unit upon the same, or more favorable, terms and conditions as the BMR Unit will be offered to the general public. Developer shall not market BMR Units during the Term until the right of first refusal period has expired.

Section 4.2. Sale by Developer to Eligible Households; Waiting List.

(a) Developer shall sell the BMR Units to Eligible Households at prices not in excess of the then-current Affordable Sales Prices provided by the City in compliance with the Project Conditions and this Agreement. As specified in Section 2.2, BMR Units shall be sold at an Affordable Sales Price.

(b) Subject to the City's written approval, the Developer shall verify buyer's eligibility pursuant to the Project Conditions and this Agreement before Developer may accept a buyer's offer to purchase. Developer agrees to pay a transaction fee of Two Hundred Fifty Dollars (\$250), plus legal fees and outside consultant costs plus thirty percent (30%) in compliance with the City's then-applicable Master Fee Schedule, per sale of each BMR Unit, or any such fee for the reasonable cost of administering this Agreement as may be adopted by resolution of the City Council. The Developer shall notify potential purchasers on the Waiting List of any BMR Unit availability, direct buyers to view the available BMR Unit, and solicit eligibility applications from prospective purchasers. Eligible Households shall submit purchase offers directly to Developer, and Developer shall accept offers to purchase in the order received, provided that such offers include a letter from the City certifying buyer's eligibility, a valid check for the required good faith deposit, and a preliminary first mortgage loan approval. Developer shall conduct any additional screening of applicants deemed necessary and not in violation of fair housing laws. Developer shall actively market the BMR Units, openly and in the same general manner as the Market-Rate Units, allow prospective buyers to view the BMR Units, model units or floor plans, disclosure documents, and any other relevant sales materials, as may be available. Developer's sales agents shall provide the same general quality of customer service to the BMR Unit buyers as provided to market-rate buyers, shall display information about the availability of the BMR Units in a readily noticeable manner in the sales office and/or Project sales website, shall disclose the BMR Unit restrictions to any prospective buyers in a timely manner, and shall submit its determination of the eligibility of any prospective buyers of the BMR Units to the City for verification in a timely fashion. Selected applicants shall be responsible for obtaining their own financing for the BMR Units. Developer shall comply with applicable fair housing laws in the marketing and sale of the BMR Units. Purchase contracts between Developer and Eligible Households shall include requirements that buyers execute documents for the benefit of the City as described in Section 4.4 below.

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(c) The Developer shall be independently responsible to make good faith efforts to market and sell the BMR Units in compliance with this Agreement, and shall cooperate with City in good faith in the effort to sell the BMR Units to Eligible Households in a timely manner.

(d) Once Developer has accepted an offer from an Eligible Household or existing Tenant of a BMR Unit, Developer shall allow at least ninety (90) days from the date escrow has been opened for escrow to close, whether to the original Eligible Household or to a subsequent City-approved Eligible Household. If an Eligible Household fails to close escrow within the applicable ninety (90)-day period, Developer shall notify City of any intent to dissolve escrow at least ten (10) business days prior to dissolution. In the event of a dissolution, Developer shall resume marketing the BMR Unit until it accepts an offer from a second Eligible Household. Developer shall allow at least ninety (90) days from the date the second escrow has been opened for escrow to close. If a second Eligible Household fails to close escrow within the applicable ninety (90)-day period, Developer shall notify City of any intent to dissolve escrow at least ten (10) business days prior to dissolution. In the event of a second dissolution, Developer shall allow the City to purchase the BMR Unit at the Affordable Sales Price or to assign its right to a designee for an additional period of one hundred eighty (180) business days commencing from the date of dissolution of escrow. If escrow has not closed within one hundred eighty (180) business days of dissolution, Developer may sell the BMR Unit at its fair market value and pay to the City an amount equal to the difference between the actual contract sale price of the BMR Unit and the Affordable Sales Price.

(e) If Developer has not received any purchase offer from an Eligible Household for a BMR Unit within one hundred eighty (180) days after the BMR Unit has been offered for sale, the Developer shall provide a one hundred eighty (180) days' notice to the City and shall satisfy any further conditions that may be reasonably required by the City, including but not limited to, further efforts to find an Eligible Household, additional marketing by the Developer, and/or sale to the City or its designee, which may include a non-profit affordable housing organization or an Eligible Household. If City or its designee has not submitted a bona fide offer to purchase the BMR Unit at the Affordable Sales Price within forty-five (45) days of receiving Developer's notice, and/or if escrow has not closed on the BMR Unit sale within an additional sixty (60) days from date of Developer's acceptance of such offer under this Section, Developer may sell the BMR Unit at its fair market value and pay to the City an amount equal to the difference between the actual contract sale price and the Affordable Sales Price.

(f) If a BMR Unit is sold at fair market value as specified in subparagraphs (d) or (e) above, such BMR Unit shall not be subject to any requirements of this Agreement following City's receipt of applicable payment. Upon receipt of such payment, City shall provide Developer with a recordable document releasing the Unit from this Agreement.

Section 4.3. Affordable Sales Prices. Pursuant to the Project Conditions, the BMR Units shall be sold to Eligible Households at sales prices that do not exceed Affordable Sales Prices established by the City. Affordable Sales Prices for the BMR Units in effect on the date of this Agreement (and subject to change annually thereafter) are shown in Exhibit D attached hereto and incorporated herein. Developer acknowledges and agrees that Affordable Sales Prices are determined based on current income levels in Contra Costa County, changes to which are

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published annually by the State of California, Department of Housing and Community Development. Developer agrees that the Affordable Sales Prices of the BMR Units shall be calculated by the City in its reasonable exercise of discretion in interpreting the requirements of the Project Conditions and this Agreement, and that the City's calculation of Affordable Sales Prices shall be determinative and binding upon Developer; provided, however, the City shall calculate the Affordable Sales Price assuming a five percent (5%) down payment and FHA mortgage terms. The Affordable Sales Price established for each BMR Unit by the City shall be the absolute maximum price that the Developer or any other person may charge for the BMR Unit or may receive as compensation for the BMR Unit. The Developer or other seller may not charge or receive any additional amount for a BMR Unit regardless of whether the additional amount is (a) for options, upgrades or additional improvements to the Unit, (b) paid through escrow or outside of escrow, (c) paid prior to, after or as part of the purchase escrow or (d) paid in cash or in kind, unless a reasonable accommodation is approved by the City for buyers requiring options or accommodations related to a disability, in which any additional cost shall be paid through escrow with prior written approval by City.

Section 4.4. Homebuyer Documents and Security Instruments. Prior to the sale of each BMR Unit, Developer shall ensure that:

(a) The Eligible Household and the City execute a Resale Restriction. The Resale Restriction shall be recorded against the BMR Unit at close of escrow on the sale to the Eligible Household. The Resale Restriction shall be recorded immediately following the Grant Deed to the Eligible Household, unless otherwise approved in writing by the City.

(b) The Eligible Household signs a Homebuyer/City Note that obligates the Eligible Household to pay the City any excess sales proceeds or excess rents received by the Eligible Household if the Eligible Household fails to comply with the Resale Restriction on rental or resale of the BMR Unit.

(c) The Eligible Household signs a Homebuyer/City Deed of Trust to secure performance of the Eligible Household's covenants under the Resale Restriction and payment of the amounts due under the Homebuyer/City Note if the Eligible Household fails to comply with the terms of the Resale Restriction. The Homebuyer/City Deed of Trust shall be recorded against the BMR Unit, subordinate only to the Resale Restriction and the lien for the first mortgage loan obtained by the Eligible Household to finance the purchase of the BMR Unit (and second mortgage loan if such loan is provided by a public agency which requires such subordination and with prior written approval from City).

Section 4.5. City Approval of Documents. The following documents, to be approved in writing by the City, shall be used in connection with the development and sale of the BMR Units. Approval of the following documents by the City shall be required prior to the Developer's offering the BMR Units for sale:

(a) A schedule of Affordable Sales Prices for the BMR Units (to be prepared by the City, following Developer's request).

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(b) Form of Purchase and Sale Agreements for sale of the BMR Units (to be prepared by Developer and submitted to the City for review and approval for consistency with this Agreement).

(c) Form of Resale Restriction, Homebuyer/City Note, and Homebuyer/City Deed of Trust, and Form of Notice of Intent to Sell (to be prepared by the City, following Developer's request).

(d) The preliminary Department of Real Estate public report for the Project, including the BMR Units (to be obtained by the Developer and submitted to the City).

(e) Form escrow instructions for sale of the BMR Units (to be prepared by Developer and submitted to the City for review and approval). Closing costs and title insurance costs shall be shared equally between Developer and buyer. Developer may not charge buyers of BMR Units any fees that are not charged to purchasers of Market Rate Units.

Section 4.6. Compliance Reports, Inspections, Monitoring. Within five (5) days following the sale of any BMR Unit by the Developer to an Eligible Household, Developer shall forward, or shall cause escrow officer to forward to the City, copies of the buyer's and seller's settlement statement and all closing documents, including Resale Restriction, Homebuyer/City Note, and Homebuyer/City Deed of Trust executed in connection with the sale.

Section 4.7. Homeowners' Association Dues. Developer agrees not to impose any covenants, conditions and restrictions that would increase the proportion of the homeowners' association dues or assessments payable by any BMR Unit compared to that of the Market Rate Units, nor to make any subsequent amendments to the covenants, conditions and restrictions to that effect. This provision shall create a right of judicial enforcement by the City or the owner of any affected BMR Unit.

ARTICLE 5.
ENFORCEMENT

Section 5.1. Covenants Running with the Land. The City and Developer hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall apply to and bind Developer and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title or interest in or to any part of the Property and shall run with and burden such portions of the Property until terminated in accordance with Section 5.2. Until all or portions of the Property are expressly released from the burdens of this Agreement, each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument. In the event of foreclosure or transfer by deed-in-lieu of all or any portion of the Property prior to completion and sale of all of the BMR Units, title to all or any portion of the Property shall be taken subject to this Agreement. Developer acknowledges that compliance with this Agreement is a requirement of the Project Conditions, and that no event of foreclosure or trustee's sale may remove these requirements from the Property.

Section 5.2. Release of Property From Agreement.

(a) Upon sale of one hundred percent (100%) of the BMR Units and execution of the Homebuyer Resale Restrictions in compliance with this Agreement, the entire Property shall be released from the burdens of this Agreement.

(b) Prior to the sale of all BMR Units, upon sale of each of the Units in the Project to an individual buyer, City shall execute and record a release of each such Unit from the burdens of this Agreement if at the time the Developer is in compliance with all terms of this Agreement, including, without limitation, Developer's obligations to market and sell BMR Units concurrently with Market Rate Units.

Section 5.3. Default. Failure of the Developer to satisfy any of Developer's obligations under the terms of this Agreement within thirty (30) days after the delivery of a notice of default from the City will constitute a default under this Agreement and a failure to satisfy the Project Conditions. In addition to remedies for breach of this Agreement, the City may exercise any and all remedies available to it under the Subdivision Map Act or otherwise, including but not limited to:

(a) withholding, conditioning, suspending or revoking any permit, license, subdivision approval or map, or other entitlement for the Project, including without limitation final inspections for occupancy and/or certificates of occupancy;

(b) instituting against the Developer, or other parties, a civil action for declaratory relief, injunction or any other equitable relief, or relief at law, including without limitation an action to rescind a transaction and/or to require repayment of any funds received in connection with such a violation;

(c) where one or more persons have received financial benefit as a result of violation of this Agreement or of any requirement imposed under the Project Conditions, the City may assess, and institute legal action to recover as necessary, a penalty in any amount up to and including the amount of financial benefit received, in addition to recovery of the benefit received;

(d) prosecuting a misdemeanor against any person who has allowed to be sold or rented a BMR Unit at a price or rent, as applicable, exceeding the maximum allowed under this Agreement or to a household that is not an Eligible Household, or who has otherwise violated the Project Conditions, or any other agreement, restriction or requirement authorized or imposed under the Project Conditions; or

(e) requiring the Developer or his/her successors in interest to the Property to pay the City rent for a BMR Unit from the date of any unauthorized use of the BMR Unit; and

(f) any other means authorized under the City of El Cerrito Municipal Code.

Section 5.4. Remedies Cumulative. No right, power, or remedy given to the City by the terms of this Agreement or the Project Conditions is intended to be exclusive of any other right,

power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the City by the terms of any such document, or by any statute or ordinance or otherwise against Developer and any other person. Neither the failure nor any delay on the part of the City to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the City of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 5.5. Attorney's Fees and Costs. The City shall be entitled to receive from the Developer or any person violating the requirements of this Agreement, in addition to any remedy otherwise available under this Agreement or at law or equity, whether or not litigation is instituted, the costs of enforcing this Agreement, including without limitation reasonable attorneys' fees and the costs of City staff time.

ARTICLE 6.

GENERAL PROVISIONS

Section 6.1. Appointment of Other Agencies. At its sole discretion, the City may designate, appoint or contract with any other public agency, for-profit or non-profit organization to perform some or all of the City's obligations under this Agreement.

Section 6.2. Records. Developer shall retain all records related to compliance with obligations under this Agreement for a period not less than five (5) years from the date of origination of such records, and make them available to City employees or others designated by the City for inspection and copying on five (5) business days' written notice. The City shall be entitled to monitor compliance with this Agreement and the Project Conditions, and Developer shall cooperate with City monitoring, including obtaining Tenant rent and income verification upon request of the City. Developer agrees to pay an annual monitoring fee of Fifty Dollars (\$50) per BMR Unit per year prior to the sale of the BMR Units or any fee for the reasonable cost of monitoring this Agreement as may be adopted by resolution of the City Council.

Section 6.3. Nondiscrimination. All of the BMR Units shall be available for occupancy on a continuous basis to members of the general public. The Developer shall not give preference to any particular class or group of persons in renting or selling the BMR Units, except to the extent that the BMR Units are required to be rented and sold to Eligible Households; further provided, there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, source of income (e.g., SSI), age (except for lawful senior housing), ancestry, or disability, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Unit nor shall the Developer or any person claiming under or through the Developer, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of Tenants of any Unit or in connection with the employment of persons for the construction, operation and management of the Project.

Section 6.4. Hold Harmless. Developer will indemnify and hold harmless (without limit as to amount) City and its elected officials, officers, employees and agents in their official

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capacity (hereinafter collectively referred to as "Indemnitees"), and any of them, from and against all loss, all risk of loss and all damage (including expense) sustained or incurred because of or by reason of any and all claims, demands, suits, actions, judgments and executions for damages of any and every kind and by whomever and whenever made or obtained, allegedly caused by, arising out of or relating in any manner to the Project, the BMR Units, or Developer's performance or non-performance under this Agreement, including claims pursuant to California Labor Code Section 1720 et seq., and shall protect and defend Indemnitees, and any of them with respect thereto, except to the extent arising from the gross negligence or willful misconduct of the City. The provisions of this Section shall survive expiration or other termination of this Agreement or any release of part or all of the Property from the burdens of this Agreement, and the provisions of this Section shall remain in full force and effect.

Section 6.5. Notices. All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the Party to receive such notice at the addressed set forth below:

TO THE CITY:

City of El Cerrito
Community Development Department
10890 San Pablo Ave
El Cerrito, CA 94530
Attn: Community Development Director

TO THE DEVELOPER:

Creekside Walk Ventures, LLC, a Limited Liability Company
12424 Wilshire Blvd, Suite 670
Los Angeles, CA 90025
Attn: Philip Ram
(310) 979-3210

Any Party may change the address to which notices are to be sent by notifying the other Parties of the new address, in the manner set forth above.

Section 6.6. Integrated Agreement. This Agreement constitutes the entire Agreement between the Parties and no modification hereof shall be binding unless reduced to writing and signed by the Parties hereto.

Section 6.7. Each Party's Role in Drafting the Agreement. Each Party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither Party shall rely upon Civil Code Section 1654 in order to interpret any uncertainty in the meaning of the Agreement.

Section 6.8. Amendment of Agreement. Major amendments to this Agreement, shall be subject to the review and approval of the decision-making body which approved the Project.

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Minor amendments to this Agreement may be approved by the Director. Upon approval, a new Agreement containing the amendments shall be executed and recorded.

Section 6.9. No Claims. Nothing contained in this Agreement shall create or justify any claim against the City by any person that Developer may have employed or with whom Developer may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Property or the construction of the Project or construction of the BMR Units.

Section 6.10. Applicable Law. This Agreement shall be governed by California law. Venue shall be the County of Contra Costa.

Section 6.11. Waivers. Any waiver by the City of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of Developer or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Developer to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by Developer shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's written consent to future waivers.

Section 6.12. Title of Parts and Sections. Any titles of the sections, subsections, or subparagraphs of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 6.13. Multiple Originals; Counterpart. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 6.14. Recording of Agreement. The Developer shall cause this Agreement to be recorded against the Property in the Official Records of the County of Contra Costa.

Section 6.15. Severability. In the event any limitation, condition, restriction, covenant, or provision contained in this Agreement is to be held invalid, void or unenforceable by any court of competent jurisdiction, the remaining portions of this Agreement shall nevertheless be and remain in full force and effect.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first above written.

DEVELOPER:

Creekside Walk Ventures, LLC, a California limited liability company

By: Ravello California, a California Corporation

Its: Managing Member

By:_____

Its:_____

CITY:

City of El Cerrito, a California municipal corporation

By: _____

Its: _____

APPROVED AS TO FORM:

By:_____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

TO BE INSERTED

EXHIBIT B

**SCHEDULE OF AFFORDABLE UNITS AND MAP SHOWING LOCATION OF
AFFORDABLE UNITS**

Schedule of BMR Units to be Provided within the Project

*BMR Units to be Provided Upon Initial Occupancy; to be Sold as BMR Units if Units in the
Project Are Offered for Sale **

Moderate Income					
South Building					
	Unit #	Beds	Unit Type	SQ. Ft.	Floor Level
1	103	2	2C	1100	1
2	113	1	1A.1	811	1
3	122	3	3A	1446	1
4	124	1	1A.2	854	1
5	207	2	2A.1	1042	2
6	209	2	2D.1	1131	2
7	211	2	2D.2	1250	2
8	217	1	1A.6	812	2
9	318	1	1C.3	801	3

North Building					
	Unit #	Beds	Unit Type	SQ. Ft.	Floor Level
10	108	1	1E	800	1
11	116	2	2B.5	1130	1
12	212	1	1A.3	855	2
13	302	2	2B.8	1145	3

Low Income					
South Building					
	Unit #	Beds	Unit Type	SQ. Ft.	Floor Level
14	107	2	2A.1	1042	1
15	123	1	1A.1	811	1
16	315	1	1A.7	811	3

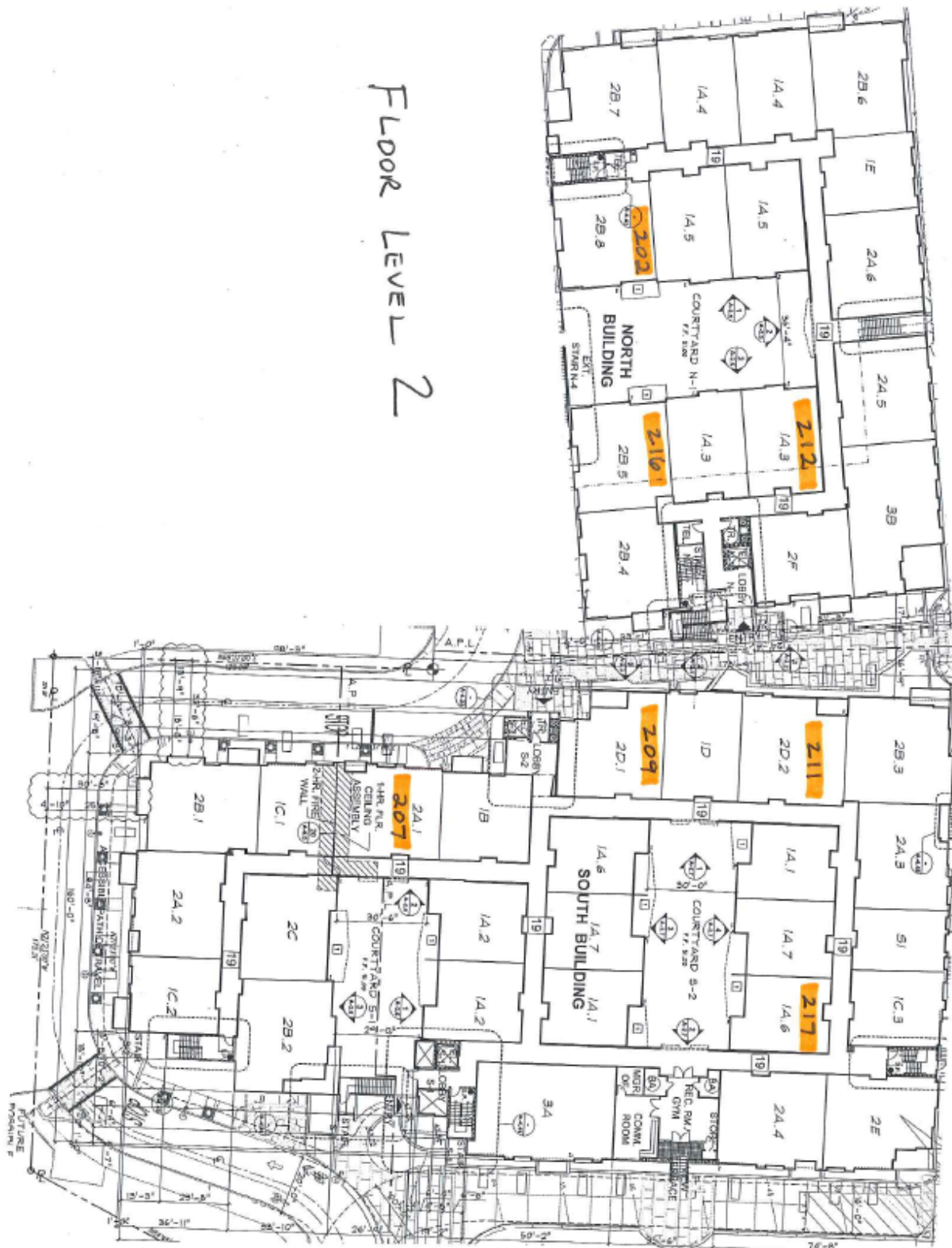
North Building					
	Unit #	Beds	Unit Type	SQ. Ft.	Floor Level
17	114	1	1A.3	855	1
18	202	2	2B.8	1145	2
19	216	2	2B.5	1130	2

**See Section 2.2. If Developer offers Units in the Project for sale, all the BMR Units shall be sold at Affordable Sales Prices.*

Map of BMR Units to be Provided within the Project



Map of BMR Units to be Provided within the Project (continued)



Map of BMR Units to be Provided within the Project (continued)

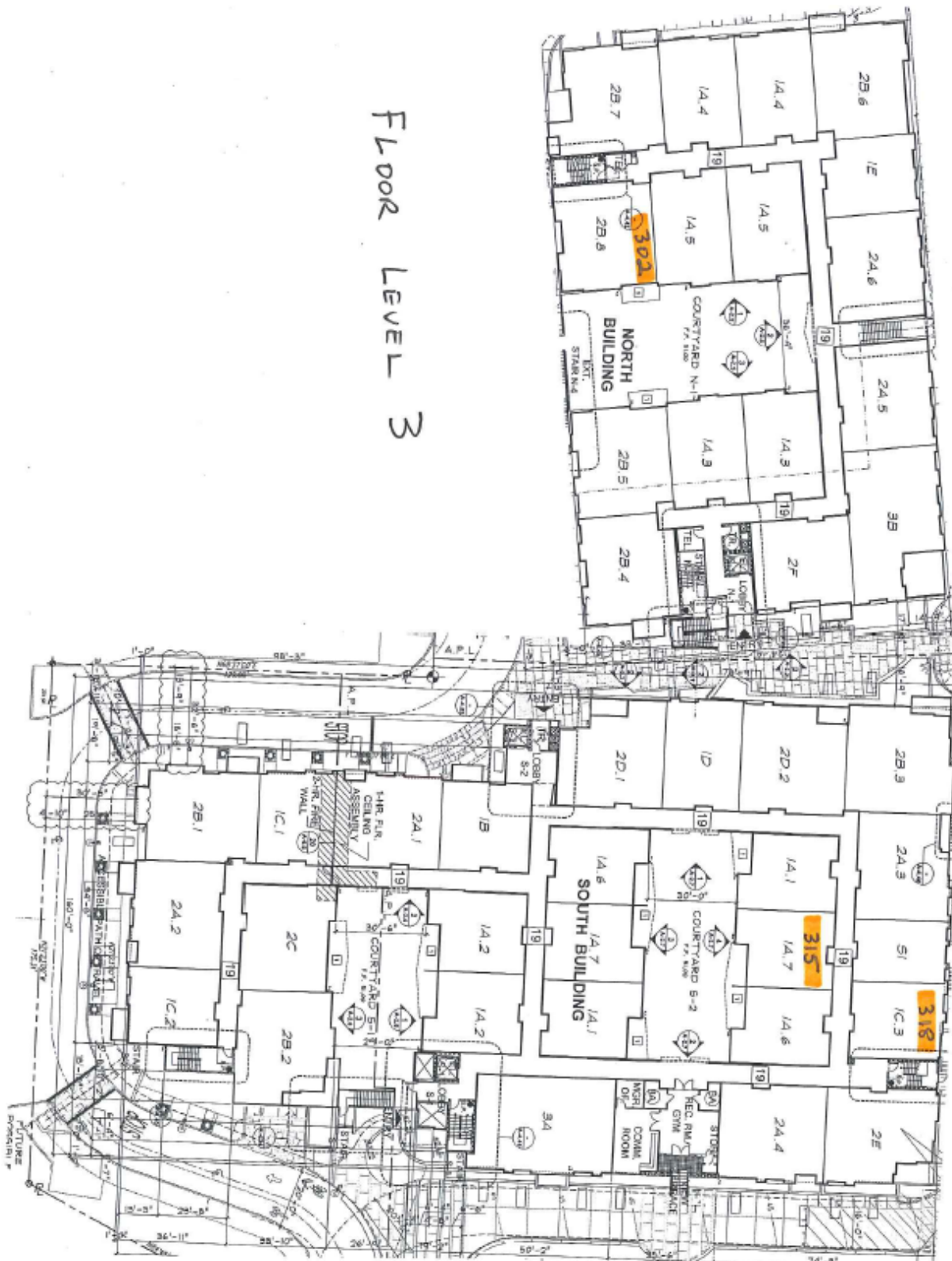


EXHIBIT C

**MAXIMUM INITIAL AFFORDABLE RENTS FOR BMR UNITS AND MAXIMUM
INCOME LEVEL OF TENANTS**

(Provided for reference. These limits are adjusted annually, as determined and provided by the City. Developer shall apply and Project shall be subject to the Affordable Rents and income limits in effect at the time Developer submits marketing plan to City.)

A. Maximum Affordable Rents (as of April 15, 2015).

Number of Bedrooms	Maximum Low Income Household Affordable Rent*	Maximum Moderate Income Household Affordable Rent*
1	\$1,043	\$1,978
2	\$1,157	\$2,209
3	N/A	\$2,445

** Assumes the following utility allowances provided by the Contra Costa Housing Authority are deducted from the gross rent: gas heating/water heating; electric cooking; other electric; metered water; and air conditioning. The allowances total \$79/1-bedroom unit; \$105/2-bedroom unit; and \$126/3-bedroom unit.*

B. Maximum Household Income of Tenants (Income Limits as of April 15, 2015)

Assumed Household Size (Number of Persons)	Maximum Gross Annual Low Income Household Income	Maximum Gross Annual Moderate Income Household Income
1	\$50,150	\$78,550
2	\$57,300	\$89,750
3	\$64,450	\$101,000
4	\$71,600	\$112,200
5	\$77,350	\$121,200
6	\$83,100	\$130,150
7	\$88,800	\$139,150

EXHIBIT D

**MAXIMUM INITIAL SALES PRICES FOR BMR UNITS AND MAXIMUM INCOME
LEVEL OF ELIGIBLE HOUSEHOLDS**

(Provided for reference. These limits are adjusted annually, as determined and provided by the City. Developer shall apply and Project shall be subject to the BMR sales prices and income limits in effect at the time Developer submits Notice of Intent to Sell to City)

A. Affordable Sales Prices (as of April 15, 2015).

Number of Bedrooms	Maximum Low Income Household BMR Sales Price	Maximum Moderate Income Household BMR Sales Price
1	\$154,700	\$341,100
2	\$174,800	\$384,400
3	N/A	\$428,500

** Assumes a 5% down payment and an interest rate based on current FHA mortgages plus PMI.*

B. Maximum Household Income of Eligible Households (Income Limits as of April 15, 2015).

Assumed Household Size (Number of Persons)	Maximum Gross Annual Low Income Household Income	Maximum Gross Annual Moderate Income Household Income
1	\$50,150	\$78,550
2	\$57,300	\$89,750
3	\$64,450	\$101,000
4	\$71,600	\$112,200
5	\$77,350	\$121,200
6	\$83,100	\$130,150
7	\$88,800	\$139,150

EXHIBIT E

FORM OF HOMEBUYER RESALE RESTRICTIONS

- Resale Restriction
- Homebuyer/City Note
- and Homebuyer/City Deed of Trust]

NO RECORDING FEE PURSUANT
TO GOVERNMENT CODE SECTION 27383

RECORDING REQUESTED BY

Title Company Name
Escrow #

AND WHEN RECORDED MAIL TO

City of El Cerrito
Community Development Department
10890 San Pablo Ave
El Cerrito, CA 94530
Attn: Community Development Director

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**OCCUPANCY, RESALE, AND REFINANCING RESTRICTION AGREEMENT AND
OPTION TO PURCHASE AT RESTRICTED PRICE**

**CITY OF EL CERRITO
BELOW MARKET RATE PURCHASE PROGRAM**

Owner:

Property Address:

Affordable Housing Cost:

\$

**NOTE: THIS AGREEMENT GRANTS THE CITY AN OPTION TO BUY YOUR
PROPERTY AT A RESTRICTED PRICE THAT MAY BE BELOW THE MARKET
VALUE.**

This Occupancy, Resale, and Refinancing Restriction Agreement and Option to Purchase
at a Restricted Price (the "Agreement") is entered into as of this ____ day of _____, 201__,
by and between the City of El Cerrito, a California municipal corporation (the "City") and
_____ ("Owner").

RECITALS

A. To further its goal of creating affordable home ownership opportunities for low-income and moderate-income persons and families, the City has required certain developments to provide for the sale of some homes at a price below fair market value (the "BMR Program").

B. As part of the BMR Program, the City and _____, a California _____ (the "Developer") entered into an affordable housing agreement (the "Affordable Housing Agreement"), which was required by the Conditions of Approval for Developer's application for land use entitlements as approved by the City Council on January 30, 2006.

C. The Affordable Housing Agreement required the Developer and future purchasers to sell certain homes, including the Property as defined below, to low and moderate income households at an affordable price.

D. Owner intends to purchase the property located at _____, which is more particularly described in Exhibit A attached hereto and incorporated by this reference (the "Property") at a cost affordable to Owner and below the unrestricted fair market value of the Property, as shown on page 1 of this Agreement (the "Affordable Housing Cost"). The Property has been made affordable to Owner through the terms of the BMR Program. The Owner has agreed to execute and comply with this Agreement in consideration of the Owner's purchase of the Property at the Affordable Housing Cost.

E. Owner is an eligible **[low or moderate]** income purchaser, intends to purchase the Property, intends to live in the Property as an owner-occupant, and agrees to maintain the Property as Owner's principal residence (an "Eligible Purchaser").

F. The purpose of this Agreement is to place occupancy, refinancing, and resale controls on the Property and to require the payment of any excess proceeds of sale or excess rental proceeds to the City. This Agreement also provides the City an option to purchase the Property at a restricted price. The occupancy, refinancing, and resale controls prevent the Owner and subsequent purchasers from using the Property for purposes incompatible with the BMR Program and realizing unwarranted gains from sale of the Property at an unrestricted price. The terms and conditions of this Agreement are intended to provide the necessary use and resale restrictions to ensure that the Property is used, maintained, and preserved as housing affordable to eligible low and moderate-income purchasers.

G. The Owner is receiving the following purchase money loan(s):

<u>Name of Lender</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

The purchase money loans listed in this Recital are collectively the "First Lender Loan." The lender(s) of the First Lender Loan is the "First Lender." The First Lender Loan is secured by a deed of trust executed by the Owner in favor of the First Lender and recorded in the County of Contra Costa concurrently with this Agreement (the "First Lender Deed of Trust").

H. The Owner's obligations to pay the City any excess sale proceeds and excess rents according to this Agreement are evidenced by a promissory note (the "City Note"). This Agreement and the City Note shall be secured by a deed of trust and security agreement on the Property (the "City Deed of Trust").

I. The Property constitutes a valuable community resource by providing decent, safe, and sanitary housing to persons and families of low and moderate incomes who otherwise would be unable to afford such housing. To protect and preserve this resource it is necessary, proper, and in the public interest for the City to administer the occupancy, financing, and resale controls by means of this Agreement.

NOW, THEREFORE, in consideration of the benefits received by the Owner and the public purposes served by the BMR Program, the Owner and the City agree as follows:

AGREEMENT

The foregoing recitals are hereby incorporated by reference and made part of this Agreement.

1. DEFINITIONS AND EXHIBITS

The following terms are specially defined for this Agreement and their definitions can be found in the sections indicated below:

- A. "Advances" – Section 7.F
- B. "Affordable Housing Agreement" - Recital B
- C. "Affordable Housing Cost" – Recital D
- D. "Affordable Rent" – Section 3.A
- E. "Agreement" - First sentence on page 1
- F. "BMR Program" – Recital A
- G. "City" – First sentence of the Agreement on page 1
- H. "City Deed of Trust" – Recital H
- I. "City Note" – Recital H
- J. "City Response Notice" - Section 7.C

- K. "Declaration of Default" – Section 12.C
- L. "Default" – Section 12.A
- M. "Designated Purchaser" – Section 6.B
- N. "Developer" – Recital B
- O. "Eligible Capital Improvements" - Section 8.A
- P. "Eligible Purchaser" – Recital E
- Q. "Excess Rents" – Section 3.B
- R. "Excess Sales Proceeds" - Section 10.A
- S. "Fair Market Value" - Section 8.B
- T. "First Lender" - Recital G
- U. "First Lender Deed of Trust" - Recital G
- V. "First Lender Loan" - Recital G
- W. "HUD" is the United States Department of Housing and Urban Development.
- X. "Inheriting Owner" – Section 5.C
- Y. "Median Income" means the median Household Income in Contra Costa County as determined periodically by the State of California pursuant to California Code of Regulations, Title 25, Section 6932 (or successor provision), or as otherwise established by the City.
- Z. "Option" – Section 6.A
- AA. "Permitted Transfer" – Section 5.B
- BB. "Property" - Recital D
- CC. "Indexed Price" - Section 8.A
- DD. "Maximum Resale Price" - Section 8
- EE. "Owner" - First sentence of the Agreement on Page 1
- FF. "Owner's Notice of Intent to Transfer" - Section 7.A
- GG. "Permitted Encumbrance Amount" – Section 11.B

- HH. "Term" – Section 17
- II. "Transfer" - Section 5.A
- JJ. "VA" is the United States Veterans Administration.

The following exhibits are attached to this Agreement:

- Exhibit A: Legal Description of the Property
- Exhibit B: Form of Owner Occupancy Certification
- Exhibit C: Form of Owner's Notice of Intent to Transfer
- Exhibit D: Form of Owner Request for City Subordination to Refinance First Lender Loan

2. OWNER CERTIFICATIONS; OWNER OCCUPANCY REQUIREMENT

The Owner certifies that the financial and other information previously provided in order to qualify to purchase the Property is true and correct as of the date first written above. The Owner shall occupy the Property as the Owner's principal place of residence for the Term of this Agreement. The Owner shall be considered as occupying the Property as the Owner's principal place of residence if the Owner is living in the unit for at least ten (10) months out of each calendar year, maintains a valid homeowner's property tax exemption, and provides reasonable requested documentation to verify occupancy.

A. Annual Certification of Owner Occupancy. On or before February 1 of each calendar year, the Owner, under penalty of perjury, shall provide an annual written certification to the City, in the form shown on Exhibit B of this Agreement, that the Owner is occupying the Property as his or her principal place of residence, unless the City has approved a temporary waiver of the occupancy requirement in writing as provided in Section 2.B; or the City has approved rental of the Property in writing as provided in Section 3 below. The City may request additional documentation from the Owner(s) to demonstrate that the Property is Owner's principal place of residence. The Owner agrees to fully cooperate with the City in promptly providing all information requested by the City to assist the City in monitoring Owner's compliance with this Agreement.

B. Temporary Waiver of Occupancy Requirement. The City may, in its sole discretion, grant a temporary waiver of this occupancy requirement if all of the following conditions are met: (1) the City has determined that the Owner will incur substantial hardship if he or she is not permitted to temporarily vacate the Property; (2) the Owner provides a written request to the City for a temporary waiver of the occupancy requirement before vacating the Property; and (3) the term of the occupancy waiver is not greater than one (1) year. A temporary vacancy shall only be considered approved if the City approves the request in writing.

3. RENTAL OR LEASING OF PROPERTY

A. Prohibition on Renting or Leasing the Property. The Owner shall not rent or lease the Property except with the prior express written consent of the City. The City may, in its sole discretion, approve the rental or leasing of the Property if all of the following conditions are met:

(1) the Owner demonstrates to the City, in the City's sole discretion, that the Owner will incur substantial hardship if he or she is not permitted to rent or lease the Property; (2) the term of the rental or lease is not greater than twelve (12) months and cannot be extended without the City's written approval; (3) the lease requires the tenant to maintain the Property and surrounding property in good condition and prohibits subleasing; (4) the rent for the Property does not exceed the lesser of: (i) thirty percent (30%) of the income of the tenant household that is renting the Property, or (ii) the Owner's monthly cost of principal and interest on the First Lender Loan, and property insurance, property taxes, and homeowners association dues, if any, associated with Property (the lesser rent is the "Affordable Rent"); and (5) the City certifies that the tenant's income meets the income limits, as adjusted by household size, that are applicable to the Property.

B. Payment of Excess Rents. Any lease of the Property in violation of this Agreement is prohibited. The Owner agrees that, in the event the Owner rents or leases the Property in violation of this Section 3, any rents paid to the Owner by the tenant or lessee in excess of the Affordable Rent ("Excess Rents") shall be due and payable to the City immediately upon receipt thereof by the Owner. Such Excess Rents shall be considered a recourse debt of the Owner to the City, which the City may collect by legal action against the Owner, by foreclosure under the City Deed of Trust, and/or by exercising the Option.

4. MAINTENANCE AND INSURANCE REQUIREMENTS

A. Maintenance. The Owner shall maintain the Property, including landscaping, in good repair and in a neat, clean and orderly condition and will not commit waste or permit deterioration of the Property.

B. Insurance. The Owner shall maintain a standard all risk property insurance policy equal to the replacement value of the Property (adjusted every five (5) years by appraisal, if requested by City), naming the City as an additional insured. Additional insurance requirements are set forth in the City Deed of Trust.

5. RESTRICTIONS ON RESALE AND TRANSFER OF THE PROPERTY

A. Transfer. Any Transfer of the Property will be subject to the provisions of this Agreement including, without limitation, the Option described in Section 6 below. "Transfer" means any sale, assignment or transfer, voluntary or involuntary, of any interest in the Property, including, but not limited to, a fee simple interest, a joint tenancy interest, a life estate, a leasehold interest (unless approved as provided in Section 3 of this Agreement), an interest evidenced by a land contract by which possession of the Property is transferred and Owner retains title, or a deed of trust. Any Transfer without satisfaction of the provisions of this Agreement is prohibited and shall constitute a Default.

B. Permitted Transfers. Notwithstanding Section 5.A, the following forms of Transfer shall be considered a "Permitted Transfer" and shall not constitute a Default, but all such transferees shall continue to be bound by this Agreement:

- (1) To a spouse or domestic partner;

- (2) Between spouses or domestic partners as part of a dissolution proceeding or divorce;
- (3) To an inter vivos revocable trust in which Owner is the beneficiary, trustor, and trustee subject to the provisions of Section 5.E;
- (4) By operation of law on the death of a joint tenant;
- (5) A refinancing of the First Lender Loan in accordance with Section 11.C of this Agreement, or
- (6) Execution of a deed of trust subordinate to the City Deed of Trust in accordance with Section 11.D of this Agreement.

However, Owner shall provide written notice of all Permitted Transfers to the City under Section 5.D, and all owners of the Property shall continue to occupy the Property as his or her principal place of residence.

C. Inheritance. In the event a Transfer occurs by devise or inheritance due to death of the Owner, the administrator of the Owner's estate, the trustee of Owner's trust, or the person inheriting the Property shall provide written notice to the City of the Owner's death within thirty (30) days of the date of death and the following procedures shall apply:

(1) If the person inheriting the Property was previously a co-owner who was income qualified, or who obtained title through a Permitted Transfer, then the inheritance is permitted. All other persons inheriting the Property shall be an "Inheriting Owner." The Inheriting Owner shall provide the City with income and other information, to be verified by the City, so that the City may determine if the Inheriting Owner qualifies as an Eligible Purchaser.

(2) If the City determines that the Inheriting Owner is an Eligible Purchaser, such Inheriting Owner shall be permitted to take ownership of the Property provided that the Inheriting Owner shall enter into a new agreement, note, and deed of trust, in a form determined by the City, for a new Term and comply with all obligations under those documents, including occupancy of the Property as his or her principal place of residence.

(3) If the Inheriting Owner fails to qualify as an Eligible Purchaser or does not provide the City with information to determine if the Inheriting Owner is an Eligible Purchaser, he or she shall be required to Transfer the Property to an Eligible Purchaser at a price not exceeding the Maximum Resale Price; provided, that if the Inheriting Owner is a minor child, such Inheriting Owner and his or her legal guardian may occupy the Property for the time period prescribed by Probate Code Section 6500 without the City determining that the legal guardian of any such Inheriting Owner is an eligible purchaser.

(4) Failure of an Inheriting Owner to follow the procedures and file the notices described in this Section 5.C shall constitute a Default under this Agreement and the City may then exercise any of the remedies available to it, including, without limitation, exercise of the Option.

D. Notice of Permitted Transfer. Owner shall provide notice to the City of any transfers described in Sections 5.B and 5.C of this Agreement within thirty (30) days of the date of transfer.

E. Transfer to Inter Vivos Revocable Trust. With the prior written approval of the City, the Property may be transferred to an inter vivos revocable trust where the Owner is the beneficiary, trustor, and trustee of the trust; except that if the Owner lacks capacity and is subject to a conservatorship, a third party trustee may be named. The trust must contain language reasonably acceptable to the City describing the restrictions of this Agreement. Transfer of the Property to any other form of trust is prohibited and shall constitute a Default.

6. GRANT OF OPTION TO PURCHASE; ASSIGNMENT OF OPTION BY CITY

A. Grant of Option. In consideration of the economic benefits received by the Owner resulting from purchase and ownership of the Property at the Affordable Housing Cost, Owner hereby grants and gives to the City a right to purchase all of Owner's right, title, and interest in and to the Property ("Option") for the Maximum Resale Price, calculated as provided in Section 8 below, upon the occurrence of either of the following:

(1) The City receives an Owner's Notice of Intent to Transfer (defined in Section 7.A of this Agreement); or

(2) The City declares a Default as provided in Section 12 of this Agreement.

B. Assignment of Option. The City may, instead of purchasing the Property itself, assign the Option to another public agency, a nonprofit corporation, or to an Eligible Purchaser (each a "Designated Purchaser").

C. Exercise of Option. The City acknowledges and agrees that the Option shall only be exercised for the purpose of retaining the Property as an affordable housing unit as provided in Section 13.

D. Option Term. The term of the Option extends for the Term of this Agreement. The City's rights to exercise the Option shall survive any Transfer of the Property by the Owner in violation of this Agreement. As long as the Option has not been expressly abandoned, any actual or attempted Transfer of the Property in violation of the terms and conditions of this Agreement shall be a Default and shall be voidable at the election of the City.

E. HUD-Insured and VA-Guaranteed Mortgages. Notwithstanding the above, if Owner has acquired the Property by a mortgage insured by the Secretary of the United States Department of Housing and Urban Development ("HUD") or guaranteed by the Secretary of the Department of Veteran's Affairs ("VA"), and a notice of default under such mortgage has been recorded pursuant to California Civil Code Section 2924 (or successor provisions), this Option shall automatically terminate if title to the Property is transferred to HUD or the VA by foreclosure or deed-in-lieu of foreclosure under such mortgage, or if the insured mortgage is assigned to the Secretary of HUD or VA .

7. NOTICE OF INTENDED SALE OR TRANSFER

A. Transfer Notice. In the event the Owner intends to Transfer or vacate the Property, the Owner shall promptly give the City written notice of such intent (the "Owner's Notice of Intent to Transfer"), in the form shown in Exhibit C attached to this Agreement. The Owner shall give the City the Owner's Notice of Intent to Transfer prior to notifying real estate brokers or lenders of Owner's intent to Transfer the Property and prior to listing of the Property on the Multiple Listing Service. The Owner's Notice of Intent to Transfer shall be sent to the City by certified mail, return receipt requested at the address provided in Section 26 of this Agreement.

B. Real Estate Broker. The Owner should not contract with a real estate broker to sell the Property until the Owner has received the City Response Notice as provided in Section 7.B below, as the services of a broker will not be required if the City exercises the Option to purchase the Property.

C. City Response Notice. The City shall respond in writing (the "City Response Notice") to the Owner's Notice of Intent to Transfer within thirty (30) days of City receipt of a complete Owner's Notice of Intent to Transfer. The City Response Notice shall inform the Owner of the City's election to proceed under one of the following two alternatives:

(1) City Exercise of Option. The City Response Notice may notify the Owner that the City elects to exercise the Option, or assign the Option to a Designated Purchaser, and shall include the City's calculation of the Maximum Resale Price to be paid by the City as provided in Section 8 below. The City may choose to assign the Option to a Designated Purchaser at any time after the City has decided to exercise the Option but before the close of escrow.

(2) City Determination Not to Exercise Option. Alternatively, the City Response Notice may notify the Owner that the City elects not to exercise the Option. In this event, the Owner may sell the Property subject to the provisions of Section 9.

D. Preparation for Sale Procedure. Following delivery to the City of the Owner's Notice of Intent to Transfer, the Owner shall prepare the Property for sale, as follows:

(1) within thirty (30) days of delivery of the Owner's Notice of Intent to Transfer, the Owner shall obtain and deliver to the City a current written report of inspection of the Property by a licensed structural pest control operator, and within the sooner of (a) sixty (60) days from the date of delivery of the Owner's Notice of Intent to Transfer, or (b) prior to close of escrow on the Transfer, the Owner shall repair all Section 1 deficiencies noted in the pest report including damage caused by infestation or infection by wood-destroying pests;

(2) within thirty (30) days of the date of the Owner's Notice of Intent to Transfer, the Owner shall allow the City to inspect the Property to determine its physical condition, and, if requested by the City, within the sooner of (a) sixty (60) days from the date of the inspection report, or (b) prior to close of escrow on the Transfer, the Owner shall repair all damage and deferred maintenance noted in the inspection report;

(3) if the Property is vacant, the Owner shall maintain the Property, including the exterior landscaping, in good condition and shall maintain utility connections until the close of escrow on the Transfer; and

(4) in the event of City purchase of the Property, the Owner shall permit a final walk-through of the Property by the City or the Designated Purchaser in the final three (3) days prior to close of escrow on the Transfer.

The Owner shall cooperate with the City throughout the process for preparing the Property for sale described in this Section 7.D in promptly providing all information requested by the City to assist the City in preparing the Property for sale.

E. Escrow. If the City Response Notice notifies the Owner that the City intends to exercise the Option, the City or the Designated Purchaser shall open an escrow account for its purchase of the Property. Close of escrow shall take place on such date which is the later to occur of the following: (a) ninety (90) days after the date of the City Response Notice, or (b) ten (10) days after Owner has done all acts and executed all documents required for close of escrow.

F. Deposit of Funds Into Escrow. Prior to the close of escrow, the City or the Designated Purchaser shall ensure that funds are deposited to pay the Maximum Resale Price of the Property. All Advances previously paid by the City shall be repaid from escrow. "Advances" include any payment by the City of costs including, but not limited to, principal, interest, taxes, assessments, insurance premiums, homeowners' fees, and associated late fees, costs, interest, attorneys' fees, costs of investigation (including but not limited to costs of investigating compliance with the owner occupancy requirements of Section 2), pest inspections, resale inspections, and other expenses related to the Property, which Owner has failed to pay or has permitted to become delinquent or which are required to remove liens and encumbrances as provided in Section 7.G below or which are otherwise due to the City. Closing costs and title insurance shall be paid by City or its Designated Purchaser and Owner pursuant to the custom and practice in the County of Contra Costa at the time of the opening of escrow, or as may be provided otherwise by mutual agreement. Owner agrees to do all acts and execute all documents necessary to enable the close of escrow and Transfer of the Property to the City or its Designated Purchaser.

G. Removal of Exceptions to Title. The Owner shall convey title to the Property at the close of escrow free and clear of any mortgage, lien, or other encumbrance, unless approved in advance in writing by the City or its Designated Purchaser. If the amounts deposited into escrow by the City or its Designated Purchaser are not sufficient to satisfy all liens and encumbrances recorded against the Property, then the Owner shall deposit into escrow the additional sums that are required to remove the liens and encumbrances.

H. No Obligation. In no event shall the City become liable or obligated in any manner to Owner by reason of the assignment of the Option, nor shall the City be in any way liable or obligated to Owner for any failure of the Designated Purchaser to consummate a purchase of the Property or to comply with the terms of this Option, or any escrow instructions or agreement for the purchase of the Property.

8. DETERMINATION OF MAXIMUM RESALE PRICE

If the City exercises the Option, the maximum sales price (the "Maximum Resale Price") that the Owner shall receive for purchase of the Property shall be the LESSER of the Indexed Price or the Fair Market Value.

A. Indexed Price.

(1) The "Indexed Price" of the Property is total of (1) the Affordable Housing Cost of the Property at the time of purchase by the Owner, increased by the percentage of increase in the Median Income from the date of the original purchase of the Property by the Owner to the date of receipt by the City of the Owner's Notice of Intent to Transfer, and (2) where applicable, adjustments made as provided in Section 8.A (2) below.

(2) Where applicable, the Indexed Price shall include an upward adjustment reflecting the depreciated value of any substantial structural or permanent fixed improvements which the Owner has made to the Property after Owner's purchase of the Property. No such adjustment shall be made except for improvements made or installed by the Owner which conformed with applicable building codes at the time of installation and whose initial costs, as verified by invoices, receipts, or similar forms of documentation, exceed \$2,000 or one percent (1%) of the purchase price paid for the Property by the Owner, whichever is greater. Improvements meeting the above requirements are referred to in this Agreement as "Eligible Capital Improvements." Items necessary to put the Property into sellable condition shall be determined by the City, and may include cleaning, painting and making needed structural, mechanical, electrical, plumbing and fixed appliance repairs and other deferred maintenance repairs.

B. Fair Market Value.

(1) In certain circumstances it may be necessary to determine the fair market value of the Property without taking account of the resale restrictions imposed by this Agreement (the "Fair Market Value"). These circumstances include: (1) where the parties wish to determine if the Indexed Price exceeds the Fair Market Value in order to determine the Maximum Resale Price as provided in Section 8; and (2) where the Owner is selling the Property to a purchaser at an unrestricted price as provided in Section 9.

(2) If it is necessary to determine the Fair Market Value of the Property, it shall be determined by a certified MAI or other qualified real estate appraiser approved in advance by the City. If possible, the appraisal shall be based upon the sales prices of comparable properties sold in the market area during the preceding three (3)-month period. The cost of the appraisal shall be shared equally by the City and the Owner, unless the appraisal is obtained from a new purchaser, or unless the appraisal is necessary because the Owner wishes to refinance the First Lender Loan or take out a new subordinate loan as provided in Section 11, in which event the Owner shall pay the cost of the appraisal.

(3) Nothing in this Section shall preclude the Owner and the City from establishing the Fair Market Value of the Property by mutual agreement in lieu of an appraisal.

9. SALE OF HOME BY OWNER IF CITY DOES NOT EXERCISE OPTION TO PURCHASE

In the event the City Response Notice notifies the Owner that the City does not want to exercise the Option or assign it to a Designated Purchaser, the Owner may elect to sell the Property to an Eligible Purchaser for the Maximum Resale Price. The Owner shall be independently responsible to make good faith efforts to market and sell the Property to an Eligible Purchaser and shall cooperate with City in good faith in the effort to sell the Property to an Eligible Purchaser for the Maximum Resale Price. The City shall verify buyer's eligibility before Owner may accept a buyer's offer to purchase. Owner shall comply with applicable fair housing laws in the marketing and sale of the Property. A purchase contract between Owner and an Eligible Purchaser shall include requirements that buyers execute documents provided by and for the benefit of the City to maintain the Property in the BMR Program.

If Owner has not received any purchase offer from an Eligible Purchaser for the Property within one hundred eighty (180) days after the Property has been offered for sale, the Owner shall provide a one hundred eighty (180) days' notice to the City and shall satisfy any further conditions that may be reasonably required by the City, including but not limited to, further efforts to find an Eligible Purchaser and/or sale to the City or its designee, which may include a non-profit affordable housing organization or an Eligible Purchaser. If City or its designee has not submitted a bona fide offer to purchase the Property at the Maximum Resale Price within forty-five (45) days of receiving Owner's notice, and/or if escrow has not closed on the Property sale within an additional sixty (60) days from date of Owner's acceptance of such offer under this Section, Owner may sell the Property to a purchaser at unrestricted fair market value. The City shall reconvey the liens of this Agreement and the City Deed of Trust and cancel the City Note, provided that the Owner pays the Excess Sales Proceeds to the City as provided in Section 10 below and provide the City with the following documentation associated with such a Transfer:

- A. The name and address of the purchaser;
- B. The final sales contract and all other related documents which shall set forth all the terms of the sale of the Property, including a HUD-1 Settlement Statement. Said documents shall include at least the following terms: (a) the sales price; and (b) the price to be paid by the purchaser for the Owner's personal property, if any, for the services of the Owner, if any, and any credits, allowances or other consideration, if any.
- C. A written certification, from the Owner and the purchaser in a form acceptable to the City, that the sale shall be closed in accordance with the terms of the sales contract and other documents submitted to and approved by the City. The certification shall also provide that neither the purchaser nor any other party has paid or will pay to the Owner, and the Owner has not received and will not receive from the purchaser or any other party, money or other consideration, including personal property, in addition to what is set forth in the sales contract and documents submitted to the City. The written certification shall also include a provision that in the event a Transfer is made in violation of the terms of this Agreement or false or misleading statements are made in any documents or certification submitted to the City, the City shall have the right to foreclose on the Property or file an action at law or in equity as may be appropriate. In any event, any costs, liabilities or obligations incurred by the Owner and the purchaser for the

return of any moneys paid or received in violation of this Agreement or for any costs and legal expenses, shall be borne by the Owner and/or the purchaser and they shall hold the City harmless and reimburse their expenses, legal fees and costs for any action they reasonably take in good faith in enforcing the terms of this Agreement.

D. A copy of the MAI or other qualified appraisal for the Property.

E. Upon the close of the proposed sale, a copy of the final sales contract, HUD-1 Settlement Statement, escrow instructions, and any other documents which the City may reasonably request.

10. PAYMENT TO CITY OF EXCESS SALES PROCEEDS

A. Excess Sale Proceeds. If the Owner Transfers the Property at an unrestricted price as provided in Section 9 above, or if the Owner makes a Transfer in violation of this Agreement, the Owner shall pay the Excess Sales Proceeds to the City. For purposes of this Agreement, "Excess Sales Proceeds" shall mean the amount by which the gross sales proceeds received by the Owner from the new purchaser exceed the Maximum Resale Price for the Property. However, if the Owner Transfers the Property as provided in Section 9 and is otherwise not in Default under this Agreement, the amount of Excess Sales Proceeds due to the City shall be reduced by the amount of any actual closing costs and real estate commission paid by the Owner at Transfer, up to a maximum of six percent (6%) of gross sales proceeds.

B. The amount of any Excess Sales Proceeds shall be a debt of the Owner to the City, evidenced by this Agreement, secured by the City Deed of Trust. The Owner acknowledges that the City shall have no obligation to cause release or reconveyance of this Agreement or of the City Deed of Trust until the Excess Sales Proceeds are paid to the City. The City shall utilize the Excess Sales Proceeds for City affordable housing programs. The Owner and the City acknowledge that the formula for calculation of the amount of Excess Sales Proceeds due from the Owner to the City is intended to cause the Owner to receive the same net sales proceeds from sale of the Property at an unrestricted price to an purchaser in conformance with this Agreement as the Owner would receive from sale of the Property to the City or to an eligible purchaser at the Maximum Resale Price.

11. REFINANCE OF FIRST LENDER LOAN; NEW SUBORDINATE LOANS

A. City Consent Required. The Owner covenants and agrees not to place any additional mortgage or deed of trust, including any line of credit, on the Property without obtaining prior written consent of the City. A form for use by the Owner in requesting City subordination to a refinanced First Lender loan or requesting consent for a subordinate loan is attached as Exhibit D to this Agreement.

B. Permitted Encumbrance Amount. The "Permitted Encumbrance Amount", is defined as the greater of: (i) ninety percent (90%) of the Maximum Resale Price, or (ii) the remaining balance of the original First Lender Loan; provided, however, that the City may, in its sole discretion, permit a greater encumbrance amount if a greater encumbrance amount would prevent substantial hardship to the Owner.

C. Refinance. The City shall permit a prepayment and refinance of the First Lender Loan and shall agree to subordinate this Agreement and the City Deed of Trust to the refinanced First Lender Loan provided that:

(1) Following such refinance, the principal amount of all debt secured by the Property does not exceed the Permitted Encumbrance Amount;

(2) The refinanced First Lender Loan is a fully amortized fixed rate loan, is fully documented, has a term not exceeding thirty (30) years, and requires no balloon payments;

(3) If the remaining balance of the original First Lender Loan exceeds ninety percent (90%) of the Maximum Resale Price, then the refinanced First Lender Loan reduces the Owner's principal and interest payments; and

(4) The total new housing cost to the Owner after the refinance does not exceed the Owner's ability to pay.

D. Subordinate Loans. Subordinate loans, including second or junior loans and equity lines of credit, are not permitted except as expressly approved by the City in writing. The City shall permit only those subordinate loans that conform to the following:

(1) Following the addition of the subordinate loan (calculated assuming a maximum permitted draw on any equity line of credit), the principal amount of all debt secured by the Property shall not exceed the greater of: (i) seventy-five percent (75%) of the Maximum Resale Price, or (ii) the remaining balance of the original First Lender Loan; provided, however, that the City may, in its sole discretion, permit a greater encumbrance amount if a greater encumbrance amount would prevent substantial hardship to the Owner.

(2) The subordinate loan is a fully amortized fixed rate loan, is fully documented, has a term not exceeding thirty (30) years, and requires no balloon payments; and

(3) The total new housing cost to the Owner after the addition of the subordinate loan does not exceed the Owner's ability to pay.

E. Request for Notice of Default. As a condition for subordination of the City Deed of Trust or approval of a subordinate loan, a request for notice of default and notice of sale regarding the refinanced First Lender Loan or subordinate loan shall be recorded in the Office of the Recorder of the County of Contra Costa for the benefit of the City.

F. Purpose of Restrictions. The City and the Owner agree that the requirements of this Section 11 are necessary to ensure the continued affordability of the Property to Owner and to minimize the risk of loss of the Property by Owner through default and foreclosure of mortgage loans. Owner further acknowledges that violation of the provisions of this Section 11 shall constitute a Default under this Agreement.

12. DEFAULTS

A. Events Constituting Default. The following events shall constitute a "Default" by the Owner under this Agreement:

(1) The City determines that the Owner has made a misrepresentation to obtain the benefits of purchase of the Property or in connection with its obligations under this Agreement;

(2) The Owner fails to owner occupy the Property, as required by Section 2 above;

(3) The Owner rents or leases the Property, not in compliance with Section 3 above;

(4) The Owner actually Transfers, or attempts to Transfer, the Property in violation of this Agreement;

(5) The Owner fails to provide information to the City necessary to determine Owner's compliance with the requirements of this Agreement.

(6) Judicial foreclosure proceedings are commenced regarding the Property;

(7) A notice of default is issued under any financing secured by the Property, or the City receives any other notice of default as provided in Civil Code Section 2924b, or the Owner is in default on any other financing secured by the Property.

(8) The Owner executes any deed in lieu of foreclosure transferring ownership of the Property;

(9) A lien is recorded against the Property other than the lien of the First Lender Loan, the City Loan, or a loan approved by the City as provided in Section 11.D; or

(10) The Owner otherwise fails to comply with the requirements of this Agreement, the City Note, or the City Deed of Trust.

B. Remedies. Upon a declaration of Default by the City under this Agreement, the City may exercise any remedies at law or in equity, including without limitation any or all of the following, none of which shall be an exclusive remedy:

(1) Declare all sums due under the City Note immediately due and payable without further demand;

(2) Declare a default under the City Note;

(3) Invoke the power of sale under the City Deed of Trust;

(4) Apply to a court of competent jurisdiction for such relief at law or in equity as may be appropriate;

(5) Take such enforcement action as is authorized under the El Cerrito Municipal Code;

(6) Declare a Default under the City Note and City Deed of Trust and pursue all City remedies under the City Deed of Trust; and

(7) Exercise the Option as provided in Section 13 of this Agreement.

C. Notice and Cure.

(1) The City may give written notice to the Owner specifying the nature of any violation. If the violation is not corrected to the satisfaction of City within a reasonable period of time, not longer than thirty (30) days after the date the notice is mailed, or within such further time as the City may provide at its sole discretion, the City may declare a Default under this Agreement by written notice to Owner ("Declaration of Default"). However, if the Owner is in default under any financing secured by the Property, the City may send a Declaration of Default upon receipt of any notice given to the City as provided in Civil Code Section 2924b or through any other means and may exercise its remedies upon Default as provided in this Section and Section 13.

(2) The City shall notify the First Lender in the manner set forth in Section 26 of this Agreement if the City has sent a Declaration of Default under this Agreement or declared a Default under the City Note or the City Deed of Trust.

D. Recordation of Requests for Notice. Requests for notice of default and any notice of sale under any deed of trust or mortgage with power of sale encumbering the Property shall be recorded by the City in the Office of the Recorder of the County of Contra Costa for the benefit of the City.

13. EXERCISE OF OPTION UPON DEFAULT

A. Exercise of Option. The City shall have thirty (30) days after issuing a Declaration of Default to notify Owner and First Lender of its intent to exercise the Option. Not later than ninety (90) days after the City has notified the Owner of its intent to exercise the Option under this Section, Owner and the City shall complete all acts and execute all documents necessary to enable the close of escrow and transfer of the Property to the City, including but not limited to removal of all exceptions to title as required by Section 7.G. If Owner has cured all Defaults prior to close of escrow, City and Owner, at City's sole discretion, may by written agreement determine that City shall not exercise the Option.

B. Court Order. If there is a stay or injunction imposed by court order precluding the City from exercising the Option within the applicable time period, then the running of such period shall be tolled until such time as the stay is lifted or injunction dissolved and the City has been given written notice thereof, at which time the period for exercise of the Option shall again begin to run.

C. Right of City to Reinstate Mortgages. In the event of default and foreclosure, the City shall have the same right as the Owner to cure defaults and redeem the Property prior to the

foreclosure sale and shall be deemed to be Owner's successor in interest under California Civil Code Section 2924c (or successor sections) solely for the purposes of reinstating any mortgage on the Property that has led to the recordation of the notice of default. As Owner's deemed successor in interest, the City shall be entitled, but not required, to pay all amounts of principal, interest, taxes, assessments, insurance premiums, advances, costs, attorneys' fees and expenses required to cure the default. Nothing herein shall be construed as creating any obligation of the City to cure any such default, nor shall this right to cure and redeem operate to extend any time limitations in the default provisions of the underlying deed of trust or mortgage.

14. NONLIABILITY OF THE CITY

A. No Obligation to Exercise Option. The City shall have no obligation to exercise any Option granted it under this Agreement. In no event shall the City become in any way liable or obligated to the Owner or any successor-in-interest to the Owner by reason of the Option, nor shall the City be in any way obligated or liable to the Owner or any successor-in-interest to the Owner for any failure to exercise the Option.

B. Nonliability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between the City and the Owner is solely that of a property owner and the administrator of an affordable housing program, and the City does not assume any responsibility for or duty to the Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Property or any other matter. The City owes no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Property, and the Owner agrees that neither Owner, or Owner's heirs, successors or assigns shall ever claim, have or assert any right or action against the City for any loss, damage or other matter arising out of or resulting from any condition of the Property and will hold the City harmless from any liability, loss or damage for these things.

C. Indemnity. Owner agrees to defend, indemnify, and hold the City and its officers, employees, agents, board members and/or council members harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys' fees that the City may incur as a direct or indirect consequence of: (1) Owner's Default, performance, or failure to perform any obligations as and when required by this Agreement or the City Deed of Trust; or (2) the failure at any time of any of Owner's representations to the City to be true and correct.

15. RESTRICTIONS ON FORECLOSURE PROCEEDS

If a creditor acquires title to the Property through a deed in lieu of foreclosure, a trustee's deed upon sale, or otherwise, the Owner shall not be entitled to the proceeds of sale to the extent that such proceeds otherwise payable to the Owner when added to the proceeds paid or credited to the creditor exceed the Maximum Resale Price. The Owner shall instruct the holder of such excess proceeds to pay such proceeds to the City (in addition to any other amounts due the City from the Owner under this Agreement), in consideration of the benefits received by the Owner through purchase of the Property at Affordable Housing Cost.

16. RESTRICTION ON INSURANCE PROCEEDS

If the Property is damaged or destroyed and the Owner elects not to rebuild or repair the Property, the Owner shall pay the City the portion of any insurance proceeds received by the Owner for such destruction or damage which is in excess of the Maximum Resale Price calculated as provided in Section 8 above.

17. TERM OF AGREEMENT

All the provisions of this Agreement, including the benefits and burdens, run with the Property and this Agreement shall bind, and the benefit hereof shall inure to, the Owner, his or her heirs, legal representatives, executors, successors in interest and assigns, and to the City and its successors, until the earlier of (i) fifty-nine (59) years from the date of purchase of the Property by Owner; (ii) the date of Transfer of the Property to an Eligible Purchaser or an Inheriting Owner where the Eligible Purchaser or Inheriting Owner enters into a new agreement, note, and deed of trust in a form determined by the City; or (iii) the date of Transfer of the Property to another purchaser at an unrestricted price and payment of all principal and interest due under the City Note, including but not limited to payment of all Excess Sales Proceeds (the "Term").

18. SUPERIORITY OF AGREEMENT

The Owner covenants that he or she has not, and will not, execute any other agreement with provisions contradictory to or in opposition to the provisions of this Agreement, and that, in any event, this Agreement is controlling as to the rights and obligations between and among the Owner, the City and their respective successors.

19. SUBORDINATION

Notwithstanding any other provision herein, the provisions of this Agreement and the City Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust and shall not impair the rights of the First Lender in the event of default under the First Lender Deed of Trust by the Owner. Such remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Agreement and the City Deed of Trust shall be forever terminated and shall have no further effect as to the Property or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquires title to the Property pursuant to a deed or assignment in lieu of foreclosure, this Agreement and the City Deed of Trust shall automatically terminate upon such acquisition of title, only if (i) the City has been given written notice of default under such First Lender Deed of Trust with a sixty (60)-day cure period (which requirement shall be satisfied by recordation of a notice of default under California Civil Code Section 2924) and (ii) the City shall not have cured the default within such sixty (60)-day period or commenced to cure and given its firm commitment to complete the cure in form and substance acceptable to the First Lender.

20. NONDISCRIMINATION

The Owner covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Owner or any person claiming under or through the Owner establish or permit any such practice or practices of discrimination or segregation with reference to the use, occupancy, or transfer of the Property. The foregoing covenant shall run with the land.

21. RIGHTS OF HUD, CALHFA AND VA

Notwithstanding any other provision in this Agreement to the contrary, this Agreement shall not diminish or affect the rights of HUD, the California Housing Finance Agency ("CalHFA") or the VA under the First Lender Deed of Trust insured by HUD, held by CalHFA, or guaranteed by the VA and utilized to purchase the Property or recorded against the Property in compliance with Section 11 above. Notwithstanding any other provision in this Agreement to the contrary, all of the provisions of this Agreement shall terminate and have no further force and effect if the title is acquired by HUD, CalHFA, or the VA, or another party upon foreclosure of a deed of trust securing a loan insured by HUD, held by CalHFA, or guaranteed by the VA.

22. HUD FORBEARANCE RELIEF

Notwithstanding any other provision of this Agreement, the Option as provided in Section 6 above shall not be exercised by the City when a deed of trust insured by HUD is secured by the Property, and: (i) the owner is undergoing consideration by HUD for assignment forbearance relief; or (ii) the owner is undergoing consideration for relief under HUD's Temporary Mortgage Assistance Payment ("TMAP") program.

23. INVALID PROVISIONS

If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

24. CONTROLLING LAW

The terms of this Agreement shall be interpreted under the laws of the State of California. The venue for any legal action pertaining to this Agreement shall be Contra Costa County, California.

25. NO WAIVER

No delay or omission in the exercise of any right or remedy of City upon any default by Owner shall impair such right or remedy or be construed as a waiver. The City's failure to insist in any one or more instance upon the strict observance of the terms of this Agreement shall not

be considered a waiver of the City's right thereafter to enforce the provisions of the Agreement. The City shall not waive its rights to enforce any provision of this Agreement unless it does so in writing, signed by an authorized agent of the City.

26. NOTICES

All notices required herein shall be sent by certified mail, return receipt requested, express delivery service with a delivery receipt, or personal delivery with a delivery receipt and shall be deemed to be effective as of the date received, the date delivery was refused, or the date returned as undeliverable as indicated on the return receipt as follows:

To the Owner:

AT THE ADDRESS OF THE PROPERTY.

To the City:

City of El Cerrito
Community Development Department
10890 San Pablo Ave
El Cerrito, CA 94530
Attn: Community Development Director

To the First Lender:

[To be inserted]

The parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this Section.

27. CITY APPROVAL

The City Manager or his or her designee is authorized on behalf of the City to deliver any approvals or consents that this Agreement requires. The City, in its sole discretion, may assign its duties under this Agreement to a third party.

28. INTERPRETATION OF AGREEMENT

The terms of this Agreement shall be interpreted so as to avoid speculation on the Property and to insure to the extent possible that its sales price and mortgage payment remain affordable to persons and families of lower or moderate income, as applicable.

29. COVENANTS RUNNING WITH THE LAND

A. Owner hereby subjects the Property to the covenants and restrictions set forth in this Agreement. Owner hereby declares its express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon all parties having any interest in the Property throughout the Term of this Agreement. Each

and every contract, deed, lease or other instrument covering, conveying or otherwise transferring the Property or any interest therein, as the case may be, shall conclusively be held to have been executed, delivered and accepted subject to this Agreement regardless of whether the other party or parties to such contract have actual knowledge of this Agreement.

B. The Owner and the City hereby declare their understanding and intent that: (i) the covenants and restrictions contained in this Agreement shall be construed as covenants running with the land as provided in California Civil Code Section 1468 and not as conditions which might result in forfeiture of title by Owner; (ii) the burden of the covenants and restrictions set forth in this Agreement touch and concern the Property in that the Owner's legal interest in the Property may be rendered less valuable thereby; and (iii) the benefit of the covenants and restrictions set forth in this Agreement touch and concern the land by enhancing and increasing the enjoyment and use of the Property by eligible purchasers, the intended beneficiaries of such covenants and restrictions.

C. All covenants and restrictions contained herein without regard to technical classification or designation shall be binding upon Owner for the benefit of the City and eligible purchasers and such covenants and restrictions shall run in favor of such parties for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether the City is an owner of any land or interest therein to which such covenants and restrictions relate.

30. SPECIFIC PERFORMANCE

Owner acknowledges that any breach in Owner's performance of Owner's obligations under this Agreement shall cause irreparable harm to the City. Owner agrees that the City is entitled to equitable relief in the form of specific performance upon its exercise of the Option, and that an award of damages shall not be adequate to compensate the City for Owner's failure to perform according to the terms of this Agreement.

31. OWNER'S ACKNOWLEDGEMENT OF RESALE RESTRICTION

Owner acknowledges and agrees that:

A. This Agreement places certain restrictions and limits the price for which Owner may sell the Property. Owner may not enjoy the same economic or other benefits from owning the Property that Owner would enjoy if this Agreement did not exist.

B. Absent the provisions of this Agreement, the Property could not be made available to eligible purchasers, such as the Owner, at an affordable price.

C. Owner understands all of the provisions of this Agreement. Owner agrees to the provisions of this Agreement with the understanding that this Agreement will remain in full force and effect as to the Property throughout the Term of this Agreement.

D. OWNER UNDERSTANDS THAT THE DETERMINATION OF THE MAXIMUM RESALE PRICE OF THE PROPERTY CAN BE MADE ONLY AT THE TIME OF THE PROPOSED TRANSFER, TAKING INTO CONSIDERATION INCREASES IN THE CONSUMER PRICE INDEX, WHICH CANNOT BE ACCURATELY PREDICTED, AND THAT THE SALES PRICE MAY NOT INCREASE OR DECREASE IN THE SAME MANNER AS OTHER SIMILAR PROPERTY WHICH IS NOT ENCUMBERED BY THIS AGREEMENT. OWNER FURTHER ACKNOWLEDGES THAT IN SETTING THE SALES PRICE OF THE PROPERTY, THE PRIMARY OBJECTIVE OF THE CITY AND THIS AGREEMENT IS TO PROVIDE HOUSING TO ELIGIBLE PURCHASERS AT AFFORDABLE HOUSING COST. THE MAXIMUM RESALE PRICE WILL ALMOST CERTAINLY BE LESS THAN THAT OF OTHER SIMILAR PROPERTIES THAT HAVE NO RESTRICTIONS.

Initialed by Owner(s)

[Signatures Follow on Subsequent Page]

IN WITNESS WHEREOF, the parties have executed this Agreement on or as of the date first written above.

CITY:

OWNER:

CITY OF EL CERRITO, a California
municipal corporation

By:_____

By:_____

Title:_____
(Type Name and Title)

Title:_____
(Type Name)

ement

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A

Legal Description of the Property

EXHIBIT B

Form of Owner Occupancy Certification

To: City of El Cerrito ("City")

From: _____ ("Owner")

Property Address: _____ ("Property")

Date: _____

By signature below, I _____ **[insert name or names of Owner]** hereby certify to the City under penalty of perjury that I/we occupy the Property located at _____ **[insert address]** (the "Property") as my/our principal place of residence and that I/we have lived in and physically occupied the Property for _____ (__) **[insert number]** months of the calendar year _____ **[insert previous calendar year]**. Attached to this letter is a copy of my homeowners property tax exemption showing my place of residence.

The Owner hereby certifies that the above information is true and correct and this Owner Occupancy Certification is signed under penalty of perjury on _____, 20__.

By: _____
Owner **[type name]**

By: _____
Owner **[type name]**

Due Date: February 1 of each calendar year.

Attach copy of property tax bill showing address of Property.

EXHIBIT C

Form of Owner's Notice of Intent to Transfer

To: City of El Cerrito ("City")

From: _____ ("Owner")

Property Address: _____ ("Property")

Date: _____

Please be notified that the Owner intends to transfer the Property listed above.

A. The following information is provided to the City as provided in Section 7 of the Resale Agreement:

1. Address of Property: _____
2. Date Owner purchased Property: _____
3. Affordable Housing Cost when Property was purchased: _____
4. Date Owner intends to vacate Property: _____
5. Date Property will be placed on market: _____
6. Name and phone number of person for City to contact to schedule inspection:
_____ and _____
(name) (phone number)

B. As required by Section 9 of the Resale Restriction Agreement, the following documents are attached to this Notice:

1. Copy of HUD-1 Settlement Statement from Owner's purchase of the Property
2. If Owner has made Eligible Capital Improvements to the Property that Owner wishes to include in the City's calculation of Indexed Price, check box below

☐

Yes, I have made Eligible Capital Improvements as provided in Section 8.A.2 of the Resale Agreement. They are _____ **[describe improvements]** and were completed on _____ **[insert date]**. I attach the following documents to this letter:

- a. copy of City letter granting prior approval of these improvements;
- b. evidence of cost of these improvements;
- c. appraisal showing value added to Property by the improvements.

C. I have not yet listed the Property for sale with a multiple listing service, or contacted a real estate broker or financial institution. I agree to prepare the Property for sale by: _____

1. obtaining a pest control report within thirty (30) days of the date of this notice,
2. repairing all damage noted in the pest report within the sooner of: (i) sixty (60) days from the date of this notice, or (ii) two (2) weeks prior to close of escrow or the transfer of the Property,
3. allowing the City to inspect the Property within thirty (30) days of this notice,
4. if requested by the City following the City's inspection, I will obtain a home inspection report from a licensed home inspector,
5. maintaining utility connections until the Property is transferred,
6. permitting a walk through by the City prior to close of escrow or the transfer.

This Owner's Notice of Intent to Transfer is certified by Owner to be true and correct and is signed on _____ **[insert date]** under penalty of perjury.

By: _____
Owner

By: _____
Owner

EXHIBIT D

Form of Owner Request for City Subordination to Refinance First Lender Loan or for
Subordinate Loan

To: City of El Cerrito ("City")

From: _____ ("Owner")

Property Address: _____ ("Property")

Date: _____

The Owner hereby requests the City to approve the Owner's refinance of the existing First Lender Loan on the Property [**provide information for all First Lender Loans if more than one First Lender Loan**] and/or approval of a subordinate loan. The Owner provides the following information which it certifies to be true and correct:

1. Affordable Housing Cost at time of purchase: \$ _____
2. Original Principal Balance of existing First Lender Loan: \$ _____
3. Interest Rate of Existing First Lender Loan:
or subordinate loan. _____ %
4. Principal Amount of Proposed New First Lender Loan
or subordinate loan: \$ _____
5. Interest Rate of Proposed New First Lender Loan
or subordinate loan: _____ %

The Owner hereby certifies the above information is true and correct and this Owner Request is executed under penalty of perjury on _____ **[insert date]**.

By: _____
Owner

By: _____

NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS
RESTRICTING ASSUMPTIONS.

CITY OF EL CERRITO
PROMISSORY NOTE
Secured by Deed of Trust

**Excess Sales Proceeds,
Excess Rents, and Advances**

City of El Cerrito, California
_____ [Date]

FOR VALUE RECEIVED, the undersigned _____ (the "Borrower") promises to pay to the City of El Cerrito, a California municipal corporation (the "City"), at 10890 San Pablo Avenue, El Cerrito, CA 94530, Attn: Community Development Director, or such other place as the City may designate in writing, any amounts due to the City as Excess Sales Proceeds, Excess Rents, and Advances as provided in that Occupancy, Resale, and Refinancing Restriction Agreement, with Option to Purchase at Restricted Price of even date herewith (the "Resale Agreement").

1. Purpose of Note. Borrower is purchasing the property located at _____ (the "Property") pursuant to the terms of that certain affordable housing agreement (the "Affordable Housing Agreement"), which was required by the Conditions of Approval for the initial land use entitlements for the Project as approved by the City Council on January 30, 2006 (the "Legal Requirements") as part of an effort by the City to create affordable home ownership opportunities for low-income and moderate-income persons and families. The Legal Requirements provide for the sale of some homes at a price below fair market value at affordable prices.

Pursuant to the Legal Requirements, the purchase price of the Property has been set below its unrestricted fair market value so that the Property will be affordable for purchase by moderate income households.

Because the purchase price has been set below the unrestricted fair market value, the Borrower is required and has agreed to execute the Resale Agreement, which restricts the price of the Property upon resale and which requires the Borrower to pay any Excess Sales Proceeds at resale to the City. In addition, the Resale Agreement prohibits the Borrower from renting or leasing the Property except under limited circumstances and requires the Borrower to pay any Excess Rents to the City. The Resale Agreement also requires the Borrower to pay Advances. This City Note evidences: (a) the obligation of the Borrower to pay any Excess Rents to the City as provided in the Resale Agreement; (b) the obligation of the Borrower to pay any Excess Sales Proceeds to the City as provided in the Resale Agreement; and (c) the obligation of the Borrower to pay any Advances pursuant to the Resale Agreement.

2. Security. This City Note is secured by a deed of trust dated the same date as this City Note (the "City Deed of Trust"). Borrower and City have also executed the Resale Agreement. Borrower acknowledges that this City Note is given in connection with the Borrower's purchase of the Property as part of a program of the City to assist in the purchase of residences by low and moderate income households. Said property, including both the real property and all improvements now or hereafter erected on the property, and all easements, rights, appurtenances and all fixtures now or hereafter attached to the property, shall be referred to in this City Note as the Property. The term "Property," as used herein, shall have the same meaning as the term "Security" is used in the City Deed of Trust.

3. Definitions. The capitalized terms set forth in this City Note shall have the same meanings as in the Resale Agreement.

4. Term. The term of this City Note shall be the same as the Term of the Resale Agreement.

5. Payment. Any Excess Sales Proceeds plus Excess Rents and Advances owed under this City Note or the Resale Agreement shall immediately become due and payable: (i) in the event of a Default by the Borrower under this City Note, the Resale Agreement, the City Deed of Trust, or the First Lender Loan; or (ii) on the date Transfer is made whether voluntarily, involuntarily, or by operation of law and whether by deed, contract of sale, gift, devise, bequest or otherwise. Failure to declare such amounts due shall not constitute a waiver on the part of the City to declare them due in the event of a subsequent Transfer.

6. No Assumption of City Note by Subsequent Buyers. Borrower acknowledges that this City Note is given in connection with the purchase of the Property as part of an effort by the City to assist in the purchase of the Property by low or moderate income households. Consequently, this City Note is not assumable by subsequent purchasers nor by the successors and assigns of the Borrower.

7. Prepayments. The City Deed of Trust shall remain on the Property to secure payment of the Excess Sales Proceeds, Excess Rents, and Advances, if any, and to secure performance of the Resale Agreement, and so cannot be prepaid.

8. Default. The Borrower shall be in default under this City Note if (i) he or she is in Default under the Resale Agreement, City Note, City Deed of Trust, or First Lender Loan, (ii) fails to pay any money when due under this City Note; or (iii) breaches any representation or covenant made in this City Note or the Resale Agreement.

9. Acceleration. Upon a Declaration of Default, the full amount of any Excess Rents, Excess Sales Proceeds, Advances or any other amounts due under this City Note, if any, shall be immediately due and payable. Any failure by the City to pursue its legal and equitable remedies upon Default shall not constitute a waiver of the City's right to issue a Declaration of Default and exercise all of its rights under this Note, the Resale Agreement, and the City Deed of Trust. Nor shall acceptance by the City of any payment provided for herein constitute a waiver of the City's right to require prompt payment of any remaining payments owed.

10. Nonliability for Negligence, Loss, or Damage. Borrower acknowledges, understands and agrees that the relationship between Borrower and City is solely that of borrower and lender, and that the City and its designated agents neither undertake nor assume any responsibility for or duty to Borrower to select, review, inspect, supervise, pass judgment on, or inform Borrower of the quality, adequacy or suitability of the Property or any other matter. The City and its designated agents owe no duty of care to protect Borrower against negligent, faulty, inadequate, or defective building or construction or any condition of the Property, and Borrower agrees that neither Borrower, nor Borrower's heirs, successors or assigns shall ever claim, have, or assert any right or action against City or its agents for any loss, damage, or other matter arising out of or resulting from any condition of the Property and will hold City and its agents harmless from any liability, loss, or damage for these things.

11. Indemnity. Borrower agrees to defend, indemnify, and hold the City and its designated agents harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys' fees that the City and its designated agents may incur as a direct or indirect consequence of:

- (a) Borrower's failure to perform any obligations as and when required by this City Note, the City Deed of Trust, and the Resale Agreement; or
- (b) the failure at any time of any of Borrower's representations or warranties to be true and correct.

12. Attorneys' Fees and Costs. Borrower agrees that if any amounts due under this Note are not paid when due, to pay in addition to principal and accrued interest, all costs and expenses of collection and reasonable attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

13. Joint and Several Obligations. This Note is the joint and several obligations of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

14. No Offset. Borrower hereby waives any rights of offset it now has or may hereafter have against City, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

15. Waiver. Borrower and any endorsers or guarantors of this Note, for themselves, their heirs, legal representatives, successors and assigns, respectively, severally waive diligence, presentment, protest, and demand, and notice of protest, notice of dishonor and notice of non-payment of this Note, and expressly waive any rights to be released by reason of any extension of time or change in terms of payment, or change, alteration or release of any security given for the payments hereof, and expressly waive the right to plead any and all statutes of limitations as a defense to any demand on this Note or agreement to pay the same, and jointly and severally agree to pay all costs of collection when incurred, including reasonable attorneys' fees.

16. Notices. All notices required in this Note shall be sent by certified mail, return receipt requested, or express delivery service with a delivery receipt, or personally delivered with a delivery receipt obtained and shall be deemed to be effective as of the date shown on the

delivery receipt as the date of delivery, the date delivery was refused, or the date the notice was returned as undeliverable as follows:

To the Borrower:

AT THE ADDRESS OF THE PROPERTY.

To the City:

City of El Cerrito
Community Development Department
10890 San Pablo Ave
El Cerrito, CA 94530
Attn: Community Development Director

The parties may subsequently change addresses by providing written notice of the change in address to the other parties in accordance with this Section 15.

17. Controlling Law. This Note shall be construed in accordance with and governed by the laws of the State of California.

18. Assignment by City. The City may assign its right to receive the proceeds under this Note to any person, and upon notice to the Borrower by the City, all payments shall be made to the assignee.

19. Severability. If any provision of this Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

20. Entire Agreement. This Note (along with the Resale Agreement and City Deed of Trust) sets forth the entire understanding and agreement between the City and the Borrower, and any amendment, alteration or interpretation of this Note must be in writing signed by both the City and the Borrower.

BORROWER:

[Type Borrower's Name]

NO RECORDING FEE PURSUANT
TO GOVERNMENT CODE SECTION 27383

RECORDING REQUESTED BY

Title Company Name
Escrow #

AND WHEN RECORDED MAIL TO

City of El Cerrito
Community Development Department
10890 San Pablo Ave
El Cerrito, CA 94530
Attn: Community Development Director

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST
AND SECURITY AGREEMENT
CITY OF EL CERRITO

(_____ [Property Address])

THIS DEED OF TRUST AND SECURITY AGREEMENT ("Deed of Trust") made this
____ day of _____, 201_, , among the trustor, _____ (the "Owner"),
whose address is _____;
_____ [Title Company] ("Trustee"), and the City of El Cerrito,
as Beneficiary.

The Owner, in consideration of the promises herein recited and the trust herein created,
irrevocably grants, transfers, conveys and assigns to Trustee, in trust, with power of sale, the
property located in the City of El Cerrito, State of California, described in the attached Exhibit
"A" (the "Property").

TOGETHER with all the improvements now or hereafter erected on the Property, and all
easements, rights, appurtenances, and all fixtures now or hereafter attached to the Property, all of
which, including replacements and additions thereto, shall be deemed to be and remain a part of
the Property covered by this Deed of Trust; and

TOGETHER with all articles of personal property or fixtures now or hereafter attached to
or used in and about the building or buildings now erected or hereafter to be erected on the
Property which are necessary to the complete and comfortable use and occupancy of such
building or buildings for the purposes for which they were or are to be erected, including all
other goods and chattels and personal property as are ever used or furnished in operating a
building, or the activities conducted therein, similar to the one herein described and referred to,
and all renewals or replacements thereof or articles in substitution therefor, whether or not the
same are, or shall be attached to said building or buildings in any manner; and all of the
foregoing, together with the Property, is herein referred to as the "Security."

To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever;

TO SECURE to the City the performance of the covenants and agreements of Owner contained in that certain Occupancy, Resale, and Refinancing Restriction Agreement, with Option to Purchase at Restricted Price executed by and between the Owner and the City of even date herewith (the "Resale Agreement");

TO SECURE to the City the payment of Excess Rents, Excess Sales Proceeds, and any Advance (as such terms are defined in the Resale Agreement and evidenced by that certain Promissory Note executed by the Owner for the City's benefit of even date herewith (the "City Note")) that may become due by Owner to City.

TO SECURE the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Deed of Trust; and the performance of the covenants and agreements of Owner herein contained.

OWNER AND CITY COVENANT AND AGREE AS FOLLOWS:

1. Owner's Estate. That Owner is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Security, that other than this Deed of Trust, the Security is encumbered only by: (a) that deed of trust executed by Owner in connection with a loan made to Owner by _____ (the "First Lender"), securing a promissory note executed by Owner in favor of the First Lender ("First Lender Note"), to assist in the purchase of the Property; and (b) the Resale Agreement. Owner agrees to warrant and defend generally the title to the Security against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring the City's interest in the Security. (As used in this Deed of Trust, the term "First Lender" shall also include all successors and assigns of the First Lender.)

2. Payment of Excess Sales Proceeds, Excess Rents, and Advance. Owner will promptly pay to the City, when and if due the: (i) Excess Sales Proceeds as provided in the Resale Agreement and City Note; and (ii) Excess Rents as provided in the Resale Agreement and City Note; and (iii) any Advance as provided in the Resale Agreement and City Note.

3. Resale Agreement. Owner will observe and perform all of the covenants and agreements of the Resale Agreement.

4. Charges; Liens. Owner will pay all taxes, assessments and other charges, fines and impositions attributable to the Security which may attain a priority over this Deed of Trust, by Owner making any payment, when due, directly to the payee thereof. Upon request by the City, Owner will promptly furnish to the City all notices of amounts due under this paragraph. In the event Owner makes payment directly, Owner will promptly discharge any lien which has priority over this Deed of Trust; provided, that Owner will not be required to discharge the lien of the First Lender Deed of Trust or any other lien described in this paragraph so long as Owner

will agree in writing to the payment of the obligation secured by such lien in a manner acceptable to the City, or will, in good faith, contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Security or any part thereof.

5. Hazard Insurance. Owner will keep the Security insured by a standard all risk property insurance policy equal to the replacement value of the Security (adjusted every five (5) years by appraisal, if requested by the City). If the Security is located in a flood plain, Owner shall also obtain flood insurance.

The insurance carrier providing this insurance shall be licensed to do business in the State of California and be chosen by Owner subject to approval by the City.

All insurance policies and renewals thereof will be in a form acceptable to the City and will include a standard mortgagee clause with standard lender's endorsement in favor of the holder of the First Lender Note and the City as their interests may appear and in a form acceptable to the City. The City shall have the right to hold, or cause its designated agent to hold, the policies and renewals thereof, and Owner shall promptly furnish to the City, or its designated agent, the original insurance policies or certificates of insurance, all renewal notices and all receipts of paid premiums. In the event of loss, Owner will give prompt notice to the insurance carrier and the City or its designated agent. The City, or its designated agent, may make proof of loss if not made promptly by Owner. The City shall receive thirty (30) days' advance notice of cancellation of any insurance policies required under this section.

Unless the City and Owner otherwise agree in writing, insurance proceeds, subject to the rights of the First Lender, will be applied to restoration or repair of the Security damaged, provided such restoration or repair is economically feasible and the Security of this Deed of Trust is not thereby impaired. If such restoration or repair is not economically feasible or if the Security of this Deed of Trust would be impaired, the insurance proceeds will be used to repay any amounts due under the Resale Agreement and City Note, with the excess, if any, paid to Owner. If the Security is abandoned by Owner, or if Owner fails to respond to the City, or its designated agent, within thirty (30) days from the date notice is mailed by either of them to Owner that the insurance carrier offers to settle a claim for insurance benefits, the City, or its designated agent, is authorized to collect and apply the insurance proceeds at the City's option either to restoration or repair of the Security or to pay amounts due under the Resale Agreement and City Note.

If the Security is acquired by the City, all right, title and interest of Owner in and to any insurance policy and in and to the proceeds thereof resulting from damage to the Security prior to the sale or acquisition will pass to the City to the extent of the sums secured by this Deed of Trust immediate prior to such sale or acquisition, subject to the rights of the First Lender.

6. Preservation and Maintenance of Security. Owner will keep the Security in good repair and in a neat, clean, and orderly condition and will not commit waste or permit impairment or deterioration of the Security. If there arises a condition in contravention of this Section 6, and if the Owner has not cured such condition within thirty (30) days after receiving a City notice of such a condition, then in addition to any other rights available to the City, the City

shall have the right (but not the obligation) to perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Security to recover its cost of curing.

7. Protection of the City's Security. If Owner fails to perform the covenants and agreements contained in this Deed of Trust or if any action or proceeding is commenced which materially affects the City's interest in the Security, including, but not limited to, default under the First Lender Deed of Trust, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then the City, at the City's option, upon notice to Owner, may make such appearances, disburse such sums and take such action as it determines necessary to protect the City's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Security to make repairs.

Any amounts disbursed by the City pursuant to this paragraph, with interest thereon, will become an indebtedness of Owner secured by this Deed of Trust. Unless Owner and City agree to other terms of payment, such amount will be payable upon notice from the City to Owner requesting payment thereof, and will bear interest from the date of disbursement at the lesser of (i) ten percent (10%); or (ii) the highest rate permissible under applicable law. Nothing contained in this paragraph will require the City to incur any expense or take any action hereunder.

8. Inspection. The City may make or cause to be made reasonable entries upon and inspections of the Security; provided, however, that the City will give Owner reasonable notice of inspection.

9. Forbearance by the City Not a Waiver. Any forbearance by the City in exercising any right or remedy will not be a waiver of the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by the City will not be a waiver of the City's right to require payment of any amounts secured by this Deed of Trust.

10. Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust or any other document, or afforded by law or equity, and may be exercised concurrently, independently or successively.

11. Hazardous Materials. Owner shall keep and maintain the Property (including, but not limited to soil and ground water conditions) in compliance with all, and shall not cause or permit the Property to be in violation of any, Hazardous Materials Law. Owner shall not do, nor allow anyone else to do, anything affecting the Security that is in violation of any Hazardous Materials Law. The preceding two sentences shall not apply to the presence, use, or storage on the Security of small quantities of Hazardous Materials that are generally recognized to be appropriate to normal residential uses and to maintenance of the Security.

"Hazardous Material" shall mean (i) any substance, material, or waste that is petroleum, petroleum-related, or a petroleum by-product, asbestos or asbestos-containing material, polychlorinated biphenyls, flammable, explosive, radioactive, Freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical, and (ii) any waste, substance, or material defined as or included in the definition of "hazardous substances," hazardous wastes," "hazardous

materials," "toxic materials," "toxic waste," "toxic substances," or words of similar import under any Hazardous Materials Law.

"Hazardous Materials Law" shall mean any federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, health, industrial hygiene, environmental conditions, or the regulation or protection of the environment, and all amendments thereto as of this date and to be added in the future and any successor statute or rule or regulation promulgated thereto.

Owner shall promptly give City written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Security and any Hazardous Material or Hazardous Materials Law of which Owner has actual knowledge ("Hazardous Material Claims").

Without the City's prior written consent, which shall not be unreasonably withheld, the Owner shall not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in the City's reasonable judgment, impair the value of the Security; provided, however, that the City's prior consent shall not be necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain the City's consent before taking such action, provided that in such event the Owner shall notify the City as soon as practicable of any action so taken. The City agrees not to withhold its consent, where such consent is required hereunder, if (i) a particular remedial action is ordered by a court of competent jurisdiction, (ii) the Owner will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) the Owner establishes to the reasonable satisfaction of the City that there is no reasonable alternative to such remedial action which would result in less impairment of the Security; or (iv) the action has been agreed to by the City.

12. Successors and Assigns Bound. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of the City and Owner subject to the provisions of this Deed of Trust.

13. No Assumption of Deed of Trust by Subsequent Buyers. Borrower acknowledges that this Deed of Trust is given in connection with the purchase of the Property as part of an effort by the City to assist in the purchase of the Property by low or moderate income households. Consequently, this Deed of Trust is not assumable by subsequent purchasers nor by the successors and assigns of the Borrower.

14. Joint and Several Liability. All covenants and agreements of Owner shall be joint and several.

15. Notice. Except for any notice required under applicable law to be given in another manner: (a) any notice to Owner provided for in this Deed of Trust will be given by certified mail, addressed to Owner at the address shown in the first paragraph of this Deed of

Trust or such other address as Owner may designate by notice to the City as provided herein; and (b) any notice to the City will be given by certified mail, return receipt requested, or express delivery service with a delivery receipt, or personally delivered with a delivery receipt, to City of El Cerrito, 10890 San Pablo Avenue, El Cerrito, CA 94530 Attn: Community Development Director or to such other address as the City may designate by notice to Owner as provided above. Notice shall be effective as of the date received by City as shown on the return receipt.

16. Governing Law. This Deed of Trust shall be governed by the laws of the State of California.

17. Severability. In the event that any provision or clause of this Deed of Trust or the Resale Agreement conflicts with applicable law, such conflict will not affect other provisions of this Deed of Trust or the Resale Agreement which can be given effect without the conflicting provision, and to this end the provisions of the Deed of Trust and the Resale Agreement are declared to be severable.

18. Captions. The captions and headings in this Deed of Trust are for convenience only and are not to be used to interpret or define the provisions hereof.

19. Nondiscrimination. The Owner covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, age, disability, sex, sexual orientation, marital status, ancestry or national origin in the sale, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Owner or any person claiming under or through the Owner establish or permit any such practice or practices of discrimination or segregation with reference to the use, occupancy, or transfer of the Property. The foregoing covenant shall run with the land.

20. Nonliability for Negligence, Loss, or Damage. Owner acknowledges, understands and agrees that the relationship between Owner and City is solely that of two separate parties in an arm's length transaction, and that City neither undertakes nor assumes any responsibility for or duty to Owner to select, review, inspect, supervise, pass judgment on, or inform Owner of the quality, adequacy or suitability of the Security or any other matter. City owes no duty of care to protect Owner against negligent, faulty, inadequate or defective building or construction or any condition of the Security and Owner agrees that neither Owner, or Owner's heirs, successors or assigns shall ever claim, have or assert any right or action against City for any loss, damage or other matter arising out of or resulting from any condition of the Security and will hold City harmless from any liability, loss or damage for these things.

21. Indemnity. Owner agrees to defend, indemnify, and hold City and its officers, employees, agents, board members harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorneys' fees that City may incur as a direct or indirect consequence of:

(a) Owner's failure to perform any obligations as and when required by the Resale Agreement, the City Note, and this Deed of Trust; or

(b) the failure at any time of any of Owner's representations or warranties to be true and correct.

22. Acceleration; Remedies. Upon Owner's breach of any covenant or agreement of Owner in the Resale Agreement, the City Note, or this Deed of Trust, including, but not limited to, the covenants to pay, when due, any sums secured by this Deed of Trust, the City, prior to acceleration, will mail by express delivery, return receipt requested notice to Owner specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, not less than thirty (30) days from the date the notice is received by Owner as shown on the return receipt, by which such breach is to be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Security. The notice will also inform Owner of Owner's right to reinstate after acceleration and the right to bring a court action to assert the nonexistence of default or any other defense of Owner to acceleration and sale. If the breach is not cured on or before the date specified in the notice, the City, at the City's option, may: (a) declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by California law; (b) either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security shall not cure or waive any breach hereunder or invalidate any act done in response to such breach and, notwithstanding the continuance in possession of the Security, the City shall be entitled to exercise every right provided for in this Deed of Trust, or by law upon occurrence of any uncured breach, including the right to exercise the power of sale; (c) commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof; (d) deliver to Trustee a written declaration of default and demand for sale, pursuant to the provisions for notice of sale found at California Civil Code Sections 2924 et seq., as amended from time to time; or (e) exercise all other rights and remedies provided herein, in the instruments by which the Owner acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing all or any portion of the obligations secured hereby, or provided by law.

The City shall be entitled to collect all reasonable costs and expenses incurred in pursuing the remedies provided in this paragraph, including, but not limited to, reasonable attorneys' fees.

23. Owner's Right to Reinstate. Notwithstanding the City's acceleration of the sums secured by this Deed of Trust, Owner will have the right to have any proceedings begun by the City to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Security pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of a judgment enforcing this Deed of Trust if: (a) Owner pays City all sums which would be then due under this Deed of Trust and Owner cures all breaches of any other covenants or agreements of Owner contained in the Resale Agreement or this Deed of Trust; (b) Owner pays all reasonable expenses incurred by City and Trustee in enforcing the covenants and agreements of Owner contained in the Resale Agreement or this Deed of Trust, and in enforcing the City's

and Trustee's remedies, including, but not limited to, reasonable attorneys' fees; and (c) Owner takes such action as City may reasonably require to assure that the lien of this Deed of Trust, City's interest in the Security and Owner's obligation to perform the obligations and pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Owner, this Deed of Trust and the obligations secured hereby will remain in full force and effect as if no acceleration had occurred.

24. Due on Transfer of the Property. Upon a Transfer (as defined in the Resale Agreement) of the Property or any interest in it, the City shall require immediate payment in full of all sums secured by this Deed of Trust.

25. Reconveyance. Upon payment of all sums secured by this Deed of Trust, and following the expiration of the Term of the Resale Agreement, City will request Trustee to reconvey the Security and will surrender this Deed of Trust, the City Note, and the Resale Agreement to Trustee. Trustee will reconvey the Security without warranty and without charge to the person or persons legally entitled thereto. Such person or persons will pay all costs of recordation, if any.

26. Substitute Trustee. The City, at the City's option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. The successor trustee will succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.

27. Superiority of First Lender Documents. Notwithstanding any provision herein, this Deed of Trust shall not diminish or affect the rights of the First Lender under the First Lender Deed of Trust or any subsequent First Lender deeds of trust hereafter recorded against the Security in compliance with the requirements of the Resale Agreement.

Notwithstanding any other provision hereof, the provisions of this Deed of Trust shall be subordinate to the lien of the First Lender Deed of Trust and shall not impair the rights of the First Lender, or such lender's assignee or successor in interest, to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by the Owner. Such remedies under the First Lender Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed in lieu of foreclosure, this Deed of Trust shall be forever terminated and shall have no further effect as to the Property or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquired title to the Property pursuant to a deed or assignment in lieu of foreclosure and no notice of default was recorded against the Property by such holder in connection therewith, this Deed of Trust shall automatically terminate upon such acquisition of title, only if: (i) the City has been given written notice of default under such First Lender Deed of Trust with a sixty (60)-day cure period (which requirement shall be satisfied by recordation of a notice of default under California Civil Code Section 2924); and (ii) the City shall not have cured or commenced to cure the default within such sixty (60)-day period or commenced to cure and given its firm commitment to complete the cure in form and substance acceptable to the First Lender.

Exhibit E to Agreement

28. Request for Notice. Owner requests that copies of the notice of default and notice of sale be sent to Owner at the address set forth in Section 15 above.

IN WITNESS WHEREOF, Owner has executed this Deed of Trust as of the date first written above.

OWNER:

[Type Owner's Name]

Exhibit E to Agreement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A

Legal Description of the Property

Creekside Project Chronology

- In the 1994 Third Amended and Restated City of El Cerrito Redevelopment Plan (1994 Redevelopment Plan), the Redevelopment Agency recommended that improvements within the El Cerrito South Gateway Development Area include redevelopment of the commercial and retail space, restoration of Cerrito Creek, and construction of residential development in proximity to El Cerrito Plaza Shopping Center and El Cerrito Plaza BART Station (BART Station).
- In 1997, the City certified the El Cerrito Plaza Shopping Center Redevelopment Project Environmental Impact Report (EIR) evaluating impacts of the redevelopment and rehabilitation of the El Cerrito Plaza Shopping Center. The 1997 proposal included up to 205 multi-family residential units on six acres on the eastern end of the shopping center. Application No. 6038, the Creekside at El Cerrito Plaza condominium project (“the Project”) was proposed for the same general area of the Plaza.
- In 1999, the El Cerrito Plaza Shopping Center project was revised and the City adopted a Subsequent Negative Declaration that served as a supplementary document to the 1997 Redevelopment EIR. The 1999 Subsequent Negative Declaration evaluated a new, scaled-down El Cerrito Plaza Shopping Center Project (1999 Revitalization Project), which included less retail space than proposed by the 1997 Redevelopment Project. The 1999 Revitalization Project was approved and a use permit was issued for the construction of up to 227,000 square feet of commercial space and rehabilitation of 117,000 square feet of existing commercial space, which describes the existing El Cerrito Plaza Shopping Center.
- In 2004, an Incentives Program use permit application was submitted for a proposed mixed-use development located in the southeast corner of El Cerrito Plaza shopping center. The development was proposed to contain 84 units of owner-occupied housing, a 404 space parking garage for BART patrons and a child care facility.
- In 2004, the Planning Division determined that the proposed mixed-use project might cause significant environmental impacts not sufficiently addressed in the previous EIR and that a subsequent environmental impact report (“SEIR”) should be prepared.
- On January 3, 2005, the applicant submitted plans for an Incentives Program use permit application for a proposed mixed-use development located in the southeast corner of El Cerrito Plaza shopping center. The residential development portion of the project was proposed to contain 84 units of owner-occupied housing. The parking garage portion of the project was proposed to contain a maximum of 404 parking spaces.
- On February 16, 2005, the Design Review Board held a public hearing on the 84 unit project that included the parking garage, adopted a motion recommending that the Planning Commission not consider the project under the Incentives Program and directed changes in design.
- In late February 2005, the City determined that it no longer wanted to move forward with the garage portion of the project and the project sponsor reconsidered his proposal to construct a residential project, a BART parking garage, and a child care facility.

- In March 2005, the City of El Cerrito Community Development Department received revised plans for the project site, which included 128 residential units, and a revised daylighting and restoration plan for Cerrito Creek. This revised plan was initially evaluated as the Residential Only Alternative in the Draft SEIR and represents the current development proposal.
- On September 21, 2005, the Design Review Board held a public hearing to review the Project's qualifications for the City's Incentives Program and accept public comment.
- On November 2, 2005, the Planning Commission adopted Resolution No. PC05-21 and Resolution No. PC05-22 certifying the FSEIR, and approving a Use Permit for Application 6038, a 128 unit condominium development to locate in a C-2-A, commercial zoning district at the southeast corner of El Cerrito Plaza.
- On November 17, 2005, four appellants timely appealed the decision of the Planning Commission.
- On January 30, 2006, the City Council held a public hearing to consider the appeals, and adopted Resolution No. 2006-1, certifying the FSEIR, adopting environmental findings, mitigation measures and approving the mitigation monitoring and reporting program, and denying the appeals, and upholding the Planning Commission action approving a Use Permit with conditions allowing a condominium development to locate in a C-2-A, Commercial zoning district at the southeast corner of El Cerrito Plaza.
- On December 6, 2006, the applicant began the design review process by holding a study session with the Design Review Board.
- On December 20, 2006, the Planning Commission held a duly noticed public hearing and adopted Resolution No. PC06-22, approving a request for a use permit extension for a period of one year.
- On January 2, 2007, an appellant timely appealed the decision of the Planning Commission regarding progress on Condition of Approval #50, and project density.
- On February 5, 2007, the City Council held a duly noticed public hearing to consider the appeal and continued the item to February 20, 2007.
- On February 20, 2007, the City Council adopted Resolution No. 2007-09, modifying Condition of Approval No. 50, denying the appeal and upholding the extension of the Planning commission extension of the use permit.
- On May 2, 2007, the Design Review Board held a duly noticed public hearing and approved Resolution No. DRB07-04, granting design review approval of the building shell and site layout. The Board requested the applicant return with specific architectural and landscape details as specified in the Resolution.
- On September 5, 2007, the Design Review Board held a duly noticed public hearing and approved Resolution No. DRB07-09, granting approval for specific architectural and landscape details and materials.
- On September 11, 2007, an appellant timely appealed the decision of the Design Review Board regarding issues unrelated to the September 5, 2007 approval.

- On November 5, 2007, the City Council held a duly noticed public hearing to consider the appeal and adopted Resolution No. 2007-84, upholding the decision of the Design Review Board regarding application 6388, approving a use permit extension with conditions.
- On April 2, 2014, the Design Review Board, after due consideration of all evidence and reports offered for review approved Resolution No. DRB14-04 confirming that building permit plans and information that meets the requirements of Design Review Condition No. 5 of Design Review Resolution No. 07-09 and Mitigation Monitoring and Reporting Plan No. 4.1 Planning Application No. 6038 B. A.



AGENDA BILL

Agenda Item No. 5(E)

Date: June 2, 2015

To: El Cerrito City Council

From: Lisa Malek-Zadeh, Finance Director/City Treasurer

Subject: Transmittal of the Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2014; and of the Memorandum on Internal Control and Required Communications

ACTION REQUESTED

Receive and file the Comprehensive Annual Financial Report (CAFR) and the Memorandum on Internal Control and Required Communications (MOIC) for the fiscal year that ended June 30, 2014.

BACKGROUND/ANALYSIS

The City's audit firm, Maze and Associates, has completed its audit of the City's financial records for the fiscal year ended June 30, 2014. A complete copy of the CAFR is available on the City's website at <http://www.el-cerrito.org/ArchiveCenter/ViewFile/Item/2171> <http://www.el-cerrito.org/13cafr>. In addition to the audited financial statements, the auditors have completed and provided the required Memorandum on Internal Control and Required Communications (MOIC).

DISCUSSION

COMPREHENSIVE ANNUAL FINANCIAL REPORT

Staff is pleased to report that the City received an unmodified opinion for the FY 2013-14 financial statements. An unmodified opinion by the Auditor indicates that the Financial Statements have been prepared using Generally Accepted Accounting Principles; comply with relevant statutory requirements and regulations; include adequate disclosure of all material matters relevant to the proper presentation of the financial information subject to statutory requirements, where applicable; and any changes in the accounting principles or in the method of their application and the effects thereof have been properly determined and disclosed in the Financial Statements.

Emphasis of Matters

While the City has received a "clean opinion" for FY 2013-14, the Auditors have expressed the following items as Emphasis of Matters.

Redevelopment Agency Dissolution

The City filed suit and a subsequent appeal against the Department of Finance (DOF). The City is disputing DOF's demand of funds and property conveyance made prior to dissolution in addition to challenging DOF's determination that agreements made between the City and the Municipal Services Corporation are not valid. There is considerable legal uncertainty regarding these matters and a determination may be made at a later date by an appropriate judicial authority that would resolve this issue favorably or unfavorably to the City. No provision for liabilities resulting from the outcome of these uncertain matters has been recorded in the accompanying financial statements.

General Fund Cash and Fund Balance

As of June 30, 2013, the General Fund's unrestricted cash balance represented less than 5 days of General Fund expenditures, unassigned fund balance represents available fund balance and equates to approximately 16 days of General Fund expenditures, and expenditures in fiscal year 2013 exceeded revenues by \$948,104. Although the City continues to issue Tax Revenue Anticipation Notes to supplement cash temporarily during the fiscal year, if deficit spending were to continue, it reduces the likelihood that the City will be able to continue as a going concern indefinitely.

These items were also noted last year, but have been repeated this year as they continue to be an issue. They have also been updated to reflect changes last year. The emphasis of matter does not constitute a modification of the Auditor's opinion, but is significant or important enough to warrant a mention in their report. With the recent passage of Measure R, the City's cash position and fund balances will improve.

FY 2013-14 Year-end Status of the General Fund

At the end of the fiscal year, the total General Fund balance was \$1.2 million, a decrease of approximately \$1 million from the prior year. The decrease was projected and approved as part of the FY 2013-14 budget. The \$1 million was restricted and used to complete the solar panel installation project that started in FY 2012-13. The General Fund held non-spendable funds of \$262,000 for inventory, prepaid items and contract obligations and \$1 million in unassigned funds available that will remain in fund balance as part of the City's reserves.

MEMORANDUM ON INTERNAL CONTROL, COMMUNICATION AND REQUIRED COMMUNICATIONS (MOIC)

In the course of performing the audit of the City's basic financial statements, in accordance with auditing standards generally accepted in the United States of America, the Auditors must consider the City's internal control system over financial reporting (internal control) for the purpose of expressing their opinion on the financial statements; however, the Auditor expresses its opinion on the effectiveness of the City's internal control. The objective of the MOIC is to advise the City Council of any material weaknesses which may result in a material misstatement of the financials and/or any significant deficiencies (less severe than material weakness) in the City's systems of internal financial controls. The Required Communications may advise the

Council of upcoming accounting regulations, which affect the City's financial record, indicate any difficulties performing the audit or notify Council of disagreements with management. No difficulties in performance of the audit or disagreements with management were indicated.

FY 2013-14 Findings

The Auditor has noted two items as a material weakness. Below is a brief summary of the findings for FY 2013-14 and the City's response.

2014-01 General Fund Budgets, Cash and Available Fund Balances: As discussed previously in this report, the City's General Fund budget and liquidity remain a top priority and the financial health of the Fund has continued to deteriorate. Although the City continues to issue Tax Revenue Anticipation Notes to supplement cash temporarily during the fiscal year, if spending at current levels without an increase in resources were to continue, it reduces the likelihood that the City will have sufficient cash resources available.

Although the 2015 budget acknowledges the City's financial condition and the need to prioritize projects, programs and services to allocate limited resources, the City should also immediately address the need for timely grant billing in the Capital Improvement Fund and any other funds with reimbursement-based funding to avoid draining General Fund resources. The City must review the current capital projects to determine if any can be delayed since sufficient funding is not currently available. Any projects that are grant funded must be accompanied by timely grant reimbursement requests to alleviate the cash flow problem.

Management's Response: Disagree. During this year's audit, the City Manager and I reviewed the City's financial condition and are satisfied that the City has sufficient resources available to fund operations through June 30, 2015. The City has continually taken steps to shore up the City's finances including reducing pension liabilities, becoming more efficient in providing services and outlining a plan to increase revenues, including the passage of Measure R. In FY 2013-14, the City, very publically, made a decision to deficit spend, rather than reduce services or layoff staff and the City Council approved a plan to go to the voters to increase sales tax revenues, which ultimately overwhelmingly passed.

Like many Cities, declining revenues related to taxes and the loss of redevelopment have reduced El Cerrito's operating reserve in the General Fund as well as the available cash balances in the special revenue funds which are historically used to balance cash flow. The need to restore reserves has been a topic of discussion at every budget session and with approval of the increase in sales taxes, a portion of the additional revenue can now be dedicated to increase reserves in future years.

The City has and continues to monitor actual revenues and expenditures to the adopted budget and periodically provides the City Council with updates. In FY 2013-14 staff was informed a few months into the fiscal year that property tax revenues would be less than projected and the City Council was provided with this update in the December budget review. While Council was notified and this projection was included in the 5 year General Fund forecast, it has been the City's policy not to revise the revenue budget. Had this revision and other significant revenue adjustments been made in the amended budget, actuals would have more closely aligned with the

final budget. However, even with close monitoring, there were additional unanticipated changes that occurred at the end of the fiscal year that weren't included in projections. In addition, because the use of fund balance does not get budgeted in revenue, even though Council approved the use of fund balance for a one-time CIP expenditure, expenditures appear to be higher than the annual revenues.

As part of the tax anticipation note (TAN) process, staff projects cash needs for the year; however, given the cash shortages experienced throughout the year, the City hired a consultant to complete a more comprehensive review and project cash needs for fiscal year FY 2014-15. This allowed the City to restructure the TAN repayments to provide better cash flow throughout the year and understand the funds that are putting the most drain on overall cash. Finance staff is working with the operating departments to address the problem funds as well as stay on top of the reimbursement requests for grant expenditures. Issuing these type of notes is common practice for many cities.

2014-02 Timely Grant Billings: The City has a number of projects that are fully or partially funded by federal, state and local grants on a reimbursement basis. As the City incurs related project costs, timely grant reimbursement requests should be prepared and filed with the grantors to minimize the time between disbursement and reimbursement. Cash management of grant funded projects is vital to the continuation and successful completion of the projects. If grant funds are not requested timely, the funding source may no longer have available funds for reimbursement or funds may be deprogrammed by the grantor.

Expenditures in the Capital Improvement Fund exceeded current year revenues in fiscal year 2014 by \$661,000 due to delayed reimbursement requests. City staff did not file reimbursement requests for approximately \$656,000 of fiscal year 2014 expenses until October and November 2014. As an example, one of those projects was a Transportation Development Act-funded project that began in June 2013 with expenditures through July 2014, for which a reimbursement request was not filed until October 27, 2014, a delay of three months.

The City must develop procedures to ensure grant reimbursement requests are prepared on a timely basis, at least quarterly, as costs are incurred not only to improve cash flow but to match expenditures with associated revenues in the same period.

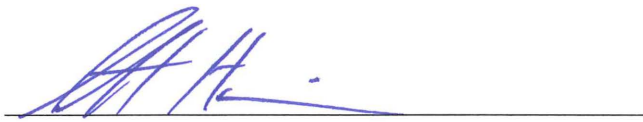
Management's Response: Agree. As of FY 2015, department staff is now carefully considering staff resources to manage grants before applying for additional grants to ensure the grants received are managed and billed in a timely manner. Staff is also reviewing grant contracts such that the deliverables are more incremental/progress based.

Beginning in March 2015, the Finance department will be implementing an Accounts Receivable module and will begin using this system to bill reimbursable grants no later than July 2015. In addition, by April 2015, the Finance department will create a centralized grant tracking inventory that includes all relevant grant information that will be updated on a regular basis. The Finance department also plans to create new funds to track Grant funds by federal, state or local agency rather than the one central fund currently used. This will make it much easier to monitor expenditures and ensure reimbursements are being billed in a more timely way.

Significant Deficiencies and New GASB Pronouncements

Additional items identified as deficiencies are less serious than those indicated as a material weakness, but they are important enough to be noted. Additional findings identified as significant deficiencies new GASB pronouncements affecting future financial statements and the current status of any outstanding prior year findings are discussed in more detail in the MOIC.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Comprehensive Annual Financial Report Fiscal Year Ending June 30, 2014
2. Memo On Internal Control And Required Communications



Comprehensive Annual Financial Report

Fiscal Year Ended June 30, 2014

10890 San Pablo Ave. El Cerrito, CA 94530
www.el-cerrito.org

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**CITY OF EL CERRITO
CALIFORNIA
COMPREHENSIVE ANNUAL FINANCIAL REPORT
FOR THE YEAR ENDED JUNE 30, 2014**

**Prepared by
FINANCE DEPARTMENT**

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CITY OF EL CERRITO
Comprehensive Annual Financial Report
For the Year Ended June 30, 2014

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CITY OF EL CERRITO
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February 24, 2015

To the Citizens of the City of El Cerrito
and the Honorable Mayor and Members of
the City Council:

I hereby submit this Comprehensive Annual Financial Report (CAFR) of the City of El Cerrito for the fiscal year ended June 30, 2014. Responsibility for both the accuracy of the data, and the completeness and fairness of the presentation, including all disclosures, rests with City management. To the best of our knowledge and belief, the enclosed data are accurate in all material respects and are reported in a manner designed to present fairly the financial position and results of operations of the various funds of the City. We have included all disclosures necessary to enable the reader to gain an understanding of the City's financial activities. This transmittal letter is intended to be read in conjunction with the Management Discussion and Analysis (MD&A) and the Financial Statements.

REPORTING ENTITY

The City of El Cerrito 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 activities of several legally separate entities are included in the City's financial statements. The City serves as the reporting body for these entities, including the City of El Cerrito Employees' Pension Plan, the Municipal Services Corporation and the El Cerrito Public Financing Authority. The City is financially accountable for these entities since the City Council serves as the separate Board of Directors for each entity and City staff has operational responsibility for the activities of each entity. All of these entities are included in the City's financial statements as part of the reporting entity.

CITY PROFILE

The City of El Cerrito is located across the Bay from the City of San Francisco in an area locally referred to as the East Bay. The City consists of about 3.9 square miles and has approximately 24,000 residents. El Cerrito is part of the West Contra Costa Unified School District (WCCUSD) which also serves other West County Communities. In El Cerrito, WCCUSD operates one early intervention preschool, three public elementary schools, one public middle school, and one public high school. The City has a variety of green spaces for public enjoyment including 32 acres of developed park grounds, over 100 acres of open space in the hillside natural area, a 2.7-mile multi-use trail known as the Ohlone Greenway, school recreation facilities, the privately owned Mira Vista Country Club (127 acres), and Boy Scouts of America's Camp Herms (18 acres). A portion of the Sunset View Cemetery and the City's eastern boundary are contiguous with the East Bay Regional Park District's Wildcat Canyon Regional Park (about 2,600 acres). El Cerrito also has a regional office of the California Department of Motor Vehicles, two Bay Area Rapid Transit (BART) Stations, a major regional shopping center, five banks, seventeen churches and some of the most spectacular views of four Bay Area bridges, San Francisco and the surrounding area.

ECONOMIC CONDITION AND FUTURE OUTLOOK

Providing the community with exemplary services remains a top priority for the City. Striking the balance between maintaining and improving services while achieving long term financial stability has continued to be a challenge with a Citywide business vacancy rate of close to 10%, reduced reserves and increasing costs. The City is still dealing with the financial impact of dissolution of the El Cerrito Redevelopment Agency, cost increases and some revenues that have not increased at the anticipated levels, but the overall climate seems to be stabilizing. The impact of property value reductions in prior years seems to be recovering and El Cerrito recently experienced its highest median housing price exceeding the median pre-recession levels.

El Cerrito's retail base consists of a regional shopping center, the El Cerrito Plaza, smaller retail nodes in the Del Norte area, a successful car dealership, and infill retail along the San Pablo Avenue corridor. Sales taxes remained strong, however, a misallocation of tax with a neighboring city resulted in a year end correction of \$1.3 million in FY 2012-13. Without this correction in FY 2013-14, sales tax remained stable and the City saw a slight increase over the prior years.

The outlook for sales tax remains optimistic as the residents of El Cerrito recently approved the extension of Measure R, the City's local sales tax at the one percent sales tax rate for twelve years. The new sales tax rate goes into effect on April 1, 2015 and is expected generate approximately \$1.4 million annually in future years. This funding will assist with maintaining City services, improving others over time and help to gradually restore the City's General Fund reserve over the next several years.

MAJOR INITIATIVES AND ACCOMPLISHMENTS

The City continues to struggle with reduced staff and financial constraints. However, even with these limitations, the City continued to provide high quality services with a focus on long term viability and accomplish many noteworthy projects across departments. Significant selected accomplishments for the year includes:

- Secured a grant of \$3.5 million that will be used to complete Ohlone Greenway and Pedestrian Safety Improvements
- Received 11 “Best of Contra Costa County” Awards from Parents’ Press Magazine for the City’s camps, childcare programs and special events
- Broadened our hiring and volunteerism through our EC Stars High School Internship Program, expanded Police Explorer Program, 2nd Police Citizens Academy and the identification of eight new Volunteers in Police Service recruits
- Implemented a Tree Maintenance Agreement that reduced per tree costs by half while pruning twice as many trees
- Received Homeland Security grants for a new fire ladder truck, new Automatic Cardiac Compression Devices and rescue equipment in the amount of just over \$1 million.
- Added a 2nd K-9 and handler to expand our Police capabilities
- Installed solar panels on many city buildings to reduce energy costs
- Launched online business license renewals for FY 2014-15

FINANCIAL INFORMATION

Accounting System

The City’s accounting and budgeting records for general government operations are maintained on a modified accrual basis, with the revenues being recorded when available and measurable, and expenditures being recorded when the service or goods are received and the liabilities are incurred. Accounting and budgeting for the City’s proprietary funds are maintained on the accrual basis. Capital Assets are recorded in accordance within financial reporting standards.

Non-exchange transactions in which the City gives or receives value without directly receiving or giving equal value in exchange include taxes, grants entitlements and donations. On an accrual basis revenue from taxes is recognized in the fiscal year for which the taxes are levied or assessed. Revenue from grants, entitlements and donations are recognized in the fiscal year in which all eligibility requirements have been met.

The City maintains an internal control structure designed to provide reasonable assurance that the City's assets are protected from loss, theft, or misuse, and to ensure that adequate accounting data are compiled to allow for the preparation of financial statements in conformity with generally accepted accounting principles. The internal control structure is designed to provide reasonable, but not absolute assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Budgeting Controls

The City of El Cerrito maintains budgetary controls to ensure compliance with legal provisions embodied in the annual appropriated budget approved by the City Council. Activities of the general fund, special revenue funds, capital projects funds, debt service funds, and proprietary funds are included in the annual appropriated budget. The level of budgetary control (that is the level at which expenditures cannot legally exceed the appropriated amount) is at the fund level. Only the City Council has the authority to create or modify total appropriations of any fund, subject to only the appropriations limits established by State law. The City Council approved various supplemental appropriations during the year. The statements and schedules included in the financial section of this report indicate that the City continued to meet its responsibility for sound financial management.

OTHER INFORMATION

Independent Audit

The City Council selects an independent certified public accounting firm to perform a required annual audit of the City's financial records and transactions. Such an audit is also required through covenants related to the City's bonded indebtedness. The City has contracted with Maze & Associates, an independent auditor, to perform the audit and prepare the financial section of this report.

Awards

The City has once again been awarded the Certificate of Achievement for Excellence in Financial Reporting by the Government Finance Officers Association of the United States and Canada (GFOA) for its FY 2012-13 comprehensive annual financial report (CAFR). This is the tenth year that the City has received the award for the CAFR. In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized comprehensive annual financial report. This report must satisfy both generally accepted accounting principles and applicable legal requirements. A Certificate of Achievement is valid for a period of one year only. We believe that our current comprehensive annual financial report continues to meet the Certificate of Achievement Program's requirements and we are submitting it to the GFOA to determine its eligibility for another certificate.

Acknowledgments

The preparation of this Comprehensive Annual Financial Report was made possible by the dedicated efforts of staff Citywide and our audit firm, Maze & Associates.

I would like to thank the City Manager, the Mayor and the City Council for their outstanding leadership and ongoing commitment to the El Cerrito community.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Malek-Zadeh', with a stylized, flowing script.

Lisa Malek-Zadeh
Finance Director /City Treasurer

City of El Cerrito Organization Chart



**CITY OF EL CERRITO
PRINCIPAL OFFICERS
JUNE 30, 2014**

Elected Officials

Janet Ableson
Mayor

Rebecca Benassini
Mayor Pro Tem

Greg Lyman
Council Member

Janice Bridges
Council Member

Mark Friedman
Council Member

EXECUTIVE TEAM

Scott Hanin
City Manager

Karen Pinkos
Assistant City Manager

Sky Woodruff
City Attorney

Cheryl Morse
City Clerk

Sylvia Moir
Police Chief

Lance Maples
Fire Chief

Melanie Mintz
Interim Community Development Director

Yvetteh Ortiz
Public Works Director

Chris Jones
Recreation Director

Lisa Malek-Zadeh
Finance Director/City Treasurer



Government Finance Officers Association

**Certificate of
Achievement
for Excellence
in Financial
Reporting**

Presented to

**City of El Cerrito
California**

For its Comprehensive Annual
Financial Report
for the Fiscal Year Ended

June 30, 2013

A handwritten signature in black ink, reading "Jeffrey R. Emen". The signature is written in a cursive, flowing style.

Executive Director/CEO

INDEPENDENT AUDITOR'S REPORT

To the Honorable Mayor and City Council
City of El Cerrito, California

Report on Financial Statements

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of El Cerrito (City) as of and for the year ended June 30, 2014, which collectively comprise the City's basic financial statements as listed in the Table of Contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of the financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards for financial audits contained in *Governmental Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. These procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the City's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Opinions

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City as of June 30, 2014, and the respective changes in financial position and, where applicable, cash flows thereof and the respective budgetary comparisons listed as part of the basic financial statements for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Emphasis of Matters

Redevelopment Agency Dissolution

As discussed in Note 15, pursuant to ABx1 26 adopted by the State of California which was validated by the California Supreme Court on December 28, 2011, the El Cerrito Redevelopment Agency was dissolved and its assets turned over to and liabilities assumed by Successor Agencies effective February 1, 2012. Certain transactions undertaken by the El Cerrito Redevelopment Agency prior to the date of dissolution may be subject to review by the State as discussed in Note 15, but the effect of that review cannot be determined as of June 30, 2014.

In fiscal 2011 and 2012, pursuant to a cooperation agreement and assignment and assumption agreements, the former Redevelopment Agency transferred \$12,550,551 of assets to the El Cerrito Municipal Services Corporation, a component unit of the City. ABx1 26 and AB 1484 contain provisions that such transfers are subject to a review by the State Controller's Office. According to Health and Safety Code 34167.5, if such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the Successor Agency. As of June 30, 2014, assets totaling \$10,279,207, comprised of current assets of \$4,752,073 and capital assets of \$5,527,134, were held by the Municipal Services Corporation, but the City, Successor Agency and the Municipal Services Corporation are in litigation with the State Controller as to whether the Corporation is subject to this provision of the Health and Safety Code. The State Controller's Office has completed its asset transfer review of the former Agency and released its final report in July 2014. The final report indicates the former Redevelopment Agency made unallowable transfers to the Municipal Services Corporation in fiscal years 2011 and 2012 totaling \$12,550,551, consisting of cash of \$2,382,232, land held for redevelopment of \$4,634,789 and capital assets of \$5,533,530. These transfers were also deemed unallowable by the Department of Finance as discussed below, disputed by the City, Successor Agency and Corporation, and subject to litigation as discussed below. Therefore, the amount, if any of assets that may be required to be returned to the Successor Agency cannot be determined at this time.

Prior to the Redevelopment Agency dissolution, the Agency Board approved various agreements which obligated it to repay certain advances from the Agency's Low and Moderate Income Housing Fund to make payments required by the State to the Educational Revenue Augmentation Fund (ERAF) and Supplemental ERAF from tax increment revenue received. The advance was assumed as a receivable by the City as Housing Successor, and the advance is now payable to the City's Low and Moderate Income Housing Asset Fund. Repayment of these agreements is subject to certain administrative procedures and review and approval by the California Department of Finance and/or the Oversight Board, and as a result the time frame for repayment by the Successor Agency from redevelopment property tax is not determinable at this time.

AB1484 requires the Successor Agency to complete two Due Diligence Reviews (DDR) to determine the amount of the remaining assets that should be transferred by the City to the Successor Agency or by the Successor Agency to the County for distribution to the affected taxing entities. The DDR for cash balances in the Low and Moderate Income Housing Fund indicated that there were no balances available for distribution to the affected taxing entities. In April 2013, the State Department of Finance (DOF) completed its review of this DDR and concurred with its findings. In June 2013, the DOF completed its review of the DDR of all other funds of the former Redevelopment Agency. The DDR indicated there were no assets available for allocation to the affected taxing entities, but that amount was adjusted by the DOF to \$1,981,989. In addition, the DOF demanded the City reverse \$10,168,319 of property conveyances executed in fiscal year 2012 and a payment of \$400,243 of bond proceeds to the Municipal Services Corporation. The City, Successor Agency and Municipal Services Corporation are disputing the adjustment and demand in litigation against the DOF.

Also as discussed in Note 14, prior to its dissolution, the Redevelopment Agency obligated certain Redevelopment funds pursuant to a cooperation agreement with the City that was partially assigned to the Municipal Services Corporation. Subsequent to dissolution, the cooperation agreement was rejected by the DOF. The Successor Agency and DOF have met and conferred to settle the matter and the Department determined that it is not an enforceable obligation of the Successor Agency at this time. Management continues to believe the transactions are valid and the City, Successor Agency and Municipal Services Corporation have included this matter in the litigation against DOF.

On September 3, 2014, the Court ruled against the City, Successor Agency and Municipal Services Corporation regarding the transfers and the cooperation agreement. The City, Successor Agency and Municipal Services Corporation have appealed the decision, as discussed in Note 15.

The City's position on these matters is not a position of settled law and there is considerable legal uncertainty regarding these matters. It is possible that a legal determination may be made at a later date by an appropriate judicial authority that would resolve this issue favorably or unfavorably to the City. No provision for liabilities resulting from the outcome of these uncertain matters has been recorded in the accompanying financial statements.

The emphasis of these matters does not constitute a modification to our opinions.

General Fund Cash and Fund Balance and Other Fund Cash Balances

The accompanying financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America, which contemplate continuation of the City as a going concern. However, as of June 30, 2014, the General Fund's unrestricted cash balance was only \$1, unassigned fund balance represents available fund balance and equates to approximately 14 days of General Fund expenditures, and expenditures in fiscal year 2014 exceeded revenues by \$259,883. In addition, the Capital Improvement Fund and other Non-Major Governmental Funds had borrowed \$1,719,334 from the General Fund and other funds, including the Integrated Waste Management Enterprise Fund. As a result of the interfund borrowing, City-wide, the City has a total of only \$40,384 of unrestricted cash as of June 30, 2014. Although the City continues to issue Tax Revenue Anticipation Notes to supplement cash temporarily during the fiscal year, if deficit spending continues, it reduces the likelihood that the City will be able to continue as a going concern.

The emphasis of this matter does not constitute a modification to our opinions.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that Management's Discussion and Analysis be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the City's basic financial statements as a whole. The Introductory Section, Supplemental Information, and Statistical Section listed in the Table of Contents are presented for purposes of additional analysis and are not a required part of the financial statements.

The Supplemental Information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the Supplemental Information is fairly stated in all material respects in relation to the financial statements as a whole.

The Introductory and Statistical Sections have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we do not express an opinion or provide any assurance on them.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated February 24, 2015, on our consideration of the City's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Governmental Auditing Standards* in considering the City's internal control over financial reporting and compliance.

A handwritten signature in cursive script that reads "Mary & Associates".

Pleasant Hill, California
February 24, 2015

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

This section of the City of El Cerrito's annual financial report presents our discussion and analysis of the financial performance of the City and its component units during the fiscal year ended June 30, 2014. Please read it in conjunction with the accompanying transmittal letter, the basic financial statements and the accompanying notes to the financial statements.

FINANCIAL HIGHLIGHTS

Following is a summary of significant changes as reflected in the Statement of Net Position; Statement of Changes in Net Position; and the General Fund Statement of Revenues, Expenditures and Changes in Fund Balance.

These changes are discussed in detail in the following analysis.

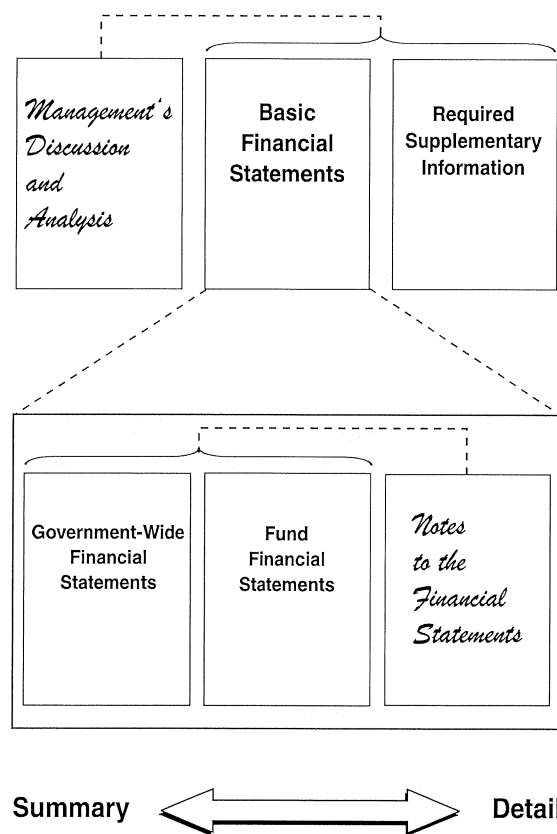
- The total combined ending net position of the City and its component units was \$71.9 million at June 30, 2014, a decrease of \$3.5 million.
- Of the \$71.9 million in net ending position, \$63.8 million is the net investment in capital assets, an increase of \$2 million.
- General revenues totaled \$22.2 million, an increase of \$1.51 million from FY 2012-13.
- Program revenues totaled \$17.7 million, an increase of \$944,000 from the prior year.
- The total cost of the City's programs by \$3.3 million, in general government, community development and integrated waste management, primarily due to the estimated reduction in the value of land held for resale of \$3.1 million. Actual revenues and expenditures in the General Fund were marginally different than the Final budget; revenues were under budget by \$244,000 and expenditures were \$269,000 under budgeted.
- The General Fund reported an ending fund balance at June 30, 2014 of approximately \$1.3 million. The \$1 million decrease of fund balance was planned as part of the FY 2013-14 budget for the completion of two capital improvement projects that started, but weren't completed in the prior fiscal year 2012-13.

OVERVIEW OF THE FINANCIAL STATEMENTS

This Comprehensive Annual Financial Report (CAFR) consists of five parts—*introductory section* (transmittal letter), *management's discussion and analysis* (this section), the *basic financial statements*, *required supplementary information* and *statistical information*. The basic financial statements include two kinds of statements that present different views of the City:

- The first two statements are *government-wide financial statements* that provide both *long-term* and *short-term* information about the City's overall financial status.
- The remaining statements are *fund financial statements* that focus on *individual parts* of the government, reporting the City's operations in more detail than the government-wide statements.
- The *governmental funds* statements tell how *general government* services were financed in the *short term* as well as what remains for future spending. The governmental funds include special revenue funds restricted for use on externally specified purposes and/or by separate legal entities that are component units.
- *Proprietary fund* statements offer *short- and long-term* financial information about the activities the government operates *like businesses*. The City has two proprietary funds: the Integrated Waste Management Fund (enterprise fund) and the Vehicle Equipment Replacement Fund (internal services fund).
- *Fiduciary fund* statements provide information about the financial relationships in which the City acts solely as a *trustee or agent* for the benefit of others, to whom the resources in question belong. The City has two fiduciary funds, the Pension Trust Fund and the Redevelopment Successor Agency's Redevelopment Obligation Repayment Fund.

Figure A-1, Required Components of the City's Annual Financial Report



The financial statements also include notes that explain some of the information in the financial statements and provide more detailed data. The statements are followed by a section of *required supplementary information* that further explains and supports the information in the financial statements. Figure A-1 shows how the required parts of this annual report are arranged and related to one another.

Figure A-2, following, summarizes the major features of the City's financial statements, including the portion of the City government or component unit they cover and the types of information they contain. The remainder of this overview section of management's discussion and analysis explains the structure and contents of each of the statements.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

FIGURE A-2. MAJOR FEATURES OF THE CITY'S GOVERNMENT-WIDE AND FUND FINANCIAL STATEMENTS

	Government-wide Financial Statements	Fund Financial Statements		
		Governmental Funds	Proprietary Funds	Fiduciary Funds
Scope	Entire City's government (except fiduciary funds) and the City's component units	The activities of the City or component unit that are not proprietary or fiduciary, such as community development, police, fire, and recreation	Activities that the City or component unit operates similar to private businesses, such as recycling and internal services	Instances in which the City is the trustee or agent for someone else's resources
Required financial statements	• Statement of net position • Statement of activities	• Balance sheet • Statement of revenues, expenditures, and changes in fund balances	• Statement of net position • Statement of revenues, expenses, and changes in net position • Statement of cash flows	• Statement of fiduciary net position • Statement of changes in fiduciary net position
Accounting basis and measurement focus	Accrual accounting and economic resources focus	Modified accrual accounting and current financial resources focus	Accrual accounting and economic resources focus	Accrual accounting and economic resources focus
Type of asset/liability information	All assets and liabilities, both financial and capital, and short term and long-term	Only assets expected to be used up and liabilities that come due during the year or soon thereafter; no capital assets included	All assets and liabilities, both financial and capital, and short-term and long-term	All assets and liabilities, both short-term and long-term
Type of inflow/outflow information	All revenues and expenses during the year, regardless of when cash is received or paid	Revenues for which cash is received during or soon after the end of the year; expenditures when goods or services have been received and payment is due during the year or soon thereafter	All revenues and expenses during the year, regardless of when cash is received or paid	All revenues and expenses during the year, regardless of when cash is received or paid

GOVERNMENT-WIDE FINANCIAL STATEMENTS

The *government-wide financial statements* are designed to provide readers with a broad overview of the City's and component units' finances, in a manner similar to statements of a private-sector business. There are two components of the *government-wide financial statements*: 1) *statement of net position*, and 2) *statement of activities*, each of which is described below.

- The *statement of net position* presents information on all the City's assets and liabilities, with the difference between the two reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the City is improving or deteriorating.
- The *statement of activities* presents information showing how the City's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will result in cash flows in future fiscal periods.

The government-wide financial statements distinguish functions of the City and component units that are principally supported by taxes and intergovernmental revenues (governmental activities) from other functions that are intended to recover all or a significant portion of their costs through user fees and charges (business-type activities). The governmental activities of the City and component units include public safety (police and fire), streets, recreation, parks, planning, community development, and general administrative support. The City also operates one business-type activity: recycling.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

Component units are included in the basic financial statements and consist of legally separate entities for which the City is financially accountable or that have either the same governing board as the City or a governing board appointed by the City of El Cerrito City Council. The blended component units include the El Cerrito Municipal Services Corporation (Corporation), the El Cerrito Employees' Pension Plan, and the El Cerrito Public Financing Authority.

FUND FINANCIAL STATEMENTS

The fund financial statements provide more detailed information about the City's most significant *funds*—not the City as a whole. Funds are accounting devices that the City uses to keep track of specific sources of funding and spending for particular purposes.

- Some funds are required by State law, by bond covenants, or to administer the funds of component units with separate governing boards.
- The City Council establishes other funds to control and manage money for particular purposes or to show that it is properly using certain taxes, grants and other revenues for their intended restricted purposes.

The City uses the following kinds of funds:

- *Governmental funds*—Most of the City's basic services are included in governmental funds, which focus on (1) how *cash and other financial assets* that can readily be converted to cash flow in and out; and (2) the balances left at year-end that are available for spending. Consequently, the governmental fund statements provide a detailed *short-term* view that helps you determine whether there are more or fewer financial resources that can be spent in the near future to finance the City's programs. Governmental funds can have unrestricted or restricted purposes, or be available for use only to a legally separate entity that is a component unit. Because this information does not encompass the additional long-term focus of the government-wide statements, we provide additional information at the bottom of the governmental funds statement, or on the subsequent page, that explain the relationship (or differences) between them.
- *Proprietary funds*—Services for which the City charges customers a fee are generally reported in proprietary funds. Proprietary funds, like the government-wide statements, provide both long-term and short-term financial information. The City's predominant proprietary fund is the Integrated Waste Management Fund, which accounts for the City's recycling programs. The City also uses an *internal service fund* to report activities related to the replacement of vehicles and major equipment items.
- *Fiduciary funds*—The City is the trustee, or *fiduciary*, for certain funds. The City is also responsible for other assets that—because of a trust arrangement—can be used only for the trust beneficiaries. The City is responsible for ensuring that the assets reported in these funds are used for their intended purposes. All of the City's fiduciary activities are reported in a separate statement of fiduciary net position and a statement of changes in fiduciary net position. We exclude these activities from the City's government-wide financial statements because the City cannot use these assets to finance its operations.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

GOVERNMENT-WIDE FINANCIAL ANALYSIS

Net Position. Net position serves as an indicator of a government's financial position. El Cerrito's assets exceeded liabilities by \$71.9 million at June 30, 2014. Table A-1 below presents a summary of the City's Statement of Net Position.

Table A-1 Net Position

	Governmental Activities		Business-type Activities		Total		Total Change
	FY 13-14	FY 12-13	FY 13-14	FY 12-13	FY 13-14	FY 12-13	
Assets							
Current and other assets	\$ 17,023,916	\$ 19,933,126	\$ 390,159	\$ 503,626	\$ 17,414,075	\$ 20,436,752	\$ (3,022,677)
Capital assets	\$ 142,730,412	\$ 137,582,709	\$ 6,005,841	\$ 6,005,841	\$ 148,736,253	\$ 143,588,550	\$ 5,147,703
Accumulated Depreciation	<u>\$ (57,663,329)</u>	<u>\$ (53,319,887)</u>	<u>\$ (1,984,058)</u>	<u>\$ (1,749,839)</u>	<u>\$ (59,647,387)</u>	<u>\$ (55,069,726)</u>	<u>\$ (4,577,661)</u>
Total Assets	<u>\$ 102,090,999</u>	<u>\$ 104,195,948</u>	<u>\$ 4,411,942</u>	<u>\$ 4,759,628</u>	<u>\$ 106,502,941</u>	<u>\$ 108,955,576</u>	<u>\$ (2,452,635)</u>
Deferred Outflows of Resources							
Deferred charge on refunding			<u>\$ 120,484</u>	<u>\$ 133,683</u>	<u>\$ 120,484</u>	<u>\$ 133,683</u>	<u>\$ (13,199)</u>
Liabilities							
Current and other liabilities	\$ 6,538,972	\$ 4,813,924	\$ 561,694	\$ 390,015	\$ 7,100,666	\$ 5,203,939	\$ 1,896,727
Long-term liabilities	<u>\$ 24,204,285</u>	<u>\$ 24,747,592</u>	<u>\$ 3,353,100</u>	<u>\$ 3,696,480</u>	<u>\$ 27,557,385</u>	<u>\$ 28,444,072</u>	<u>\$ (886,687)</u>
Total Liabilities	<u>\$ 30,743,257</u>	<u>\$ 29,561,516</u>	<u>\$ 3,914,794</u>	<u>\$ 4,086,495</u>	<u>\$ 34,658,051</u>	<u>\$ 33,648,011</u>	<u>\$ 1,010,040</u>
Net Position							
Net investment in capital assets	\$ 63,535,927	\$ 61,539,065	\$ 328,697	\$ 227,097	\$ 63,864,624	\$ 61,766,162	\$ 2,098,462
Restricted	\$ 11,556,030	\$ 14,185,459			\$ 11,556,030	\$ 14,185,459	\$ (2,629,429)
Unrestricted	<u>\$ (3,744,215)</u>	<u>\$ (1,090,092)</u>	<u>\$ 288,935</u>	<u>\$ 579,719</u>	<u>\$ (3,455,280)</u>	<u>\$ (510,373)</u>	<u>\$ (2,944,907)</u>
Total Net Position	<u>\$ 71,347,742</u>	<u>\$ 74,634,432</u>	<u>\$ 617,632</u>	<u>\$ 806,816</u>	<u>\$ 71,965,374</u>	<u>\$ 75,441,248</u>	<u>\$ (3,475,874)</u>

Net position decreased by \$3.5 million. Close to \$3.1 million of the reduction is due to a disposition agreement the City entered into that is expected to result in the sale of \$3,060,000 of land to a developer for \$1, for an affordable housing project. The remainder of the reduction is related to changes to capital project and grant spending compared to prior years.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

The largest portion of the City's net position is its investment in capital assets less any related outstanding debt used to acquire those assets, equaling \$63.8 million. This was an increase of \$2.1 million due to \$5.1 million in new assets, less accumulated depreciation of \$4.6 million. This includes changes in capital expenditures in streets and the purchase of a new Fire vehicle through grants funds. The City uses these capital assets such as streets, sidewalks, parks, and buildings to provide services. Consequently, these assets are not available for future spending. Also included in the net position is the Cerrito Theater, a capital asset of the Corporation not available to the Corporation's Board for future spending. Although the City's investment in its capital assets is reported net of related debt, it should be noted that resources needed to repay this debt must be provided from other sources, since the capital assets themselves cannot be used to fulfill liabilities. An additional \$11.5 million of the City's net position represents resources that are subject to external restrictions on their use. The major restrictions on this portion of the City's net position are funding source restrictions. Of the restricted net position, \$7.2 million represents the value of properties owned by the Corporation or Housing Successor that may only be used for redevelopment purposes. Other restricted net position includes money available for appropriation by the City or Corporation for restricted purposes.

The remaining balance of the City's net position is unrestricted and may be used to meet the City's obligations in accordance with the finance-related legal requirements reflected in the City's fund structure. At the end of the fiscal year ended June 30, 2014, the City reported positive balances in invested capital and restricted net position. For the City as a whole, but the unrestricted balance for the City as a whole was negative \$3.5 million. The unrestricted net position for governmental activities was negative \$3.7 million, which was offset by \$289,000 in unrestricted net position for business-type activities. The negative unrestricted net position reflects commitments to capital and other legal restrictions.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

Table A-2 below presents a summary of the City's activities and the Change in Net Position:

Table A-2 Changes in Net Position

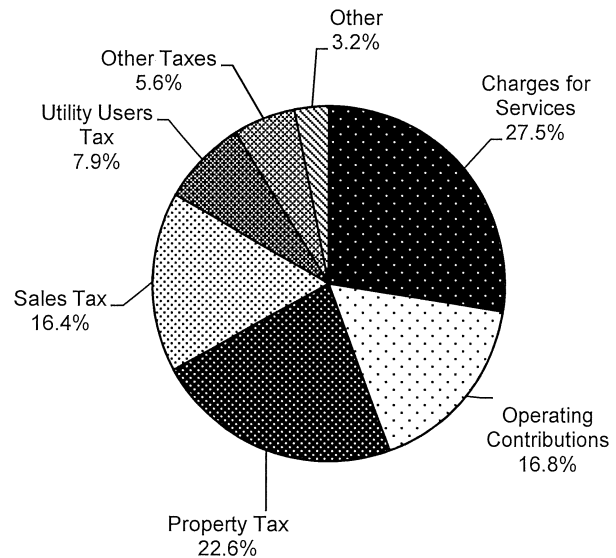
	Governmental Activities		Business-type Activities		Total		Total Change
	FY 13-14	FY 12-13	FY 13-14	FY 12-13	FY 13-14	FY 12-13	
Program revenues							
Charges for services	\$ 8,916,947	\$ 9,031,704	\$2,071,820	\$ 1,854,839	\$ 10,988,767	\$ 10,886,543	\$ 102,224
Operating contributions and grants	\$ 3,067,489	\$ 2,703,823	\$ 20,522	\$ 26,348	\$ 3,088,011	\$ 2,730,171	\$ 357,840
Capital contributions and grants	\$ 3,637,043	\$ 3,153,161			\$ 3,637,043	\$ 3,153,161	\$ 483,882
General revenues							\$ -
Property tax	\$ 9,024,435	\$ 8,336,665			\$ 9,024,435	\$ 8,336,665	\$ 687,770
Sales and use tax	\$ 6,554,589	\$ 5,986,934			\$ 6,554,589	\$ 5,986,934	\$ 567,655
Utility users tax	\$ 3,137,017	\$ 3,066,580			\$ 3,137,017	\$ 3,066,580	\$ 70,437
Other taxes	\$ 2,257,085	\$ 1,938,030			\$ 2,257,085	\$ 1,938,030	\$ 319,055
Other general revenues	\$ 1,263,663	\$ 1,392,716		\$ 1,472	\$ 1,263,663	\$ 1,394,188	\$ (130,525)
Total Revenues	<u>\$ 37,858,268</u>	<u>\$ 35,609,613</u>	<u>\$ 2,092,342</u>	<u>\$ 1,882,659</u>	<u>\$ 39,950,610</u>	<u>\$ 37,492,272</u>	<u>\$ 2,458,338</u>
Expenditures							
General government	\$ 5,637,571	\$ 4,236,098			\$ 5,637,571	\$ 4,236,098	\$ 1,401,473
Public works	\$ 5,444,248	\$ 8,433,345			\$ 5,444,248	\$ 8,433,345	\$ (2,989,097)
Recreation	\$ 4,597,225	\$ 4,412,698			\$ 4,597,225	\$ 4,412,698	\$ 184,527
Community development	\$ 6,121,329	\$ 4,280,475			\$ 6,121,329	\$ 4,280,475	\$ 1,840,854
Public safety	\$ 18,767,955	\$ 18,847,110			\$ 18,767,955	\$ 18,847,110	\$ (79,155)
Interest on long term debt	\$ 904,001	\$ 1,051,397			\$ 904,001	\$ 1,051,397	\$ (147,396)
Integrated waste management			\$ 1,954,155	\$ 1,792,975	\$ 1,954,155	\$ 1,792,975	\$ 161,180
Total expenditures	<u>\$ 41,472,329</u>	<u>\$ 41,261,123</u>	<u>\$ 1,954,155</u>	<u>\$ 1,792,975</u>	<u>\$ 43,426,484</u>	<u>\$ 43,054,098</u>	<u>\$ 372,386</u>
Excess (deficiency) of revenues over expenses before transfers	\$ (3,614,061)	\$ (5,651,510)	\$ 138,187	\$ 89,684	\$ (3,475,874)	\$ (5,561,826)	\$ 2,085,952
Transfers	<u>\$ 327,371</u>	<u>\$ 313,086</u>	<u>\$ (327,371)</u>	<u>\$ (313,086)</u>			
Increase (decrease) in net position	<u>\$ (3,286,690)</u>	<u>\$ (5,338,424)</u>	<u>\$ (189,184)</u>	<u>\$ (223,402)</u>	<u>\$ (3,475,874)</u>	<u>\$ (5,561,826)</u>	<u>\$ 2,085,952</u>
Beginning Net Position	<u>\$ 74,634,432</u>	<u>\$ 79,972,856</u>	<u>\$ 806,816</u>	<u>\$ 1,030,218</u>	<u>\$ 75,441,248</u>	<u>\$ 81,003,074</u>	<u>\$ (5,561,826)</u>
Ending Net Position	<u>\$ 71,347,742</u>	<u>\$ 74,634,432</u>	<u>\$ 617,632</u>	<u>\$ 806,816</u>	<u>\$ 71,965,374</u>	<u>\$ 75,441,248</u>	<u>\$ (3,475,874)</u>

The City's total revenues were \$39.9 million for the year ended June 30, 2014, an increase of \$2.5 million from the previous year. The increase primarily reflects changes in taxes, grants and funding for capital.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

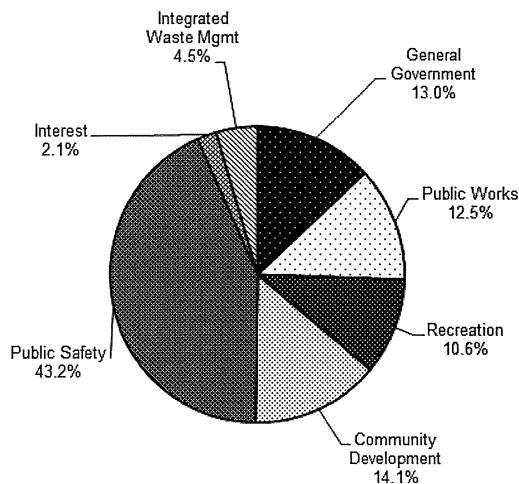
In FY 2013-14, 56% of the City's revenues were from the receipt of taxes: 23% from property taxes, 16% from sales taxes, 8% from utility user's taxes, and 6% from other taxes. Figure A-3 graphs the various revenues and their percentages of the total amount. The City received 17% of its revenues from operating and capital contributions and grants, 28% from charges for services, and 3% from other sources.

Figure A-3. Citywide Revenues



As shown in Figure A-4, in FY 2013-14, 85% of program expenses were allocated to direct services.

Figure A-4. Citywide Expenses



The City's total program expenditures were \$43.4 million, an increase of \$372,000 from the prior year. There were increases in general government, community development and integrated waste, but these mostly offset by reductions in other program areas, primarily public works, that offset the increases and resulted in only a slight increase in overall expenditures.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

Governmental Activities. The decrease in Net Position related to governmental activities of \$3.3 million is a result of the changes in revenues and expenses discussed above.

Business-type Activities. The decrease in Net Position related to Business-type Activities of \$189,000 is a primarily the result of increased personnel costs.

FINANCIAL ANALYSIS OF THE CITY'S MAJOR FUNDS

As noted earlier, the City uses fund accounting to demonstrate compliance with finance-related legal requirements. Major funds are defined as funds whose revenues, expenditures/expenses, assets or liabilities (excluding extraordinary items) are at least ten percent of corresponding totals for all governmental or enterprise funds and at least five percent of the aggregate amount for all governmental and enterprise funds for the same item. Following is a general discussion of the major funds:

Governmental funds. The focus of the City's governmental funds is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in assessing the City's and its component units' financial requirements and stability. In particular, unassigned fund balance may serve as a useful measure of a government's net resources available for spending at the end of the fiscal year.

At year end, the City's governmental funds reported total fund balances of \$8.5 million, a \$5.8 million change resulting from the planned use of \$1 million in the General Fund for capital, \$3 million reduction in value of land held by the Housing Successor, \$662,000 in capital expenditures not fully reimbursed by year end and the approved use of fund balances for one-time expenditures. Of the total fund balances, \$4.2 million is attributable to the value of land and \$1.2 million is a loan receivable for SERAF/ERAF, and therefore not available for appropriation. The remaining \$3.0 million of the total fund balance constitutes available monies, which if appropriated, may be used to meet the City's current and future needs; however, of those available monies, most have funding restrictions and may only be appropriated for their restricted purposes. This includes the Corporation's fund, the balance of which may be appropriated only by the Corporation's Board.

General Fund. The General Fund is the City's chief operating fund. At the end of the fiscal year, the total fund balance of the General Fund was \$1.3 million, a decrease of \$1 million from the prior year. The reduction in fund balance was due to the planned use of the prior year's fiscal balance that was restricted for the completion of two capital projects planned for completion in FY 2013-14.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

Municipal Services Corporation Fund. The Municipal Services Corporation Fund records revenues and expenditures for the activities of the Corporation, a nonprofit, public benefit corporation established to benefit the City through public communications, financing of public improvements and most recently addressing economic development issues. In March 2011, the Corporation entered into a Cooperation Agreement with the former Redevelopment Agency to implement economic development programs, redevelopment projects, and public improvements with redevelopment funds. However, while the Corporation has other revenue sources, it has not received any revenues under the Agreement since the Redevelopment Agency's dissolution in February 2012, as the California Department of Finance has denied its enforceability as an obligation of the Redevelopment Successor Agency, a matter which is the subject of litigation. At the end of the fiscal year, the Corporation had a fund balance of \$4.7 million consisting of \$4.2 million in land held for redevelopment and \$453,000 of restricted monies that its Board can appropriate for redevelopment projects and programs.

Low/Mod Income Housing Asset Fund. Pursuant to ABx1 26 and AB 1484, the City elected to serve as the Housing Successor to the Redevelopment Agency and established this fund to record housing-related activity. The fund balance at the end of June 30, 2014 was \$1.2 million, restricted for use on affordable housing related projects and programs. This represented a decline of \$3.2 million from the prior year due to the estimated reduction in land held for redevelopment that was the result of a pending sale of property to a developer.

Capital Improvement Fund. The Capital Improvement Fund ended June 30, 2014 with negative fund balance of \$1 million. This represents an increase in the deficit from the prior year. At the end of FY 2013-14, there was approximately \$500,000 in eligible expenses that could have been requested. These expenses have since been requested and all funds received, but they were not submitted in time to be reflected in the ending fund balance.

General Fund Budgetary Highlights

Table A-3, below, presents a summary analysis of the General Fund budget and actual amounts for FY 2013-14.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

Table A-3. Summary Analysis of General Fund Budget

<u>Category</u>	<u>Budgeted Amounts</u>		<u>Actual Amounts</u>	<u>Variance</u>
	<u>Original</u>	<u>Final</u>	<u>(Budget Basis)</u>	<u>Positive/ (Negative)</u>
Revenues				
Property tax	\$ 8,170,213	\$ 8,170,213	\$ 7,887,028	\$ (283,185)
Other taxes	\$ 10,320,650	\$ 10,320,650	\$ 10,755,334	\$ 434,684
Intergovernmental	\$ 3,302,128	\$ 3,522,649	\$ 3,460,949	\$ (61,700)
Charges for services	\$ 4,451,362	\$ 4,561,496	\$ 4,781,590	\$ 220,094
Other general revenues	\$ 1,430,347	\$ 1,430,347	\$ 1,364,035	\$ (66,312)
Total Revenues	<u>\$ 27,674,700</u>	<u>\$ 28,005,355</u>	<u>\$ 28,248,936</u>	<u>\$ 243,581</u>
Expenditures				
General government	\$ 3,774,935	\$ 3,774,935	\$ 3,967,342	\$ (192,407)
Public Works	\$ 392,225	\$ 452,225	\$ 517,787	\$ (65,562)
Recreation	\$ 3,890,629	\$ 3,890,629	\$ 4,002,274	\$ (111,645)
Community Development	\$ 1,326,688	\$ 1,491,688	\$ 1,515,150	\$ (23,462)
Public safety	\$ 18,241,797	\$ 18,422,060	\$ 18,058,632	\$ 363,428
Payment of Sales Tax to the City of Richmond			\$ 253,720	\$ (253,720)
Capital Outlay	\$ 120,000	\$ 120,000	\$ 105,504	\$ 14,496
Debt Service	\$ 88,410	\$ 88,410	\$ 88,410	\$ -
Total expenditures	<u>\$ 27,834,684</u>	<u>\$ 28,239,947</u>	<u>\$ 28,508,819</u>	<u>\$ (268,872)</u>
Total excess (deficiency) of revenues over expenditures	\$ (159,984)	\$ (234,592)	\$ (259,883)	\$ (25,291)
Other Financing Sources (Uses)				
Issuance of Debt				
Transfers in	\$ 804,379	\$ 804,379	\$ 804,379	
Transfers out	\$ (618,908)	\$ (1,745,308)	\$ (1,615,268)	\$ 130,040
Total other financing sources (uses)	<u>\$ 185,471</u>	<u>\$ (940,929)</u>	<u>\$ (810,889)</u>	<u>\$ 130,040</u>
Excess (deficiency) of revenues and other expenditures and other uses	<u>\$ 25,487</u>	<u>\$ (1,175,521)</u>	<u>\$ (1,070,772)</u>	<u>\$ 104,749</u>
Ending Fund Balance (FY 12-13)	<u>\$ 2,341,238</u>	<u>\$ 2,341,238</u>	<u>\$ 2,341,238</u>	
Ending Fund Balance (FY 13-14)	<u>\$ 2,366,725</u>	<u>\$ 1,165,717</u>	<u>\$ 1,270,466</u>	<u>\$ 104,749</u>

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

Over the course of the year, the City and Corporation may revise expenditure budgets to reflect the changes in the various programs and unanticipated activities, but usually do not change budget assumptions in revenues other than for one-time events. For example, when the City is awarded a grant, it appropriates the revenues and expenditures necessary to spend those funds, but does not necessarily adjust upward the property tax estimates when the amounts come in higher than expected or reduce other balances that report declines unless the changes are material. Tax estimates are based on trend information where the base amount rolls forward for cumulative increases in long term planning and the trends are reevaluated each year during the budget period.

In FY 2013-14, the revenues were reviewed at mid-year and amounts different than originally anticipated were identified, but were not adjusted. Lower than expected property taxes and utility user taxes were significantly less than projected; however, these were offset by increases in sales taxes, and charges for services with revenue exceeding the Final budget by \$244,000. At year-end, expenditures (excluding transfers) were marginally over budget by \$269,000. Savings in Public Safety help offset some of the increases, but were not sufficient to entirely offset the overage in budgeted expenditures. As a result, expenditures exceeded revenue by \$25,000.

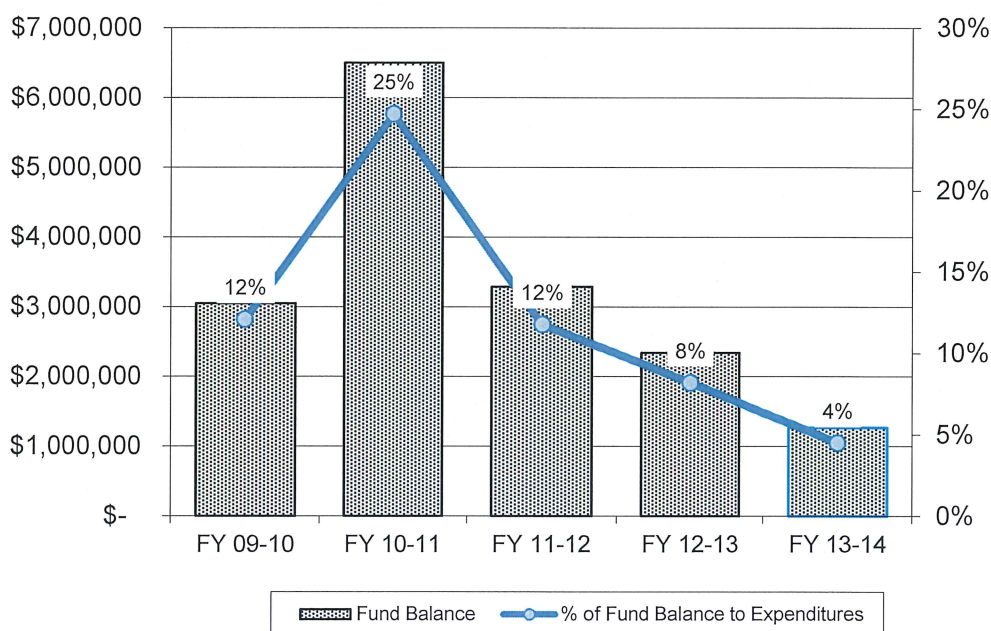
GENERAL FUND BALANCE

Changes in the General Fund balance over the last five years are shown in Figure A-5, below. With the exception of FY 2010-11 that included a 1-time transfer related to the City's Housing Successor, the ending General Fund balance averaged about 12%. However, beginning in FY 2012-13, due to the loss of redevelopment funds and significant changes in tax revenues, the one-time use of reserves was required to balance the budget. This reduced the reserve to approximately 8% of expenditures. This also included approximately \$1 million that was reserved for 1-time capital projects. In FY 2013-14, the ending fund balance decreased as planned due to the use of the restricted \$1 million to complete the budget capital projects.

The need to increase reserves was discussed and considered as part of the FY 2014-15 budget. In order to increase the balance, additional reductions over what was already included in the budget would need to be made. Rather than make additional cuts to service, the City would consider a new revenue measure that if passed would be used over time to increase the General Fund reserves. An increase in the local sales tax was passed in 2014 and some of new revenue will be used to increase the General Fund reserve over time.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

Figure A-5. General Fund Balance As A Percentage of Expenditures, FY 2009-10 to FY 2013-14



CAPITAL ASSETS AND DEBT ADMINISTRATION

Capital Assets. At the end of FY 2013-14, the City had invested \$89 million in a broad range of capital assets, including land, buildings, equipment, infrastructure and vehicles, as shown in Table A-4. (Included within that total are the Corporation's capital assets of \$143 million.) This amount represents a net increase (including additions and deductions) of \$570k over last year. The City's Capital Assets are summarized in Table A-4, below, and a more detailed description is provided in Note 6 to the accompanying financial statements. The increase in Construction in Progress reflects installation of solar panels and other infrastructure projects including street repaving and bike and pedestrian improvements.

Table A-4. Capital Assets

	Governmental Activities		Business-type Activities		Total		Total Percentage Change
	FY 13-14	FY 12-13	FY 13-14	FY 12-13	FY 13-14	FY 12-13	
Land	\$4,410,941	\$4,410,941			\$ 4,410,941	\$4,410,941	0.0%
Construction in progress	\$3,639,449	2,734,109			\$ 3,639,449	2,734,109	33.1%
Buildings & improvements	\$36,125,237	34,886,692	3,638,597	\$3,638,597	\$ 39,763,834	38,525,289	3.2%
Equipment & Vehicles	\$10,756,019	9,401,101	2,367,244	2,367,244	\$ 13,123,263	11,768,345	11.5%
Infrastructure	\$87,798,766	86,149,866		-	\$ 87,798,766	86,149,866	1.9%
Total at historical cost	<u>\$142,730,412</u>	<u>137,582,709</u>	<u>6,005,841</u>	<u>6,005,841</u>	<u>\$ 148,736,253</u>	<u>143,588,550</u>	3.6%
Accumulated depreciation	<u>(\$57,663,329)</u>	<u>(\$53,319,887)</u>	<u>(1,984,058)</u>	<u>(1,749,839)</u>	<u>\$ (59,647,387)</u>	<u>(\$55,069,726)</u>	8.3%
Net capital assets	<u>\$85,067,083</u>	<u>\$84,262,822</u>	<u>\$4,021,783</u>	<u>\$4,256,002</u>	<u>\$ 89,088,866</u>	<u>\$88,518,824</u>	0.6%

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

Long Term Debt. At year-end, the City had \$26.9 million in bonds, notes, and other long-term debt, a decrease of \$1.9 million from FY 2012-13. The City's long-term debt is summarized in Table A-5, below, and a more detailed description is provided in Note 8 to the accompanying financial statements.

Table A-5. Long-Term Debt

	Governmental Activities		Business-type Activities		Total		Total Percentage Change
	FY 13-14	FY 12-13	FY 13-14	FY 12-13	FY 13-14	FY 12-13	
Revenue bonds and notes	\$ 21,078,700	\$ 22,391,000	\$ 3,067,600	\$ 3,296,100	\$ 24,146,300	\$ 25,687,100	-6.0%
Capital Leases	\$ 2,133,692	\$ 2,337,160	\$ 625,486	\$ 732,805	\$ 2,759,178	\$ 3,069,965	-10.1%
Total at historical cost	<u>\$ 23,212,392</u>	<u>\$ 24,728,160</u>	<u>\$ 3,693,086</u>	<u>\$ 4,028,905</u>	<u>\$ 26,905,478</u>	<u>\$ 28,757,065</u>	-6.4%

Bond Ratings

Standard & Poor's issued an A+ with a stable outlook rating during the most recent review of the City.

CITY OF EL CERRITO
MANAGEMENT'S DISCUSSION AND ANALYSIS
June 30, 2014

ECONOMIC FACTORS AND NEXT YEAR'S BUDGET

As discussed above and regular updates to the City Council, revenues haven't increased as quickly as they had in the past, while employee and other costs consistently increase each year. While things seem to be steady and the outlook looks promising, our focus will be on ensuring funds are balanced and address any future projected structural deficits through the implementation of measures that contain costs, generate additional revenues to maintain services and look for opportunities to increase reserves.

CONTACTING THE CITY'S FINANCIAL MANAGEMENT

This financial report is designed to provide our citizens, taxpayers, customers, investors, and creditors with a general overview of the City's finances and to demonstrate the City's accountability for the money it receives. If you have questions about this report or need additional financial information, contact the City's Finance Department at 10890 San Pablo Avenue, El Cerrito, CA 94530-2392, (510) 215-4312 or website www.el-cerrito.org.

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CITY OF EL CERRITO

STATEMENT OF NET POSITION AND STATEMENT OF ACTIVITIES

The Statement of Net Position reports the difference between the City's total assets and deferred outflows of resources and the City's total liabilities and deferred inflows of resources, including all the City's capital assets and all its long-term debt. The Statement of Net Position summarizes the financial position of all the City's Governmental Activities in a single column, and the financial position of all the City's Business-Type Activities in a single column; these are followed by a Total column which presents the financial position of the entire City.

The City's Governmental Activities include the activities of its General Fund, along with all its Special Revenue, Capital Projects and Debt Service Funds. The City's Business-Type Activities include all its Enterprise Fund activities.

The Statement of Activities reports increases and decreases in the City's Net Position. It presents the City's expenses first, listed by program, and follows these with the expenses of its business-type activities. Program revenues—that is, revenues which are generated directly by these programs—are then deducted from program expenses to arrive at the net expense of each governmental and business-type program. The City's general revenues are then listed in the Governmental Activities or Business-type Activities column, as appropriate, and the Change in Net Position is computed and reconciled with the Statement of Net Position.

Both these Statements include the financial activities of the City, the El Cerrito Public Financing Authority and the El Cerrito Municipal Services Corporation which are legally separate but are component units of the City because they are controlled and/or administered by the City, which is financially accountable for their activities and/or appoints their governing board.

CITY OF EL CERRITO
STATEMENT OF NET POSITION
JUNE 30, 2014

	Governmental Activities	Business-Type Activities	Total
ASSETS			
Cash and investments (Note 3)	\$250,001	\$40,383	\$290,384
Cash and investments with fiscal agents (Note 3)	1,681,236		1,681,236
Accounts receivable	206,451	219,860	426,311
Due from other governments	4,938,558		4,938,558
Interest receivable	1		1
Loans receivable (Note 5)	5,697,959		5,697,959
Inventory	26,965		26,965
Prepays	31,361	76,636	107,997
Internal balances (Note 4C)	(53,280)	53,280	
Land held for resale or redevelopment (Note 1G)	4,244,664		4,244,664
Land and construction in progress (Note 6)	8,050,390		8,050,390
Capital assets, net of depreciation (Note 6)	77,016,693	4,021,783	81,038,476
Total assets	102,090,999	4,411,942	106,502,941
DEFERRED OUTFLOWS OF RESOURCES			
Deferred charge on refunding (Note 1H)		120,484	120,484
LIABILITIES			
Accounts payable	2,665,704	114,688	2,780,392
Accrued liabilities	1,167,559		1,167,559
Accrued interest payable	132,133		132,133
Deposits payable	362,957		362,957
Unearned revenue	30,578	72,500	103,078
Net OPEB Obligation (Note 10C):			
Due in more than one year	1,573,570		1,573,570
Compensated absences (Note 11):			
Due within one year	1,136,268	31,068	1,167,336
Due in more than one year	404,747	3,452	408,199
Claims payable (Note 11):			
Due within one year	12,500		12,500
Due in more than one year	44,849		44,849
Long-term debt (Note 8):			
Due within one year	1,031,273	343,438	1,374,711
Due in more than one year	22,181,119	3,349,648	25,530,767
Total liabilities	30,743,257	3,914,794	34,658,051
NET POSITION (Note 9):			
Net investment in capital assets	63,535,927	328,697	63,864,624
Restricted for:			
Capital projects	839,940		839,940
Community development projects	10,716,090		10,716,090
Total restricted net position	11,556,030		11,556,030
Unrestricted	(3,744,215)	288,935	(3,455,280)
Total net position	\$71,347,742	\$617,632	\$71,965,374

See accompanying notes to financial statements

CITY OF EL CERRITO
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2014

Functions/Programs	Expenses	Program Revenues			Net (Expense) Revenue and Changes in Net Position		
		Charges for Services	Operating Grants and Contributions	Capital Grants and Contributions	Governmental Activities	Business-type Activities	Total
Governmental Activities:							
General government	\$5,637,571	\$106,677	\$47,941		(\$5,482,953)		(\$5,482,953)
Public works	5,444,248	976,032	1,517,112	\$2,606,487	(344,617)		(344,617)
Recreation	4,597,225	3,221,674	160,125		(1,215,426)		(1,215,426)
Community development	6,121,329	1,731,668	637,464	84,643	(3,667,554)		(3,667,554)
Public safety	18,767,955	2,880,896	704,847	945,913	(14,236,299)		(14,236,299)
Interest on long term debt	904,001				(904,001)		(904,001)
Total Governmental Activities	41,472,329	8,916,947	3,067,489	3,637,043	(25,850,850)		(25,850,850)
Business-type Activities:							
Integrated waste management	1,954,155	2,071,820	20,522			\$138,187	138,187
Total Business-type Activities	1,954,155	2,071,820	20,522			138,187	138,187
Total	\$43,426,484	\$10,988,767	\$3,088,011	\$3,637,043	(25,850,850)	138,187	(25,712,663)
General revenues:							
Taxes:							
Secured and unsecured property taxes					9,024,435		9,024,435
Sales and use taxes					6,554,589		6,554,589
Transient lodging taxes					130,556		130,556
Franchise taxes					1,228,307		1,228,307
Business license taxes					768,448		768,448
Utility user taxes					3,137,017		3,137,017
Other taxes					129,774		129,774
Use of money and property					207,475		207,475
Other					1,056,188		1,056,188
Transfers (Note 4A)					327,371	(327,371)	
Total general revenues and transfers					22,564,160	(327,371)	22,236,789
Change in Net Position					(3,286,690)	(189,184)	(3,475,874)
Net position at beginning of year					74,634,432	806,816	75,441,248
Net position at end of year					\$71,347,742	\$617,632	\$71,965,374

See accompanying notes to financial statements

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GOVERNMENTAL FUND FINANCIAL STATEMENTS

Major funds are defined generally as having significant activities or balances in the current year. The funds described below were determined to be Major Governmental Funds by the City for fiscal year 2014. Individual non-major funds may be found in the Supplemental section.

GENERAL FUND

The General Fund is used for all the general revenues of the City not specifically levied or collected for other City funds, and the related expenditures. The major revenue sources for this Fund are property taxes, sales taxes, utility users tax, franchise fees, business licenses, unrestricted revenues from the State, fines and forfeitures and interest income. Expenditures are made for public safety, recreation, and the other services described above.

MUNICIPAL SERVICES CORPORATION SPECIAL REVENUE FUND

This fund is used to account for the activities of the El Cerrito Municipal Services Corporation, a nonprofit corporation established to assist the City with public communications and financing of public improvements and later with the elimination of community blight and deterioration within the City.

LOW AND MODERATE INCOME HOUSING ASSETS SPECIAL REVENUE FUND

This fund accounts for the activities related to the housing assets assumed by the City as Housing Successor to the former Redevelopment Agency and the collection of revenues from those restricted assets. The activities are governed by California redevelopment law and must be used to provide housing for people with low and moderate incomes.

FEDERAL, STATE AND LOCAL GRANTS SPECIAL REVENUE FUND

This fund accounts for revenues and expenditures related to grants from other governmental agencies.

CAPITAL IMPROVEMENT CAPITAL PROJECTS FUND

This fund is used to account for funds expended on various City capital projects.

CITY OF EL CERRITO
GOVERNMENTAL FUNDS
BALANCE SHEET
JUNE 30, 2014

	General Fund	Municipal Services Corporation Fund	Low/Mod Income Housing Asset Fund	Federal, State, and Local Grants Fund
ASSETS				
Cash and investments (Note 3)	\$1	\$250,000		
Cash with fiscal agents (Note 3)	150,445			
Accounts receivable	187,946	2,410	\$44	\$44
Due from other governments	1,747,713			1,007,874
Interest receivable	1			
Due from other funds (Note 4B)	310,035	250,000	27,681	245,282
Loans receivable (Note 5)		5,000	5,697,959	
Inventory	26,965			
Prepays	31,361			
Land held for resale or redevelopment (Note 1G)		4,244,663	1	
Total Assets	<u>\$2,454,467</u>	<u>\$4,752,073</u>	<u>\$5,725,685</u>	<u>\$1,253,200</u>
LIABILITIES				
Accounts payable	\$596,507	\$30,687	\$1,343	\$982,837
Accrued liabilities	34,074			
Due to other funds (Note 4B)	250,000	2,015		
Deposits payable	272,842	17,000		
Unearned revenue	30,578			
Total Liabilities	<u>1,184,001</u>	<u>49,702</u>	<u>1,343</u>	<u>982,837</u>
DEFERRED INFLOWS OF RESOURCES				
Unavailable revenue - accounts receivable				
Unavailable revenue - due from other governments				151,918
Unavailable revenue - loans receivable		5,000	4,475,444	
Total deferred inflows of resources		<u>5,000</u>	<u>4,475,444</u>	<u>151,918</u>
FUND BALANCES (Note 9)				
Nonspendable				
Items not in spendable form:				
Prepays and Inventory	58,326			
Restricted for:				
Redevelopment Projects & Programs:				
Nonspendable - land held for redevelopment		4,244,663		
Redevelopment projects & programs		452,708		
Housing Activities:				
Nonspendable - loans receivable			1,222,515	
Nonspendable - land held for redevelopment			1	
Housing programs			26,382	
Debt Service				
Solar Project	150,445			
Street Improvements				
Transportation Projects				
Public Safety - Police				
Public Safety - Vehicle Abatement				
Grants				118,445
Park and Recreation				
Storm drains				
Public Art				
Assigned to various contracts	53,108			
Unassigned	1,008,587			
Total Fund Balances (Deficits)	<u>1,270,466</u>	<u>4,697,371</u>	<u>1,248,898</u>	<u>118,445</u>
Total Liabilities, Deferred Inflows of Resources and Fund Balances	<u>\$2,454,467</u>	<u>\$4,752,073</u>	<u>\$5,725,685</u>	<u>\$1,253,200</u>

See accompanying notes to financial statements

Capital Improvement Fund	Other Governmental Funds	Totals
		\$250,001
	\$1,530,791	1,681,236
	16,007	206,451
\$1,013,364	1,169,607	4,938,558
		1
	1,111,933	1,944,931
		5,702,959
		26,965
		31,361
		4,244,664
<u>\$1,013,364</u>	<u>\$3,828,338</u>	<u>\$19,027,127</u>
\$329,103	\$725,227	\$2,665,704
66,812	28,811	129,697
1,159,764	559,570	1,971,349
	73,115	362,957
		30,578
<u>1,555,679</u>	<u>1,386,723</u>	<u>5,160,285</u>
	15,666	15,666
505,223	258,046	915,187
		4,480,444
<u>505,223</u>	<u>273,712</u>	<u>5,411,297</u>
		58,326
		4,244,663
		452,708
		1,222,515
		1
		26,382
	1,529,711	1,529,711
		150,445
32,538	47,272	79,810
	65,623	65,623
	149,592	149,592
	197,055	197,055
		118,445
	447,360	447,360
	24,014	24,014
	48,094	48,094
		53,108
<u>(1,080,076)</u>	<u>(340,818)</u>	<u>(412,307)</u>
<u>(1,047,538)</u>	<u>2,167,903</u>	<u>8,455,545</u>
<u>\$1,013,364</u>	<u>\$3,828,338</u>	<u>\$19,027,127</u>

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CITY OF EL CERRITO
Reconciliation of the
GOVERNMENTAL FUNDS -- BALANCE SHEET
with the
STATEMENT OF NET POSITION
JUNE 30, 2014

TOTAL FUND BALANCES -- TOTAL GOVERNMENTAL FUNDS	\$8,455,545
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Amounts reported for Governmental Activities in the Statement of
Net Position are different from those reported in the Governmental Funds above because of the following:

CAPITAL ASSETS

Capital assets used in Governmental Activities are not current assets or financial resources and therefore are not reported in the Governmental Funds.	85,067,083
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ALLOCATION OF INTERNAL SERVICE FUND NET POSITION

Internal service funds are not governmental funds. However, they are used by management to
charge the costs of certain activities, such as insurance and central services and maintenance,
to individual governmental funds.

The net current assets and liabilities of the Internal Service Funds are therefore included in
Governmental Activities following line items in the Statement of Net Position.

Due to other funds	(26,862)
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ACCRUAL OF NON-CURRENT REVENUES AND EXPENSES

Revenues which are unavailable on the Fund Balance Sheets, because the are not available currently, are taken into revenue in the Statement of Activities	5,406,297
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LONG TERM ASSETS AND LIABILITIES

The assets and liabilities below are not due and payable in the current period and therefore are
not reported in the Funds:

Accrued liabilities	(1,037,862)
Long-term compensated absences	(1,541,015)
Claims payable	(57,349)
Net OPEB Obligation	(1,573,570)
Long-term debt	(23,212,392)
Interest payable	(132,133)
	(132,133)

NET POSITION OF GOVERNMENTAL ACTIVITIES	\$71,347,742
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CITY OF EL CERRITO
GOVERNMENTAL FUNDS
STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCES
FOR THE YEAR ENDED JUNE 30, 2014

	General Fund	Municipal Services Corporation Fund	Low/Mod Income Housing Asset Fund	Federal, State, and Local Grants Fund
Revenues:				
Taxes and assessments	\$18,642,362			
Licenses and permits	539,567			
Fines and penalties	388,365			
Use of money and property	289,661	\$82,443	\$27	\$11
Intergovernmental revenues	3,460,949		531,152	1,018,640
Charges for services	4,781,590		3,150	
Other revenues	146,442	15,000	500	
Total Revenues	28,248,936	97,443	534,829	1,018,651
Expenditures:				
Current:				
General government	3,967,342			
Public works	517,787			52,661
Recreation	4,002,274			
Community development	1,515,150	288,718	643,616	602,019
Public safety	18,058,632			82,610
Estimated reduction in value of land held for redevelopment (Note 1G)		23,750	3,059,999	
Payment of sales tax to City of Richmond (Note 13B)	253,720			
Capital outlay	105,504			1,023,104
Debt service:				
Principal	88,410			
Interest and fiscal agent fees				
Total Expenditures	28,508,819	312,468	3,703,615	1,760,394
Excess (deficiency) of revenues over (under) expenditures	(259,883)	(215,025)	(3,168,786)	(741,743)
Other Financing Sources (Uses):				
Transfers in (Note 4A)	804,379	5,369		669,599
Transfers (out) (Note 4A)	(1,615,268)			(5,369)
Total other financing sources (uses)	(810,889)	5,369		664,230
Net changes in fund balances	(1,070,772)	(209,656)	(3,168,786)	(77,513)
Fund balances (Deficits) - July 1, 2013	2,341,238	4,907,027	4,417,684	195,958
Fund balances (Deficits) - June 30, 2014	\$1,270,466	\$4,697,371	\$1,248,898	\$118,445

See accompanying notes to financial statements

Capital Improvement Fund	Other Governmental Funds	Total Governmental Funds
	\$3,898,277	\$22,540,639
		539,567
		388,365
\$32	15,201	387,375
1,784,771	1,154,622	7,950,134
	13,240	4,797,980
43,135	7,745	212,822
<u>1,827,938</u>	<u>5,089,085</u>	<u>36,816,882</u>
	12,014	3,979,356
	2,047,157	2,617,605
	228,592	4,230,866
355,473		3,404,976
	13,030	18,154,272
		3,083,749
		253,720
2,598,728	1,139,823	4,867,159
	1,312,300	1,400,710
	905,164	905,164
<u>2,954,201</u>	<u>5,658,080</u>	<u>42,897,577</u>
<u>(1,126,263)</u>	<u>(568,995)</u>	<u>(6,080,695)</u>
464,573	3,272,630	5,216,550
	(3,268,542)	(4,889,179)
<u>464,573</u>	<u>4,088</u>	<u>327,371</u>
(661,690)	(564,907)	(5,753,324)
<u>(385,848)</u>	<u>2,732,810</u>	<u>14,208,869</u>
<u>(\$1,047,538)</u>	<u>\$2,167,903</u>	<u>\$8,455,545</u>

CITY OF EL CERRITO
Reconciliation of the
NET CHANGE IN FUND BALANCES - TOTAL GOVERNMENTAL FUNDS
with the
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED JUNE 30, 2014

The schedule below reconciles the Net Changes in Fund Balances reported on the Governmental Funds Statement of Revenues, Expenditures and Changes in Fund Balance, which measures only changes in current assets and current liabilities on the modified accrual basis, with the Change in Net Position of Governmental Activities reported in the Statement of Activities, which is prepared on the full accrual basis.

NET CHANGE IN FUND BALANCES - TOTAL GOVERNMENTAL FUNDS (\$5,753,324)

Amounts reported for governmental activities in the Statement of Activities are different because of the following:

CAPITAL ASSETS TRANSACTIONS

Governmental Funds report capital outlays as expenditures. However, in the Statement of Activities the cost of those assets is capitalized and allocated over their estimated useful lives and reported as depreciation expense.	
The capital outlay and other expenditures are therefore added back to fund balance	4,914,279
Depreciation expense is deducted from the fund balance	
(Depreciation expense is net of internal service fund depreciation of \$226,652) which has already been allocated to serviced funds.)	(4,116,790)

LONG TERM DEBT PROCEEDS AND PAYMENTS

Bond proceeds provide current financial resources to governmental funds, but issuing debt increases long-term liabilities in the Statement of Net Position. Repayment of bond principal is an expenditure in the governmental funds, but in the Statement of Net Position the repayment reduces long-term liabilities.	
Repayment of debt principal is added back to fund balance	1,400,710

ACCRUAL OF NON-CURRENT ITEMS

The amounts below included in the Statement of Activities do not provide or (require) the use of current financial resources and therefore are not reported as revenue or expenditures in governmental funds (net change):	
Accrued liabilities	(1,037,862)
Unavailable revenue	1,572,538
Claims payable	7,997
Net OPEB obligation	(293,620)
Long-term compensated absences	(85,960)
Interest payable	14,635

ALLOCATION OF INTERNAL SERVICE FUND ACTIVITY

Internal Service Funds are used by management to charge the costs of certain activities, such as equipment acquisition, maintenance, and insurance to individual funds. The portion of the net revenue (expense) of these Internal Service Funds arising out of their transactions with governmental funds is reported with governmental activities, because they service those activities.	
Change in Net Position - All Internal Service Funds	90,707

CHANGE IN NET POSITION OF GOVERNMENTAL ACTIVITIES	<u>(\$3,286,690)</u>
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See accompanying notes to financial statements

CITY OF EL CERRITO
GENERAL FUND
STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
FOR THE YEAR ENDED JUNE 30, 2014

	Budgeted Amounts			Variance with Final Budget Positive (Negative)
	Original	Final	Actual Amounts	
Revenues:				
Property taxes	\$8,170,213	\$8,170,213	\$7,887,028	(\$283,185)
Taxes other than property	10,320,650	10,320,650	10,755,334	434,684
Licenses and permits	606,000	606,000	539,567	(66,433)
Fines and forfeitures	306,500	306,500	388,365	81,865
Use of money and property	315,700	315,700	289,661	(26,039)
Intergovernmental	3,302,128	3,522,649	3,460,949	(61,700)
Charges for services	4,451,362	4,561,496	4,781,590	220,094
Other revenues	202,147	202,147	146,442	(55,705)
Total Revenues	27,674,700	28,005,355	28,248,936	243,581
Expenditures:				
General government				
City council	68,664	68,664	79,570	(10,906)
City manager	631,167	631,167	704,336	(73,169)
City attorney	275,000	275,000	309,290	(34,290)
Financial services	1,143,795	1,143,795	1,236,561	(92,766)
City clerk	270,737	270,737	242,777	27,960
Information systems	398,405	398,405	399,283	(878)
Employee services	987,167	987,167	995,525	(8,358)
Public works	392,225	452,225	517,787	(65,562)
Recreation	3,890,629	3,890,629	4,002,274	(111,645)
Community development	1,326,688	1,491,688	1,515,150	(23,462)
Public safety:				
Police	10,264,068	10,264,068	9,744,618	519,450
Fire	7,977,729	8,157,992	8,314,014	(156,022)
Payment of sales tax to City of Richmond			253,720	(253,720)
Capital outlay	120,000	120,000	105,504	14,496
Debt service:				
Principal	88,410	88,410	88,410	
Total Expenditures	27,834,684	28,239,947	28,508,819	(268,872)
Excess (deficiency) of revenues over (under) expenditures	(159,984)	(234,592)	(259,883)	(25,291)
Other Financing Sources (Uses):				
Transfers in	804,379	804,379	804,379	
Transfers (out)	(618,908)	(1,745,308)	(1,615,268)	130,040
Total other financing sources (uses)	185,471	(940,929)	(810,889)	130,040
Net change in fund balance	25,487	(1,175,521)	(1,070,772)	104,749
Fund balances - July 1, 2013	2,341,238	2,341,238	2,341,238	
Fund balances - June 30, 2014	\$2,366,725	\$1,165,717	\$1,270,466	\$104,749

See accompanying notes to financial statements

CITY OF EL CERRITO
MUNICIPAL SERVICES CORPORATION SPECIAL REVENUE FUND
STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
FOR THE YEAR ENDED JUNE 30, 2014

	Budgeted Amounts		Actual Amounts	Variance with Final Budget Positive (Negative)
	Original	Final		
Revenues:				
Use of money and property	\$121,000	\$121,000	\$82,443	(\$38,557)
Other revenues			15,000	15,000
Total Revenues	121,000	121,000	97,443	(23,557)
Expenditures:				
Community development	288,800	288,800	288,718	82
Estimated reduction in value of property held for resale			23,750	(23,750)
Total Expenditures	288,800	288,800	312,468	(23,668)
Excess (deficiency) of revenues over (under) expenditures	(167,800)	(167,800)	(215,025)	(47,225)
Other Financing Sources (Uses):				
Transfers in			5,369	5,369
Net change in fund balance	(167,800)	(167,800)	(209,656)	(41,856)
Fund balances - July 1, 2013	4,907,027	4,907,027	4,907,027	
Fund balances - June 30, 2014	<u>\$4,739,227</u>	<u>\$4,739,227</u>	<u>\$4,697,371</u>	<u>(\$41,856)</u>

See accompanying notes to financial statements

CITY OF EL CERRITO
 LOW/MOD INCOME HOUSING ASSET SPECIAL REVENUE FUND
 STATEMENT OF REVENUES, EXPENDITURES
 AND CHANGES IN FUND BALANCE
 BUDGET AND ACTUAL
 FOR THE YEAR ENDED JUNE 30, 2014

	Budgeted Amounts		Actual Amounts	Variance with Final Budget Positive (Negative)
	Original	Final		
Revenues:				
Charges for services			\$3,150	\$3,150
Use of money and property			27	27
Intergovernmental revenues			531,152	531,152
Other revenue			500	500
Total Revenues			534,829	534,829
Expenditures:				
Community development	\$140,838	\$671,990	643,616	28,374
Estimated reduction in value of land held for redevelopment			3,059,999	(3,059,999)
Total Expenditures	140,838	671,990	3,703,615	(3,031,625)
Net change in fund balance	(140,838)	(671,990)	(3,168,786)	(2,496,796)
Fund balances - July 1, 2013	4,417,684	4,417,684	4,417,684	
Fund balances - June 30, 2014	<u>\$4,276,846</u>	<u>\$3,745,694</u>	<u>\$1,248,898</u>	<u>(\$2,496,796)</u>

See accompanying notes to financial statements

CITY OF EL CERRITO
FEDERAL, STATE AND LOCAL GRANTS SPECIAL REVENUE FUND
STATEMENT OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
FOR THE YEAR ENDED JUNE 30, 2014

	Budgeted Amounts			Variance with Final Budget Positive (Negative)
	Original	Final	Actual Amounts	
Revenues:				
Use of money and property			\$11	\$11
Intergovernmental revenues	\$203,498	\$1,156,460	1,018,640	(137,820)
Total Revenues	203,498	1,156,460	1,018,651	(137,809)
Expenditures:				
Public works			52,661	(52,661)
Community development	802,783	802,783	602,019	200,764
Public safety	112,000	112,000	82,610	29,390
Capital outlay		1,023,604	1,023,104	500
Total Expenditures	914,783	1,938,387	1,760,394	177,993
Excess (deficiency) of revenues over (under) expenditures	(711,285)	(781,927)	(741,743)	40,184
Other Financing Sources (Uses):				
Transfers in		669,599	669,599	
Transfers (out)			(5,369)	5,369
Total other financing sources (uses)		669,599	664,230	5,369
Net change in fund balance	(711,285)	(112,328)	(77,513)	34,815
Fund balances - July 1, 2013	195,958	195,958	195,958	
Fund balances - June 30, 2014	(\$515,327)	\$83,630	\$118,445	\$34,815

See accompanying notes to financial statements

MAJOR PROPRIETARY FUND

Proprietary funds account for City operations financed and operated in a manner similar to a private business enterprise. The intent of the City is that the cost of providing goods and services be financed primarily through user charges.

The City has only one enterprise fund, the Integrated Waste Management Fund, which is presented as a major fund and is described below.

INTEGRATED WASTE MANAGEMENT FUND

The Integrated Waste Management Fund accounts for the City's recycling collection services operations financed and operated in a manner similar to a private business enterprise. The intent of the City is that the cost of providing goods and services be financed primarily through user charges.

CITY OF EL CERRITO
 PROPRIETARY FUNDS
 STATEMENT OF NET POSITION
 JUNE 30, 2014

	Business-type Activities - Integrated Waste Management Enterprise Fund	Governmental Activities - Vehicles and Equipmer Replacement Internal Service Fund
ASSETS		
Current Assets:		
Cash and investments (Note 3)	\$40,383	
Accounts receivable	219,860	
Due from other funds (Note 4B)	53,280	
Prepays	76,636	
Total current assets	390,159	
Capital Assets (Note 6):		
Buildings, equipment and vehicles	6,005,841	\$6,228,829
Less accumulated depreciation	(1,984,058)	(5,339,169)
Net capital assets	4,021,783	889,660
DEFERRED OUTFLOWS OF RESOURCES		
Deferred charge on refunding (Note 1H)	120,484	
Total Assets and Deferred Outflows	4,532,426	889,660
LIABILITIES		
Current Liabilities:		
Accounts payable	114,688	
Leases payable (Note 8)	343,438	117,115
Unearned revenue	72,500	
Due to other funds (Note 4B)		26,862
Compensated absences (Note 11)	31,068	
Total current liabilities	561,694	143,977
Long-Term Liabilities:		
Compensated absences (Note 11)	3,452	
Leases payable (Note 8)	3,349,648	553,475
Total long-term liabilities	3,353,100	553,475
Total liabilities	3,914,794	697,452
NET POSITION (Note 9)		
Net investment in capital assets	328,697	219,070
Unrestricted	288,935	(26,862)
Total net position	\$617,632	\$192,208

See accompanying notes to financial statements

CITY OF EL CERRITO
 PROPRIETARY FUNDS
 STATEMENT OF REVENUES, EXPENSES
 AND CHANGES IN FUND NET POSITION
 FOR THE YEAR ENDED JUNE 30, 2014

	Business-type Activities - Integrated Waste Management Enterprise Fund	Governmental Activities - Vehicles and Equipment Replacement Internal Service Fund
Operating Revenues:		
Charges for current services	\$1,708,725	\$128,532
Recycling sales	298,649	
Other	64,446	
	<u>2,071,820</u>	<u>128,532</u>
Total operating revenues		
Operating Expenses:		
Personnel costs	1,217,816	
Services	300,499	
Supplies	97,833	
Depreciation	234,219	226,652
	<u>1,850,367</u>	<u>226,652</u>
Total operating expenses		
Operating income (loss)	<u>221,453</u>	<u>(98,120)</u>
Non-Operating Revenues (Expense):		
Grants	20,522	202,299
Interest expense	(103,788)	(13,472)
	<u>(83,266)</u>	<u>188,827</u>
Total non-operating revenues		
Income (loss) before transfers	138,187	90,707
Transfers (out) (Note 4A)	<u>(327,371)</u>	
Change in net position	(189,184)	90,707
Net position - July 1, 2013	<u>806,816</u>	<u>101,501</u>
Net position - June 30, 2014	<u>\$617,632</u>	<u>\$192,208</u>

See accompanying notes to financial statements

CITY OF EL CERRITO
 PROPRIETARY FUNDS
 STATEMENT OF CASH FLOWS
 FOR THE YEAR ENDED JUNE 30, 2014

	Business-type Activities - Integrated Waste Management Enterprise Fund	Governmental Activities - Vehicles and Equipment Replacement Internal Service Fund
CASH FLOWS FROM OPERATING ACTIVITIES		
Receipts from customers	\$2,223,856	\$128,532
Payments to suppliers	(302,438)	
Payments to employees	(1,217,232)	
	<u>704,186</u>	<u>128,532</u>
Net cash provided by operating activities		
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES		
Grants	20,522	202,299
Payments to other funds	(53,222)	
Receipts from other funds		26,862
Transfers out	(327,371)	
	<u>(360,071)</u>	<u>229,161</u>
Cash Flows from Noncapital Financing Activities		
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES		
Acquisition of capital assets		(233,424)
Principal paid	(335,819)	(115,058)
Interest paid	(90,589)	(13,472)
	<u>(426,408)</u>	<u>(361,954)</u>
Cash Flows Used for Capital and Related Financing Activities		
Net increase (decrease) in cash and cash equivalents	(82,293)	(4,261)
Cash and investments at beginning of year	<u>122,676</u>	<u>4,261</u>
Cash and investments at end of year	<u><u>\$40,383</u></u>	<u><u></u></u>
Reconciliation of operating income (loss) to net cash provided by operating activities:		
Operating income (loss)	\$221,453	(\$98,120)
Adjustments to reconcile operating income (loss) to net cash provided by operating activities:		
Depreciation	234,219	226,652
Change in assets and liabilities:		
Receivables, net	84,408	
Prepays	(12)	
Accounts payable	95,906	
Unearned revenue	67,628	
Compensated absences	584	
	<u>\$704,186</u>	<u>\$128,532</u>
Net cash provided (used by) operating activities		

See accompanying notes to financial statements

FIDUCIARY FUNDS

FIDUCIARY FUNDS

These funds account for assets held by the City as an agent for various community groups and functions. The financial activities of these funds are excluded from the Government-wide financial statements, but are presented in the separate Fiduciary Fund financial statements.

PENSION TRUST FUND

The fund is used to account for the pension system for the former employees of the City who elected not to be covered by the California Public Employees' Retirement System.

PRIVATE-PURPOSE TRUST FUND

The fund is used to account for activities of the El Cerrito Redevelopment Agency Successor Agency for which principal and income benefit private organizations or other governments.

CITY OF EL CERRITO
FIDUCIARY FUNDS
STATEMENT OF FIDUCIARY NET POSITION
JUNE 30, 2014

	Pension Trust Fund	El Cerrito Redevelopment Agency Successor Agency Private-Purpose Trust
ASSETS		
Cash and investments (Note 3)		\$1,296,485
Cash and investments with fiscal agents (Note 3)		1,694,706
Capital assets, not being depreciated (Note 15B):		
Land		52,850
Total Assets		3,044,041
LIABILITIES		
Accrued liabilities		332,280
Long-term obligations (Note 15D):		
Due within one year		1,878,800
Due in more than one year		17,891,622
Total Liabilities		20,102,702
NET POSITION (DEFICIT)		
Held for employees' retirement system and other governments		(\$17,058,661)

See accompanying notes to the financial statements

CITY OF EL CERRITO
STATEMENT OF CHANGES IN FIDUCIARY NET POSITION
FOR THE YEAR ENDED JUNE 30, 2014

	Pension Trust Fund	El Cerrito Redevelopment Agency Successor Agency Private-Purpose Trust
ADDITIONS		
Property taxes		\$3,375,902
Employer contributions	\$112,781	
Net investment income		106
Total additions	<u>112,781</u>	<u>3,376,008</u>
DEDUCTIONS		
Retirement and other benefits	112,781	
General government		250,000
Community development		619,577
Debt service:		
Interest and fiscal charges		<u>782,706</u>
Total deductions	<u>112,781</u>	<u>1,652,283</u>
Net change in net position		1,723,725
NET POSITION (DEFICIT) HELD IN TRUST FOR PENSION BENEFITS AND OTHER GOVERNMENTS		
Beginning of year		<u>(18,782,386)</u>
End of year		<u><u>(\$17,058,661)</u></u>

See accompanying notes to the financial statements

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CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The City of El Cerrito was incorporated August 1, 1917. The City provides the following services: public safety (police and fire), recreation, streets and highways, recycling, public improvements, planning and zoning, and general administration services. The City's population has remained relatively stable for some years; population at June 30, 2014 was 24,087.

The City operates under the Council-Manager form of government, with five elected Council members served by a full-time City Manager and staff. At June 30, 2014 the City's staff comprised 140 full time and 135 part time employees. In addition, the City employs recreation and other personnel as needed on a seasonal basis.

A. *Reporting Entity*

The accompanying basic financial statements present the financial activity of the City along with the financial activities of its blended component units, which are entities for which the City is financially accountable. Together these entities comprise the primary government for reporting purposes. Although they are separate legal entities, *blended* component units are in substance part of the City's operations and are reported as an integral part of the City's financial statements. The City's component units, which are described below, are all blended.

The **El Cerrito Public Financing Authority** is a nonprofit corporation organized by the City and the former Redevelopment Agency under the laws of the State of California. The Authority was organized to provide financial assistance to the City by financing the City's Swim Center. Administrative and related normal business expenses incurred in the day-to-day operations of the Authority are provided by the City. Such expenses are insignificant to the Authority's operations. The Authority obtains financing for City and Agency sponsored projects using leases signed by the City or Agency as collateral. The amounts of the leases are calculated to provide sufficient resources to repay the debt incurred to finance the projects. The financial activities of the Authority have been included in these financial statements in the Public Financing Authority Debt Service Fund and the Integrated Waste Management Enterprise Fund.

The **El Cerrito Municipal Services Corporation** (Corporation) is a nonprofit corporation organized in 1982 by the City under the corporations laws of the State of California. The Corporation was originally organized to assist the City with communications with its residents and to provide financial assistance to the City by financing real and personal property and improvements for the benefit of the residents of the City. In May 2011, the Corporation amended its articles of incorporation to provide support to the City and former Redevelopment Agency by utilizing private and public funding sources to combat community blight and deterioration in the City and contribute to the physical improvement of the City; providing and expanding economic opportunities for low and moderate income households in the City; encouraging and stimulating economic development within the City by assisting the Agency to eliminate blight within the Agency's project areas; and implementing and assisting the Agency in redevelopment activities and programs that will lessen neighborhood tensions and combat community deterioration. The financial activities of the Corporation have been included in these financial statements in the Municipal Services Corporation Special Revenue Fund.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

The **City of El Cerrito Employees' Pension Plan** is governed by the City's Retirement System Ordinance, Chapter 3 of the City of El Cerrito Municipal Code, and is used to account for contributions and investment income restricted to pay retirement and death benefits of employees who elected not to be covered by the California Public Employees' Retirement System as of February 6, 1959. Benefit and contribution provisions are established by the City Council. Eligibility, actuarial interest rates, administration and certain other tasks are the responsibility of the Council established by the above ordinance. The financial activities of the Pension Plan have been included in these financial statements in the Pension Trust Fund.

Audited financial statements for the Authority, Corporation and Pension Plan may be obtained from the City of El Cerrito, 10890 San Pablo Avenue, El Cerrito, CA 94530.

B. Basis of Presentation

The City's Basic Financial Statements are prepared in conformity with accounting principles generally accepted in the United States of America. The Government Accounting Standards Board is the acknowledged standard setting body for establishing accounting and financial reporting standards followed by governmental entities in the United States of America.

These Standards require that the financial statements described below be presented.

Government-wide Statements: The Statement of Net Position and the Statement of Activities display information about the primary government. These statements include the financial activities of the overall City government, except for fiduciary activities. Eliminations have been made to minimize the double counting of internal activities. These statements distinguish between the *governmental* and *business-type activities* of the City. Governmental activities generally are financed through taxes, intergovernmental revenues, and other nonexchange transactions. Business-type activities are financed in whole or in part by fees charged to external parties.

The Statement of Activities presents a comparison between direct expenses and program revenues for each segment of the business-type activities of the City and for each function of the City's governmental activities. Direct expenses are those that are specifically associated with a program or function and, therefore, are clearly identifiable to a particular function. Program revenues include (a) charges paid by the recipients of goods or services offered by the programs, (b) grants and contributions that are restricted to meeting the operational needs of a particular program and (c) fees, grants and contributions that are restricted to financing the acquisition or construction of capital assets. Revenues that are not classified as program revenues, including all taxes, are presented as general revenues.

Fund Financial Statements: The fund financial statements provide information about the City's funds, including fiduciary funds and blended component units. Separate statements for each fund category—*governmental*, *proprietary*, and *fiduciary*—are presented. The emphasis of fund financial statements is on major individual governmental and enterprise funds, each of which is displayed in a separate column. All remaining governmental and enterprise funds are aggregated and reported as nonmajor funds.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Proprietary fund *operating* revenues, such as charges for services, result from exchange transactions associated with the principal activity of the fund. Exchange transactions are those in which each party receives and gives up essentially equal values. *Nonoperating* revenues, such as subsidies and investment earnings, result from nonexchange transactions or ancillary activities.

C. Major Funds

Major funds are defined as funds which have either assets and deferred outflows of resources, liabilities and deferred inflows of resources, revenues or expenditures equal to ten percent of their fund-type total and five percent of the grand total. The General Fund is always a major fund. The City may select other governmental funds it believes should be presented as major funds.

The City reported the following major governmental funds in the accompanying financial statements:

General Fund - This is the City's primary operating fund. It accounts for all financial resources of the general government, except those required to be accounted for in another fund.

Municipal Services Corporation Special Revenue Fund – This fund is used to account for the activities of the El Cerrito Municipal Services Corporation, a nonprofit corporation established to assist the City with public communications and financing of public improvements, and later with the elimination of community blight and deterioration within the City.

Low and Moderate Income Housing Asset Special Revenue Fund – This fund accounts for the activities related to the housing assets assumed by the City as Housing Successor to the former Redevelopment Agency and the collection of revenues from those restricted assets. The activities are governed by California redevelopment law and must be used to provide housing for people with low and moderate incomes.

Federal, State and Local Grants Special Revenue Fund - This fund accounts for revenues and expenditures related to grants from other governmental agencies.

Capital Improvement Capital Projects Fund - This fund is used to account for funds expended on various City capital projects.

The City has one enterprise fund, the **Integrated Waste Management Fund**, which is a major fund. This fund is used to account for the City's recycling collection services operations financed and operated in a manner similar to a private business enterprise.

The City also reports the following fund types:

Internal Service Fund – The Vehicles and Equipment Replacement Internal Service Fund is used to finance and account for providing vehicles and equipment to the line departments and avoiding financing costs associated with the acquisition of necessary capital assets.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

Fiduciary Funds. These funds account for assets held by the City as an agent for various community groups and functions. The City of El Cerrito Pension Trust Fund and the El Cerrito Redevelopment Agency Successor Agency Private-Purpose Trust Fund account for the accumulation of resources to be used for payments at appropriate amounts and times in the future. The financial activities of these funds are excluded from the Government-wide financial statements, but are presented in the separate Fiduciary Fund financial statements.

D. Basis of Accounting

The government-wide, proprietary fund and fiduciary fund financial statements are reported using the *economic resources measurement focus* and the full *accrual basis* of accounting. Revenues are recorded when *earned* and expenses are recorded at the time liabilities are *incurred*, regardless of when the related cash flows take place.

Governmental funds are reported using the *current financial resources* measurement focus and the *modified accrual* basis of accounting. Under this method, revenues are recognized when *measurable and available*. The City considers all revenues reported in the governmental funds to be available if the revenues are collected generally within sixty days after year-end. Expenditures are recorded when the related fund liability is incurred, except for principal and interest on governmental long-term debt, claims and judgments, and compensated absences, which are recognized as expenditures to the extent they have matured. Governmental capital asset acquisitions are reported as *expenditures* in governmental funds. Proceeds of governmental long-term debt and acquisitions under capital leases are reported as *other financing sources*.

Those revenues susceptible to accrual include other taxes, intergovernmental revenues, interest and charges for services.

Grant revenues are recognized in the fiscal year in which all eligibility requirements are met and become available. Under the terms of grant agreements, the City may fund certain programs with a combination of cost-reimbursement grants, categorical block grants, and general revenues. Thus, both restricted and unrestricted net position available to finance program expenditures. The City's policy is to first apply restricted grant resources to such programs, followed by general revenues if necessary.

Certain indirect costs are included in program expenses reported for individual functions and activities.

Non-exchange transactions, in which the City gives or receives value without directly receiving or giving equal value in exchange, include property taxes, grants, entitlements, and donations. On the accrual basis, revenue from property taxes is recognized in the fiscal year for which the taxes are levied. Revenue from grants, entitlements, and donations is recognized in the fiscal year in which all eligibility requirements have been satisfied.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

E. Property Tax

Property tax revenue is recognized in the fiscal year for which the tax and assessment is levied. The County of Contra Costa levies, bills and collects property taxes and special assessments for the City; under the County's "Teeter Plan" the County remits the entire amount levied and handles all delinquencies, retaining interest and penalties. Secured and unsecured property taxes are levied on January 1.

Secured property tax is due in two installments, on November 1 and February 1, becomes a lien on those dates and becomes delinquent on December 10 and April 10, respectively. Unsecured property tax is due on July 1, and becomes delinquent on August 31.

The term "unsecured" refers to taxes on personal property other than real estate, land and buildings. These taxes are secured by liens on the property being taxed. Property tax revenues are recognized by the City in the fiscal year they are assessed.

F. Inventory and Prepaid Items

Inventory held in the General Fund is valued at cost using the first-in-first-out (FIFO) inventory method. Inventory of the General Fund consist of expendable supplies held for consumption. The cost is recorded as an expenditure in the General Fund at the time individual items are consumed. Reported General Fund inventory is equally offset by nonspendable fund balance which indicates that the inventory does not constitute available spendable resources even though the inventory is a component of net current assets.

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items. In governmental funds, prepaid items are accounted for using the consumption method and a portion of fund balance equal to the prepaid items has been offset by nonspendable fund balance to indicate that is not available for appropriation.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

G. *Land Held for Redevelopment*

Land parcels held for redevelopment are accounted for at the lower of cost or net realizable value or agreed upon sales price if a disposition agreement has been made with a developer.

The Municipal Services Corporation holds seven parcels of land for redevelopment with a book value of \$4,244,663. As discussed in Note 15, the parcels were acquired from the Agency after it made required findings in accordance with Health and Safety Code Section 33433, requiring development of the parcels consistent with the Redevelopment Plan. During the year ended June 30, 2014, the Corporation reviewed the estimated market value or net realizable value for each of the parcels and, as a result of the general decline in real estate values has reduced the carrying value of the parcels by \$23,750.

In July 2013, the Municipal Services Corporation entered into an Exclusive Negotiating Rights Agreement (ENRA) with a developer to negotiate the terms of a Disposition and Development Agreement related to two of the parcels. The ENRA does not obligate the Municipal Services Corporation to sell or the developer to purchase the site, but it is a period of good faith negotiations. As of June 30, 2014, the ENRA was still in effect, but the book value of the parcels has not been affected by the ENRA, because the potential sales price has not yet been determined.

The Low and Moderate Income Housing Asset Fund holds one parcel of land with a previous book value of \$3,060,000. During fiscal year 2014, the City entered into a disposition development and loan agreement (DDLA) for the sale of the property to a developer as discussed in Note 5C. Under the terms of the terms of the DDLA, the land will not be transferred from the City to the developer until certain performance conditions are met and the project is ready to start construction. The anticipated timeframe for land transfer and start of construction is approximately 2016. The actual date will depend upon the availability of State and Federal funding sources for affordable housing development. The terms of the DDLA indicate the property will be sold to the developer for \$1, therefore the book value has been reduced to that amount as of June 30, 2014.

H. *Deferred Outflows/Inflows of Resources*

In addition to assets, the statement of financial position or balance sheet will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, deferred outflows of resources, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/expenditure) until then. The City only has one item that qualifies for reporting in this category. It is the deferred charge on refunding. A deferred charge on refunding results from the difference in the carrying value of refunded debt and its reacquisition price. This amount is deferred and amortized over the shorter of the life of the refunded or refunding debt.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

In addition to liabilities, the statement of financial position or balance sheet will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, deferred inflows of resources, represents an acquisition of net position or fund balance that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The City has only one item, which arises only under a modified accrual basis of accounting, that qualifies for reporting in this category. Accordingly, the item, unavailable revenue, is reported only in the governmental funds balance sheet. The governmental funds report unavailable revenues from three sources: accounts receivable, due from other governments and loans receivable. These amounts are deferred and recognized as an inflow of resources in the period that the amounts become available.

I. Compensated Absences

Compensated absences comprise unused vacation and 25% of unused sick leave, which are accrued as earned. The liability for compensated absences is determined annually. The City's liability for compensated absences is recorded in various Governmental funds or Proprietary funds as appropriate. Compensated absences are reported in governmental funds only if they have matured, such as for the unused reimbursable leave still outstanding following an employee's retirement. The long-term portion for Governmental Activities is recorded in the Statement of Net Position.

The changes in compensated absences were as follows:

	Governmental Activities	Business-Type Activities	Total
Beginning Balance	\$1,455,055	\$33,936	\$1,488,991
Additions	1,199,179	10,190	1,209,369
Payments	(1,113,219)	(9,606)	(1,122,825)
Ending Balance	<u>\$1,541,015</u>	<u>\$34,520</u>	<u>\$1,575,535</u>
Current Portion	<u>\$1,136,268</u>	<u>\$31,068</u>	<u>\$1,167,336</u>

The long-term portion of governmental activities compensated absences is liquidated primarily by the General Fund.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

J. Deferred Compensation

City employees may defer a portion of their compensation under City sponsored Deferred Compensation Plans created in accordance with Internal Revenue Code Section 457. Under these Plans, participants are not taxed on the deferred portion of their compensation until distributed to them; distributions may be made only at termination, retirement, death or in an emergency as defined by the Plans.

The laws governing deferred compensation plan assets require plan assets to be held by a Trust for the exclusive benefit of plan participants and their beneficiaries. Since the assets held under these plans are not the City's property and are not subject to City control, they have been excluded from these financial statements.

K. Estimates and Assumptions

The preparation of financial statements in conformity with generally accepted accounting principles (GAAP) requires management to make estimates and assumptions that affect the reported amounts of assets, deferred outflows/inflows of resources and liabilities and disclosure of contingent assets, deferred outflows/inflows of resources and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

L. New and Closed Funds

The City Housing Trust Special Revenue Fund was established to account for housing-related grants and special revenues, such as developer deposits, that are restricted for affordable housing purposes, but are not activities or assets of the Housing Successor.

The Storm Drain Debt Service Fund was closed as of June 30, 2014.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 2 – BUDGETS AND BUDGETARY ACCOUNTING

A. *Budgeting Procedures*

Annually, the City Manager submits to the City Council a proposed operating budget in June for the following fiscal year, as required by the City's budget ordinance. This budget includes proposed expenditures and the revenues expected to finance them. As modified during public study sessions, the preliminary budget becomes the proposed budget. Public hearings are conducted to obtain taxpayer comments and the budget is legally enacted through passage of a resolution. The City Manager is authorized to transfer budgeted amounts within departments 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. The legal level of budgetary control is at the fund level, except for the Municipal Services Corporation which requires approval by its Board.

Budgets are adopted on a basis consistent with generally accepted accounting principles. Unexpended appropriations lapse at year end and must be reappropriated in the following year.

Budgeted amounts are as originally adopted, or as amended by the City Council.

B. *Excess of Expenditures over Appropriations*

During fiscal year 2014, the General Fund, Asset Seizure Special Revenue Fund, Storm Drain Special Revenue Fund, and Public Financing Authority Debt Service Fund had expenditures in excess of appropriations of \$268,872, \$653, \$5,948, and \$489, respectively. In addition, the Municipal Services Corporation and Low/Mod Income Housing Asset Special Revenue Funds had expenditures in excess of appropriations of \$23,668 and \$3,031,625, respectively, due to the estimated reduction in the value of land held for redevelopment.

NOTE 3 – CASH AND INVESTMENTS

The City pools cash from all sources and all funds except Cash with Fiscal Agents so that it can be invested at the maximum yield, consistent with safety and liquidity, while individual funds can make expenditures at any time.

A. *Policies*

California Law requires banks and savings and loan institutions to pledge government securities with a market value of 110% of the City's cash on deposit, or first trust deed mortgage notes with a market value of 150% of the deposit, as collateral for these deposits. Under California Law this collateral is held in a separate investment pool by another institution in the City's name and places the City ahead of general creditors of the institution.

The City and its fiscal agents invest in individual investments and in investment pools. Individual investments are evidenced by specific identifiable *securities instruments*, or by an electronic entry registering the owner in the records of the institution issuing the security, called the *book entry* system.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 3 – CASH AND INVESTMENTS (Continued)

The City's investments are carried at fair value, as required by generally accepted accounting principles. The City adjusts the carrying value of its investments to reflect their fair value at each fiscal year end, and it includes the effects of these adjustments in income for that fiscal year.

B. *Investments Authorized by the California Government Code and the City's Investment Policy*

The City's Investment Policy and the California Government Code allow the City to invest in the following, provided the credit ratings of the issuers are acceptable to the City; and approved percentages and maturities are not exceeded. The table below also identifies certain provisions of the California Government Code, or the City's Investment Policy where the City's Investment Policy is more restrictive.

The City's Investment Policy and the California Government Code allow the City to invest in the following:

Authorized Investment Type	Maximum Maturity	Minimum Credit Quality	Maximum in Portfolio	Maximum Investment In One Issuer
State of California Local Agency Investment Fund (LAIF Pool)	On Demand	N/A	\$50,000,000 per account	\$50,000,000 per account
U. S. Treasury Bonds, Notes and Bills	5 Years	N/A	No Limit	No Limit
U.S. Federal Agency and U.S. Government Sponsored Enterprise Securities	5 Years	N/A	No Limit	No Limit
Banker's Acceptances	180 Days	N/A	30%	30%
Commercial Paper	270 Days	P-1, A-1, F-1	10%*	10%
Certificates of Deposit	5 Years	N/A	30%	10%
Negotiable Certificates of Deposit	5 Years	A	30%	No Limit
Medium-Term Corporate Notes	5 Years	A	10%*	No Limit
Derivative Securities (limited to Federal Agency callable issues)	5 Years	N/A	10%	No Limit
Money Market Mutual Funds	On Demand	Highest Rating Category	5%	No Limit

* Total combined corporate debt (Commercial Paper and Medium-Term Notes) may not exceed 20% of the cost value of the portfolio.

The City's investment policy prohibits investments in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages in accordance with California Government Code Section 53601.6. With the exception of callable Federal Agency securities, any security that derives its value from another asset or index is prohibited. In addition, the City may not invest any funds in any security that could result in zero interest accrual if held to maturity.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 3 – CASH AND INVESTMENTS (Continued)

C. Investments Authorized by Debt Agreements

The City must maintain required amounts of cash and investments with trustees or fiscal agents under the terms of certain debt issues. These funds are unexpended bond proceeds or are pledged as reserves to be used if the City fails to meet its obligations under these debt issues. The California Government Code requires these funds to be invested in accordance with City ordinance, bond indentures or State statute. The table below identifies the investment types that are authorized for investments held by fiscal agents. The table also identifies certain provisions of these debt agreements:

Authorized Investment Type	Maximum Maturity	Minimum Credit Quality
Obligations of any of the following federal agencies which obligations represent the full faith and credit of the U.S. including:		
U.S. Treasury Obligations		
All direct or fully guaranteed obligations		
Farmers Home Administration		
General Services Administration		
Guaranteed Title XI Financing		
Government National Mortgage Association (GNMA)		
State and Local Government Series		
Direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the U.S.:		
Senior debt obligations of:		
Federal National Mortgage Association		
Federal Home Loan Mortgage Corporation		
Federal Home Loan Bank System		
Farm Credit System		
Resolution Funding Corporation		
Financing Corp. Debt Obligations		
U.S. Agency for International Development Guaranteed Notes		
For all purposes other than defeasance:		
Obligations of any of the following federal agencies which obligations represent the full faith and credit of the U.S. including:		
Export-Import Bank		
Rural Economic Community Development Administration		
U.S. Maritime Administration		
Small Business Administration		
U.S. Department of Housing & Urban Development (PHAs)		
Federal Housing Administration		
Federal Financing Bank		
Direct obligations of any of the following federal agencies which obligations are not fully guaranteed by the full faith and credit of the U.S.:		
Senior debt obligations of:		
Federal National Mortgage Association		
Federal Home Loan Mortgage Corporation		
Federal Home Loan Bank System		
Other Government Sponsored Agencies approved by the Bond Issuer		
Resolution Funding Corporation		
Bankers Acceptances	1 year	P-1, A-1 or A-1+
Commercial Paper	270 days	P-1 or A-1+
Pre-refunded Municipal Obligations		Highest ratings category
Municipal Obligations		Aaa/AAA
General Obligations of States		A2/A
Investment Agreements (A)		
Other forms of investments (including repurchase agreements) (A)		

(A) Investment agreements and other forms of investments, including repurchase agreements, must be approved in writing by the Bond Issuer

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 3 - CASH AND INVESTMENTS (Continued)

D. Classification

Cash and investments are classified in the financial statements as shown below, based on whether or not their use is restricted under the terms of City debt instruments or Successor Agency agreements.

Cash and investments as of June 30, 2014 consist of the following:

City cash and investments:	
Cash and investments	\$290,384
Cash and investments with fiscal agents	1,681,236
Total City cash and investments	<u>1,971,620</u>
Cash and investments in Fiduciary Funds (Separate Statement):	
Cash and investments	1,296,485
Cash and investments with fiscal agents	1,694,706
Total Cash and Investments	<u><u>\$4,962,811</u></u>

E. Interest Rate Risk

Interest rate risk is the risk that changes in market interest rates will adversely affect the fair value of an investment. Normally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates.

Information about the sensitivity of the fair values of the City's investments (including investments held by bond trustees) to market interest rate fluctuations is provided by the following table that shows the distribution of the City's investments by maturity or earliest call date:

Investments	AA+	AAAm	Total
Blackrock Institutional Money Market Fund		\$1,882,063	\$1,882,063
Blackrock Liquidity Money Market Fund		3,434	3,434
Fidelity Institutional Prime Money Market Fund		150,445	150,445
Federal National Mortgage Association			
Federal Agency Securities	\$1,340,000		1,340,000
Total rated	<u>\$1,340,000</u>	<u>\$2,035,942</u>	3,375,942
Not rated:			
Local Agency Investment Fund			2,703
Total Investments			3,378,645
Cash with Banks and Petty Cash			1,584,166
Total Cash and Investments			<u><u>\$4,962,811</u></u>

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 3 - CASH AND INVESTMENTS (Continued)

The City is a participant in the Local Agency Investment Fund (LAIF) that is regulated by California Government Code Section 16429 under the oversight of the Treasurer of the State of California. The City reports its investment in LAIF at the fair value amount provided by LAIF, which is the same as the value of the pool share. The balance is available for withdrawal on demand, and is based on the accounting records maintained by LAIF, which are recorded on an amortized cost basis. Included in LAIF's investment portfolio are collateralized mortgage obligations, mortgage-backed securities, other asset-backed securities, loans to certain state funds, and floating rate securities issued by federal agencies, government-sponsored enterprises, United States Treasury Notes and Bills, and corporations. At June 30, 2014, these investments had an average maturity of 232 days.

F. Credit Risk

Generally, credit risk is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. Presented below is the actual rating as of June 30, 2014 for each of the City's investments as provided by Standard and Poor's investment rating service:

Investments	AA+	AAAm	Total
Blackrock Institutional Money Market Fund		\$1,882,063	\$1,882,063
Blackrock Liquidity Money Market Fund		3,434	3,434
Fidelity Institutional Prime Money Market Fund		150,445	150,445
Federal National Mortgage Association Federal Agency Securities	\$1,340,000		1,340,000
Total rated	<u>\$1,340,000</u>	<u>\$2,035,942</u>	3,375,942
<i>Not rated:</i>			
Local Agency Investment Fund			2,703
Total Investments			3,378,645
Cash with Banks and Petty Cash			1,584,166
Total Cash and Investments			<u>\$4,962,811</u>

G. Concentration of Credit Risk

Investments in any one issuer, other than U.S. Treasury securities, money market mutual funds, and California Local Agency Investment Funds that represent 5% or more of total City-wide investments include \$1,340,000 of Federal Agency Securities issued by the Federal National Mortgage Association held by the Public Financing Authority Debt Service Fund.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 4 – INTERFUND TRANSACTIONS

A. Transfers Between Funds

With Council approval, resources may be transferred from one City fund to another, except for the Municipal Services Corporation which requires approval by that entity's Board. The purpose of the majority of transfers is to reimburse a fund which has made an expenditure on behalf of another fund. Less often, a transfer may be made to open or close a fund.

Transfers between funds during the fiscal year ended June 30, 2014 were as follows:

Fund Receiving Transfers	Fund Making Transfers	Amount Transferred
General Fund	Integrated Waste Management Enterprise Fund	\$327,371 (A) (B)
	Non-Major Governmental Funds	477,008 (A) (B)
Municipal Services Corporation Special Revenue Fund	Federal, State, and Local Grants Special Revenue Fund	5,369 (C)
Federal, State, and Local Grants Special Revenue Fund	General Fund	669,599 (D)
Capital Improvement Fund	General Fund	344,428 (D)
	Non-Major Governmental Funds	120,145 (D)
Non-Major Governmental Funds	General Fund	601,241 (B)
	Non-Major Governmental Funds	2,671,389 (B) (D)
	Total Interfund Transfers	<u>\$5,216,550</u>

The reasons for these transfers are set forth below:

- (A) To pay for indirect costs
- (B) To fund debt service
- (C) To return unspent grant funds
- (D) To fund capital projects

B. Current Interfund Balances

Current interfund balances arise in the normal course of business and are expected to be repaid shortly after the end of the fiscal year. At June 30, 2014, the amounts of current interfund balances were as follows:

	Due From Other Funds	Due To Other Funds
General Fund	\$310,035	\$250,000
Municipal Services Corporation Special Revenue Fund	250,000	2,015
Low/ Mod Income Housing Asset Special Revenue Fund	27,681	
Federal, State, and Local Grants Special Revenue Fund	245,282	
Capital Improvement Fund		1,159,764
Non-Major Governmental Funds	1,111,933	559,570
Integrated Waste Management Enterprise Fund	53,280	
Vehicles and Equipment Replacement Internal Service Fund		26,862
	<u>\$1,998,211</u>	<u>\$1,998,211</u>

C. Internal Balances

Internal balances are presented in the City-wide financial statements only. They represent the net interfund receivables and payables remaining after the elimination of all such balances within governmental and business-type activities.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 5 – LOANS RECEIVABLE

A. *Ohlone Gardens, L.P.*

In fiscal 2009, the former Redevelopment Agency entered into a predevelopment, acquisition and construction loan agreement with Ohlone Gardens, L.P. for \$3,500,000 to assist with the acquisition and construction of a 57 unit affordable housing development including at least ten special needs units with appropriate supportive services and related office space. The Loan bears simple interest at the rate of 3% per year, beginning with the date of first disbursement and is repayable 55 years from the date of occupancy from residual receipts, as defined in the agreement. The Loan is secured by a deed of trust in the first position on the property. The deed of trust may subsequently be subordinated to other financing as defined in the agreement. Predevelopment activities and acquisition of the site began in fiscal year 2009. With the dissolution of the Redevelopment Agency as discussed in Note 15, the City agreed to become the successor to the Redevelopment Agency's housing activities and as a result the Low and Moderate Income Housing Asset Fund assumed the loans receivable of the Redevelopment Agency's Low and Moderate Income Housing Fund. The developer made the final loan drawdown of \$471,152 during fiscal year 2014. The balance of the Loan at June 30, 2014 is \$3,960,894, including accrued interest of \$460,894.

In fiscal year 2014, the City entered into an Infill Infrastructure loan agreement with Ohlone Gardens, L.P. for \$2,860,000 for the purpose of funding infrastructure work for a 57-unit affordable housing development. The Loan is contingent on the City receiving funding and approval from the California Department of Housing and Community Development Infill Infrastructure Grant Program. The Loan bears no interest and is due in one lump sum the earlier of the fifty-fifth anniversary of the final certificate of occupancy for the project or the fifty-seventh anniversary of the date of the Loan. The Loan is secured by a deed of trust on the property that is subordinated to the 2009 loan above and to the primary construction financing. As of June 30, 2014 there have not been any drawdowns associated with this Loan.

B. *Idaho Apartments*

The former Redevelopment Agency entered into an Owner Participation Agreement for Idaho Apartments in 1997 in which the Agency agreed to make a loan to the project which included rehabilitation of the deteriorated building. At that time, the developer requested assistance to help repay a loan from a non-profit agency. In August 2000, the non-profit agency loan was replaced by another loan obtained by the developer and the Agreement was amended to reflect that fact as well as reaffirm the Agency's commitment to make a loan of up to \$350,000 to repay the developer's other loan when that loan matured in 2008. The Loan bears simple interest at the rate of 3% per year, beginning with the date of first disbursement. No payments were due for the first ten and one-half years after the date of occupancy, which ended on December 9, 2009. Subsequent to that date, the loan is repayable from residual receipts, as defined in the Agreement. The Loan is secured by a subordinated deed of trust in the third position on the property. The Agency disbursed \$350,000 to the developer during the year ended June 30, 2009. With the dissolution of the Redevelopment Agency as discussed in Note 15, the City agreed to become the successor to the Redevelopment Agency's housing activities and as a result the Low and Moderate Income Housing Asset Fund assumed the loans receivable of the Redevelopment Agency's Low and Moderate Income Housing Fund. The balance of the loan at June 30, 2014 is \$411,250, including accrued interest of \$61,250.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 5 – LOANS RECEIVABLE (Continued)

C. *Eden Housing, Inc.*

In May 2011, the former Redevelopment Agency entered into a predevelopment loan agreement with Eden Housing, Inc., for \$350,000 to assist with predevelopment costs related to the development of a mixed use affordable housing development at Agency owned property. With the dissolution of the Redevelopment Agency as discussed in Note 15, the City agreed to become the successor to the Redevelopment Agency's housing activities and as a result the Low and Moderate Income Housing Asset Fund assumed the loans receivable of the Redevelopment Agency's Low and Moderate Income Housing Fund. The loan bears simple interest at the rate of 3% per year, beginning with the date of first disbursement and is due and payable upon the second anniversary of the execution date, unless the City and the developer enter into a disposition and development agreement (DDLA). The Loan is secured only by a promissory note, as it is City-owned property. Should the developer take title to the subject property, the loan will then be secured by a deed of trust on the property.

In April 2014, the City entered into a DDLA with Eden Housing, Inc., that involves the sale of the property as discussed in Note 1G, as well as a new loan agreement that replaces the original agreement. The Loan will be secured by a deed of trust on the property that will be subordinated to other financing on the project that is approved by the City. The loan bears simple interest at the rate of 3% per year, beginning with the date of first disbursement and is repayable 55 years from the date of issuance of the certificate of occupancy from residual receipts, as defined in the agreement.

Predevelopment activities began in fiscal year 2011, and the developer has drawn down \$100,000 of the loan and \$250,000 remains available for drawdown at June 30, 2014. The balance of the loan at June 30, 2014 is \$103,300, including accrued interest of \$3,300.

D. *Commercial Rehabilitation Loan Program*

In fiscal 2011, the Municipal Services Corporation entered into a commercial rehabilitation loan agreement, secured by a promissory note, with The Elevation 66 Brewing Company for \$20,000 to assist in the improvement to the building located at 10082 San Pablo Avenue. The loan does not bear interest and is forgivable over four years. If the borrower still occupies or owns the property or has assigned the forgivable loan with written authorization from the Corporation, the Corporation will forgive a portion of the loan in equal amounts each year of the forgivable loan term until the principal is zero. The balance of the loan at June 30, 2014 was \$5,000, which has been offset by an allowance for forgiveness in the Statement of Net Position.

E. *Successor Agency Loans*

During the fiscal years ending June 30, 2005 and June 30, 2006 the former Redevelopment Agency approved interfund advances of \$305,088 and \$304,820 from the Low and Moderate Income Housing Fund to the Redevelopment Capital Projects Fund for the purpose of paying the Agency's share of the countywide Education Revenue Augmentation Fund (ERAF). These loans do not bear interest and were repayable in ten years. The balance of the loans at June 30, 2014 was \$246,574.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 5 – LOANS RECEIVABLE (Continued)

During the fiscal year ending June 30, 2010, the Agency approved an interfund advance authorizing the Redevelopment Capital Projects Fund to borrow \$1,767,418 from the Low and Moderate Income Housing Fund to assist in making the Agency's 2009-10 contribution to the Supplemental Educational Revenue Augmentation Fund. This loan does not bear interest and was repayable in five equal annual installments, and must be repaid prior to June 30, 2015. The balance of the loan at June 30, 2014 was \$975,941.

With the dissolution of the Agency effective February 1, 2012, the Successor Agency assumed the obligation to repay the above advances and has recorded a loan payable to the Low and Moderate Income Housing Asset Fund as discussed in Note 15 below. These loans had previously been reported as interfund advances. However, with the transfer of the associated liabilities to the Successor Agency, repayment of the loans is subject to the provisions of Health and Safety Code Section 34176 and the advances are reported as loans receivable from the Successor Agency.

NOTE 6 – CAPITAL ASSETS

All capital assets are valued at historical cost or estimated historical cost if actual historical cost is not available. Contributed capital assets are valued at their estimated fair market value on the date contributed. The City's policy is to capitalize all assets with costs exceeding certain minimum thresholds and with useful lives exceeding two years.

All capital assets with limited useful lives are depreciated over their estimated useful lives. The purpose of depreciation is to spread the cost of capital assets equitably among all users over the life of these assets. The amount charged to depreciation expense each year represents that year's pro rata share of the cost of capital assets.

Depreciation of all capital assets is charged as an expense against operations each year and the total amount of depreciation taken over the years, called accumulated depreciation, is reported on the balance sheet as a reduction in the book value of capital assets.

Depreciation is provided using the straight line method which means the cost of the asset is divided by its expected useful life in years and the result is charged to expense each year until the asset is fully depreciated. The general capitalization threshold is \$10,000. The City has assigned the useful lives listed below to capital assets.

	Years
Buildings	20-50
Improvements	33-60
Equipment	2-15
Streets	20
Parks	20
Curb and gutters	20
Storm drains	65

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 6 – CAPITAL ASSETS (Continued)

Major outlays for capital assets and improvements are capitalized as projects are constructed. Interest incurred during the construction phase is reflected in the capitalized value of the asset constructed, net of interest earned on the invested proceeds over the same period.

A. Capital Asset Additions and Retirements

Capital assets at June 30 comprise:

	Balance at June 30, 2013	Additions	Transfers	Balance at June 30, 2014
<i>Governmental activities</i>				
Capital assets not being depreciated:				
Land	\$4,410,941			\$4,410,941
Construction in progress	2,734,109	\$1,935,651	(\$1,030,311)	3,639,449
Total capital assets not being depreciated	7,145,050	1,935,651	(1,030,311)	8,050,390
Capital assets being depreciated:				
Buildings and improvements	34,886,692	820,923	417,622	36,125,237
Equipment and vehicles	9,401,101	1,354,918		10,756,019
Infrastructure	86,149,866	1,036,211	612,689	87,798,766
Total capital assets being depreciated	130,437,659	3,212,052	1,030,311	134,680,022
Less accumulated depreciation for:				
Buildings and improvements	(8,113,526)	(801,319)		(8,914,845)
Equipment and vehicles	(6,797,726)	(819,171)		(7,616,897)
Infrastructure	(38,408,635)	(2,722,952)		(41,131,587)
Total accumulated depreciation	(53,319,887)	(4,343,442)		(57,663,329)
Net capital assets being depreciated	77,117,772	(1,131,390)	1,030,311	77,016,693
Governmental activity capital assets, net	<u>\$84,262,822</u>	<u>\$804,261</u>	<u></u>	<u>\$85,067,083</u>

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 6 – CAPITAL ASSETS (Continued)

	Balance at June 30, 2013	Additions	Balance at June 30, 2014
<i>Business-type Activities</i>			
Capital assets being depreciated:			
Buildings	\$3,638,597		\$3,638,597
Equipment and vehicles	2,367,244		2,367,244
Total capital assets being depreciated	6,005,841		6,005,841
Less accumulated depreciation for:			
Buildings	(225,664)	(\$70,529)	(296,193)
Equipment and vehicles	(1,524,175)	(163,690)	(1,687,865)
Total accumulated depreciation	(1,749,839)	(234,219)	(1,984,058)
Net capital assets being depreciated	4,256,002	(234,219)	4,021,783
Business-type activity capital assets, net	\$4,256,002	(\$234,219)	\$4,021,783

B. Capital Asset Contributions

Some capital assets may be acquired using federal and State grant funds, or they may be contributed by developers or other governments. These contributions be accounted for as revenues at the time the capital assets are contributed.

C. Depreciation Allocation

Depreciation expense is charged to functions and programs based on their usage of the related assets. The amounts allocated to each function or program are as follows:

Governmental Activities

General Government	\$410,014
Public Works	2,863,954
Recreation	308,077
Community Development	144,545
Public Safety	390,200
Internal Service Fund	226,652
Total Governmental Activities	\$4,343,442

Business-type Activities

Integrated Waste Management	\$234,219
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CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 7 – TAX ANTICIPATION NOTES

Tax Anticipation Notes, Series 2013

On September 3, 2013, the City issued Series 2013 Tax Anticipation Notes in the amount of \$5,017,000. The proceeds from the Notes were used to provide funds to meet the City's anticipated cash flow needs for its fiscal year ending June 30, 2014. Principal and accrued interest on the Notes was payable when the Notes matured on January 30, 2014 (\$4,010,000) and May 30, 2014 (\$1,007,000). The Notes bore interest rates of 1.25% and 1.50%, respectively.

NOTE 8 – LONG-TERM DEBT

The City generally incurs long-term debt to finance projects or purchase assets which will have useful lives equal to or greater than the related debt. Bond issuance costs are expensed in the year incurred.

The City's debt issues and transactions are summarized below:

	Original Issue Amount	Balance June 30, 2013	Retirements	Balance June 30, 2014	Current Portion
Governmental Activity Debt					
2012 Storm Drain Revenue Refunding Bonds	\$1,026,800	\$514,500	\$514,500		
Lease Revenue Bonds:					
2006 Lease Revenue Bonds	9,610,000	8,805,000	220,000	\$8,585,000	\$230,000
2012 Lease Revenue Bonds	2,516,500	2,516,500	312,800	2,203,700	323,300
2008 Sales Tax Revenue Bonds	11,750,000	10,555,000	265,000	10,290,000	270,000
Master Equipment Lease (51.74%)	842,417	785,648	115,058	670,590	117,115
Solar Photovoltaic Capital Lease	1,595,300	1,551,512	88,410	1,463,102	90,858
Total Governmental Activity Debt		\$24,728,160	\$1,515,768	\$23,212,392	\$1,031,273
Business-Type Activity Debt					
2012 Recycling Facility Revenue Refunding Bonds	\$3,405,600	\$3,296,100	\$228,500	\$3,067,600	\$234,200
Master Equipment Lease (48.26%)	785,755	732,805	107,319	625,486	109,238
Total Business Activity Debt		\$4,028,905	\$335,819	\$3,693,086	\$343,438

A. 2012 Storm Drain Revenue Bonds

On June 22, 2012, the City issued Storm Drain Revenue Refunding Bonds in the original principal amount of \$1,026,800 at 1.683% interest to provide for a refunding of the City's outstanding 1993 Storm Drain Revenue Bonds. Principal payments are due annually on August 1, with interest payments payable semi-annually on January 1 and August 1 through August 1, 2013. Repayment of these bonds was from storm drain fees and charges received by the Storm Drain Capital Projects Fund.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 8 – LONG-TERM DEBT (Continued)

B. 2006 Lease Revenue Bonds

On November 1, 2006 the El Cerrito Public Financing Authority issued Series 2006 Lease Revenue Bonds in the amount of \$9,610,000 at 3.60%-5.00% interest. The proceeds from the sale of the Bonds were used for the construction of a new City Hall. Rental revenues from the City to the Authority are pledged for the repayment of these Bonds. Principal and interest payments are due semi-annually each June 1 and December 1 through 2036.

C. 2012 Lease Revenue Refunding Bonds

On September 26, 2012, the El Cerrito Public Financing Authority issued Lease Revenue Refunding Bonds, Series 2012, 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. 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 these Bonds. If parcel tax revenues are insufficient to pay the annual principal and interest payments on the bonds the City has covenanted to use General Fund revenues.

D. Sales Tax Revenue Bonds

On May 20, 2008, the El Cerrito Public Financing Authority issued \$11,750,000 original principal amount of 2008 Sales Tax Revenue Bonds at 4.40%-4.75% interest. The proceeds from the sale of the Bonds will be used for the City's street maintenance and improvement program following the recommendations and priorities established annually by the City Council and Citizens' Oversight Committee. Principal payments are due annually on May 1, with interest payments payable semi-annually on May 1 and November 1 through May 1, 2037. Street Improvement Sales Tax revenues are pledged for the repayment of these bonds. Projected revenues are expected to provide coverage over debt service of 1.75 over the life of the bonds. The total principal and interest remaining to be paid on the bonds is \$16,984,766. For fiscal year 2014, Street Improvement Sales Tax Revenues amounted to \$1,453,527 which represented coverage of 1.96 over the debt service of \$740,152.

E. 2012 Recycling Facility Revenue Refunding Bonds

On September 19, 2012, the El Cerrito Public Financing Authority issued Recycling Facility Revenue Refunding Bonds in the original principal amount of \$3,405,600 at 2.36% interest to provide for the refunding and retirement of the City's outstanding Recycling Center Lease Purchase Agreement and related Site Lease. Principal and interest payments are due quarterly on July 1, October 1, January 1, and April 1, through October 1, 2025. Repayment of these bonds is from charges for services received by the Integrated Waste Management Enterprise Fund.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 8 – LONG-TERM DEBT (Continued)

F. Capital Leases

On December 5, 2012, the City entered into a lease agreement in the amount of \$1,595,000 at 2.75% interest with Green Campus Partners, LLC, to finance the purchase and installation 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.

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.

G. Debt Service Requirements

Debt service requirements are shown below for all long-term debt:

Year ending June 30	Governmental Activities		Business-Type Activities	
	Principal	Interest	Principal	Interest
2015	\$1,031,273	\$924,232	\$343,438	\$83,070
2016	1,060,781	894,538	350,991	75,375
2017	1,089,599	863,191	358,879	67,505
2018	1,122,926	831,393	366,902	59,456
2019	1,155,564	797,473	375,262	51,224
2020-2024	4,439,712	3,480,562	1,447,414	145,459
2025-2029	4,522,537	2,583,429	450,200	9,622
2030-2034	5,115,000	1,532,494		
2035-2037	3,675,000	307,702		
	<u>\$23,212,392</u>	<u>\$12,215,014</u>	<u>\$3,693,086</u>	<u>\$491,711</u>

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 9 – NET POSITION AND FUND BALANCES

Net Position is measured on the full accrual basis, while Fund Balance is measured on the modified accrual basis, as explained in Note 1.

A. Net Position

Net Position is the excess of all the City's assets and deferred outflows of resources over all its liabilities and deferred inflows of resources, regardless of fund. Net Position is divided into three categories. These categories apply only to Net Position, which is determined only at the Government-wide level, and are described below:

Net Investment in Capital Assets describes the portion of Net Position which is represented by the current net book value of the City's capital assets, less the outstanding balance of any debt issued to finance these assets.

Restricted describes the portion of Net Position which is restricted as to use by the terms and conditions of agreements with outside parties, governmental regulations, laws, or other restrictions which the City cannot unilaterally alter. These principally include developer fees received for use on capital projects, debt service requirements, and redevelopment agency assets.

Unrestricted describes the portion of Net Position which is not restricted as to use.

B. Fund Balances

Governmental fund balances represent the net current assets of each fund. Net current assets generally represent a fund's cash and receivables, less its liabilities.

The City's fund balances are classified based on spending constraints imposed on the use of resources. For programs with multiple funding sources, the City prioritizes and expends funds in the following order: Restricted, Committed, Assigned, and Unassigned. Each category in the following hierarchy is ranked according to the degree of spending constraint:

Nonspendable represents balances set aside to indicate items do not represent available, spendable resources even though they are a component of assets. Fund balances required to be maintained intact, such as Permanent Funds, and assets not expected to be converted to cash, such as prepaids, notes receivable, and land held for redevelopment are included. However, if proceeds realized from the sale or collection of nonspendable assets are restricted, committed or assigned, then nonspendable amounts are required to be presented as a component of the applicable category.

Restricted fund balances have external restrictions imposed by creditors, grantors, contributors, laws, regulations, or enabling legislation which requires the resources to be used only for a specific purpose. Encumbrances and nonspendable amounts subject to restrictions are included along with spendable resources.

Committed fund balances have constraints imposed by formal action (specific ordinance) of the City Council which may be altered only by Ordinance of the City Council. Encumbrances and nonspendable amounts subject to council commitments are included along with spendable resources.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 9 – NET POSITION AND FUND BALANCES (Continued)

Assigned fund balances are amounts constrained by the City's intent to be used for a specific purpose, but are neither restricted nor committed. Intent is expressed by the City Council or its designee, the Finance Director, and may be changed at the discretion of the City Council or its designee. This category includes encumbrances; nonspendables, when it is the City's intent to use proceeds or collections for a specific purpose, and residual fund balances, if any, of Special Revenue, Capital Projects and Debt Service Funds which have not been restricted or committed.

Unassigned fund balance represents residual amounts that have not been restricted, committed, or assigned. This includes the residual general fund balance and residual fund deficits, if any, of other governmental funds.

C. Fund Deficits

The following funds had fund balance or net position deficits as of June 30, 2014:

Fund	Amount
Capital Improvement Capital Projects Fund	\$1,047,538
Gas Tax Special Revenue Fund	25,515
Storm Drain Capital Projects Fund	92,646
Street Improvement Capital Projects Fund	222,657
Successor Agency Private Purpose Trust Fund	17,058,661

The deficits are expected to be eliminated by future revenues of each fund.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 10 - PENSION PLANS AND OTHER POST EMPLOYMENT BENEFIT PLANS

A. CalPERS Safety and Miscellaneous Employees Plans

Substantially all City employees are eligible to participate in pension plans offered by California Public Employees Retirement System (CalPERS), an agent multiple employer defined benefit pension plan which acts as a common investment and administrative agent for its participating member employers. CalPERS provides retirement and disability benefits, annual cost of living adjustments and death benefits to plan members, who must be public employees and beneficiaries. The City's employees participate in the separate Safety (police and fire) and Miscellaneous (all other) Employee Plans. Benefit provisions under both Plans are established by State statute and City resolution. Benefits are based on years of credited service, equal to one year of full time employment. Funding contributions for both Plans are determined annually on an actuarial basis as of June 30 by CalPERS; the City must contribute these amounts. The City's labor contracts require it to pay the employees contributions as well as its own. The Plans' provisions and benefits in effect at June 30, 2014, are summarized as follows:

	Safety	
	Before	On or after
Hire Date	January 1, 2013	January 1, 2013
Benefit vesting schedule	5 years service	5 years service
Benefit payments	Monthly for life	Monthly for life
Retirement age	50 - 55	50 - 57
Monthly benefits, as a % of annual salary	2.4 - 3.00%	2.0 - 2.7%
Required employee contribution rates	9%	11.5%
Required employer contribution rates	32.048%	11.5%

	Miscellaneous	
	Before	On or after
Hire Date	January 1, 2013	January 1, 2013
Benefit vesting schedule	5 years service	5 years service
Benefit payments	Monthly for life	Monthly for life
Retirement age	50 - 55	52 - 67
Monthly benefits, as a % of annual salary	2.0 - 2.7%	1.0 - 2.5%
Required employee contribution rates	8%	6.25%
Required employer contribution rates	20.603%	6.25%

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 10 - PENSION PLANS AND OTHER POST EMPLOYMENT BENEFIT PLANS
(Continued)

CalPERS determines contribution requirements using a modification of the Entry Age Normal Method. Under this method, the City's total normal benefit cost for each employee from date of hire to date of retirement is expressed as a level percentage of the related total payroll cost. Normal benefit cost under this Method is the level amount the employer must pay annually to fund an employee's projected retirement benefit. This level percentage of payroll method is used to amortize any unfunded actuarial liabilities. The actuarial assumptions used to compute contribution requirements are also used to compute the actuarially accrued liability. The City uses actuarially determined percentages of payroll to calculate and pay contributions to CalPERS. This results in no net pension obligations or unpaid contributions. Annual Pension Costs, representing the payment of all contributions required by CalPERS, for the last three fiscal years were as follows:

<u>Fiscal Year Ending</u>	<u>Annual Pension Cost (APC)</u>	<u>Percentage of APC Contributed</u>	<u>Net Pension Obligation</u>
<i>Safety Plan</i>			
June 30, 2012	\$3,679,817	100%	0
June 30, 2013	3,579,144	100%	0
June 30, 2014	3,494,417	100%	0
<i>Miscellaneous Plan</i>			
June 30, 2012	\$1,431,632	100%	0
June 30, 2013	1,269,431	100%	0
June 30, 2014	1,511,741	100%	0

CalPERS uses the market related value method of valuing the Plan's assets. An investment rate of return of 7.50% is assumed, including inflation at 2.75%. Annual salary increases are assumed to vary by duration of service. Changes in liability due to plan amendments, changes in actuarial assumptions, or changes in actuarial methods are amortized as a level percentage of payroll on a closed basis over 19 years for the Miscellaneous Plan and over 19 years for the Safety Plan. Investment gains and losses are accumulated as they are realized and amortized over a rolling thirty year period.

As required by State law, effective July 1, 2005, the City's Miscellaneous and Safety Plans were terminated, and the employees in those plans were required by CalPERS to join new State-wide pools. One of the conditions of entry to these pools was that the City true-up any unfunded liabilities in the former Plans, either by paying cash or by increasing its future contribution rates through a Side Fund offered by CalPERS. The City satisfied its Miscellaneous and Safety Plans unfunded liabilities by agreeing to contribute to the Side Fund through an addition to its normal contribution rates. The balance of the Miscellaneous Plan's Side Fund was \$4,136,866 at June 30, 2014, which will be repaid over the next 15 years. The balance of the Safety Plan's Side Fund was \$7,953,613 at June 30, 2014, which will be repaid over the next 19 years.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 10 - PENSION PLANS AND OTHER POST EMPLOYMENT BENEFIT PLANS
(Continued)

The schedule of funding progress presents multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability for benefits. CalPERS' latest actuarial value (which differs from market value) and funding progress for the State-wide pools are shown below:

3% @ 50 Safety Plan:

Actuarial						
Valuation Date	Entry Age Accrued Liability	Value of Assets	Unfunded (Overfunded) Liability	Funded Ratio	Annual Covered Payroll	Unfunded (Overfunded) as % of Payroll
2010	\$10,165,475,166	\$8,470,235,152	\$1,695,240,014	83.3%	\$955,980,815	177.3%
2011	10,951,745,049	9,135,654,246	1,816,090,803	83.4%	949,833,090	191.2%
2012	11,724,021,480	9,854,787,710	1,869,233,770	84.1%	947,734,809	197.2%

The City's Safety Plan represents approximately 0.80%, 0.83%, and 0.91% of the 3% @ 50 State-wide pool for the years ended June 30, 2010, 2011 and 2012, respectively, based on covered payroll of \$7,605,436, \$7,881,634, and \$8,626,882 for those years.

2.7% @ 55 Miscellaneous Plan:

Actuarial						
Valuation Date	Entry Age Accrued Liability	Value of Assets	Unfunded (Overfunded) Liability	Funded Ratio	Annual Covered Payroll	Unfunded (Overfunded) as % of Payroll
2010	\$2,297,871,345	\$1,815,671,616	\$482,199,729	79.0%	\$434,023,381	111.1%
2011	2,486,708,579	1,981,073,089	505,635,490	79.7%	427,300,410	118.3%
2012	2,680,181,441	2,178,799,790	501,381,651	81.3%	417,600,034	120.1%

The City's Miscellaneous Plan represents approximately 1.33%, 1.36%, and 1.41% of the 2.7% @ 55 State-wide pool for the years ended June 30, 2010, 2011 and 2012, respectively, based on covered payroll of \$5,788,925, \$5,813,188, and \$ 5,906,912 for those years.

The schedules of funding progress are not yet available for the Safety 2.7% @ 57 or Miscellaneous 2% @ 62 State-wide pools.

Audited annual financial statements and ten-year trend information are available from CalPERS at P.O. Box 942709, Sacramento, CA 94229-2709.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 10 - PENSION PLANS AND OTHER POST EMPLOYMENT BENEFIT PLANS
(Continued)

B. City of El Cerrito Employees' Pension Plan

The City of El Cerrito Employees' Pension Plan is not part of the CalPERS. The Plan is a closed plan and is a single-employer defined benefit pension plan. The Plan covers only employees who elected not to be covered by CalPERS as of February 6, 1959. As of July 1, 2013, the latest actuarial valuation date, the pension plan had two members. At June 30, 2014, the Plan has two members, both of whom are retired. The Plan provides retirement benefits generally equal to 50% of the annual salary of the Plan member at the time of retirement plus 50% of any change in salary after that date. The Plan also provides certain disability and death benefits. The City administers the Plan and the Plan is closed to new entrants.

No contributions are made by Plan members, since all Plan members are retired. The actuarial accrued liability was determined as part of an actuarial valuation at July 1, 2013 using the projected unit credit method. Significant actuarial assumptions used in determining the actuarial accrued liability include: (a) a rate of return on the investment of present and future assets of 4.0% per year compounded annually, if the Plan were to be funded, and (b) annual post-retirement benefit increases at 2.5% per year. Required contributions are based on the actual pension benefits received by each of the remaining two members, adjusted annually for inflation which is equal to the annual post-retirement benefit increases of 2.5% per year. The Plan is amortized using the level dollar method over 30 years on a closed basis.

The Plan's assets were exhausted as of June 30, 2005 and current and future payments will be made on a "pay as you go" basis from the General Fund.

The actuarial present value of the projected benefits of plan members has been estimated to be \$703,280 at July 1, 2013. The Plan's schedule of funding status is as follows:

Valuation Date	Actuarial Value of Plan Assets	Actuarial Accrued Liability (AAL)	Total Unfunded Actuarial Accrued Liability (UUAL)	Funded Ratio	Annual Covered Payroll	Unfunded (Overfunded) as % of Payroll
7/1/2007	\$0	\$1,282,150	(\$1,282,150)	0.0%	N/A	N/A
7/1/2010	0	947,848	(947,848)	0.0%	N/A	N/A
7/1/2013	0	703,280	(703,280)	0.0%	N/A	N/A

The Plan's annual pension cost for the three most recent fiscal years is as follows:

Fiscal Year Ended	Annual Pension Cost	Percentage Contributed
2012	\$141,769	100%
2013	112,257	100%
2014	112,781	100%

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 10 - PENSION PLANS AND OTHER POST EMPLOYMENT BENEFIT PLANS
(Continued)

C. *Other Post Employment Benefit Plan*

During fiscal year 2010, the City implemented the provisions of Governmental Accounting Standards Board Statement No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions. This Statement establishes uniform financial reporting standards for employers providing postemployment benefits other than pensions (OPEB). Required disclosures are presented below.

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 costs than active employees, the retiree premium rates are being subsidized by the inclusion of active lives in setting rates. GASB 45 requires that the value of this "implicit rate subsidy" be recognized as a liability in valuations of OPEB costs. As of June 30, 2014 there were 18 participants paying for these health care benefits.

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, which takes into account those 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% health inflation increases. 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 unfunded actuarial accrued liability is being amortized on a level dollar using a 30 year amortization period on an open basis.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 10 - PENSION PLANS AND OTHER POST EMPLOYMENT BENEFIT PLANS
(Continued)

Funding Progress and Funded Status

Generally accepted accounting principles 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 implicit rate subsidies. During the fiscal year ended June 30, 2014, the City has calculated and recorded the Net OPEB Obligation, representing the difference between the ARC and contributions, as presented below:

Annual required contribution (ARC)	\$623,857
Interest on net OPEB obligation	51,198
Adjustment to annual required contribution	<u>(71,173)</u>
Annual OPEB cost	603,882
Contributions made:	
Implicit rate subsidies	<u>(310,262)</u>
Change in Net OPEB Obligation	293,620
Net OPEB Obligation June 30, 2013	<u>1,279,950</u>
Net OPEB obligation June 30, 2014	<u><u>\$1,573,570</u></u>

The annual OPEB costs and actual contributions for the last three fiscal years are set forth below:

<u>Fiscal Year</u>	<u>Annual OPEB Cost</u>	<u>Actual Contribution</u>	<u>Percentage of Annual OPEB Cost Contributed</u>	<u>Net OPEB Obligation</u>
6/30/2012	\$466,850	\$144,322	30.9%	\$1,014,782
6/30/2013	461,099	195,931	42.5%	1,279,950
6/30/2014	603,882	310,262	51.4%	1,573,570

The Schedule of Funding Progress presents multi-year trend information about whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liability for benefits. Trend data from the most recent actuarial study is presented below:

<u>Actuarial Valuation Date</u>	<u>Actuarial Value of Assets (A)</u>	<u>Projected Unit Credit Cost Actuarial Accrued Liability (B)</u>	<u>Overfunded (Underfunded) Actuarial Accrued Liability (A - B)</u>	<u>Funded Ratio (A/B)</u>	<u>Covered Payroll (C)</u>	<u>Overfunded (Underfunded) Actuarial Liability as Percentage of Covered Payroll [(A - B)/C]</u>
6/30/2010	\$0	\$4,015,330	(\$4,015,330)	0.00%	N/A	N/A
6/30/2014	0	5,624,192	(5,624,192)	0.00%	N/A	N/A

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 10 - PENSION PLANS AND OTHER POST EMPLOYMENT BENEFIT PLANS
(Continued)

C. Social Security

The Omnibus Budget Reconciliation Act of 1990 (OBRA) mandates that public sector employees who are not members of their employers existing system as of January 1, 1992 be covered by either Social Security or an alternative plan.

The City's non-sworn full-time employees and part-time, seasonal, and temporary employees that do not participate in the Public Agency Retirement Services program (PARS) are covered under Social Security, which requires these employees and the City to each contribute 6.2% of the employees' pay. Total contributions to Social Security during the year ended June 30, 2014 amounted to \$662,354 of which the City paid \$331,177.

NOTE 11 - RISK MANAGEMENT

A. Municipal Pooling Authority (MPA)

The City is a member of the Municipal Pooling Authority of Northern California. The Authority provides coverage against the following types of loss risks under the terms of a joint-powers agreement with the City and several other cities and governmental agencies as follows:

Type of Coverage (Deductible)	Coverage Limits
Liability (\$5,000)	\$29,000,000
Vehicle - Physical Damage (\$3,000 for police vehicles, \$2,000 for all others)	250,000
Worker's Compensation (no deductible)	Statutory Limit
Property:	
All Risk (\$25,000)	1,000,000,000
Flood*	25,000,000
Boiler & Machinery (\$5,000)	100,000,000
Cyber Liability (\$50,000)	2,000,000
Public Entity Pollution Liability (\$100,000)	1,000,000
* \$100,000 minimum deductible per occurrence, except Zone A & V, which are subject to a \$250,000 deductible per occurrence	

The Authority is governed by a Board consisting of representatives from member municipalities. The Board controls the operations of the Authority, including selection of management and approval of operating budgets, independent of any influence by member municipalities beyond their representation on the Board.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 11 - RISK MANAGEMENT (Continued)

The City's deposits with the Authority are in accordance with formulas established by the Authority. Actual surpluses or losses are shared according to a formula developed from overall loss costs and spread to member entities on a percentage basis after a retrospective rating.

Audited financial statements for the Authority are available from MPA, 1911 San Miguel Drive, Suite 200, Walnut Creek, CA 94596.

B. *Equipment*

The City has a commercial insurance policy which provides physical loss or damage coverage for three fire vehicles and one training trailer up to a maximum of \$1,762,000. The City has a deductible or uninsured liability of \$5,000 per claim.

C. *Liability for Uninsured Claims*

The City provides for the uninsured portion of claims and judgments, including a provision for claims incurred but not reported, when a loss is deemed probable of assertion and the amount of the loss is reasonably determinable.

Prior to June 30, 1998, the City's deductible for workers' compensation claims was \$350,000 per claim. Claims were handled by a third-party administrator, and actuarial estimates were developed for the probable amounts ultimately to be paid by the City for such claims.

The City's liability for uninsured claims at June 30 was estimated by management based on claims experience reported by MPA and the pre-1998 workers' compensation claims discussed above, and was computed as follows:

	2014	2013
Beginning balance	\$65,346	\$94,565
Change in provision for prior fiscal year claims	4,475	(20,258)
Claims paid	(12,472)	(8,961)
Ending balance	<u>\$57,349</u>	<u>\$65,346</u>
Current portion	<u>\$12,500</u>	<u>\$9,000</u>

Settlements have not exceeded insurance in the past three fiscal years.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 12 – CERRITO THEATER LEASE

In July 2009, the former Redevelopment Agency executed a five year lease with Pleasantown Motion Picture Company LLC. (tenant) for the Cerrito Theater. In March 2011, the former Redevelopment Agency conveyed ownership of the Theater to the Corporation, subject to the landlord rights and responsibilities under the lease, with a covenant that the Corporation will continue to operate the Theater as a movie theater and restaurant. Under the terms of the lease, the ownership of the Theater and property remains with the landlord at the end of the lease term, therefore, the lease is considered an operating lease.

The tenant is obligated to remit monthly base rent of \$4 thousand starting in March 2010, increased each year as specified in the lease. In addition, the tenant is to pay the property tax and assessments, certain maintenance expenses as defined in the lease, and a percentage of rent of 5 percent of calendar year gross receipts from the Theater and restaurant in excess of \$960 thousand, as adjusted for increases in the Consumer Price Index.

NOTE 13 – COMMITMENTS AND CONTINGENCIES

A. *Litigation*

The City is subject to litigation arising in the normal course of business. In the opinion of the City Attorney there is no presently filed litigation which is likely to have a material adverse effect on the financial position of the City.

B. *Repayment of Excess Sales Tax Allocations to the State and State Demand*

The State Board of Equalization (BOE) completed two separate reviews related to the allocation of sales taxes between the City of El Cerrito and the City of Richmond for one commercial property that borders both cities. The review dates back to fiscal year 2006.

In April 2013, the BOE found that the Street Improvement district tax revenues had been over allocated by \$292,357 from fiscal year 2009 through 2013, and the June 2013 remittance was reduced in that amount.

In October 2013, the BOE found that the City's historical sales tax revenues had been over allocated by \$2,499,975 and would withhold that amount from the December 2013 remittance. This finding did not include any adjustments for the sales tax sharing agreement the City has with the City of Richmond and payments that had been made by the City under that agreement in the 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 reviews BOE's methodology and calculations. The BOE did not withhold the amount from the December remittance, pending the City's review and potential appeal.

In October 2014, the BOE rescinded the demand letters and agreed to implement the sales tax sharing agreement between the cities with regard to sales taxes. The BOE indicated that it will not implement an agreement regarding district taxes, so the cities are preparing a separate agreement to address maintaining the 70% - 30% split of district taxes after the BOE begins administering the sales tax sharing agreement.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 13 – COMMITMENTS AND CONTINGENCIES (Continued)

The City recalculated the historical actual allocations of sales and district taxes for the commercial property to each City for fiscal years 2006 to 2014 and the sales tax sharing payments during that period and determined that the City owed the City of Richmond \$1,291,582. The BOE and the City of Richmond agreed that the City will repay the amount due from future sales tax revenues, and \$253,720 was paid during the fourth quarter of fiscal year 2014. Therefore, the City has recorded an accrued liability in the amount of \$1,037,862 that is included in the Statement of Net Position.

C. *Purchase and Sale Agreement for Open Space Property*

In July 2013, the City entered into a purchase and sale agreement with Trust for Public Land (TPL) through which TPL would purchase approximately 7.6 acres of open space property adjacent to the Hillside Natural Area for conservation and recreation purposes from the current owner for \$475,000 and hold the property until December 17, 2014 to allow time for public grant and private fundraising to take place on behalf of the City. The agreement was amended in December 2014 to extend the closing of escrow to no later than January 31, 2015, followed by a second amendment in January 2015 to extend the closing of escrow to no later than February 27, 2015. Concurrent with the purchase and sale agreement, the City entered into a Professional Services Agreement with TPL to provide all property acquisition- related services and for fundraising services including leading the solicitation of public grant funds and supporting a private fundraising campaign to be led by the Trail Trekkers, a local non-governmental organization working to improve and expand the City's trails and pathways. Through the Professional Services Agreement, TPL commits to helping the City raise more than \$250,000 in matching funds, or its \$100,000 fee is reduced to \$75,000. If less than \$250,000 in matching funds are raised, TPL proposes to split only the private matching funds.

As of February 24, 2015, the private fundraising stands at approximately \$100,000; secured grants include \$251,525; and the remainder will be funded by East Bay Regional Park District Measure WW grant funding up to \$261,475, although the final amount will be less due to the success of the private fundraising.

D. *Encumbrances*

The City uses an encumbrance system as an extension of normal budgetary accounting for governmental funds. Under this system, purchase orders, contracts, and other commitments for the expenditure of monies are recorded in order to reserve that portion of applicable appropriations. Encumbrances outstanding at year-end are recorded as restricted, committed or assigned fund balance, depending on the classification of the resources to be used to liquidate the encumbrance, since they do not constitute expenditures or liabilities. Outstanding encumbrances at year-end are automatically reappropriated for the following year. Unencumbered and unexpended appropriations lapse at year-end. Encumbrances outstanding as of June 30, 2014 were: \$53,108 in the General Fund, \$829,379 in the Capital Improvements Fund and \$3,031,402 in the Nonmajor Governmental Funds.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 13 – COMMITMENTS AND CONTINGENCIES (Continued)

E. Federal and State Grant Programs

The City participates in several federal and State grant programs. These programs have been audited by the City's independent accountants in accordance with the provisions of the federal Single Audit Act as amended and applicable State requirements. No cost disallowances were proposed as a result of these audits; however, these programs are still subject to further examination by the grantors and the amount, if any, of expenditures which may be disallowed by the granting agencies cannot be determined at this time. The City expects such amounts, if any, to be immaterial.

**NOTE 14 – COOPERATION AGREEMENT BETWEEN REDEVELOPMENT AGENCY
AND MUNICIPAL SERVICES CORPORATION**

On February 7, 2011, as amended and restated on February 22, 2011, the former El Cerrito Redevelopment Agency entered into a Public Improvement and Cooperation Agreement with the City to undertake public improvement projects, redevelopment projects and affordable housing projects for the benefit of the Agency and the community. Under the Agreement, the Agency agreed to provide the City with funds necessary to complete the projects from the Agency's available resources, including future tax increment revenues. On March 7, 2011, the City assigned its rights and responsibilities under the Agreement for redevelopment and public improvement projects, but not affordable housing projects, to the El Cerrito Municipal Services Corporation, and the Agency consented to that assignment. With the dissolution of the Agency effective February 1, 2012, the City became the successor to the Agency's housing activities, therefore that portion of the agreement is no longer in effect.

Under the terms of the assigned Public Improvement and Cooperation Agreement between the Agency and the Corporation, the Agency will fund or reimburse the Corporation for costs and expenses incurred on behalf of the Agency for economic development programs, redevelopment projects and public improvement projects in the Project Area, including the purchase of land, consistent with the Redevelopment Plan. The Corporation is to use the funds received from the Agency exclusively for the completion of economic development, redevelopment and public improvement programs and projects, and all unspent funds are to be returned to the Agency at their completion.

The Cooperation Agreement is to terminate in fiscal year 2026, however under the provisions of Health and Safety Code Section 34171(d)(2) established by AB1484, agreements between the City, including its component units, and the Agency that were executed after December 31, 2010 are no longer enforceable obligations and Health and Safety Code Section 34167.5 requires that if the City is not contractually committed to a third party for the expenditure or encumbrance of those funds that they be returned to the Successor Agency. AB 1484 was amended in June 2012 pursuant to AB1484, adding provisions that define entities that are controlled by a City and lists factors that can be considered for determining whether the City controls an entity. The City and Corporation contend that the Corporation does not meet the factors set forth in Section 34167.10 and does not fall within the purview of Section 34167.5. Transactions executed by the Agency with the Corporation were not reversed in the current fiscal year and any resulting assets remain with the Corporation as of June 30, 2014.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

**NOTE 14 – COOPERATION AGREEMENT BETWEEN REDEVELOPMENT AGENCY
AND MUNICIPAL SERVICES CORPORATION (Continued)**

As such, the Successor Agency has listed the Cooperation Agreement as an enforceable obligation on its Recognized Obligations Payment Schedules, which have been approved by the Oversight Board. However, no post-dissolution payments have been made since the State Department of Finance denied that this Cooperation Agreement is an enforceable obligation of the Successor Agency.

Pursuant to the Dissolution Act, the Successor Agency and Corporation contend that the assigned Cooperation Agreement is an enforceable obligation, as it is a lawfully executed contract between the former Agency and a third party. The City, Successor Agency and Corporation have filed a lawsuit against the Department of Finance challenging its determination on the enforceability of the Cooperation Agreement.

**NOTE 15 – REDEVELOPMENT AGENCY DISSOLUTION AND SUCCESSOR AGENCY
ACTIVITIES**

A. REDEVELOPMENT DISSOLUTION

In an effort to balance its budget, the State of California adopted ABx1 26 on June 28, 2011, amended by AB1484 on June 27, 2012, which suspended all new redevelopment activities except for limited specified activities as of that date and dissolved redevelopment agencies effective February 1, 2012.

The suspension provisions prohibited all redevelopment agencies from a wide range of activities, including incurring new indebtedness or obligations, entering into or modifying agreements or contracts, acquiring or disposing of real property, taking actions to adopt or amend redevelopment plans and other similar actions, except actions required by law or to carry out existing enforceable obligations, as defined in ABx1 26.

In addition, ABx1 26 and AB1484 direct the State Controller to review the activities of all redevelopment agencies and successor agencies to determine whether an asset transfer between an agency and any public agency occurred on or after January 1, 2011. If an asset transfer did occur and the public agency that received the asset is not contractually committed to a third party for the expenditure or encumbrance of the asset, the legislation purports to require the State Controller to order the asset returned to the redevelopment agency. The State Controller's Office has completed its asset transfer review of the former Agency and released its final report in July 2014. The final report indicates the former Redevelopment Agency made unallowable transfers to the Municipal Services Corporation in fiscal years 2011 and 2012 totaling \$12,550,551, consisting of cash of \$2,382,232, land held for redevelopment of \$4,634,789 and capital assets of \$5,533,530. The City, Successor Agency and Corporation disagree with the finding of the asset transfer review and maintain that the transactions in question between the former El Cerrito Redevelopment Agency and the Municipal Services Corporation were valid. These transactions are subject to litigation as discussed in Note 15E(4) below. Therefore, the amount, if any, of assets that may be required to be returned to the Successor Agency cannot be determined at this time.

Effective February 1, 2012, the Redevelopment Agency was dissolved. Certain housing assets of the Redevelopment Agency were distributed to a housing successor. All remaining Redevelopment Agency assets and liabilities were distributed to a successor agency.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

**NOTE 15 – REDEVELOPMENT AGENCY DISSOLUTION AND SUCCESSOR AGENCY
ACTIVITIES (Continued)**

Under the provisions of ABx1 26, the City had elected to become the housing successor and retain the housing assets to be used for affordable housing activities. They were transferred to the City's Low and Moderate Income Housing Asset Special Revenue Fund on February 1, 2012.

The City elected to serve as the Successor Agency and on February 1, 2012 the Redevelopment Agency's remaining assets were distributed to and liabilities were assumed by the Successor Agency. ABx1 26 requires the establishment of an Oversight Board to oversee the activities of the Successor Agency and one was established on April 4, 2012. The activities of the Successor Agency are subject to review and approval of the Oversight Board, which is comprised of seven members, including two members appointed by the Mayor, one of whom is a former Redevelopment Agency employee.

The activities of the Successor Agency are reported in the El Cerrito Redevelopment Agency Successor Agency Private-Purpose Trust Fund as the activities are under the control of the Oversight Board. The City provides administrative services to the Successor Agency to wind down the affairs of the former Redevelopment Agency.

Cash and investments of the Successor Agency as of June 30, 2014 are discussed in Note 3 above. Information presented in the following footnotes represents other assets and liabilities of the Successor Agency as of June 30, 2014.

B. CAPITAL ASSETS

The Successor Agency assumed the capital assets of the Redevelopment Agency as of February 1, 2012. All capital assets are valued at historical cost or estimated historical cost if actual historical cost is not available. Contributed capital assets are valued at their estimated fair value on the date contributed.

Capital assets as of June 30, 2014 were comprised of land in the amount of \$52,850.

C. BUSINESS VIDEO SURVEILLANCE LOAN PROGRAM

Prior to the dissolution, the former Redevelopment Agency established a video surveillance loan program that provides loans to local businesses for up to 50% of the cost of video surveillance equipment up to a maximum of \$5,000. The loans do not bear interest and are payable in four equal installments. However, the annual loan payments will be forgiven as long as the equipment is maintained in working order, which is determined by an annual inspection and certification provided by the police department. The Successor Agency assumed the loans receivable upon dissolution of the Redevelopment Agency, but has no authority to issue additional loans. During the year ended June 30, 2014, the final loan was forgiven and the loan program has been terminated.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

**NOTE 15 – REDEVELOPMENT AGENCY DISSOLUTION AND SUCCESSOR AGENCY
ACTIVITIES (Continued)**

D. LONG-TERM OBLIGATIONS

The Successor Agency assumed the long-term debt, notes and loans of the Redevelopment Agency as of February 2012.

1. Tax Allocation Bonds, Notes and Loans

All of the long-term obligations of the Successor Agency include Tax Allocation Bonds, notes and loans issued by the Redevelopment Agency. The Bonds, notes and loans are special obligations of the Agency and are secured only by the Agency's tax increment revenues. Tax Allocation Bond, note and loan transactions were as follows:

	Original Issue Amount	Balance June 30, 2013	Retirements	Balance June 30, 2014	Current Portion
Tax Allocation Bonds:					
1997 Refunding, Series A	\$7,450,000	\$3,085,000	\$410,000	\$2,675,000	\$430,000
1998 Refunding, Series B	2,630,000	610,000	195,000	415,000	200,000
2004, Series A	10,315,000	10,315,000	545,000	9,770,000	610,000
2004, Series B	6,510,000	3,705,000	65,000	3,640,000	75,000
Valente Note Payable	2,667,000	2,188,405	140,498	2,047,907	149,982
Total Bonds and Note Payable		19,903,405	1,355,498	18,547,907	1,464,982
Housing Successor Loans:					
ERAF	609,908	251,577	5,003	246,574	81,905
SERAF	1,767,418	995,741	19,800	975,941	331,913
Total Long-Term Obligations		<u>\$21,150,723</u>	<u>\$1,380,301</u>	<u>\$19,770,422</u>	<u>\$1,878,800</u>

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

**NOTE 15 – REDEVELOPMENT AGENCY DISSOLUTION AND SUCCESSOR AGENCY
ACTIVITIES (Continued)**

2. Tax Allocation Bonds

1997 Tax Allocation Refunding Bonds - On December 3, 1997, the El Cerrito Redevelopment Agency issued Series 1997 A Bonds in the amount of \$7,450,000 at 3.70%-4.90% interest. The proceeds from the Bonds were used to refund the Agency's \$7,185,000 El Cerrito Redevelopment Project Area Refunding Tax Allocation Bonds, Series 1991 A. The Series 1997 A Bonds are secured by a pledge of certain tax increment revenues from the Project Area. Interest is payable semiannually on January 1 and July 1 through 2019. Principal is payable annually on July 1.

1998 Tax Allocation Refunding Bonds - On April 2, 1998, the El Cerrito Redevelopment Agency issued Series 1998 B Tax Allocation Refunding Bonds in the amount of \$2,630,000 at 3.70%-5.25% interest. The proceeds from the Bonds were used to refund the Agency's El Cerrito Redevelopment Project Area Bonds, Series 1990 A in the amount of \$3,025,000. The Series 1998 B Bonds are secured by a pledge of certain tax increment revenues from the Project Area. Interest is payable semiannually on January 1 and July 1 through 2015. Principal is payable annually on July 1.

2004 Tax Allocation Bonds - On September 30, 2004, the El Cerrito Redevelopment Agency issued Series 2004 A and B Tax Allocation Bonds in the amounts of \$10,315,000 and \$6,510,000, respectively, for a total original principal amount of \$16,825,000 at 3.50%-5.50% interest. The proceeds are being used to finance activities such as public facilities and infrastructure improvements of various housing projects within the Project Area and the repayment of a note payable. The Bonds are payable from tax increment revenues from the Project Area. Interest is payable semi-annually on January 1 and July 1 through 2023. Principal is payable annually on July 1 commencing on July 1, 2013 for the 2004 A Tax Allocation Bonds and July 1, 2005 for the 2004 B Tax Allocation Bonds.

As discussed above, the Agency has pledged non-housing tax increment revenues for the repayment of the 2004 A Bonds, a portion of the 2004B Bonds, and a portion of the 2007 A Bonds. The Agency has pledged housing revenues for the repayment of the 1998 B Bonds, a portion of the 2004 B Bonds and a portion of the 2007 A Bonds. The pledge of all future non-housing tax increment revenues ends upon repayment of \$18,623,089 remaining non-housing debt service on the three Bonds above which is scheduled to occur in 2023. Projected non-housing tax increment revenues were expected to provide coverage over debt service of 264% over the life of the bonds. The pledge of all future housing tax increment revenues ends upon repayment of \$2,030,814 remaining housing debt service on the three Bonds above which is scheduled to occur in 2023. Projected revenues for the low and moderate income housing set-aside amounts required to be deposited into the Agency's Low and Moderate Income Housing Special Revenue Fund (housing revenues) were expected to provide coverage over debt service of 162% over the life of the bonds.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

**NOTE 15 – REDEVELOPMENT AGENCY DISSOLUTION AND SUCCESSOR AGENCY
ACTIVITIES (Continued)**

With the dissolution of the Redevelopment Agency discussed above, Tax Increment is no longer distributed, and instead the Successor Agency receives payments from the County's Redevelopment Property Tax Trust Fund (RPTTF) that are to be used to fund debt service on the Bonds, with no distinction between housing and non-housing revenues.

Total property taxes available for distribution to the Successor Agency and other taxing entities for fiscal year 2014 calculated by the County Auditor-Controller was \$5,225,835, and the total received by the Successor Agency for fiscal year 2014 debt service was \$3,375,902 which represented coverage of 169% of the \$2,000,844 of debt service.

3. *Valente Note Payable*

The Agency purchased land in March 2009 and agreed to pay the owner out of tax increment revenues, signing a note in the amount of \$2,667,000. Interest on the note is 6.75% and the Agency will make annual principal and interest payments in the amount of \$288,215 for 15 years.

4. *ERAF and SERAF Loans from Housing Successor*

During the fiscal years ending June 30, 2005 and June 30, 2006 the Agency approved interfund advances of \$305,088 and \$304,820 from the Low and Moderate Income Housing Fund to the Redevelopment Capital Projects Fund for the purpose of paying the Agency's share of the countywide Education Revenue Augmentation Fund (ERAF). These loans do not bear interest and were repayable in ten years. The balance of the loans at June 30, 2014 was \$246,574.

During the fiscal year ending June 30, 2010, the Agency approved an interfund advance authorizing the Redevelopment Capital Projects Fund to borrow \$1,767,418 from the Low and Moderate Income Housing Fund to assist in making the Agency's 2009-10 contribution to the Supplemental Educational Revenue Augmentation Fund (SERAF). This loan does not bear interest and was repayable in five equal annual installments, and was required to be repaid prior to June 30, 2015. The balance of the loan at June 30, 2014 was \$975,941.

The above loans had previously been reported as interfund advances within the Redevelopment Agency, but with the transfer of the Redevelopment Agency's liabilities to the Successor Agency, the advances are now reported as long-term debt of the Successor Agency. These loans were originally required to be repaid by the dates noted above, however repayment is now subject to the provisions of Health and Safety Code Section 34176 and under the provisions of that Code Section were not to begin prior to fiscal year 2014.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 15 – REDEVELOPMENT AGENCY DISSOLUTION AND SUCCESSOR AGENCY ACTIVITIES (Continued)

5. *Debt Service Requirements*

Debt service requirements are shown below for all long-term debt except the Housing Successor loans, because the ultimate repayment terms of the Housing Successor loans cannot be determined at this time as discussed 4. above.

Year ending June 30	Principal	Interest
2015	\$1,464,982	\$869,054
2016	1,585,106	798,786
2017	1,700,913	722,472
2018	1,907,449	638,613
2019	1,644,765	554,383
2020-2024	10,244,692	1,404,842
	\$18,547,907	\$4,988,150

E. *COMMITMENTS AND CONTINGENCIES*

1. *Demand for True-up Payment*

Pursuant to Health and Safety Code section 34183.5(b), Successor Agencies were required to remit a True-up Payment representing a calculation of tax increment collected in December 2011 by the former Redevelopment Agency in excess of enforceable obligations, as approved by the County Auditor-Controller. On July 9, 2012, the Successor Agency received a Demand from the County Auditor/Controller that had calculated a True-up Payment of \$1,756,795. The Successor Agency did not comply with the Demand.

The City and the Successor Agency filed a lawsuit against the County Auditor-Controller and the State Director of Finance related to the Demand to make the payment. A stipulated judgment was entered on December 21, 2012 that the County Auditor-Controller and Department of Finance agree that the true-up payment is zero and nothing is owed by the Successor Agency. Therefore, the unpaid Demand is not recorded in the accompanying financial statements.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

NOTE 15 – REDEVELOPMENT AGENCY DISSOLUTION AND SUCCESSOR AGENCY ACTIVITIES (Continued)

2. *State Approval of Enforceable Obligations*

The Successor Agency prepares a Recognized Obligation Payment Schedule (ROPS) semi-annually that contains all proposed expenditures for the subsequent six-month period. The ROPS is subject to the review and approval of the Oversight Board as well as the State Department of Finance. Although the State Department of Finance may not question items included on the ROPS in one period, they may question the same items in a future period and disallow associated activities. The amount, if any, of current obligations that may be denied by the State Department of Finance cannot be determined at this time.

3. *State Asset Transfer Review*

The activities of the former Redevelopment Agency and the Successor Agency are subject to further examination by the State of California and the amount, if any, of expenditures which may be disallowed by the State cannot be determined at this time. In addition, the State Controller's Office conducted a review of the propriety of asset transfers between the former Redevelopment Agency or the Successor Agency and any public agency that occurred on or after January 1, 2011. The State Controller's Office has completed its asset transfer review of the former Agency and released its final report in July 2014. The final report indicates the former Redevelopment Agency made unallowable transfers to the Municipal Services Corporation in fiscal years 2011 and 2012 totaling \$12,550,551, consisting of cash of \$2,382,232, land held for redevelopment of \$4,634,789 and capital assets of \$5,533,530. These transfers were also deemed unallowable by the Department of Finance, disputed by the City, Successor Agency and Corporation, and subject to litigation as discussed in (4) below. Therefore, the amount, if any of assets that may be required to be returned to the Successor Agency cannot be determined at this time.

4. *Due Diligence Reviews*

AB1484 requires the Successor Agency to complete two Due Diligence Reviews (DDR) to determine the amount of the remaining assets that should be transferred by the City to the Successor Agency or by the Successor Agency to the County for distribution to the affected taxing entities.

In April 2013, the State Department of Finance (DOF) completed its review of the DDR of the Low and Moderate Housing Fund's cash balance available for allocation to the affected taxing entities. The DDR indicated the Successor Agency had no unencumbered balances in the Low and Moderate Income Housing Fund for distribution to the affected taxing entities.

In June 2013, the DOF completed its review of the DDR of all other funds of the former Redevelopment Agency. The DDR indicated there were no assets available for allocation to the affected taxing entities, but that amount was adjusted by the DOF to \$1,981,989. In addition, the DOF demanded the City reverse \$10,168,319 of property conveyances executed in fiscal year 2012 and a payment of \$400,243 of bond proceeds to the Corporation. The City, Successor Agency and Corporation dispute the adjustments and demand.

CITY OF EL CERRITO
NOTES TO BASIC FINANCIAL STATEMENTS
For the Year Ended June 30, 2014

**NOTE 15 – REDEVELOPMENT AGENCY DISSOLUTION AND SUCCESSOR AGENCY
ACTIVITIES (Continued)**

The City and Successor Agency have filed suit against the DOF and the Contra Costa County Auditor-Controller challenging the DOF's adjustments to the DDR and other demands. On September 3, 2014, the Court ruled against the City, Successor Agency and Corporation regarding the transfers and the cooperation agreement. The City, Successor Agency and Corporation plan to appeal the decision. The amount, if any, of assets that may be required to be returned to the Successor Agency cannot be determined at this time.

NOTE 16 – SUBSEQUENT EVENT

Tax Anticipation Notes, Series 2014

On September 16, 2014, the City issued Series 2014 Tax Anticipation Notes in the amount of \$5,000,000. The proceeds from the Notes will be used to provide funds to meet the City's anticipated cash flow needs for its fiscal year ending June 30, 2015. Principal and accrued interest on the Notes is payable when the Notes mature on June 30, 2015. The Notes bear an interest rate of 1.50%.

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MAJOR GOVERNMENTAL FUNDS, OTHER THAN GENERAL FUND AND SPECIAL REVENUE FUNDS
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CAPITAL IMPROVEMENT CAPITAL PROJECTS FUND

This fund is used to account for funds expended on various City capital projects.

CITY OF EL CERRITO
BUDGETED MAJOR FUNDS, OTHER THAN THE
GENERAL FUND OR SPECIAL REVENUE FUNDS
COMBINING SCHEDULE OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL
FOR THE FISCAL YEAR ENDED JUNE 30, 2014

	Capital Improvement Fund		
	Budget	Actual	Variance Positive (Negative)
Revenues:			
Use of money and property		\$32	\$32
Intergovernmental revenues	\$2,994,038	1,784,771	(\$1,209,267)
Other revenues	23,462	43,135	19,673
Total Revenues	3,017,500	1,827,938	(1,189,562)
Expenditures:			
Current:			
Public works	50,405		50,405
Community development	422,000	355,473	66,527
Capital Outlay	4,522,296	2,598,728	1,923,568
Total Expenditures	4,994,701	2,954,201	2,040,500
Excess (deficiency) of revenues over (under) expenditures	(1,977,201)	(1,126,263)	850,938
Other Financing Sources (Uses):			
Transfers in	599,546	464,573	(134,973)
Total other financing sources (uses)	599,546	464,573	(134,973)
Net Change in Fund Balance	(\$1,377,655)	(661,690)	\$715,965
Fund Balance (Deficit) - July 1, 2013		(385,848)	
Fund Balance (Deficit) - June 30, 2014		(\$1,047,538)	

NON-MAJOR GOVERNMENTAL FUNDS

SPECIAL REVENUE FUNDS**GAS TAX**

This fund accounts for revenues and expenditures received from the State of California under Street and Highways Code Section 2105, 2106, 2107 and 2107.5. The allocations must be spent for street maintenance and construction and a limited amount for engineering.

LANDSCAPE AND LIGHTING ASSESSMENT

This fund accounts for assessments made upon parcels of land within the Lighting and Landscaping Districts and disburses funds in accordance with the provisions of the State of California Streets and Highway Code.

MEASURE A PARCEL TAX

This fund is used to account for the use of the voter-approved special tax to be used for the swim center and park capital project.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM

This fund accounts for storm water utility fees assessed to property owners city-wide on their property tax bills. The funds are used to pay for the “National Pollution Discharge Elimination System” mandated by the Federal government to prevent further polluting of our streams and bays.

ASSET SEIZURE

This fund accounts for revenues received from sales of assets seized during drug-related arrests and disburses these funds for authorized public safety activities.

VEHICLE ABATEMENT

This fund accounts for revenues received from Vehicle Code Section 9250.7 to administer and operate the local vehicle abatement program.

PARK IN LIEU

This fund accounts for funds received through negotiations with developers to be used for park improvements.

PUBLIC ART FUND

This fund was established to account for fees related to development that is committed to art in public places.

CITY HOUSING TRUST FUND

This fund accounts for housing-related grants and special revenues, such as developer deposits, that are restricted for affordable housing purposes, but are not activities or assets of the Housing Successor.

NON-MAJOR GOVERNMENTAL FUNDS (Continued)

CAPITAL PROJECTS FUNDS**STORM DRAIN**

This fund accounts for assessments collected and funds expended for the maintenance and upgrade of the storm drains.

MEASURE J

This fund accounts for the portion of the half-cent County-wide sales tax levied to fund transportation improvements to local streets.

STREET IMPROVEMENT

This fund is used to account for the street maintenance and improvement projects funded by the 2008 Sales Tax Revenue Bonds.

DEBT SERVICE FUNDS**STORM DRAIN**

This fund accounts for principal and interest payments on the Storm Drain Revenue Bonds.

PUBLIC FINANCING AUTHORITY

This fund accounts for principal and interest payments on the Lease Revenue Bonds.

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CITY OF EL CERRITO
NON-MAJOR GOVERNMENTAL FUNDS
COMBINING BALANCE SHEETS
JUNE 30, 2014

	SPECIAL REVENUE FUNDS				
	Gas Tax Fund	Landscape and Lighting Assessment Fund	Measure A Parcel Tax Fund	National Pollution Discharge Elimination System Fund	Asset Seizure Fund
Assets					
Cash and investments with fiscal agent					
Accounts receivable	\$15,666	\$291			
Due from other governments	109,355	9,945			
Due from other funds		105,805	\$435,359	\$28,014	\$206,973
Total Assets	\$125,021	\$116,041	\$435,359	\$28,014	\$206,973
Liabilities					
Accounts payable	\$11,819	\$68,769		\$4,000	
Accrued liabilities					
Due to other funds	123,051				
Deposits payable					\$57,381
Total Liabilities	134,870	68,769		4,000	57,381
DEFERRED INFLOWS OF RESOURCES					
Unavailable revenue - accounts receivable	15,666				
Unavailable revenue - due from other governments					
Total deferred inflows of resources	15,666				
Fund Balances					
Restricted for:					
Debt Service					
Street Improvements		47,272			
Transportation Projects					
Public Safety - Police					149,592
Public Safety - Vehicle Abatement					
Park and Recreation			\$435,359		
Storm Drains				24,014	
Public Art					
Unassigned	(25,515)				
Total fund balances (deficits)	(25,515)	47,272	435,359	24,014	149,592
Total liabilities and fund balances	\$125,021	\$116,041	\$435,359	\$28,014	\$206,973

SPECIAL REVENUE FUNDS				CAPITAL PROJECTS FUNDS		
Vehicle Abatement Fund	Park In Lieu Fund	Public Art Fund	City Housing Trust Fund	Storm Drain Fund	Measure J Fund	Street Improvement Fund
					\$50	
					409,923	\$640,384
\$197,055	\$12,001	\$48,094	\$15,734			62,898
\$197,055	\$12,001	\$48,094	\$15,734		\$409,973	\$703,282
					\$477	\$639,082
						28,811
				\$92,646	343,873	
			\$15,734			
			15,734	92,646	344,350	667,893
						258,046
						258,046
					65,623	
\$197,055	\$12,001					
		\$48,094				
				(92,646)		(222,657)
197,055	12,001	48,094		(92,646)	65,623	(222,657)
\$197,055	\$12,001	\$48,094	\$15,734		\$409,973	\$703,282

(Continued)

CITY OF EL CERRITO
NON-MAJOR GOVERNMENTAL FUNDS
COMBINING BALANCE SHEETS
JUNE 30, 2014

	DEBT SERVICE FUNDS		
	Storm Drain Fund	Public Financing Authority Fund	Totals
Assets			
Cash and investments with fiscal agent		\$1,530,791	\$1,530,791
Accounts receivable			16,007
Due from other governments			1,169,607
Due from other funds			1,111,933
Total Assets		\$1,530,791	\$3,828,338
Liabilities			
Accounts payable		\$1,080	\$725,227
Accrued liabilities			28,811
Due to other funds			559,570
Deposits payable			73,115
Total Liabilities		1,080	1,386,723
DEFERRED INFLOWS OF RESOURCES			
Unavailable revenue - accounts receivable			15,666
Unavailable revenue - due from other governments			258,046
Total deferred inflows of resources			273,712
Fund Balances			
Restricted			
Debt Service		1,529,711	1,529,711
Street Improvements			47,272
Transportation Projects			65,623
Public Safety - Police			149,592
Public Safety - Vehicle Abatement			197,055
Park and Recreation			447,360
Storm Drains			24,014
Public Art			48,094
Unassigned			(340,818)
Total fund balances (deficits)		1,529,711	2,167,903
Total liabilities and fund balances		\$1,530,791	\$3,828,338

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CITY OF EL CERRITO
NON-MAJOR GOVERNMENTAL FUNDS
COMBINING STATEMENTS OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCES
FOR THE YEAR ENDED JUNE 30, 2014

	SPECIAL REVENUE FUNDS				
	Gas Tax Fund	Landscape and Lighting Assessment Fund	Measure A Parcel Tax Fund	National Pollution Discharge Elimination System Fund	Asset Seizure Fund
Revenues:					
Taxes and assessments		\$771,235	\$439,477		
Use of money and property			36		\$5,879
Intergovernmental revenues	\$728,806	75,027		\$309,957	
Charges for services					
Other					
Total revenues	728,806	846,262	439,513	309,957	5,879
Expenditures:					
Current:					
General Government			11,764		
Public works	555,360	999,501		241,450	
Recreation		140,657			
Community development					
Public safety					13,030
Capital outlay			141,198		
Debt service:					
Principal					
Interest and fiscal agent fees					
Total expenditures	555,360	1,140,158	152,962	241,450	13,030
Excess (deficiency) of revenues over (under) expenditures	173,446	(293,896)	286,551	68,507	(7,151)
Other Financing Sources (Uses):					
Transfers in	454,000	545,000		111,000	
Transfers (out)	(653,845)	(146,861)	(377,027)	(109,840)	
Total other financing sources (uses)	(199,845)	398,139	(377,027)	1,160	
Net changes in fund balances	(26,399)	104,243	(90,476)	69,667	(7,151)
Fund Balances (Deficits) - July 1, 2013	884	(56,971)	525,835	(45,653)	156,743
Fund Balances (Deficits) - June 30, 2014	(\$25,515)	\$47,272	\$435,359	\$24,014	\$149,592

SPECIAL REVENUE FUNDS				CAPITAL PROJECTS FUNDS		
Vehicle Abatement Fund	Park In Lieu Fund	Public Art Fund	City Housing Trust Fund	Storm Drain Fund	Measure J Fund	Street Improvement Fund
\$17 40,832	\$1	\$5		\$697,930	\$536,108	\$1,453,527 26
					13,240	7,745
40,849	1	5		697,930	549,348	1,461,298
				171,350	26,715 87,935	52,781
						998,625
				171,350	114,650	1,051,406
40,849	1	5		526,580	434,698	409,892
				(780,793)	(369,550)	(830,626)
				(780,793)	(369,550)	(830,626)
40,849	1	5		(254,213)	65,148	(420,734)
156,206	12,000	48,089		161,567	475	198,077
<u>\$197,055</u>	<u>\$12,001</u>	<u>\$48,094</u>		<u>(\$92,646)</u>	<u>\$65,623</u>	<u>(\$222,657)</u>

(Continued)

CITY OF EL CERRITO
NON-MAJOR GOVERNMENTAL FUNDS
COMBINING STATEMENTS OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCES
FOR THE YEAR ENDED JUNE 30, 2014

	DEBT SERVICE FUNDS		
	Storm Drain Fund	Public Financing Authority Debt Service Fund	Totals
Revenues:			
Taxes and assessments			\$3,898,277
Use of money and property		\$9,237	15,201
Intergovernmental revenues			1,154,622
Charges for services			13,240
Other			7,745
Total revenues		9,237	5,089,085
Expenditures:			
Current:			
General Government		250	12,014
Public works			2,047,157
Recreation			228,592
Community development			
Public safety			13,030
Capital outlay			1,139,823
Debt service:			
Principal	\$514,500	797,800	1,312,300
Interest and fiscal agent fees	4,329	900,835	905,164
Total expenditures	518,829	1,698,885	5,658,080
Excess (deficiency) of revenues over (under) expenditures	(518,829)	(1,689,648)	(568,995)
Other Financing Sources (Uses):			
Transfers in	489,793	1,672,837	3,272,630
Transfers (out)			(3,268,542)
Total other financing sources (uses)	489,793	1,672,837	4,088
Net changes in fund balances	(29,036)	(16,811)	(564,907)
Fund Balances (Deficits) - July 1, 2013	29,036	1,546,522	2,732,810
Fund Balances (Deficits) - June 30, 2014		\$1,529,711	\$2,167,903

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CITY OF EL CERRITO
BUDGETED NON-MAJOR FUNDS
SCHEDULE OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCES
BUDGET AND ACTUAL
FOR THE YEAR ENDED JUNE 30, 2014

	Gas Tax Fund			Landscaping and Lighting District Fund		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
Revenues:						
Taxes and assessments				\$771,000	\$771,235	\$235
Use of money and property						
Intergovernmental	\$696,336	\$728,806	\$32,470		75,027	\$75,027
Charges for services						
Other						
Total Revenues	<u>696,336</u>	<u>728,806</u>	<u>32,470</u>	<u>771,000</u>	<u>846,262</u>	<u>75,262</u>
Expenditures:						
Current:						
General government						
Public works	600,092	555,360	44,732	1,003,079	999,501	3,578
Recreation				138,257	140,657	(2,400)
Community development				26,130		26,130
Public safety						
Capital outlay						
Debt service :						
Principal payments						
Interest and fiscal fees						
Total Expenditures	<u>600,092</u>	<u>555,360</u>	<u>44,732</u>	<u>1,167,466</u>	<u>1,140,158</u>	<u>27,308</u>
Excess (deficiency) of revenues over (under) expenditures	<u>96,244</u>	<u>173,446</u>	<u>77,202</u>	<u>(396,466)</u>	<u>(293,896)</u>	<u>102,570</u>
Other Financing Sources (Uses):						
Transfers in	454,000	454,000		545,000	545,000	
Transfers (out)	(653,845)	(653,845)		(146,861)	(146,861)	
Total other financing sources (uses)	<u>(199,845)</u>	<u>(199,845)</u>		<u>398,139</u>	<u>398,139</u>	
Net Change in Fund Balances	<u>(\$103,601)</u>	<u>(26,399)</u>	<u>\$77,202</u>	<u>\$1,673</u>	<u>104,243</u>	<u>\$102,570</u>
Fund Balances (Deficits) - July 1, 2013		<u>884</u>			<u>(56,971)</u>	
Fund Balances (Deficits) - June 30, 2014		<u>(\$25,515)</u>			<u>\$47,272</u>	

Measure A Parcel Tax Fund			National Pollution Discharge Elimination System Fund			Assets Seizure Fund		
Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
\$439,000 400	\$439,477 36	\$477 (364)						
			\$343,375 250	\$309,957	(\$33,418) (250)	\$2,000	\$5,879	\$3,879
439,400	439,513	113	343,625	309,957	(33,668)	2,000	5,879	3,879
15,000	11,764	3,236	344,885	241,450	103,435			
200,000	141,198	58,802				12,377	13,030	(653)
215,000	152,962	62,038	344,885	241,450	103,435	12,377	13,030	(653)
224,400	286,551	62,151	(1,260)	68,507	69,767	(10,377)	(7,151)	3,226
(409,970)	(377,027)	32,943	111,000 (109,840)	111,000 (109,840)				
(409,970)	(377,027)	32,943	1,160	1,160				
(\$185,570)	(90,476)	\$95,094	(\$100)	69,667	\$69,767	(\$10,377)	(7,151)	\$3,226
	525,835			(45,653)			156,743	
	\$435,359			\$24,014			\$149,592	

(Continued)

CITY OF EL CERRITO
BUDGETED NON-MAJOR FUNDS
SCHEDULE OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCES
BUDGET AND ACTUAL
FOR THE YEAR ENDED JUNE 30, 2014

	Vehicle Abatement Fund			Park In Lieu Fund		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
Revenues:						
Taxes and assessments						
Use of money and property	\$1,000	\$17	(\$983)	\$50	\$1	(\$49)
Intergovernmental	20,000	40,832	20,832			
Charges for services						
Other						
Total Revenues	<u>21,000</u>	<u>40,849</u>	<u>19,849</u>	<u>50</u>	<u>1</u>	<u>(49)</u>
Expenditures:						
Current:						
General government						
Public works						
Recreation						
Community development						
Public safety	11,000		11,000			
Capital outlay						
Debt service :						
Principal payments						
Interest and fiscal fees						
Total Expenditures	<u>11,000</u>		<u>11,000</u>			
Excess (deficiency) of revenues over (under) expenditures	<u>10,000</u>	<u>40,849</u>	<u>30,849</u>	<u>50</u>	<u>1</u>	<u>(49)</u>
Other Financing Sources (Uses):						
Transfers in						
Transfers (out)						
Total other financing sources (uses)						
Net Change in Fund Balances	<u>\$10,000</u>	<u>40,849</u>	<u>\$30,849</u>	<u>\$50</u>	<u>1</u>	<u>(\$49)</u>
Fund Balances (Deficits) - July 1, 2013		<u>156,206</u>			<u>12,000</u>	
Fund Balances (Deficits) - June 30, 2014		<u>\$197,055</u>			<u>\$12,001</u>	

Public Art			Storm Drain Fund			Measure J Fund		
Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
\$50	\$5	(\$45)	\$698,000	\$697,930	(\$70)	\$507,115	\$536,108	\$28,993
						12,500	13,240	740
50	5	(45)	698,000	697,930	(70)	519,615	549,348	29,733
			165,402	171,350	(5,948)	42,700	26,715	15,985
						106,491	87,935	18,556
			165,402	171,350	(5,948)	149,191	114,650	34,541
50	5	(45)	532,598	526,580	(6,018)	370,424	434,698	64,274
			(786,000)	(780,793)	5,207	(369,550)	(369,550)	
			(786,000)	(780,793)	5,207	(369,550)	(369,550)	
\$50	5	(\$45)	(\$253,402)	(254,213)	(\$811)	\$874	65,148	\$64,274
	48,089			161,567			475	
	\$48,094			(\$92,646)			\$65,623	

(Continued)

CITY OF EL CERRITO
BUDGETED NON-MAJOR FUNDS
SCHEDULE OF REVENUES, EXPENDITURES
AND CHANGES IN FUND BALANCES
BUDGET AND ACTUAL
FOR THE YEAR ENDED JUNE 30, 2014

	Street Improvement Fund			City Housing Trust Fund		
	Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
Revenues:						
Taxes and assessments	\$1,500,000	\$1,453,527	(\$46,473)			
Use of money and property	3,000	26	(2,974)			
Intergovernmental	984,000		(984,000)	\$2,860,000		(2,860,000)
Charges for services						
Other	30,000	7,745	(22,255)			
Total Revenues	<u>2,517,000</u>	<u>1,461,298</u>	<u>(1,055,702)</u>	<u>2,860,000</u>		<u>(2,860,000)</u>
Expenditures:						
Current:						
General government						
Public works	54,539	52,781	1,758			
Recreation						
Community development				2,860,000		2,860,000
Public safety						
Capital outlay	2,146,600	998,625	1,147,975			
Debt service :						
Principal payments						
Interest and fiscal fees						
Total Expenditures	<u>2,201,139</u>	<u>1,051,406</u>	<u>1,149,733</u>	<u>2,860,000</u>		<u>2,860,000</u>
Excess (deficiency) of revenues over (under) expenditures	<u>315,861</u>	<u>409,892</u>	<u>94,031</u>			
Other Financing Sources (Uses):						
Transfers in						
Transfers (out)	(825,145)	(830,626)	(5,481)			
Total other financing sources (uses)	<u>(825,145)</u>	<u>(830,626)</u>	<u>(5,481)</u>			
Net Change in Fund Balances	<u>(\$509,284)</u>	<u>(420,734)</u>	<u>\$88,550</u>			
Fund Balances (Deficits) - July 1, 2013		198,077				
Fund Balances (Deficits) - June 30, 2014		<u>(222,657)</u>				

Storm Drain - Debt Service Fund			Public Financing Authority - Debt Service Fund		
Budget	Actual	Variance Positive (Negative)	Budget	Actual	Variance Positive (Negative)
\$100		(\$100)	\$300	\$9,237	\$8,937
100		(100)	300	9,237	8,937
2,700		2,700	6,250	250	6,000
514,500	514,500		797,800	797,800	
4,330	4,329	1	894,346	900,835	(6,489)
521,530	518,829	2,701	1,698,396	1,698,885	(489)
(521,430)	(518,829)	2,601	(1,698,096)	(1,689,648)	8,448
495,000	489,793	(5,207)	1,695,366	1,672,837	(22,529)
495,000	489,793	(5,207)	1,695,366	1,672,837	(22,529)
(\$26,430)	(29,036)	(\$2,606)	(\$2,730)	(16,811)	(\$14,081)
	29,036			1,546,522	
				\$1,529,711	

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STATISTICAL SECTION

This part of the City's Comprehensive Annual Financial Report presents detailed information as a context for understanding what the information in the financial statements, note disclosures, and required supplementary information says about the City's overall financial health. In contrast to the financial section, the statistical section information is not subject to independent audit.

Financial Trends

These schedules contain trend information to help the reader understand how the City's financial performance and wellbeing have changed over time:

1. Net Position by Component
2. Changes in Net Position
3. Fund Balances of Governmental Funds
4. Changes in Fund Balance of Governmental Funds

Revenue Capacity

These schedules contain information to help the reader assess the City's most significant local revenue source, the property tax:

1. Assessed and Estimated Value of All Property
2. Property Tax Rates, All Overlapping Governments
3. Principal Property Tax Payers
4. Property Tax Levies and Collections

Debt Capacity

These schedules present information to help the reader assess the affordability of the City's current levels of outstanding debt and the City's ability to issue additional debt in the future:

1. Ratio of Outstanding Debt by Type
2. Statement of Direct and Overlapping Debt
3. Computation of Legal Bonded Debt Margin
4. Revenue Bond Coverage – Storm Drain Revenue Bonds
5. Revenue Bond Coverage – 2002 and 2012 Lease Revenue Bonds
6. Revenue Bond Coverage – 2008 Sales Tax Revenue Bonds
7. Bonded Debt Pledged Revenue Coverage - Tax Allocation Bonds

Demographic and Economic Information

These schedules offer demographic and economic indicators to help the reader understand the environment within which the City's financial activities take place:

1. Demographic and Economic Statistics
2. Principal Employers

Operating Information

These schedules contain service and infrastructure data to help the reader understand how the information in the City's financial report relates to the services the City provides and the activities it performs:

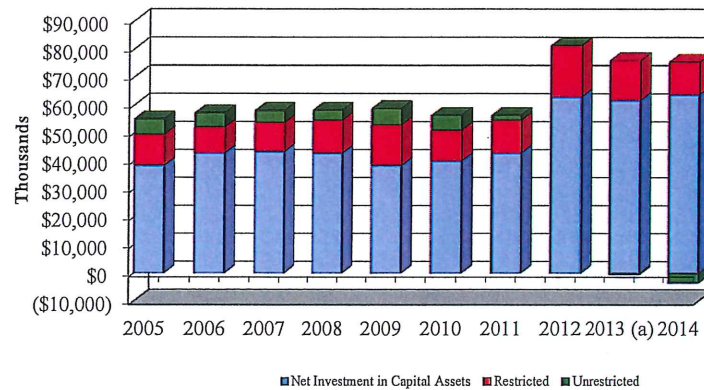
1. Full-Time Equivalent City Government Employees by Function
2. Operating Indicators by Function/Program
3. Capital Asset Statistics by Function/Program

Sources

Unless otherwise noted, the information in these schedules is derived from the Comprehensive Annual Financial Reports for the relevant year.

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CITY OF EL CERRITO
Net Position by Component
Last Ten Fiscal Years
(accrual basis of accounting)



	Fiscal Year Ended June 30,									
	2005	2006	2007	2008	2009	2010	2011	2012	2013 (a)	2014
Governmental activities										
Net investment in capital assets	\$38,446,756	\$42,902,737	\$43,404,472	\$42,811,806	\$38,173,671	\$39,807,135	\$42,219,210	\$62,188,857	\$61,539,065	\$63,535,927
Restricted	10,947,755	9,127,866	10,189,456	11,609,654	14,337,663	10,851,206	11,513,748	18,127,376	14,185,459	11,556,030
Unrestricted	4,445,338	4,487,713	3,958,101	3,106,104	5,342,716	4,732,143	1,521,714	(136,900)	(1,090,092)	(3,744,215)
Total governmental activities net position	\$53,839,849	\$56,518,316	\$57,552,029	\$57,527,564	\$57,854,050	\$55,390,484	\$55,254,672	\$80,179,333	\$74,634,432	\$71,347,742
Business-type activities										
Net investment in capital assets	\$114,162	\$74,264	\$95,905	\$126,314	\$361,480	\$357,798	\$798,108	\$828,754	\$227,097	\$328,697
Unrestricted	1,052,704	628,818	438,103	533,912	567,975	660,993	339,821	201,464	579,719	288,935
Total business-type activities net position	\$1,166,866	\$703,082	\$534,008	\$660,226	\$929,455	\$1,018,791	\$1,137,929	\$1,030,218	\$806,816	\$617,632
Primary government										
Net investment in capital assets	\$38,560,918	\$42,977,001	\$43,500,377	\$42,938,120	\$38,535,151	\$40,164,933	\$43,017,318	\$63,017,611	\$61,766,162	\$63,864,624
Restricted	10,947,755	9,127,866	10,189,456	11,609,654	14,337,663	10,851,206	11,513,748	18,127,376	14,185,459	11,556,030
Unrestricted	5,498,042	5,116,531	4,396,204	3,640,016	5,910,691	5,393,136	1,861,535	64,564	(510,373)	(3,455,280)
Total primary government net position	\$55,006,715	\$57,221,398	\$58,086,037	\$58,187,790	\$58,783,505	\$56,409,275	\$56,392,601	\$81,209,551	\$75,441,248	\$71,965,374

(a) The City implemented the provisions of GASB Statement 63 in fiscal year 2013, which replaced the term "net assets" with the term "net position."

CITY OF EL CERRITO
Changes in Net Position
Last Ten Fiscal Years
(Accrual Basis of Accounting)

	Fiscal Year Ended June 30,				
	2005	2006	2007	2008	2009
Expenses					
Governmental Activities:					
General Government	\$2,738,799	\$3,139,206	\$3,154,741	\$3,707,479	\$3,880,930
Public Works	3,909,378	4,533,479	4,819,534	4,906,688	4,502,655
Recreation	3,074,275	3,607,772	3,813,705	4,279,117	4,310,403
Community Development	2,383,711	2,613,447	3,227,723	3,528,500	4,371,055
Public Safety	11,998,250	12,755,286	14,024,683	14,835,991	16,116,947
Interest on Long Term Debt	2,095,192	1,595,009	1,944,024	2,411,538	2,354,765
Total Governmental Activities Expenses	26,199,605	28,244,199	30,984,410	33,669,313	35,536,755
Business-Type Activities:					
Integrated waste management	1,134,584	1,106,726	1,176,930	1,407,973	1,238,261
Total Business-Type Activities Expenses	1,134,584	1,106,726	1,176,930	1,407,973	1,238,261
Total Primary Government Expenses	\$27,334,189	\$29,350,925	\$32,161,340	\$35,077,286	\$36,775,016
Program Revenues					
Governmental Activities:					
Charges for Services:					
General Government	\$19,273	\$87,334	\$134,060	\$176,464	\$146,833
Public Works	282,569	169,735	145,948	908,361	902,833
Recreation	1,448,211	1,666,755	1,988,281	2,380,047	2,720,674
Community Development	815,771	821,449	841,393	1,025,739	902,568
Public Safety	2,301,007	2,267,943	2,427,140	2,410,985	2,667,552
Operating Grants and Contributions	3,005,141	3,040,299	1,843,174	1,884,846	2,339,007
Capital Grants and Contributions				477,162	780,101
Total Government Activities Program Revenues	7,871,972	8,053,515	7,379,996	9,263,604	10,459,568
Business-Type Activities:					
Charges for Services:					
Integrated waste management	874,576	829,413	1,227,755	1,715,037	1,561,300
Operating Grants and Contributions					218,445
Total Business-Type Activities Program Revenue	874,576	829,413	1,227,755	1,715,037	1,779,745
Total Primary Government Program Revenues	\$8,746,548	\$8,882,928	\$8,607,751	\$10,978,641	\$12,239,313
Net (Expense)/Revenue					
Governmental Activities	(\$18,327,633)	(\$20,190,684)	(\$23,604,414)	(\$24,405,709)	(\$25,077,187)
Business-Type Activities	(260,008)	(277,313)	50,825	307,064	541,484
Total Primary Government Net Expense	(\$18,587,641)	(\$20,467,997)	(\$23,553,589)	(\$24,098,645)	(\$24,535,703)
General Revenues and Other Changes in Net Position					
Governmental Activities:					
Taxes:					
Property Taxes	\$11,121,328	\$12,108,120	\$13,867,298	\$13,843,003	\$14,485,295
Sales Taxes	3,412,795	3,427,006	3,432,018	3,472,043	4,175,726
Transient Lodging Taxes	72,425	83,049	85,090	104,432	87,695
Franchise Taxes	746,665	705,087	806,038	769,647	953,483
Business License Taxes	593,979	644,531	627,129	666,867	670,634
Utility User Taxes	2,525,963	2,778,452	2,775,195	2,986,759	3,143,282
Other Taxes	610,049	301,007	253,658	210,041	143,905
Use of money and property	686,565	1,373,414	1,750,758	1,526,039	759,525
Other	479,495	1,197,798	782,735	536,459	704,876
Transfers		250,687	258,208	265,954	279,252
Gain on extinguishment of debt					
Extraordinary item					
Total Government Activities	20,249,264	22,869,151	24,638,127	24,381,244	25,403,673
Business-Type Activities:					
Use of money and property	26,163	34,785	12,173	31,642	6,997
Transfers	7,284	(250,687)	(258,208)	(265,954)	(279,252)
Other		29,431	26,136	53,466	
Total Business-Type Activities	33,447	(186,471)	(219,899)	(180,846)	(272,255)
Total Primary Government	\$20,282,711	\$22,682,680	\$24,418,228	\$24,200,398	\$25,131,418
Change in Net Position					
Governmental Activities	\$1,921,631	\$2,678,467	\$1,033,713	(\$24,465)	\$326,486
Business-Type Activities	(226,561)	(463,784)	(169,074)	126,218	269,229
Total Primary Government	\$1,695,070	\$2,214,683	\$864,639	\$101,753	\$595,715

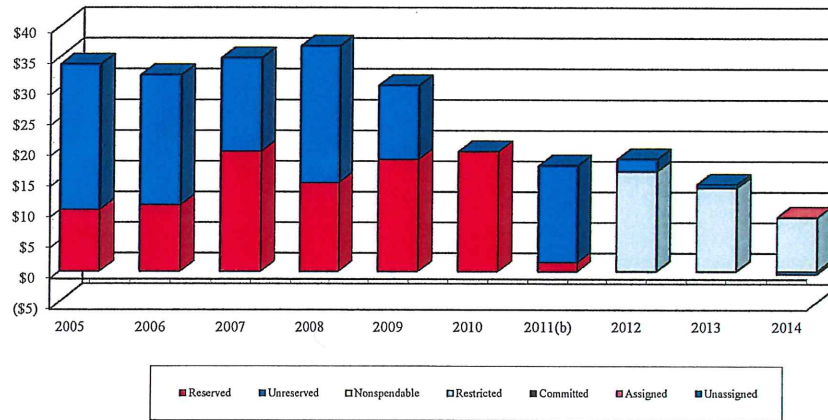
(a) The City implemented the provisions of GASB Statement 63 in fiscal year 2013, which replaced the term "net assets" with the term "net position."

Fiscal Year Ended June 30,

2010	2011	2012	2013 (a)	2014
\$3,771,954	\$4,246,235	\$4,376,139	\$4,236,098	\$5,637,571
5,162,256	6,411,539	6,185,638	8,433,345	5,444,248
4,341,616	4,367,058	4,504,817	4,412,698	4,597,225
5,849,338	4,319,850	2,910,097	4,280,475	6,121,329
16,374,501	16,721,719	18,207,775	18,847,110	18,767,955
2,427,173	2,302,131	1,548,739	1,051,397	904,001
37,926,838	38,368,532	37,733,205	41,261,123	41,472,329
1,301,560	1,353,726	1,674,248	1,792,975	1,954,155
1,301,560	1,353,726	1,674,248	1,792,975	1,954,155
\$39,228,398	\$39,722,258	\$39,407,453	\$43,054,098	\$43,426,484
\$86,885	\$86,925	\$606,107	\$559,106	\$106,677
927,713	958,907	965,700	968,330	976,032
2,828,247	2,825,684	2,924,662	2,973,708	3,221,674
1,142,880	1,209,157	1,082,721	1,199,576	1,731,668
2,623,112	2,534,501	2,695,059	3,330,984	2,880,896
2,575,749	2,059,159	4,514,164	2,703,823	3,067,489
600,000	3,327,544	2,193,073	3,153,161	3,637,043
10,784,586	13,001,877	14,981,486	14,888,688	15,621,479
1,577,320	1,759,107	1,861,538	1,854,839	2,071,820
95,437	6,110	6,654	26,348	20,522
1,672,757	1,765,217	1,868,192	1,881,187	2,092,342
\$12,457,343	\$14,767,094	\$16,849,678	\$16,769,875	\$17,713,821
(\$27,142,252)	(\$25,366,655)	(22,751,719)	(26,372,435)	(\$25,850,850)
371,197	411,491	193,944	88,212	138,187
(\$26,771,055)	(\$24,955,164)	(\$22,557,775)	(\$26,284,223)	(\$25,712,663)
\$13,720,955	\$13,696,480	\$11,309,400	\$8,336,665	\$9,024,435
4,391,220	4,894,053	6,309,362	5,986,934	6,554,589
74,921	85,631	98,411	103,446	130,556
939,189	982,799	1,020,930	1,065,858	1,228,307
625,461	673,257	691,948	660,931	768,448
3,181,028	3,188,260	3,163,978	3,066,580	3,137,017
143,232	191,904	98,028	107,795	129,774
555,478	417,662	419,127	349,963	207,475
759,572	807,414	1,181,320	1,042,753	1,056,188
287,630	293,383	302,184	313,086	327,371
		649,406		
		22,432,286		
24,678,686	25,230,843	47,676,380	21,034,011	22,564,160
5,769	1,030	529	1,472	
(287,630)	(293,383)	(302,184)	(313,086)	(327,371)
(281,861)	(292,353)	(301,655)	(311,614)	(327,371)
\$24,396,825	\$24,938,490	\$47,374,725	\$20,722,397	\$22,236,789
(\$2,463,566)	(\$135,812)	\$24,924,661	(\$5,338,424)	(\$3,286,690)
89,336	119,138	(107,711)	(223,402)	(189,184)
(\$2,374,230)	(\$16,674)	\$24,816,950	(\$5,561,826)	(\$3,475,874)

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CITY OF EL CERRITO
Fund Balances of Governmental Funds
Last Ten Fiscal Years
(Modified Accrual Basis of Accounting)



	Fiscal Year Ended June 30,									
	2005	2006	2007	2008	2009	2010	2011(b)	2012	2013	2014
General Fund										
Reserved	\$40,281	\$35,051	\$118,417	\$98,447	\$1,281,893	\$1,157,943				
Unreserved	4,202,263	3,859,439	3,852,400	3,626,947	2,130,436	1,890,330				
Nonspendable							\$65,082	\$44,373	\$48,049	\$58,326
Restricted							3,950,000	598,957	1,055,758	150,445
Assigned										53,108
Unassigned							2,484,405	2,646,012	1,237,431	1,008,587
Total General Fund	<u>\$4,242,544</u>	<u>\$3,894,490</u>	<u>\$3,970,817</u>	<u>\$3,725,394</u>	<u>\$3,412,329</u>	<u>\$3,048,293</u>	<u>\$6,499,487</u>	<u>\$3,289,342</u>	<u>\$2,341,238</u>	<u>\$1,270,466</u> (a)
All Other Governmental Funds										
Reserved	\$9,968,574	\$10,741,215	\$19,412,301	\$14,306,925	\$16,945,466	\$18,328,277				
Unreserved, reported in:										
Special revenue funds	1,175,605	861,644	1,510,025	949,615	182,001	358,328				
Capital project funds	18,342,247	16,491,344	9,862,038	17,698,117	9,741,573	(2,178,438)				
Nonspendable							\$80			
Restricted							11,665,452	\$15,673,702	\$12,543,820	\$8,605,973
Unassigned							(2,264,095)	(632,179)	(676,189)	(1,420,894)
Total all other governmental funds	<u>\$29,486,426</u>	<u>\$28,094,203</u>	<u>\$30,784,364</u>	<u>\$32,954,657</u>	<u>\$26,869,040</u>	<u>\$16,508,167</u>	<u>\$9,401,437</u>	<u>\$15,041,523</u>	<u>\$11,867,631</u>	<u>\$7,185,079</u>

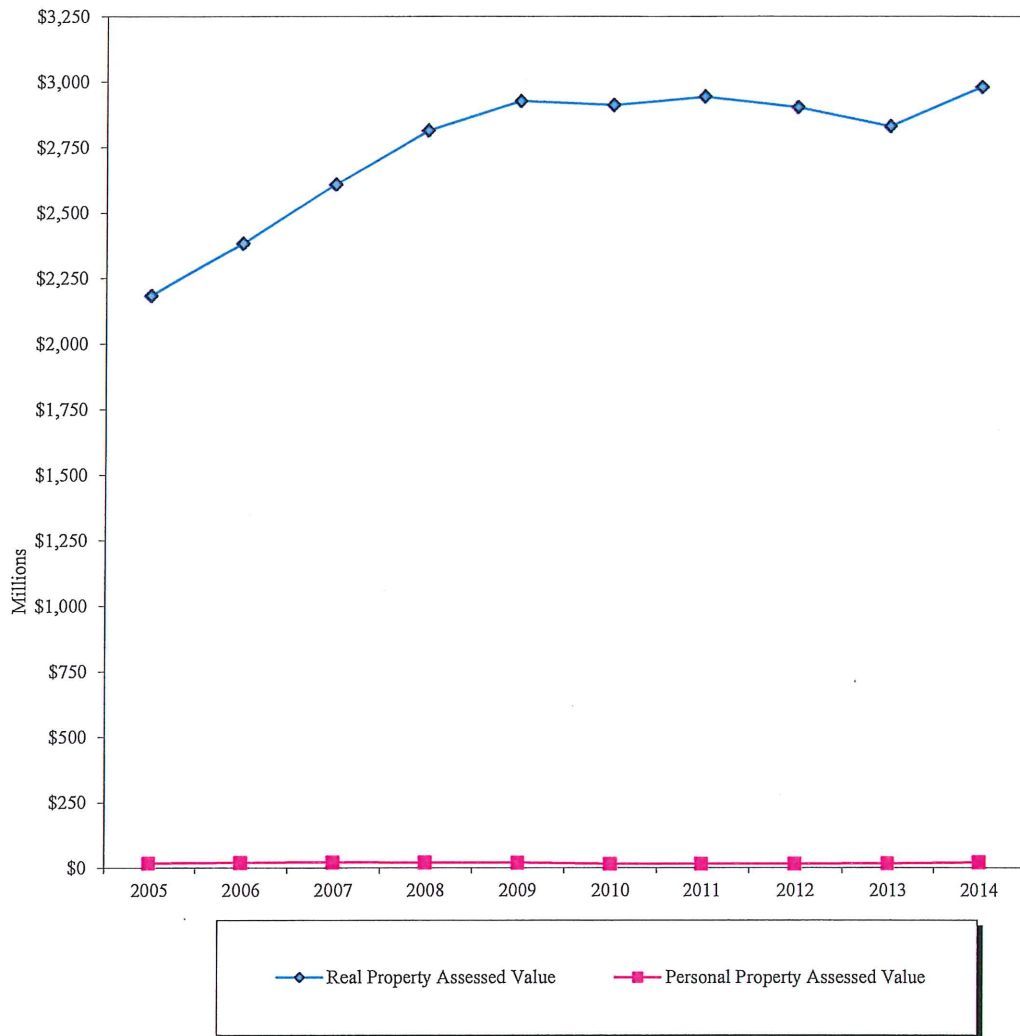
- (a) The change in total fund balance for the General Fund and other governmental funds is explained in Management's Discussion and Analysis.
- (b) The City implemented the provisions of GASB Statement 54 in fiscal year 2011.

CITY OF EL CERRITO
Changes in Fund Balance of Governmental Funds
Last Ten Fiscal Years
(Modified Accrual Basis of Accounting)

	Fiscal Year Ended June 30,			
	2005	2006	2007	2008
Revenues				
Taxes and assessments	\$19,798,494	\$21,162,256	\$22,415,686	\$23,379,369
Less Educational Revenue				
Augmentation Fund	(616,901)	(616,633)		
Intergovernmental revenues	4,855,585	4,654,042	3,763,512	4,171,004
Use of money and property	664,856	1,322,204	1,696,056	1,458,886
Licenses and permits	485,899	422,729	450,205	603,221
Charges for services	2,260,425	2,495,358	2,785,166	3,278,785
Fines and Penalties	481,951	349,227	393,054	321,371
Other revenues	169,218	831,586	201,534	99,105
Total Revenues	28,099,527	30,620,769	31,705,213	33,311,741
Expenditures				
Current:				
General Government	2,703,305	3,070,928	3,081,508	3,533,794
Public Works	2,523,347	2,941,972	2,996,841	3,092,422
Public Safety	12,072,622	12,608,494	13,935,337	14,592,352
Community Development	1,739,965	1,881,896	2,156,522	2,679,068
Recreation	2,925,838	3,367,874	3,636,108	4,049,600
Other Expense	639,123	737,734	841,700	881,056
SERAF payment				
Estimated reduction in value				
of land held for redevelopment				
Payment of sales tax to City of Richmond				
Capital outlay	3,031,037	5,061,747	8,855,971	10,718,280
Debt service:				
Principal repayment	1,202,570	1,327,138	1,384,581	1,537,243
Interest and fiscal charges	1,615,389	1,563,950	2,028,091	2,319,010
Total Expenditures	28,453,196	32,561,733	38,916,659	43,402,825
Excess (deficiency) of revenues over				
(under) expenditures	(353,669)	(1,940,964)	(7,211,446)	(10,091,084)
Other Financing Sources (Uses)				
Transfers in	9,149,958	5,654,473	15,653,636	20,035,545
Transfers (out)	(9,149,958)	(5,453,786)	(15,451,538)	(19,769,591)
Cost of issuance				
Issuance of debt	16,825,000		9,610,000	11,750,000
Gain on extinguishment of debt				
Bond premium			165,836	
Total other financing sources (uses)	16,825,000	200,687	9,977,934	12,015,954
Extraordinary Items				
Assets transferred to Housing Successor				
Assets transferred to/liabilities assumed				
by Successor Agency				
Net change in fund balances	\$16,471,331	(\$1,740,277)	\$2,766,488	\$1,924,870
Debt service as a percentage of				
noncapital expenditures	12.5%	11.7%	12.8%	13.4%

Fiscal Year Ended June 30,					
2009	2010	2011	2012	2013	2014
\$24,975,937	\$24,378,133	\$25,079,479	\$24,110,739	\$20,834,072	\$22,540,639
5,110,169	5,223,559	7,361,494	6,176,489	8,889,058	7,950,134
725,669	458,970	379,673	380,414	473,093	387,375
539,507	579,275	562,760	518,276	516,704	539,567
3,512,099	3,814,849	3,815,754	4,443,270	4,464,986	4,797,980
407,191	352,865	267,673	215,336	288,781	388,365
273,561	253,564	370,485	2,894,000	474,160	212,822
35,544,133	35,061,215	37,837,318	38,738,524	35,940,854	36,816,882
3,580,427	3,343,431	3,540,090	3,707,012	3,771,911	3,979,356
2,875,112	3,020,511	3,072,366	3,372,882	5,614,913	2,617,605
15,600,367	15,709,011	16,185,600	17,826,518	18,343,774	18,154,272
6,569,301	2,644,586	2,698,325	2,317,779	2,881,192	3,404,976
4,025,041	4,056,060	4,099,382	4,168,182	4,128,702	4,230,866
1,204,160	826,942	886,575	507,493		
	1,767,418	363,880			
	388,964			1,256,376	3,083,749
					253,720
7,031,727	9,856,639	6,562,388	2,167,284	3,566,405	4,867,159
1,805,000	2,008,193	2,140,496	3,150,000	3,711,088	1,400,710
2,197,932	2,378,710	2,237,135	1,993,445	1,001,529	905,164
44,889,067	46,000,465	41,786,237	39,210,595	44,275,890	42,897,577
(9,344,934)	(10,939,250)	(3,948,919)	(472,071)	(8,335,036)	(6,080,695)
7,908,882	8,996,159	16,898,143	12,161,506	5,594,636	5,216,550
(7,629,630)	(8,781,818)	(16,604,760)	(11,586,322)	(5,286,919)	(4,889,179)
2,667,000			1,026,800	4,111,800	
			83,202		
2,946,252	214,341	293,383	1,685,186	4,419,517	327,371
			5,613,091		
			(4,396,265)		
(\$6,398,682)	(\$10,724,909)	(\$3,655,536)	\$2,429,941	(\$3,915,519)	(\$5,753,324)
12.0%	12.4%	12.5%	13.9%	11.6%	6.1%

**CITY OF EL CERRITO
ASSESSED AND ESTIMATED VALUE OF ALL PROPERTY
LAST TEN FISCAL YEARS**



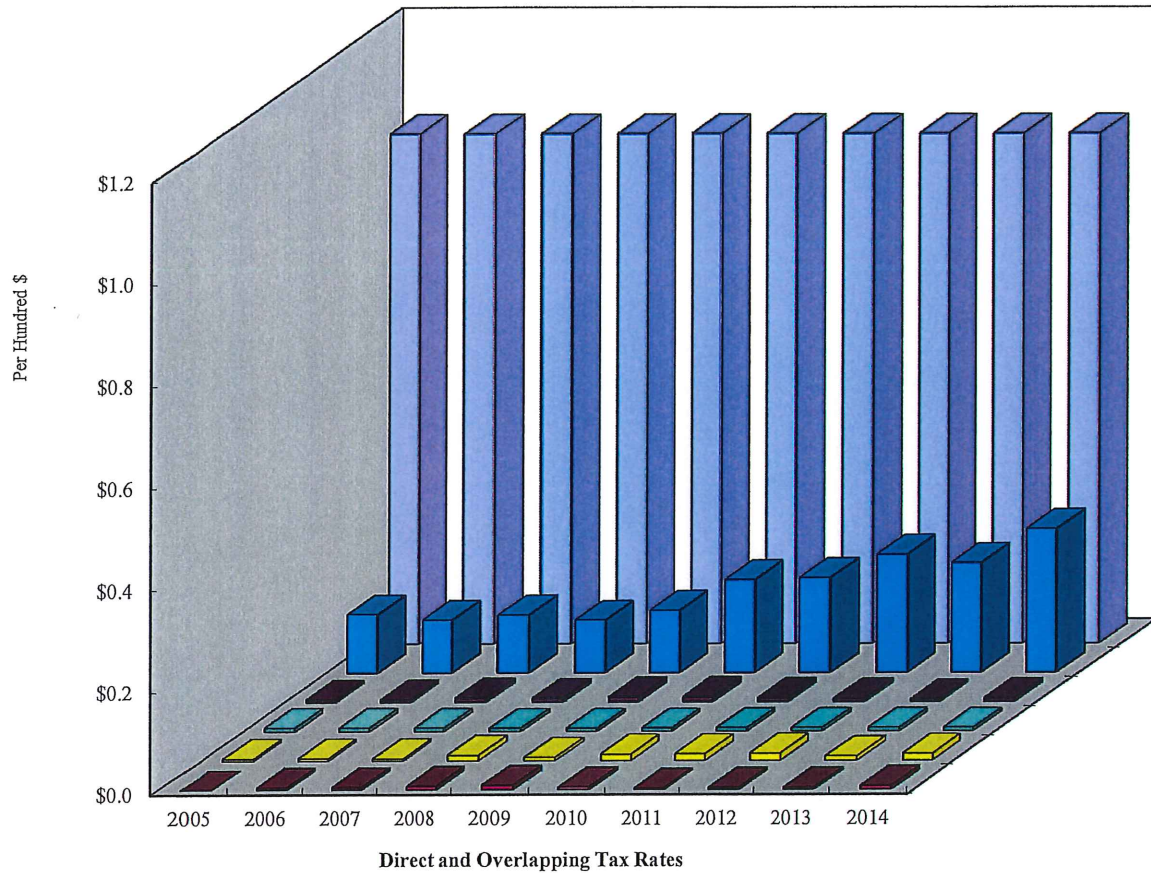
Fiscal Year	Real Property Assessed Value	Personal Property Assessed Value	Total Assessed Value (1)	% Change From Prior Year	Total Direct Rate (2)
2005	\$2,184,413,400	\$18,263,408	\$2,202,676,808	8.7%	1.0%
2006	2,383,452,062	20,836,562	2,404,288,624	9.2%	1.0%
2007	2,608,772,126	21,920,393	2,630,692,519	9.4%	1.0%
2008	2,814,788,225	21,736,732	2,836,524,957	7.8%	1.0%
2009	2,927,710,822	20,775,358	2,948,486,180	3.9%	1.0%
2010	2,911,917,594	16,634,587	2,928,552,181	-0.7%	1.0%
2011	2,944,230,367	16,412,735	2,960,643,102	1.1%	1.0%
2012	2,903,974,930	15,980,388	2,919,955,318	-1.4%	1.0%
2013	2,830,819,604	17,791,119	2,848,610,723	-2.4%	1.0%
2014	2,981,044,726	21,417,223	3,002,461,949	5.4%	1.0%

Source: Contra Costa County Auditor-Controller's Office.

Notes:

- (1) Amounts are net of exemptions.
Assessed Value is determined based on California Proposition 13, as of January 1.
The State Constitution requires property to be assessed at one hundred percent of the most recent purchase price, plus an increment of no more than two percent annually, plus any local over-rides. These values are considered to be full market values.
- (2) California cities do not set their own direct tax rate. The state constitution establishes the rate at 1% and allocates a portion of that amount, by an annual calculation, to all the taxing entities within a tax rate area.

**CITY OF EL CERRITO
PROPERTY TAX RATES
DIRECT AND OVERLAPPING GOVERNMENTS
LAST TEN FISCAL YEARS**



■ Bay Area Rapid Transit District
 ■ Contra Costa Community College District
 ■ East Bay Municipal Utilities District
■ East Bay Regional Park Districts
 ■ West Contra Costa Unified School Districts
 ■ Contra Costa County

Fiscal Year	Contra Costa County	Bay Area Rapid Transit District	Contra Costa Community College District	East Bay Municipal Utilities District	East Bay Regional Park Districts	West Contra Costa Unified School Districts	Total Direct and Overlapping Tax Rates (1)	Total Direct Rate
2005	\$1.00000		\$0.00420	\$0.00760	\$0.00570	\$0.11530	\$1.13280	\$0.35594
2006	1.00000	0.00480	0.00470	0.00720	0.00570	0.10410	1.12650	0.35959
2007	1.00000	0.00500	0.00430	0.00680	0.00850	0.11430	1.13890	0.35795
2008	1.00000	0.00760	0.01080	0.00650	0.00800	0.10350	1.13640	0.36136
2009	1.00000	0.00900	0.00660	0.00640	0.01000	0.12300	1.15500	0.36778
2010	1.00000	0.00570	0.01260	0.00650	0.01080	0.18280	1.21840	0.35988
2011	1.00000	0.00310	0.01330	0.00670	0.00840	0.18690	1.21840	0.35321
2012	1.00000	0.00410	0.01440	0.00670	0.00710	0.23220	1.26450	0.35287
2013	1.00000	0.00430	0.00870	0.00680	0.00510	0.21570	1.24060	0.35855
2014	1.00000	0.00750	0.01330	0.00660	0.00780	0.28180	1.31700	0.22289

Source: Contra Costa County Auditor/ Controller's Office.

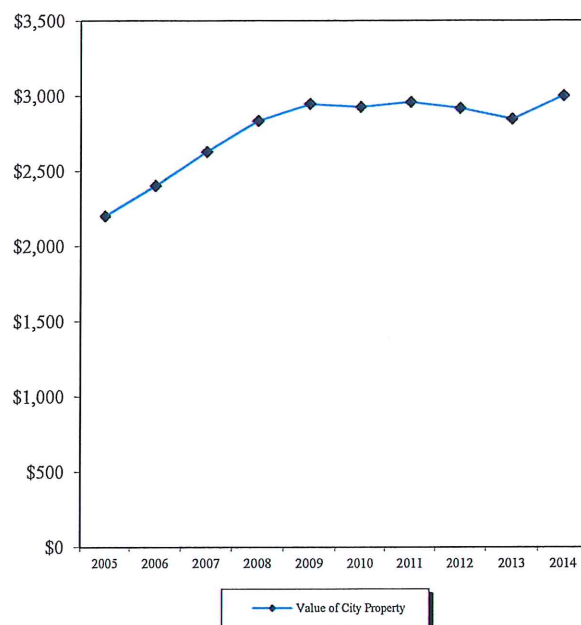
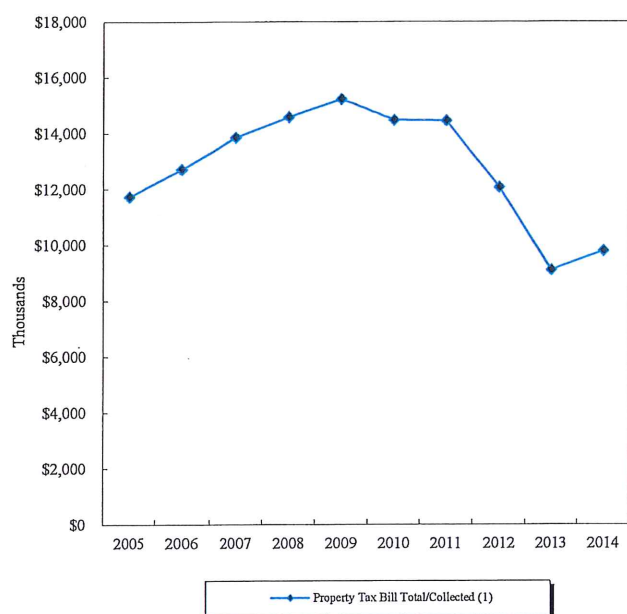
Notes:
(1) Rates are per \$100 of assessed value.

CITY OF EL CERRITO
Principal Property Tax Payers
Current Year and Nine Years Ago

Taxpayer	2013-14			2004-2005		
	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value	Taxable Assessed Value	Rank	Percentage of Total City Taxable Assessed Value
MCD-RCCA El Cerrito LLC	\$88,710,044	1	3.0%	\$76,782,050	1	3.5%
KW El Cerrito LLC	34,949,475	2	1.2%			
Property Development Centers LLC	21,481,781	3	0.7%			
Civic Plaza Riley Group LLC	15,558,251	4	0.5%			
Lucky FLA NOCAL Investor LLC	14,460,000	5	0.5%			
Pepper Lane SE Square Loop	14,436,536	6	0.5%	\$6,525,083	6	0.3%
MG Garden View Apartments LP	12,824,838	7	0.4%			
Longs Drugs Stores Inc	12,544,042	8	0.4%	5,990,387	9	0.3%
St Johns Land Partnership	10,410,782	9	0.3%	6,000,000	8	0.3%
El Cerrito Municipal Services	7,180,800	10	0.2%			
Fairfield Del Norte LLC		N/A		21,881,352	2	1.0%
American Stores Properties Inc		N/A		14,683,086	3	0.7%
10944 San Pablo Investors		N/A		13,475,111	4	0.6%
Target Corporation		N/A		11,616,755	5	0.5%
Elliot and Alana Megdal Trust		N/A		6,433,561	7	0.3%
Pepper Lane-Monterey Road LLC		N/A		5,978,527	10	0.3%
Subtotal	<u>\$232,556,549</u>		<u>7.7%</u>	<u>\$169,365,912</u>		<u>7.7%</u>
Total Net Assessed Valuation: Fiscal Year 2013-14 & 2004-05	\$3,002,461,949			\$2,202,676,808		

Source: Contra Costa County Assessor Fiscal Year 2013/2014 Combined Tax Rolls

CITY OF EL CERRITO
PROPERTY TAX LEVIES AND COLLECTIONS BY FUND TYPE
LAST TEN FISCAL YEARS



Fiscal Year	City Property Tax Levy	RDA Property Tax Increment	Special Assessments	Property Tax Bill Total/Collected (1)	% Change From Prior Year	Value of City Property Subject to Local Tax Rate
2005	\$5,748,677	\$4,140,921	\$1,848,630	\$11,738,228	29.4%	\$2,202,676,808
2006	6,455,190	4,422,646	1,846,917	12,724,753	8.4%	2,404,288,624
2007	7,198,376	4,807,391	1,861,531	13,867,298	9.0%	2,630,692,519
2008	7,307,576	5,440,531	1,851,295	14,599,402	5.3%	2,836,524,957
2009	7,538,032	5,848,045	1,856,408	15,242,485	4.4%	2,948,486,180
2010	7,397,021	5,190,553	1,896,445	14,484,019	-5.0%	2,928,552,181
2011	7,580,902	4,978,501	1,908,127	14,467,530	-0.1%	2,960,643,102
2012	7,461,509	2,710,782 (2)	1,908,236	12,080,527	-16.5%	2,919,955,318
2013	7,199,296	(2)	1,908,470	9,107,766	-37.0%	2,848,610,723
2014	7,887,028	(2)	1,908,642	9,795,670	-18.9%	3,002,461,949

Source: Contra Costa County Auditor-Controller's Office. Amount are net of collection fees.

Notes: (1) The City receives property tax revenues, and the City's Redevelopment Agency receives incremental property taxes pursuant to an arrangement with the County known as the "Teeter Plan" whereby the County assumes responsibility for the collection of delinquent taxes and pays the full allocation to the City.

(2) The Redevelopment Agency was dissolved effective January 31, 2012.

CITY OF EL CERRITO
Ratio of Outstanding Debt by Type
Last Ten Fiscal Years

Fiscal Year	Governmental Activities						Total Governmental Activities
	Tax Allocation Bonds	Lease Revenue Bonds	Storm Drain Revenue Bonds	Capital Leases	Sales Tax Revenue Bonds	Acquisition/Developer Notes	
2005	\$24,420,000	\$4,245,000	\$3,660,000	\$695,000	-	\$622,923	\$33,642,923
2006	23,795,000	4,040,000	3,340,000	1,002,375	-	595,785	32,773,160
2007	23,155,000	13,440,000	3,000,000	1,149,100	-	566,204	41,310,304
2008	22,405,000	13,225,000	2,640,000	929,335	\$11,750,000	566,204	51,515,539
2009	21,625,000	13,005,000	2,260,000	659,706	11,525,000	3,233,204	52,307,910
2010	20,775,000	12,585,000	1,860,000	1,093,369	11,295,000	3,125,011	50,733,380
2011	19,845,000	12,155,000	1,435,000	976,658	11,055,000	3,009,515	48,476,173
2012	(b)	11,705,000	1,026,800	887,688	10,810,000	(b)	24,429,488
2013	(b)	11,321,500	514,500	2,337,160	10,555,000	(b)	24,728,160
2014	(b)	10,788,700		2,133,692	10,290,000	(b)	23,212,392

Fiscal Year	Business-Type Activities		Total Primary Government	Percentage of Personal Income (a)	Per Capita (a)
	Capital Leases	Revenue Refunding Bonds			
2005	-		\$33,642,923	4%	1,438
2006	-		32,773,160	4%	1,396
2007	-		41,310,304	4%	1,765
2008	\$575,835		52,091,374	5%	2,234
2009	988,092		53,296,002	5%	2,272
2010	1,048,059		51,781,439	5%	2,188
2011	4,411,858		52,888,031	6%	2,236
2012	4,129,313		28,558,801	3%	1,201
2013	732,805	\$3,296,100	28,757,065	3%	1,203
2014	625,486	3,067,600	26,905,478	3%	1,117

Note : Debt amounts exclude any premiums, discounts, or other amortization amounts.

Sources: City of El Cerrito
State of California, Department of Finance (population)
U.S. Department of commerce, Bureau of the Census (income)

(a) See Schedule Demographic Statistics for personal income and population data.

(b) Due to the dissolution of Redevelopment Agencies effective February 1, 2012, the Tax Allocation Bonds and the Acquisition/Developer Notes were transferred to the Successor Agency.

CITY OF EL CERRITO
STATEMENT OF DIRECT AND OVERLAPPING DEBT
JUNE 30, 2014

2013-14 Assessed Valuation:	\$3,002,461,949
Less Redevelopment Incremental Valuation:	(523,700,938)
Adjusted Assessed Valuation:	<u>\$2,478,761,011</u>

	Percentage Applicable to City (2)	Debt 6/30/14 Amount Applicable to City of El Cerrito
<u>DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT:</u>		
<u>OVERLAPPING TAX AND ASSESSMENT DEBT:</u>		
Contra Costa County Pension Debt	2.040%	\$5,273,438
CCC PFA 1998A Lease Revenue Bonds	2.040%	300,188
CCC PFA 1999A Lease Revenue Bonds	2.040%	260,000
CCC PFA 2001A Lease Revenue Bonds	2.040%	14,382
CCC PFA 2002A Lease Revenue Bonds	2.040%	161,671
CCC PFA 2002B Lease Revenue Bonds	2.040%	133,009
CCC PFA 2003A Lease Revenue Bonds	2.040%	150,451
CCC PFA 2007A Lease Revenue Bonds	2.040%	2,247,790
CCC PFA 2007B Lease Revenue Bonds	2.040%	910,663
CCC PFA 2009A Lease Revenue Bonds	2.040%	376,451
CCC PFA 2010A-1 Lease Revenue Bonds	2.040%	120,667
CCC PFA 2010A-2 Lease Revenue Bonds	2.040%	267,854
CCC PFA 2010A-3 Lease Revenue Bonds	2.040%	422,283
CCC PFA 2010B Lease Revenue Bonds	2.040%	295,292
CCC PFA 2012 Lease Revenue Bonds	2.040%	251,303
Bay Area Rapid Transit	2.040%	4,449,829
East Bay Regional Park District	2.040%	1,809,338
East Bay MUD Series F Wastewater Bond	67.588%	570,961
West Contra Costa Unified School District 1998 Bond	13.509%	2,985,557
West Contra Costa Unified School District 2000 Bond	13.509%	29,414,495
West Contra Costa Unified School District 2002 Bond	13.509%	48,111,815
West Contra Costa Unified School District 2005 Bond	13.509%	43,309,457
West Contra Costa Unified School District 2010 Bond	13.509%	17,270,977
West Contra Costa Unified School District 2012 Bond	13.509%	11,482,913
Contra Costa Community College 2002 Bond	2.048%	3,914,731
Contra Costa Community College 2006 Bond	2.048%	6,224,327
TOTAL GROSS OVERLAPPING TAX AND ASSESSMENT DEBT		<u>180,729,842</u>
<u>DIRECT DEBT:</u>		
Outstanding Tax Override Debt	100.000%	10,290,000
City of El Cerrito City Hall Lease Revenue Bonds	100.000%	10,788,700
Master Equipment Leases	100.000%	2,133,692
TOTAL DIRECT DEBT:		<u>23,212,392</u>
GROSS COMBINED TOTAL DEBT		<u>\$203,942,234 (1)</u>

Ratios to 2013-14 Assessed Valuation:

Direct Debt	0.94%
Total Gross Overlapping Tax and Assessment Debt	7.29%
Total Overlapping Tax and Assessment Debt	8.23%

Notes:

(1) This report reflects debt which is being repaid through voter-approved property tax indebtedness. It excludes mortgage revenue, tax allocation bonds, interim financing obligations, non-bonded capital lease obligations, and certificates of participation.

(2) Overlapping governments are those that coincide, at least in part, with the geographic boundaries of the city. The percentage of overlapping debt applicable is estimated by using taxable assessed values. Applicable percentages were estimated by determining the portion of another governmental unit's taxable assessed value that is within the city's boundaries and dividing it by each unit's total taxable assessed value.

CITY OF EL CERRITO
COMPUTATION OF LEGAL BONDED DEBT MARGIN
JUNE 30, 2014

ASSESSED VALUATION:

Secured property assessed value, net of exempt real property	\$3,002,461,949
---	-----------------

BONDED DEBT LIMIT (3.75% OF ASSESSED VALUE) (a)	\$450,369,292
---	---------------

AMOUNT OF DEBT SUBJECT TO LIMIT:

Total Bonded Debt	\$26,905,478
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Less Tax Allocation Bonds and Revenue Bonds, Capital Leases and Notes Payable not subject to limit	26,905,478
---	------------

Amount of debt subject to limit	
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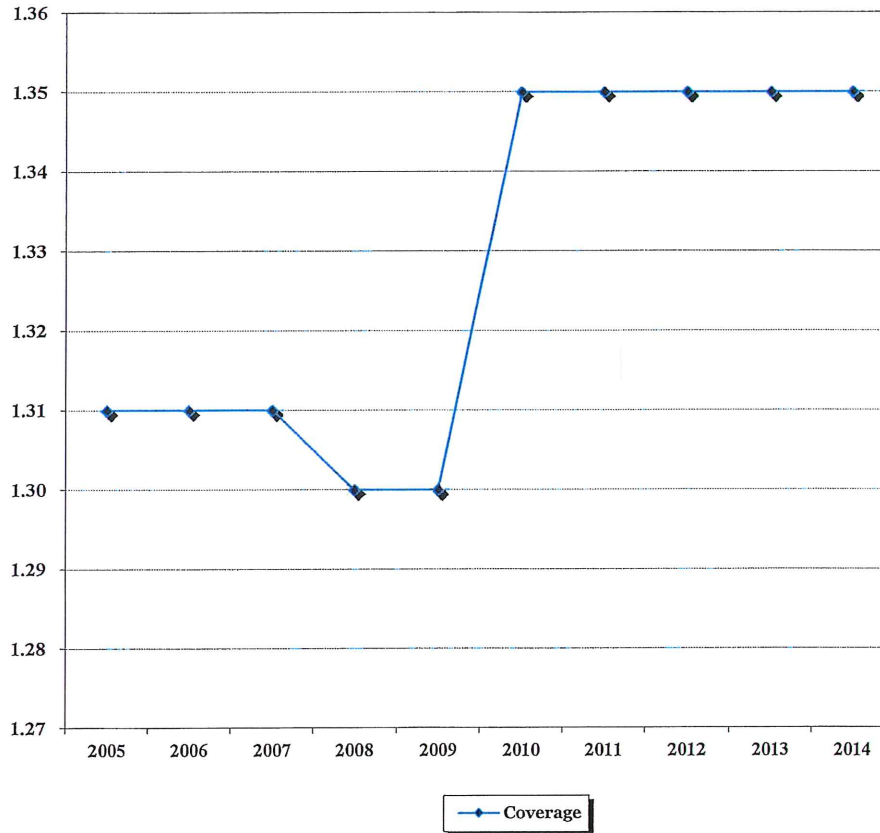
LEGAL BONDED DEBT MARGIN	\$450,369,292
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Fiscal Year	Debt Limit	Total Net Debt Applicable to Limit	Legal Debt Margin	Total net debt applicable to the limit as a percentage of debt limit
2005	\$330,401,521		\$330,401,521	
2006	360,643,294		360,643,294	
2007	394,603,878		394,603,878	
2008	425,478,744		425,478,744	
2009	442,272,927		442,272,927	
2010	439,282,827		439,282,827	
2011	444,096,465		444,096,465	
2012	437,993,298		437,993,298	
2013	427,291,608		427,291,608	
2014	450,369,292		450,369,292	

NOTE:

- (a) California Government Code, Section 43605 sets the debt limit at 15%. The Code section was enacted prior to the change in basing assessed value to full market value when it was previously 25% of market value. Thus, the limit shown as 3.75% is one-fourth the limit to account for the adjustment of showing assessed valuation at full cash value.

**CITY OF EL CERRITO
REVENUE BOND COVERAGE
STORM DRAIN REVENUE BONDS
LAST TEN FISCAL YEARS**



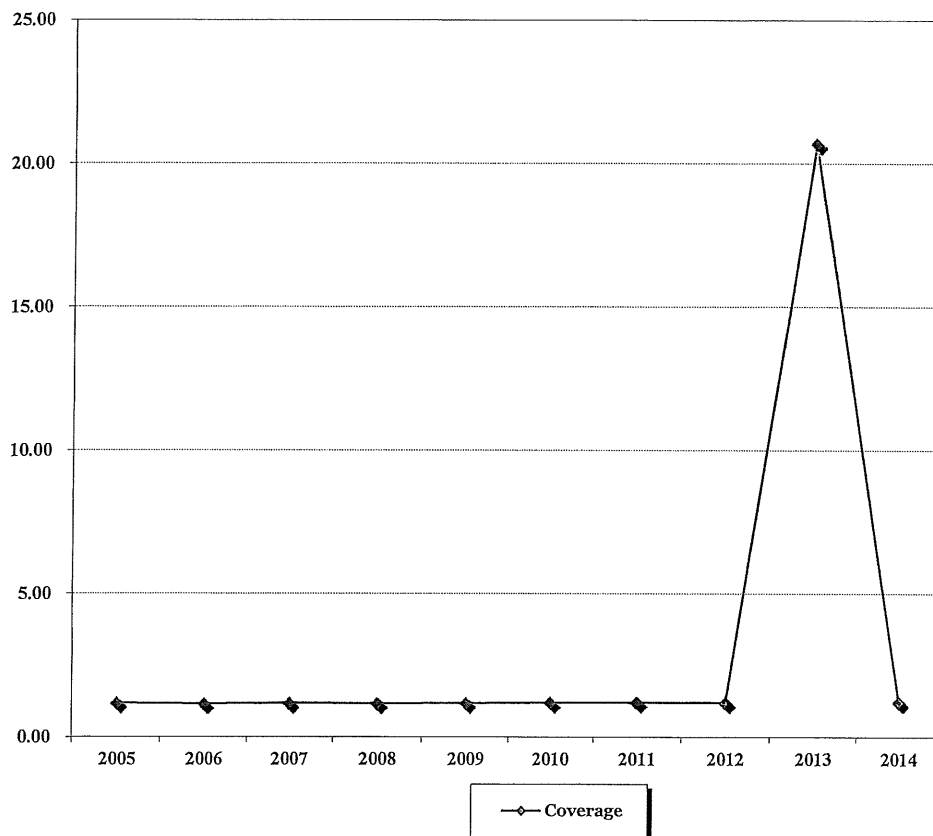
Debt Service Requirements					
Fiscal Year	Taxes and Assessments (1)	Principal	Interest	Total	Coverage
2005	\$668,088	\$305,000	\$204,678	\$509,678	1.31
2006	668,240	320,000	189,005	509,005	1.31
2007	672,190	340,000	171,965	511,965	1.31
2008	668,417	360,000	153,675	513,675	1.30
2009	669,748	380,000	134,013	514,013	1.30
2010	693,694	400,000	113,050	513,050	1.35
2011	697,862	425,000	90,613	515,613	1.35
2012	697,951	450,000 (2)	66,552 (2)	516,552	1.35 (2)
2013	698,101	512,300	6,106	518,406	1.35
2014	697,930	514,500	4,330	518,830	1.35

Notes:

- (1) Includes all taxes and assessments from the Storm Drain Capital Projects Fund.
- (2) The 1993 Storm Drain Bonds were refunded and retired by the 2012 Storm Drain Revenue Refunding Bonds during the fiscal year. Retirements exclude the refunded bond principal and interest of \$985,000 and \$26,088, respectively.

Source: City of El Cerrito Annual Financial Statements

**CITY OF EL CERRITO
REVENUE BOND COVERAGE
2002 LEASE REVENUE BONDS AND 2012 LEASE REVENUE REFUNDING BONDS
LAST TEN FISCAL YEARS**



Fiscal Year	Taxes and Assessments (1)	Debt Service Requirements			Coverage
		Principal	Interest	Total	
2005	\$428,429	\$195,000	\$168,590	\$363,590	1.18
2006	426,509	205,000	162,590	367,590	1.16
2007	430,828	210,000	156,365	366,365	1.18
2008	426,479	215,000	149,990	364,990	1.17
2009	429,470	220,000	143,465	363,465	1.18
2010	439,687	230,000	136,428	366,428	1.20
2011	439,215	235,000	128,578	363,578	1.21
2012	439,158	245,000	120,055	365,055	1.20
2013	439,268	(2)	21,236 (2)	21,236 (2)	20.69 (2)
2014	439,477	312,800	46,258	359,058	1.22

Notes:

- (1) Includes all taxes and assessments from the Measure A Parcel Tax Fund.
- (2) The 2002 Lease Revenue Bonds were refunded and retired by the 2012 Lease Revenue Refunding Bonds during the fiscal year. Retirements exclude the refunded bond principal and interest of \$2,685,000 and \$65,181, respectively.

Source: City of El Cerrito Annual Financial Statements

**CITY OF EL CERRITO
REVENUE BOND COVERAGE
2008 SALES TAX REVENUE BONDS
LAST SIX FISCAL YEARS**

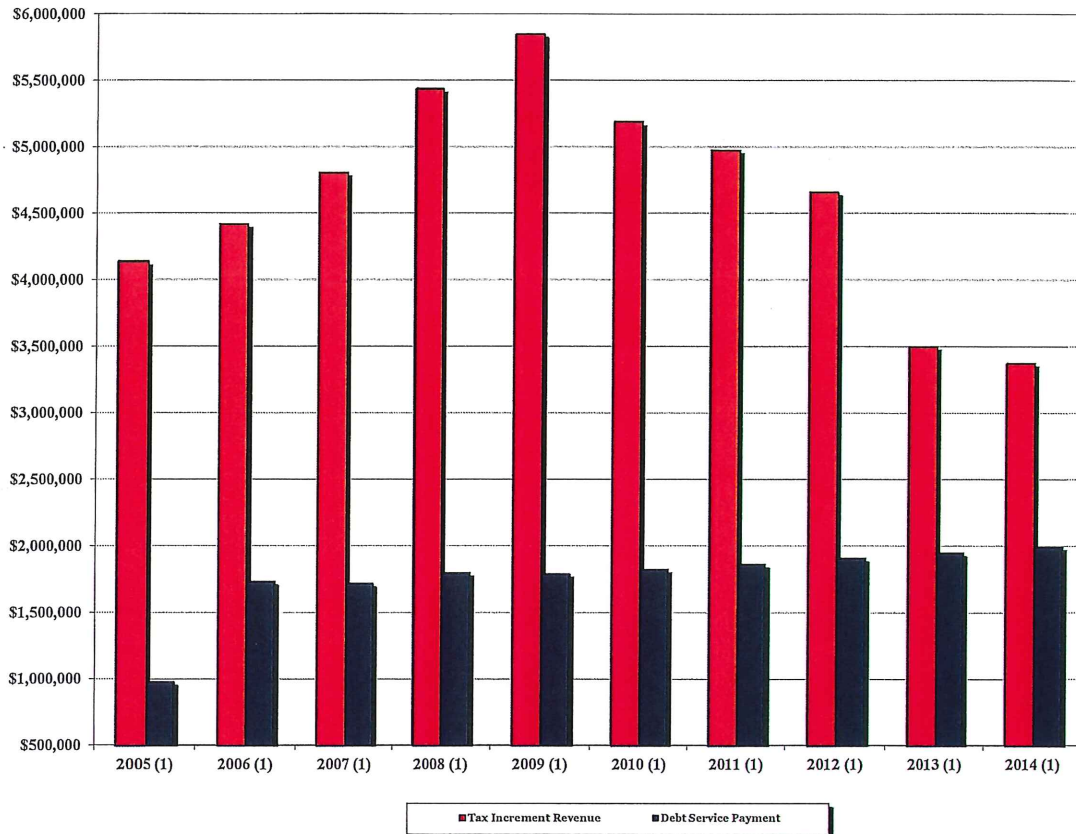
Fiscal Year	Taxes and Assessments ⁽²⁾	Debt Service Requirements			
		Principal	Interest	Total	Coverage
2009 ⁽¹⁾	\$1,348,938	\$225,000	\$471,024	\$696,024	1.94
2010	1,334,628	230,000	509,102	739,102	1.81
2011	1,375,828	240,000	501,052	741,052	1.86
2012	1,546,542	245,000	492,653	737,653	2.10
2013	1,141,958	255,000	484,078	739,078	1.55
2014	1,453,527	265,000	475,152	740,152	1.96

Notes:

- (1) City of El Cerrito issued the bonds in fiscal 2008, however no principal or interest payments were due in that fiscal year, and sales tax revenues were not collected until fiscal year 2009.
- (2) Includes all taxes and assessments from the Street Improvement Fund.

Source: City of El Cerrito Annual Financial Statements

**CITY OF EL CERRITO
BONDED DEBT PLEDGED REVENUE COVERAGE
TAX ALLOCATION BONDS
LAST TEN FISCAL YEARS**



Fiscal Year	Tax Increment Revenue	Debt Service Requirements			Coverage
		Principal	Interest	Total	
2005 (1)	\$4,140,921	\$400,000	\$579,180	\$979,180	\$4.23
2006 (1)	4,422,646	625,000	1,107,839	1,732,839	2.55
2007 (1)	4,807,391	640,000	1,080,117	1,720,117	2.79
2008 (1)	5,440,531	750,000	1,049,608	1,799,608	3.02
2009 (1)	5,848,045	780,000	1,015,992	1,795,992	3.26
2010 (1)	5,190,553	850,000	979,798	1,829,798	2.84
2011 (1)	4,978,501	930,000	938,331	1,868,331	2.66
2012 (1)	4,660,032 (2)	1,020,000	891,030	1,911,030	2.44
2013 (1)	3,502,901 (3)	1,110,000 (4)	839,248 (4)	1,949,248	1.80
2014 (1)	3,375,902 (3)	1,215,000 (4)	785,844 (4)	2,000,844	1.69

Source: City of El Cerrito Annual Financial Statements

- Notes:
- (1) Includes the 1997, 1998 and 2004 Tax Allocation Bonds
 - (2) Due to the dissolution of the Redevelopment Agency effective February 1, 2012, the Tax Allocation Bonds were transferred to the Successor Agency and tax increment revenue reported in this schedule includes both tax increment collected by the Redevelopment Agency and property taxes collected by the Successor Agency.
 - (3) Includes property taxes collected by the Successor Agency.
 - (4) Debt service is paid by the Successor Agency.

CITY OF EL CERRITO
DEMOGRAPHIC AND ECONOMIC STATISTICS
LAST TEN CALENDAR YEARS

Calendar Year	City Population (1)	Total Personal Income (2)	Median Population Age (3)	Median Household Income (3)	Unemployment Rate (4)	Public School Enrollment (5)	Contra Costa County Population (1)	City Population % of County
2005	23,398	\$850,751,280	42.7	\$36,360	4.8%	3,989	1,020,898	2.29%
2006	23,471	899,831,198	42.7	38,338	4.3%	3,989	1,029,377	2.28%
2007	23,407	966,170,739	42.7	41,277	3.8%	3,989	1,042,341	2.25%
2008	23,320	1,008,123,600	42.7	43,230	4.1%	3,082	1,051,674	2.22%
2009	23,461	1,024,823,402	42.7	43,682	5.5%	3,082	1,061,223	2.21%
2010	23,666	1,000,290,822	44.4	42,267	9.2%	3,076	1,072,953	2.21%
2011	23,648	899,049,664	43.1	38,018	10.0%	3,076	1,056,064	2.24%
2012	23,774	972,380,000	43.7	40,901	9.3%	3,316	1,065,117	2.23%
2013	23,910	1,022,129,000	43.3	42,749	6.3%	3,304	1,079,597	2.21%
2014	24,087	1,018,350,000	44.5	42,278	5.4%	(6)	1,087,008	2.22%

Sources: (1) California Department of Finance.
(2) Data not available, therefore it has been calculated by multiplying the City population by the Median Household Income.
(3) United States Census Bureau.
(4) State of California Employment Development Dept.
(5) West Contra Costa County Unified School District.
(6) Not available

CITY OF EL CERRITO
Principal Employers
Fiscal 2013-2014 (1)

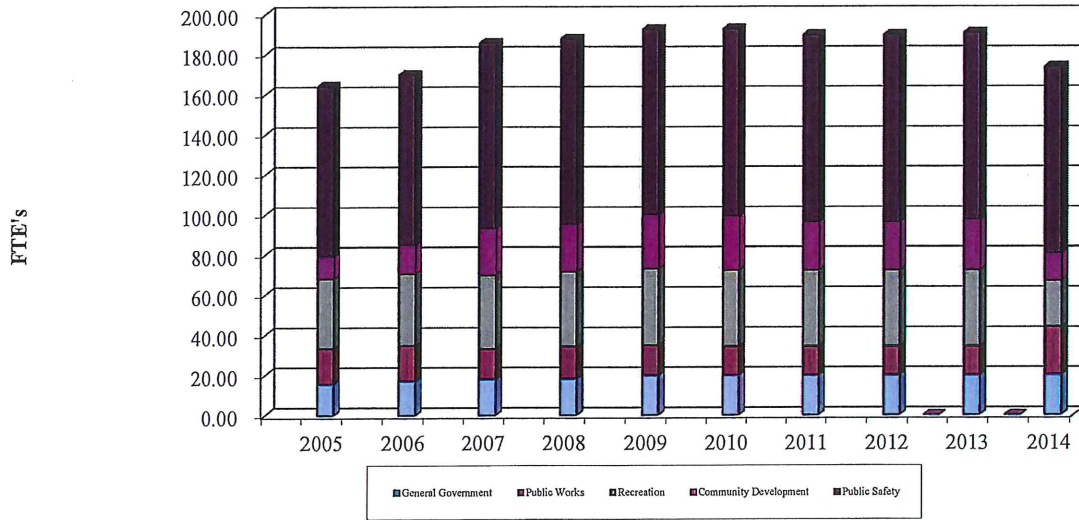
Employer
Barnes and Noble
Bed Bath & Beyond
City of El Cerrito
CVS Pharmacy
El Cerrito Royale
Fat Apple's Restaurant
Home Depot
Honda of El Cerrito
Lucky's
Mira Vista Golf and Country Club
Nation's
Pastime Hardware
Prospect Sierra School
Romano's Macaroni Grill
Safeway
Shields Nursing Center
Tehiyah Day School
Trader Joe's
US Post Office
West Contra Costa Unified School District

Source: City of El Cerrito

Note: Data not available for ranking or total employees for each employer.

(1) Data for fiscal year 2014 was not available, therefore information from fiscal year 2013 is presented

CITY OF EL CERRITO
Full-Time Equivalent City Government Employees by Function
Last Ten Fiscal Years



	Fiscal Year Ended June 30,									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Function										
General Government	15.55	16.95	17.95	18.10	19.60	19.80	19.80	19.80	19.80	20.00
Public Works	17.75	17.75	15.00	16.00	15.25	14.25	14.25	14.25	14.25	23.80
Recreation	34.76	35.76	36.75	37.25	38.00	38.00	38.00	38.00	38.00	23.00
Community Development	11.00	14.40	23.35	23.75	27.00	27.00	24.00	24.00 (a)	25.00 (a)	13.50 (a)
Public Safety	85.09	85.09	92.55	92.55	92.55	93.55	93.55	93.55	93.55	93.40
Total	164.15	169.95	185.60	187.65	192.40	192.60	189.60	189.60	190.60	173.70 (b)

Source: City of El Cerrito Adopted Operating Budget

Notes: (a) Includes Environmental Services Division

(b) Amounts prior to 2014 include part time positions. 2014 includes only full-time positions.

CITY OF EL CERRITO
Operating Indicators by Function/ Program
Information as available - Last Ten Fiscal Years

Function/ Program	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Community Development:										
Planning:										
Number of Permits	259	299	215	136	117	122	89	103	135	199
Building:										
Permits Issued	1,369	1,357	1,377	1,288	1,122	1,231	1,249	1,178	1,572	1,137
Annual Inspections	8,394	10,195	8,906	7,579	6,292	7,180	5,908	7,483	7,445	8,744
Public Safety:										
Fire:										
Number of Responses	2,929	3,059	2,929	2,926	2,881	2,823	2,764	2,820	2,973	2,956
Police:										
Number of Responses	24,022	22,881	24,944	25,415	25,760	25,497	24,490	21,812	24,753	25,160
Recreation:										
Recreation Administration/										
Non-Departmental:										
Drop-In Sales	285	376	1,008	451	711	989	676	0	0	19
Childcare Administration:										
Participants	1,424	2,970	1,042	1,240	1,443	1,989	1,627	2,011	1,512	1,482
Aquatics:										
Enrollments	4,805	4,539	4,305	4,489	5,737	5,512	5,265	4,525	4,669	5,003
Pass Sales	3,876	2,798	3,054	3,350	3,865	3,929	3,927	3,684	3,491	3,719
Facility Rentals	124	85	124	120	116	103	105	154	416	397
Drop-In Sales	17,321	17,076	19,738	21,155	21,856	21,344	21,272	22,851	26,225	30,922
Senior Services:										
Enrollments	3,267	3,080	3,377	3,255	2,736	2,583	2,817	2,030	1,417	1,806
Facility Rentals	18	40	77	40	13	2	2	30	17 **	45
Drop-In Sales	1,125	1,002	1,030	1,192	1,126	1,307	897	7,257	20,669 ***	21,993
Adult/Community Services:										
Enrollments	1,401	1,434	1,393	1,353	1,668	2,469	2,320	968	1,180	1,391
Pass Sales	231	281	240	250	252	232	230	281	191	210
Facility Rentals	1,055	1,257	1,046	1,241	1,304	1,243	1,245	2,560	3,856	4,224
Youth Services:										
Enrollments	1,758	3,705	2,250	1,831	2,002	3,853	4,080	5,200	7,163	11,538
Pass Sales	0	0	332	240	252	254	195	101	166	20
Drop-In Sales	579	344	209	398	112	181	203	357	40	0

* In fiscal year 2011-12, the Recreation Department implemented a new registration system that records some activities differently than in previous years.
The new method will continue in future years.

** Reports each date a person and/or organization has rented an aquatics facility.

*** Now includes daily lunches served at Senior Center (15,458 in FY 13)

Source: City of El Cerrito

CITY OF EL CERRITO
Capital Asset Statistics by Function/ Program
Information as available - Last Ten Fiscal Years

Function/ Program	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>
Public Safety:										
Fire stations	2	2	2	2	2	2	2	2	2	2
Police stations	1	1	1	1	1	1	1	1	1	1
Public Works:										
Miles of streets	68	68	68	68	68	68	68	68	68	68
Street lights	1606	1606	1606	1606	1606	1606	1606	1606	1606	1606
Traffic signals	11	11	11	11	11	11	11	11	11	11
Culture and Recreation:										
City parks	11	11	11	11	11	11	11	11	11	11
City park acreage	31.6	31.6	31.6	31.6	31.6	31.6	31.6	31.6	31.6	31.6
Playgrounds	7	7	7	7	7	7	7	7	7	7
City trails	3	3	3	3	3	3	3	3	3	3
City trails-miles	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5	3.5
Community center	1	1	1	1	1	1	1	1	1	1
Senior center	1	1	1	1	1	1	1	1	1	1
Performing arts center	1	1	1	1	1	1	1	1	1	1
Swimming pools	1	1	1	1	1	1	1	1	1	1
Tennis court sites	6	6	6	6	6	6	6	6	6	6
Baseball/softball diamonds	4	4	4	4	4	4	4	4	4	4
Library	1	1	1	1	1	1	1	1	1	1
Administration:										
City Hall	1	1	1	1	1	1	1	1	1	1
Recycling Center	1	1	1	1	1	1	1	1	1	1

Source: City of El Cerrito

CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL
AND
REQUIRED COMMUNICATIONS
FOR THE YEAR ENDED
JUNE 30, 2014

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**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL
AND
REQUIRED COMMUNICATIONS**

For the Year Ended June 30, 2014

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MEMORANDUM ON INTERNAL CONTROL

To the City Council of
the City of El Cerrito, California

We have audited the basic financial statements of the City of El Cerrito, California, for the year ended June 30, 2014, and have issued our report thereon dated February 24, 2015. In planning and performing our audit of the basic financial statements of the City, in accordance with auditing standards generally accepted in the United States of America, we considered the City's internal control over financial reporting (internal control) as a basis for designing our auditing procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist and that were not identified. In addition, because of inherent limitations in internal control, including the possibility of management override of controls, misstatements due to error or fraud may occur and not be detected by such controls. However, we identified certain deficiencies in internal control that we consider to be material weaknesses that are included on the Schedule of Material Weaknesses and the Status of Prior Year Schedule of Material Weaknesses.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected on a timely basis.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We identified certain deficiencies in internal control that we consider to be significant deficiencies that are included on the Schedule of Significant Deficiencies and the Status of Prior Year Schedule of Significant Deficiencies.

Included in the Schedule of Other Matters are recommendations not meeting the above definitions that we believe to be of potential benefit to the City.

Management responses included in this report have not been subjected to the audit procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

This communication is intended solely for the information and use of management, City Council, others within the organization, and agencies and pass-through entities requiring compliance with generally accepted *Government Auditing Standards*, and is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in cursive script that reads 'Maze & Associates'.

Pleasant Hill, California

February 24, 2015

Accountancy Corporation

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CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL
SCHEDULE OF MATERIAL WEAKNESSES

2014-01 General Fund Budgets, Cash and Available Fund Balances

As discussed in prior year comments 2013-03 and 2012-04, the City's General Fund budget and liquidity remain a top priority and the financial health of the Fund has continued to deteriorate. As of June 30, 2014, the General Fund has a cash balance of only \$1 and City-wide, unrestricted cash balances total only \$40,384. In addition, General Fund unassigned fund balances amounted to \$1 million. Unassigned fund balance represents available fund balance and equates to approximately 14 days of General Fund expenditures. This is a very low level of available resources.

The cash balance remained depleted due to short-term cash borrowings from other City funds. The Capital Improvement Fund and other Non-Major Governmental Funds had borrowed \$1,748,211 from the General Fund and other funds, including the Integrated Waste Management Enterprise Fund and other restricted funding sources, and the General Fund had borrowed \$250,000 from the Municipal Services Corporation Special Revenue Fund. Other significant facts we wish to bring to your attention include:

- A. As of June 30, 2014, the balance of the Capital Improvement Fund interfund borrowing was \$1.2 million and, as discussed in current year comment 2014-02 and prior year comment 2011-02, the grant billings continue to lag and therefore, the loaning funds may not be able to collect the amount due from the Capital Improvement Fund in a timely manner.
- B. While General Fund revenues increased by over \$1.2 million and expenditures decreased by \$306 thousand, the fund experienced an operating deficit of \$260 thousand for the third consecutive year and when combined with other activity in the fund, fund balance decreased by \$1.1 million at year end.
- C. The City also has long-term liabilities for unpaid compensated absences approximating \$1.5 million which have not been funded. Further, the amounts do not consider future cost increases for retirement costs which have unfunded liabilities.
- D. Despite the lack of cash available for operations, nearly every fund of the City experienced a net decrease in fund balance. While we understand some of the decreases were intentional one-time uses of fund balance, City staff should ensure that cash is available to fund those one-time uses.
- E. The General Fund had expenditures in excess of budget in all departments, except one, and we understand that one contributing factor to the overruns in at least three of the departments were the result of unbudgeted salary increases.

During this year's audit, we again reviewed the City's financial condition and satisfied ourselves that the City had sufficient resources available to fund operations through June 30, 2015. Although the City continues to issue Tax Revenue Anticipation Notes to supplement cash temporarily during the fiscal year, if spending at current levels without an increase in resources were to continue, it reduces the likelihood that the City will have sufficient cash resources available.

CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL
SCHEDULE OF MATERIAL WEAKNESSES

2014-01 General Fund Budgets, Cash and Available Fund Balances (Continued)

The City's adopted budget for 2015 projects ending fund balance and net position of all funds as a positive \$3.6 million, however it includes a projected increase in the General Fund of only \$89 thousand and projected *use* of resources of \$337 thousand City-wide during 2015. The City should continue to monitor actual revenues and expenditures to ensure they are in line with expected results. Close management and comparison of actual activity against the budget *must* continue to be employed to ensure further costs reductions are made as necessary. All increases in expenditures should be specifically approved through the budget amendment process to ensure cash resources are available to fund the increase.

Although the 2015 budget acknowledges the City's financial condition and the need to prioritize projects, programs and services to allocate limited resources, the City should also immediately address the timely grant billing in the Capital Improvement Fund and any other funds with reimbursement-based funding so they stop draining the General Fund resources. The City must review the current capital projects outstanding to determine if any of them can be delayed since sufficient funding is not currently available. Any projects that are grant funded must be accompanied by timely grant reimbursement requests to alleviate the cash flow problem.

Management's Response:

Disagree. The City has continually taken steps to shore up the City's finances including reducing pension liabilities, becoming more efficient in providing services and outlining a plan to increasing revenues.

In FY 2013-14, the City, very publically, made a decision to deficit spend, rather than reduce services or layoff staff and the City Council approved a plan to go to the voters to increase sales tax revenues, which ultimately overwhelmingly passed.

Like many Cities, declining revenues related to taxes and the loss of redevelopment have reduced El Cerrito's operating reserve in the General Fund as well as the available cash balances in the special revenue funds. The need to restore reserves has been a topic of discussion at every budget session and with approval of the increase in sales taxes, a portion of the additional revenue can now be dedicated increase reserves within 5 years.

The City has and continues to monitor actual revenues and expenditures to the budget and regularly provides City Council with updates. In FY 2013-14 staff was informed a few months into the fiscal year that property tax revenues would be less than adopted and Council were provided with this update in the December budget review. While Council was notified and this projection was included in the 5 year General Fund forecast, it has been the City's policy not to revise the revenue budget. Had this revision and other significant revenue adjustments been made in the amended budget, actuals would have more closely aligned with the final budget. However, even with close monitoring, there were additional unanticipated changes that occurred at the end of the fiscal year that weren't included in projections. In addition, because the use of fund balance does not get budgeted in revenue, even though Council approved the use of fund balance for a one-time CIP expenditure, expenditures appear to be higher than the annual revenues.

CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL
SCHEDULE OF MATERIAL WEAKNESSES

2014-01 General Fund Budgets, Cash and Available Fund Balances (Continued)

As part of the tax anticipation note (TAN) process, staff projects cash needs for the year; however, given the cash shortages experienced throughout the year, the City hired a consultant to complete a more comprehensive review and project cash needs for fiscal year FY 2014-15. This allowed us to restructure the TAN repayments to provide better cash flow throughout the year and understand the funds that are putting the most drain on overall cash. Finance staff is working with the operating departments to address the problem funds as well as stay on top of the reimbursement requests for grant expenditures.

2014-02 Timely Grant Billings

The City has a number of projects that are fully or partially funded by federal, state and local grants on a reimbursement basis. As the City incurs related project costs, timely grant reimbursement requests should be prepared and filed with the grantors to minimize the time between disbursement and reimbursement. Cash management of grant funded projects is vital to the continuation and successful completion of the projects. If grant funds are not requested timely, the funding source may no longer have available funds for reimbursement or funds may be deprogrammed by the grantor.

Expenditures in the Capital Improvement Fund exceeded current year revenues in fiscal year 2014 by \$661 thousand due to delayed reimbursement requests. City staff did not file reimbursement requests for approximately \$656 thousand of fiscal year 2014 expenses until October and November 2014. As an example, one of those projects was a Transportation Development Act-funded project that began in June 2013 with expenditures through July 2014, for which a reimbursement request was not filed until October 27, 2014, a delay of three months.

The City must develop procedures to ensure grant reimbursement requests are prepared on a timely basis, at least quarterly, as costs are incurred not only to improve cash flow but to match expenditures with associated revenues in the same period.

Management's Response:

Agree. As of FY 2015, department staff is now carefully considering staff resources to manage grants before applying for additional grants to ensure the grants received are managed and billed in a timely manner. Staff is also reviewing grant contracts such that the deliverables are more incremental/progress based.

Beginning in March 2015, the Finance department will be implementing an Accounts Receivable module and will begin using this system to bill reimbursable grants no later than July 2015. In addition, by April 2015, the Finance department will create a centralized grant tracking inventory that includes all relevant grant information that will be updated on a regular basis. The Finance department also plans to create new funds to track Grants fund by federal, state or local rather than the one central fund currently used. This will make it much easier to monitor expenditures and ensure reimbursements are being billed in a more timely way.

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**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

SCHEDULE OF SIGNIFICANT DEFICIENCIES

2014-03 Incorrect Pay Rate

The payroll register should be monitored in a way that errors in pay rates can be identified and corrected on a timely basis. And, changes to employee pay rates should not be made without proper review and approval.

During the interim phase of our audit, we selected 40 employees for testing of the pay period ending March 1, 2014 and noted a significant difference between one employee's gross payroll in the payroll register compared to our calculation of their gross pay. The pay rate used in our calculation was based on the employee's most recent Personnel Action Form which was a "Step One" rate, but the employee was being paid at a "Step Five" rate.

Upon inquiry of City staff, we found that the erroneous pay rate had begun in October 2013, but it was not discovered by City staff until March 2014. Upon discovery of the error, the City calculated the total amount of overpayment to the employee (\$6,710) and the employee began repayment with the first pay period of April 2014.

Although City staff discovered the error, it continued undetected for six months. City staff indicated that they do not know what caused the original error. It was discovered, because the City has a policy to manually recalculate all employee pay rates whenever there is a Cost of Living Adjustment (COLA) or step increase. This is how the problem was initially detected. However, in the event that City employees go long durations without step or wage increases, there does not appear to be another way City staff could detect an error in pay.

The City must implement procedures, such as spot checks to manually recalculate pay rates more frequently, to ensure that future errors are detected in a timely manner and implement procedures to reduce the likelihood of future pay errors. Until the cause of the original error is known, these additional procedures should continue.

Management's Response:

Agree. While this was a 1-time error, Finance staff determined that there are no payroll audit reports in New World System that would have identified this type of error. As of April 1, 2015, New World released a new update that now includes a payroll audit report. IT staff will implement this update by June 30, 2015. Once this report is available, Finance staff will begin to use this report as part of the standard audit staff conducts to review and confirm each payroll run.

2014-04 Recording Interfund Activity With the City's Component Units

The City's reporting entity includes two legally separate entities that are accounted for in the City's governmental funds: the El Cerrito Public Financing Authority and the El Cerrito Municipal Services Corporation. Although they are separate legal entities, the City is financially accountable for their activities and City Council serves as the Board or the majority of the Board for each entity and they are reported as blended component units of the City. Blended component units are in substance part of the City's operations and are reported as an integral part of the City's financial statements. Transactions between these entities that are not those of a vendor-customer relationship should be reported as interfund transactions (transfers in and transfers out) in the City's financial statements.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

SCHEDULE OF SIGNIFICANT DEFICIENCIES

2014-04 Recording Interfund Activity With the City's Component Units (Continued)

During fiscal year 2014, the Municipal Services Corporation approved a loan of \$500,000 to the City's General Fund. Half of the loan was repaid at the end of fiscal year 2014 and the second half remained outstanding at the fiscal year end. In the General Ledger, the loan repayment was recorded as a reduction of cash and the payable in the General Fund as of June 30, 2014, but the corresponding transaction was not recorded in the Corporation as of June 30, 2014. And, the outstanding balance of the loan was reported in the general ledger as accounts receivable in the Corporation and as accounts payable in the General Fund, rather than as an interfund balance.

In a separate transaction, during fiscal year 2012, the Municipal Services Corporation approved contributions to the City's General Fund and Federal, State and Local Grants Special Revenue Fund totaling \$2 million to fund a consulting services agreement and grants for projects and programs "consistent with the Corporation's charitable purposes and goals." The return of an unspent portion of those contributions in fiscal year 2014 of \$5 thousand was recorded in the general ledger as expenditures of the Federal, State and Local Grants Special Revenue Fund and revenues to the Corporation.

We understand that City staff recorded the transactions in this manner, because City staff views the Corporation as a separate entity. However, since the Corporation is a blended component unit of the City, the loan repayment should have been matched in the same period in both the General Fund and in the Corporation, the outstanding balance should have been reported as an interfund receivable/payable, and the return of the unspent contributions should have been recorded as interfund transfers between the funds. In the separately issued financial statements of the Corporation, the transactions can be reported as a receivable from the City and the return of funds as a contribution.

City staff should review future transactions between the City and its blended component units to ensure that they are properly reported in the City's general ledger and financial statements and that any intra-entity transactions are identified at the start of the audit so they can be properly classified in the City's financial statements.

Management's Response:

Partially disagree. Although the City acknowledges the accounting error related to the recording of the loan repayment and will ensure future transactions are recorded in the same accounting period, the City is aware of the reporting distinctions for legally separate entities that are blended component units. However, since the El Cerrito Municipal Services Corporation maintains its own banking accounts and has its expenditure authority through a separate board of directors, City staff treated transactions between the Corporation and other entities as those a vendor-customer relationship, or in this case, a lender-borrower relationship. This approach will enable the Corporation to produce a separate financial statement accurately reflecting its revenues and expenses, liabilities and receivables, as well as provide the necessary information for year-end adjustments to the general ledger so that the City can produce a Comprehensive Annual Financial Report that reflects the Corporation as a blended component unit.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

SCHEDULE OF SIGNIFICANT DEFICIENCIES

2014-05 Investment Report – Timely Reporting, Accurate Reporting and Compliance with Requirements of Government Code Section 53646 and the City’s Investment Policy

We reviewed the City’s Investment Report for compliance with the Government Code and the Investment Policy reporting requirements and noted the following:

- a. California Government Code Section 53646 (b)(1) requires that the quarterly Investment Report be submitted to the City Council within 30 days following the end of the quarter covered by the report.

The Quarterly Investment Report for the quarter ending June 30, 2014 was not submitted to City Council until September 22, 2014, and the September 2014 Report was not completed as of November 2014.

- b. California Government Code Section 53646 (b)(3) states that “the quarterly report shall include a statement denoting the ability of the local agency to meet its pool’s expenditure requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available” In addition, Section 14 of the City’s Investment Policy also requires the above element to be included on the Investment Report.

Although the City’s June 30, 2014 Investment Report contained the applicable statement above as required by California Code Section 53646 (b)(3) and the City’s Investment Policy, the balance of the pooled unrestricted investments as of that date on the Report were only \$2,703. This does not appear to be sufficient funds to meet the City’s expenditure requirements for the next six months, but the Report did not include a further explanation as required by the Code.

If the pooled unrestricted investments are insufficient to meet the City’s expenditure requirements for the next six months, the Report should provide an explanation as to why sufficient money shall, or may, not be available.

- c. Section 5.1 of the Investment Policy requires written investment policy procedures for the operation of the investment program consistent with the Policy, including reference to safekeeping, wire transfer agreements, banking service contracts and collateral/depository agreements. We understand the City does not have such written procedures.
- d. Section 15.0 of the Policy states that “The City of El Cerrito’s investment policy will continue to be reviewed and adopted by the City Council annually, even if not required by California Government Code 53646.”

Although we understand the Financial Advisory Board reviewed the Investment Policy, the City Council did not review and adopt an Investment Policy during fiscal year 2014. The last policy was adopted by City Council in February 2012. The City did not adopt the Investment Policy in fiscal year 2014.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

SCHEDULE OF SIGNIFICANT DEFICIENCIES

2014-05 Investment Report – Timely Reporting, Accurate Reporting and Compliance with Requirements of Government Code Section 53646 and the City’s Investment Policy (Continued)

The City is not in compliance with the reporting requirements of California Government Code Section 53646 and the City’s Investment Policy. The City should develop procedures to comply with the various provisions of its Investment Policy and the California Government Code, or revise the Policy to reflect the current practices, if and when they are in compliance with the California Government Code.

Management’s Response:

Agree. By April, Finance staff will be submitting the reports in the correct months and will review the government code by June 30, 2015 to determine how to ensure compliance with this section on future reports.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

SCHEDULE OF OTHER MATTERS

2014-06 Outstanding Checks Listing – Stale Dated Checks

Outstanding checks listed on the City's bank reconciliations as reconciling items should be kept current in order to accurately reflect the City's cash balance. The City's policy is to address checks outstanding for three years.

In reviewing the City's general checking account bank reconciliation dated March 31, 2014, we noted that the City's outstanding check list included 94 checks totaling \$22,462 that were at least three years old, with some dating back to August 2008.

We understand the delay in addressing the old outstanding checks is due to staffing issues and Finance staff is "focusing other more pertinent issues".

The City should develop a process to ensure that stale-dated checks are reviewed on a semi-annual or at least an annual basis to determine whether they can be reissued or reversed.

Management's Response:

Agree. Finance staff has completed a draft of an Unclaimed Property Policy that includes the procedures on outstanding checks. The procedure states that checks drawn on City of El Cerrito bank accounts that remain on the outstanding check reconciliation list after 180 days from check date shall be considered stale dated and shall not be honored by the City of El Cerrito's bank if presented for payment. Stale dated checks shall be voided and removed from the outstanding list. A journal entry shall be prepared to transfer the funds to a liability account. If unclaimed after a period of three years, the funds will be Unclaimed to the City. Once the Policy is finalized, the procedure will be implemented by December 30, 2015.

2014-07 Reviewing Service Organization Internal Control Reports

The AICPA establishes auditing standards to be followed to ensure that any service organization's systems and controls are adequately designed and are operating effectively. The Standards have two parts. Part one is designed to review controls over the service provided at a particular date and to report on whether the design of these controls appear to be adequate on that date. Part two is designed to test these controls over a six month period and to report on whether the design of the controls appears adequate and whether the auditor can reasonably conclude that the controls were operating effectively. The City has third party vendors that process transactions and perform functions on behalf of the City, known as service organizations. The procedures used by these service organizations are outside the scope of City oversight and staff review, and their internal controls are not part of the scope of an audit of the City's financial statements. Typically cities employ a variety of approaches to gain comfort that service organizations are performing their functions in a prudent manner and producing reliable data. For example, fiscal agents manage funds held pursuant to debt indentures, but cities rarely have audits performed as City staff review transactions and verify the trust data. Less frequently special audits are performed to determine adequacy of controls and to verify the data produced. There is a third option which is to request a copy of the entity's review and report on internal controls pursuant to the requirements of the AICPA standards, called a Service Organization Control Report (formerly a SAS70 audit).

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

SCHEDULE OF OTHER MATTERS

2014-07 Reviewing Service Organization Internal Control Reports (Continued)

During the audit inquired of City staff whether they review the Service Organization Control Reports for its service organizations, such as its fiscal agent Union Bank, but found that the reports were not being reviewed. Should the Service Organization Control Report reveal weaknesses in the service organization's internal controls, those could go unnoticed by the City.

The City should develop procedures to ensure that all service organizations are monitored periodically, such as by reviewing the annual Service Organization Control Reports. The City should request a copy of the most recent Service Organization Control Report from its applicable vendors. Any weaknesses or system problems disclosed by that audit should be addressed and resolved by the contractor to the satisfaction of the City. This process should take place on an annual basis for all of the City's service organizations.

Management's Response:

Agree. Finance staff will review by December 30, 2015 and determine how the City can comply with the finding.

2014-08 Health and Safety Code Expenditure Limitations and Reporting Requirements for the Housing Successor

Senate Bill No. 341 was approved on October 13, 2013 and amended and added to the Health and Safety Code (HSC) effective January 1, 2014 to change provisions relating to the functions performed by a Housing Successor.

The amendments to HSC Section 34176 are minor and primarily include defining the "entity that assumed the housing functions of a former redevelopment agency" as the Housing Successor.

HSC Section 34176.1 is new and imposes spending limitations and reporting requirements related to the housing assets of the former Redevelopment Agency held by the Housing Successor.

The City serves as Housing Successor for the housing activities of the former El Cerrito Redevelopment Agency and the activities of the Housing Successor are reported in the Low and Moderate Income Housing Asset Special Revenue Fund.

The City, as Housing Successor, should develop procedures to ensure ongoing compliance with the provisions of HSC Section 34176.1, including the expenditure limitations and annual reporting requirements.

Management's Response:

Agree. The activities of the Housing Successor are reported in the Low and Moderate Income Housing Asset Special Revenue Fund (LMIHAF). The LMIHAF is managed within the Community Development Department. The Department monitors the use of Housing Assets to ensure they are consistent with the Health and Safety Code provisions. The Community Development department will implement procedures to ensure ongoing compliance with the provisions of HSC Section 34176.1, including the expenditure limitations and annual reporting requirements by December 30, 2015.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

SCHEDULE OF OTHER MATTERS

2014-09 Information Technology Best Practices Recommendations

We conducted an Information Systems Review with our audit which encompassed the financial information system and the network environment that houses it. We expanded our work in previous years beyond simply looking at financial information systems as a result of greater risks of unauthorized access caused by overall industry growth of web-based commerce and internet based financial systems. Internal controls that are present in the overall network environment have become more important and relevant to understanding the internal controls over the financial system. We believe Information System controls must be continuously improved and enhanced to stay ahead of the ever increasing sophistication of hackers and criminals.

Currently, there are no Information Technology standards to which local governments are required to conform. Indeed there are a wide variety of informal guidelines and suggested controls from many different organizations which local governments can use to implement appropriate controls to ensure adequate security over information technology. Our Information Technology staff have reviewed these informal guidelines and concluded that the certification and accreditation framework developed by the National Institute of Standards and Technology (NIST) for the Federal Information Security Management Act (FISMA) are the most appropriate for local government. NIST and FISMA represent the minimum security requirements for federal government agencies information systems. NIST recommends these for state and local governments. Our procedures included performing an external network scan based on NIST criteria and in determining that internal control provides for:

- Internet access defenses including hacker prevention, detection and deterrent systems
- Security of data from physical or network access
- Adequately protecting data from unauthorized internal access
- Reasonable measures to ensure continuation of service
- Information systems risk management

While the results of our work did not indicate material weaknesses, we did find exploitable vulnerabilities, and we noted a few areas which could be improved to conform to NIST guidelines. A summary of these recommendations which we believe are “best practices” are as follows:

Payment Card Industry Compliance

The City is not in compliance with the Payment Card Industry Data Security Standard (PCI-DSS). Any organization that processes credit cards is required to comply with PCI-DSS, even if the processing is outsourced. Failure to meet compliance requirements results in higher transaction fees and liability if a security breach is found. Because the City accepts credit cards as a form of payment, the City must be compliant with the applicable controls.

Audit/Event Logging

The City does not appear to have audit logs on the financial application server, such that any change, addition or deletion of user accounts within the application are tracked and monitored. The City should have audit/event logs of any addition, deletion or change in financial application user accounts and that log should be monitored by someone without the rights to effect such changes. In addition, any administrative access such as upgrades or application modifications by IT personnel, outside consultants or vendors should also be logged and reviewed.¹

¹ For more information on Audit/Event log management see NIST SP 800-92 Guide to Computer Security Log Management.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

SCHEDULE OF OTHER MATTERS

2014-09 Information Technology Best Practices Recommendations (Continued)

Shared User Accounts

The City does not require users to use unique logon accounts for the ERP. For accountability there should be no user account on the financial applications that are shared with multiple users. This includes shared accounts for administrative functions such as for root and/or administrator. The City should ensure that employees do not share user accounts for any administrative or financial functions within the financial applications.

Password Management for Operating Systems

The City does not enforce regular password changes or require the use of complex passwords for users. There should be a written policy for the regular changing of operating system account passwords and the use of complex passwords for users. An automatic enforcement of this policy would be optimum. There should be enforced password complexity for the operating system to reduce the risks of easy guessing and brute force attacks against the passwords. Required use of unique alpha numeric and special character combinations along with a password length of at least 8 characters is optimum. There should be a policy that requires a limit on repeating operating system account passwords. This will stop users from circumventing password change controls. An automatic enforcement of this policy would be optimum. Users should not share passwords with other users nor use password easily guessed by other users.

Session Locks

The City does not have session locks turned on for the financial application or the workstation operating systems. A session lock is a temporary lockout of the operating system or financial application when a user stops work and typically moves away from the immediate physical vicinity of the computer. Generally, employees may leave their workstation for lunch or break and not log off or log out of the application. This leaves the operating system or financial application open and available to any passerby. Any person with physical access would be able to perform any tasks the absent user has privileges or rights to do. At the very least workstations should be set to lock out the workstation after a period of inactivity. Best practice would be to have both the operating system and financial application have lockouts after a period of inactivity.

General Information Systems Controls

We reviewed the compliance of the City's information systems with the NIST information security standards based on a moderate risk system. We noted a number of controls that were not in place, which have been communicated to the City's IT personnel. Although there is no required IT standard for local governments, NIST encourages state, local and tribal governments to consider the use of these guidelines, as appropriate. In adopting NIST standards the local government demonstrates due diligence in designing and implementing appropriate controls around its information systems. The City should consider reviewing the NIST information security standards to determine if implementation of the controls noted above is appropriate.

Management's Response:

Payment Card Industry Compliance

Agree. By the end of June 30, 2015, IT staff will gather the requirements for PCI compliance.

Audit/Event Logging

Agree, but will not implement. The City's financial system, NWS, doesn't currently have these features, except logging Users Logon and Logoff time. Staff determined this is low risk and will not implement unless NWS adds this feature to this software.

CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL

SCHEDULE OF OTHER MATTERS

2014-09 Information Technology Best Practices Recommendations (Continued)

Shared User Accounts

Agree, but will not implement. NWS doesn't currently have this feature and staff determined this was low risk. The only shared user accounts are at counter workstations and there are no administrative functions on these shared accounts. The City will not implement unless NWS adds this feature to this software.

Password Management for Operating Systems

Agree. IT staff will partially implement the automatic enforcement of password changes by December 30, 2015.

Session Locks

Agree. IT staff will gather the requirements by December 30, 2015 to determine how the City can implement.

General Information Systems Controls

Agree. IT staff will gather the requirements by December 30, 2015 to determine how the City can implement.

NEW GASB PRONOUNCEMENTS OR PRONOUNCEMENTS NOT YET EFFECTIVE

The following comment represents a new pronouncement taking affect in the next fiscal year. We cite it here to keep you informed of developments:

EFFECTIVE FISCAL 2015:

GASB 71 – Pension Transition for Contributions Made Subsequent to the Measurement Date-an amendment of GASB No. 68

The objective of this Statement is to address an issue regarding application of the transition provisions of Statement No. 68, *Accounting and Financial Reporting for Pensions* discussed in the Current Status of Prior Year Schedule of Other Matters section below. The issue relates to determining the beginning balances of deferred inflows and outflows required under the provisions of GASB Statement No. 68 and amounts associated with contributions, if any, made by a state or local government employer or non-employer contributing entity to a defined benefit pension plan after the measurement date of the government's beginning net pension liability.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

SCHEDULE OF OTHER MATTERS

GASB 71 – Pension Transition for Contributions Made Subsequent to the Measurement Date-an amendment of GASB No. 68 (Continued)

Statement 68 requires a state or local government employer (or non-employer contributing entity in a special funding situation) to recognize a net pension liability measured as of a date (the measurement date) no earlier than the end of its prior fiscal year. If a state or local government employer or non-employer contributing entity makes a contribution to a defined benefit pension plan between the measurement date of the reported net pension liability and the end of the government's reporting period, Statement 68 requires that the government recognize its contribution as a deferred outflow of resources. In addition, Statement 68 requires recognition of deferred outflows of resources and deferred inflows of resources for changes in the net pension liability of a state or local government employer or non-employer contributing entity that arise from other types of events. At transition to Statement 68, if it is not practical for an employer or non-employer contributing entity to determine the amounts of all deferred outflows of resources and deferred inflows of resources related to pensions, paragraph 137 of Statement 68 required that beginning balances for deferred outflows of resources and deferred inflows of resources not be reported.

Consequently, if it is not practical to determine the amounts of all deferred outflows of resources and deferred inflows of resources related to pensions, contributions made after the measurement date of the beginning net pension liability could not have been reported as deferred outflows of resources at transition. This could have resulted in a significant understatement of an employer or non-employer contributing entity's beginning net position and expense in the initial period of implementation.

This Statement amends paragraph 137 of Statement 68 to require that, at transition, a government recognize a beginning deferred outflow of resources for its pension contributions, if any, made subsequent to the measurement date of the beginning net pension liability. Statement 68, as amended, continues to require that beginning balances for other deferred outflows of resources and deferred inflows of resources related to pensions be reported at transition only if it is practical to determine all such amounts.

The provisions of this Statement are required to be applied simultaneously with the provisions of Statement 68.

How the Changes in This Statement Will Improve Financial Reporting

The requirements of this Statement will eliminate the source of a potential significant understatement of restated beginning net position and expense in the first year of implementation of Statement 68 in the accrual-basis financial statements of employers and non-employer contributing entities. This benefit will be achieved without the imposition of significant additional costs.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF SIGNIFICANT DEFICIENCIES**

2013-01 Journal Entry Review and Approval Process

Journal entries should be reviewed and approved by a second employee to ensure they are accurate, accompanied by supporting documentation and are posted correctly to the general ledger.

The City's process for journal entries is that the Finance Manager prepares and posts journal entries to the general ledger and files them in a binder, which he keeps in his office. The Finance Director/City Treasurer later reviews the binder to approve and sign off on the journal entries.

We selected forty journal entries for testing of compliance with the City's policies and supporting documentation, and noted that thirty-nine of the journal entries tested were prepared by the Finance Manager, but none of them had been reviewed and approved by the former Administrative Services Director or the current Finance Director/City Treasurer. We also tested two budget adjustment journal entries and noted that they were not reviewed or approved.

We understand that the former Administrative Services Director would review all of the journal entries at one time, but did not do so prior to her departure in March 2013, and the duty was not assumed by the new Finance Director/City Treasurer.

Without proper approval of journal entries, the likelihood of an error or improper accounting treatment is increased. The Finance Director/City Treasurer should ensure all journal entries are properly reviewed, approved, and signed off.

Update for 2014 Audit: We selected forty general ledger journal entries for testing of compliance with the City's policies and supporting documentation, and noted that all of the entries included a review signature but no date of when the review was completed. We also tested two budget adjustment journal entries and noted that one of the entries was not reviewed or approved. We selected four additional general ledger journal entries for testing and noted they did not include an indication that they had been reviewed. We then checked the folder containing general ledger journal entries that were posted during the fiscal year and noted that none of the entries in the folder included an indication that they had been reviewed.

As noted in above, without review and approval of journal entries, the likelihood of an error or improper accounting treatment is increased. The Finance Director/City Treasurer *must* ensure all journal entries are properly reviewed, approved, and signed off. In the event the Finance Director/City Treasurer cannot complete the review, the duty should be assigned to another appropriate employee.

Current Status:

Management agrees with this finding, but has been unable to completely implement this finding. Recent staff changes in the Finance Department have allowed the department to review and reorganize many of the business practices including the approval levels in the financial system. Staff is working with IT Manager to have the financial system require two approvals before a Journal entry can be posted. This will ensure a second review is done timely as a journal entry can't be posted until the second approval is complete. The goal is to have this fully implemented by the end of next fiscal year.

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SCHEDULE OF SIGNIFICANT DEFICIENCIES**

2013-02 Timely Review of the Bank and Investment Reconciliations

Bank and investment reconciliations should be prepared, reviewed, and approved within 30-45 days after month end.

We reviewed the bank reconciliations for January, February, March, and April 2013, and the investment reconciliation for March 2013 and noted that although they were prepared timely, they were not reviewed and approved by the Finance Director/City Treasurer as of July 2, 2013. And, as of October 2013, the June 2013 bank and investment reconciliations did not contain any evidence that they had been reviewed and approved.

Without a review, instances of errors by the preparer during the bank reconciliation process could go undetected.

While we understand reviews had fallen behind after December 2012 and the Finance Director/City Treasurer started with the City in March 2013, bank and investment reconciliations should be reviewed and approved within the 30-45 days after month end, and evidence of the review should be documented in a formal manner.

Update for 2014 Audit: We reviewed the bank reconciliations for October 2013, November 2013, January 2014, March 2014 and June 2014 and noted that although they were prepared timely, the November 2013 and March 2014 bank reconciliations were reviewed but the date of the review was not documented. The October 2013, January 2014 and June 2014 bank reconciliations did not appear to have been reviewed. We reviewed the September 2013, March 2014 and June 2014 investment reconciliations and noted they were prepared timely, but the review of the March 2014 reconciliation was not dated and the September 2013 and June 2014 reconciliations did not appear to have been reviewed.

We did note that only the reconciliations that had been selected for testing in our Interim Checklist request had been reviewed and the additional reconciliations selected for testing did not contain an indication that they had been reviewed.

As noted above, bank and investment reconciliations should be reviewed and approved within the 30-45 days after month end, and evidence of the review *must* be documented in a formal manner.

Current Status:

Management agrees with this finding, but has been unable to completely implement this finding. Recent staff changes in the Finance Department have allowed the department to review and reorganize many of the business practices such as bank reconciliations. Staff anticipates this will be implemented by the end of next fiscal year.

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2013-03 General Fund Budgets, Cash and Available Fund Balances

As discussed in prior year comment 2012-04, the City's General Fund budget and liquidity remain a top priority. When we began the year end audit, the General Fund had a deficit cash balance of \$540 thousand. After the City recorded post-closing adjusting journal entries to record the August 2013 loan of \$575 thousand from the Municipal Services Corporation as a fiscal year 2013 transaction and an adjustment to fiscal agent cash of \$327 thousand, as of June 30, 2013, General Fund unrestricted cash balances amounted to only \$362 thousand, and General Fund unassigned fund balances amounted to \$1.2 million. Unassigned fund balance represents available fund balance and equates to approximately 16 days of General Fund expenditures. This is a very low level of available resources. Unassigned fund balance declined \$1.1 million from the prior fiscal year, and the cash balance remained depleted due to short-term cash borrowings from other City funds. Other significant facts we wish to bring to your attention include:

- A. As of June 30, 2013, the balance of the Capital Improvement Fund borrowing from the General Fund was \$525 thousand and, as discussed in prior year comment 2011-02, the grant billings continue to lag and therefore, the General Fund may not be able to collect the amount due from the Capital Improvement Fund in a timely manner.
- B. While revenues and expenditures in the General Fund both increased by over \$620 thousand, there was a second year of the operating deficit of \$1.8 million and when combined with other activity in the fund, fund balance decreased by \$945 thousand at year end.
- C. The City also has long-term liabilities for unpaid compensated absences approximating \$1.5 million. Further, the amounts do not consider future cost increases for retirement costs which have unfunded liabilities.

During this year's audit, we again reviewed the City's financial condition and satisfied ourselves that the City had sufficient resources available that it could continue as a going concern through June 30, 2014. However, if deficit spending continues at the same level as the last two fiscal years, it reduces the likelihood that the City will be able to continue as a going concern, meaning the City is able to pay its bills on time. Although the City continues to issue Tax Revenue Anticipation Notes to supplement cash temporarily during the fiscal year, if deficit spending were to continue, it also reduces the likelihood that the City will be able to continue as a going concern. With our next audit we will again be required to review the City's financial condition and determine the likelihood of the City's status as a going concern.

Although the City's adopted budget for 2014 projects ending fund balance and net assets of all funds as a positive \$5.2 million, it includes a projected increase in the General Fund of only \$25 thousand and projected use of resources of \$2.4 million City-wide during 2014. The City should continue to monitor actual revenues and expenditures to ensure they are in line with expected results. Close management and comparison of actual activity against the budget will be needed to ensure further costs reductions are made as necessary. The City should address the timely grant billing in the Capital Improvement Fund and any other funds with reimbursement-based funding so there is a clearer picture of the General Fund's long-term available resources. Lastly, staff should determine a minimum cash balance needed for the "dry spell" and to finance cash flows for the overall City. The City must ensure this minimum cash balance requirement is not depleted.

Current Status:

See Comment 2014-01

**CITY OF EL CERRITO
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2013-04 Internal Controls – Segregation of Duties

During our review of the City's internal controls for proper segregation of duties and procedures, we noted areas in which controls need to be improved and employee's access and/or duties revised. Good internal controls require that employees with access to the City's assets not have access to the City's accounting records for the same assets. Most of these issues were provided in the fiscal year 2012 Memorandum on Internal Control as prior year comments #2010-02 and #2009-06 and have not been implemented.

a. Super-User Status in the General Ledger System

Accounting staff should not normally be allowed to have Super-User rights in the City's general ledger system. We noted that three City employees, the Finance Director, the Finance Manager and the Information Services Coordinator have super-user rights to the New World General Ledger System.

When accounting staff have super-user rights, there is a potential risk of restricting or allowing access to other user's abilities to access the different modules in the accounting system. In addition, unauthorized transactions could be processed without proper review and approval.

While we understand the City has a limited number of staff available to provide system administration functions, and review and approval procedures in critical accounting areas partially mitigate the conflict, the lack of review in approval in other critical areas pose a significant control risk and the City should consider restricting super user rights to as few employees as possible.

b. Payroll Review, Accounts Payable Review and Super-User Status

The payroll edit report (payroll register) and the accounts payable check register should be reviewed by a second person to verify all checks are accurate and only authorized amounts are paid. This review should be performed by an employee that does not have access to the payroll module or the accounts payable module. The Finance Manager reviews the payroll edit report and the accounts payable check register; however he has access to the payroll system, accounts payable system, and has access to the check stock and the signature plate. In addition, he is a system "super user" as noted above. An independent review of changes to the payroll database (new employees, pay rate changes, etc.) or vendor database (new/ revised vendors, etc.) should be performed by an employee not involved with the processing and review above.

c. Access to Payroll System and Human Resources Module

We understand that due to a system limitation, the payroll function and the Human Resources function are combined into one module. Therefore, the payroll clerk has access to the payroll database and could make changes such as adding an employee or changing pay rates. Again, the City should determine whether a report of changes to the payroll database can be generated with each check run and reviewed and approved by an employee independent of the function.

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**STATUS OF PRIOR YEAR
SCHEDULE OF SIGNIFICANT DEFICIENCIES**

2013-04 Internal Controls – Segregation of Duties (Continued)

d. Preparing and Processing W-2's

The Payroll Clerk prepares the annual W-2 forms and is responsible for following up on unclaimed W-2's. Since she also has access to the payroll system, these two functions should be segregated. The preparation of the annual W-2 forms should be closely monitored and reviewed, and any unclaimed W-2's should be followed up by a person not involved with the payroll function, such as the Human Resources department.

e. Accounts Receivable Adjustments and NSF Checks

The Business License Clerk has access to the accounts receivable "database" and is responsible for processing NSF checks. And, the Finance Manager can adjust accounts receivable balances and also has access to NSF checks. Employees with access to the NSF checks should not be involved with the cash collection or receivable procedures.

In addition, we understand that the "Customer Database" used to track customer billings is only an excel spreadsheet, not an actual system; therefore any adjustments to the receivables cannot be tracked. The City should consider the use of a database system to tighten controls over cash collection and billing procedures. If that is not possible, the responsibility for maintaining the "database" should be transferred to an employee that is not involved with the cash collections, and access to that database should be restricted.

f. Accounts Receivable Billings and Collections

The Business License Clerk is involved with the collection function, can adjust the accounts receivable "database," and sometimes prepares the billings for various departments. Personnel involved with the billing function should not also be involved with the collection function, especially when they have access to adjusting the balances.

g. Accounts Payable Processing and Vendor Database

The Accounts Payable Clerk and the Payroll Clerk have access to vendor database and could make changes such as adding a vendor or changing vendor contact information. The Payroll Clerk performs accounts payable processing functions when the Accounts Payable Clerk is not available.

The City should either remove their access to the vendor database or determine whether a report of changes to the vendor database can be generated with each check run and reviewed and approved by an employee independent of the function.

Management of the City must develop procedures to review the City's internal controls, starting with the duties of each employee to see if they conflict with the employees' access to the City's various assets. Where conflicts exist, if mitigating controls cannot be put in place to reduce the internal control risk, then either the ability to process the transaction or the access to the asset should be transferred to another appropriate employee.

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2013-04 Internal Controls – Segregation of Duties (Continued)

Update for 2014 Audit: In response to the above comments, City staff indicated that the super user status would be revised, other system access rights would be reviewed to ensure they were appropriate, and certain responsibilities would be reallocated to address the internal control weaknesses noted. We did not see any change during our interim work and the City should review procedures and processes to determine what mitigating controls could be implemented.

In addition, we reviewed six Payment Batch Registers for non-utility vendors and four Payment Batch Registers for utility vendors and noted that two of the four utility vendor Registers did not contain evidence that they had been reviewed by a second person. City staff must implement procedures to ensure that review and approval of all Payment Batch Registers is completed.

Current Status:

- a. The City will remove the Finance Director's super-user rights which will bring the number of super users to two. The IT Manager assumes almost all of the system maintenance and access duties and the Finance Manager acts as his back up.
- b. Due to limited number of staff, the Finance Manager is the most appropriate person to review payroll and accounts payable and ensure that it is done in a consistent and timely manner.
- c. Since the payroll technician needs access to Workforce Administration in the HR module in order to process employees' direct deposits and garnishments, she also has access to change employee rates. The City will review access rights within the Finance Department and determine if it is possible for staff to be denied access to certain fields in Workforce Administration, such as employee rates, without losing access to areas needed to process payroll.
- d. The City will reassign the responsibility of following up on unclaimed W-2's from the Payroll Technician in the Finance Department to the Personnel Technician in the Human Resources Department. Currently, the finance system does not have a report that tracks changes to the payroll database.
- e. The Finance Department plans on implementing the Accounts Receivable module in FY15 which will allow the department to better track the City's receivables and changes to the database.
- f. See response to item e. above.
- g. In order to process accounts payable efficiently, the Accounts Payable (A/P) Technician and her back-up, the Payroll Technician, both need access to creating vendors. Due to the limited number of staff, it is not practical to segregate the duty of creating vendors from the A/P function. A report of changes to the vendor database is not available.

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2013-05 Payroll Review When Accounting Supervisor Processes Payroll

As discussed in 2013-04 above, the payroll edit report (payroll register) should be reviewed by a second person to verify all checks are accurate and only authorized amounts are paid. This review should be performed by an employee that does not have access to the payroll module. And, when the Finance Manager processes payroll as a backup for the Payroll Clerk, it is imperative that someone else perform his normal review of the payroll register.

During testing of payroll registers, we noted that for the pay period from August 19, 2012 through September 1, 2012, the register dated September 4, 2012 was processed by the Finance Manager who is also in charge of the reviewing process. After the register was processed, a second person did not review it for accuracy and whether amounts were being paid to only valid employees.

Without review and approval by a second appropriate employee, there is a possibility that payroll registers could contain errors in the check amounts or checks written to individuals who were not actual employees of the City for that time period.

We understand the Payroll Clerk responsible for payroll was on vacation during this time, therefore the Finance Manager processed the payroll and therefore could not also review the payroll register. An independent review of the payroll register should still be performed by an employee who did not process the same register.

Current Status:

In the future, when the Finance Manager processes payroll in the absence of the Payroll Technician, he will have the Finance Director, Human Resources Manager or another staff member from Finance or Human Resources review his work.

2013-06 Recycling and Environmental Resource Center Cash Collection Procedures

All of the City's departments that collect payments from customers should have procedures in place to ensure proper segregation of duties are maintained throughout the billing and collection process.

At the City's Recycling and Environmental Resource Center (RERC), there should be proper segregation of duties among the employees which delineates the authority to access and update the billing spreadsheet, open checks and post them to the billing spreadsheet, enter information into the general ledger, review accounts for collectability, reconcile cash and billings, and deliver cash collections to the Finance Department.

We reviewed the cash collection procedures at the RERC and noted that similar duties are shared by many of the employees, and that there is no segregation for many of the duties. The issues we noted were as follows:

- All four of the administrative employees have access to the Excel spreadsheet used to track the Center's billings for rental fees and materials sales. Anyone can make changes to the spreadsheet, including the ability to: input a billing, delete a billing, or edit a billing.

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**2013-06 Recycling and Environmental Resource Center Cash Collection Procedures
(Continued)**

- All four of the administrative employees can collect cash and checks from customers at the center, can post the receipt in the general ledger system, and can void a transaction. No approval by a second employee is required prior to processing a voided receipt.
- Two of these employees can collect cash, enter the collections into the general ledger system, reconcile cash and billings, and deliver the collections to the Finance Department for deposit.

The RERC began operations in its new facility within the last year it appears that they have not yet reviewed cash collection procedures to ensure that they include proper segregation of duties among the employees.

City staff should review the cash collection procedures at the RERC to ensure that employees with the access to prepare or adjust customer billings do not also collect customer payments, adjustments to a customer billing are approved by a second employee, and voided receipts require the approval of a second employee. In addition, the ability to collect customer payments should be limited to one employee at a time, and the daily collections should be reconciled by that employee and the reconciliation reviewed and approved by a second employee not involved with the collection.

Current Status:

An Excel spreadsheet "Materials Database" is used to track loads of recyclable materials the City sells to buyers, and is an internal tracking of loads as based on paper weight tag/Bill of Lading records that are retained by the City's Operations + Environmental Services Division. These paper records are generated when the City ships a load of recyclables for sale, and are then submitted to the Division's recycling Management Assistant who inputs them into the Materials Database for tracking purposes. The City retains paper records for all loads that are shipped by the Division.

After shipment, the City receives check payments from buyers; some payments are per load based on market rates, and others are for multiple loads based on contracted rates. Because these payments are variable by market or include payment for multiple shipments, and are subject to adjustments on payment for individual loads, it is not feasible to use the City's New World Systems Accounts Receivable functionality to track these payments. Instead, the City uses the Materials Database to match payments to loads shipped and confirm that the City has received payment for all loads shipped. The Management Assistant matches check payments to loads shipped and inputs payments into New World Systems for inclusion in a batch reconciliation. This is reviewed and approved by the Division Manager. Because inputting load shipment records into the Database and matching check payments with load shipments in the Database requires intimate knowledge of the City's recycling operations, and because there is only one full time administrative staff person assigned to the Division, it is not feasible to segregate these two duties between two employees at this time (though the Division does employ part-time Administrative Clerks, it is not feasible for them to input shipping data or check data, as the Database requires consistency in order to be effective).

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**2013-06 Recycling and Environmental Resource Center Cash Collection Procedures
(Continued)**

However, because the paper records received by the City as documentation of loads shipped are also retained by buyers, the City can receive reports of load shipments and payments from buyers on a regular basis; these statements may serve as a double-check against the information entered into the Database by the Management Assistant. The City proposes to request that all buyers make regular quarterly reports documenting all loads shipped and all payments made. These reports would go to the Division Manager, who could then perform a check against the Materials Database to ensure that all loads and payments have been included in the database.

It should be made clear that entries into the Materials Database do not constitute a "billing". Instead, it is merely a tracking system for materials sold, the main intent of which is to account for the total amount of materials sold, and to ensure that the City receives payment for all materials sold. Entering, deleting, or modifying lines in the Database does not add, delete, or alter billings in any way. Instead, the act of "billing" for materials sold is inherent in the delivery of the goods shipped, and payment is made based on the City's Agreement with the buyer.

The City is changing the functionality of New World System such that approval by a second employee is required prior to processing a voided receipt. Customer service operations at the Recycling + Environmental Resource Center often require the main customer service staff (full-time Management Assistant or part-time Administrative Clerks) to leave the front counter to assist customers. When this occurs, other staff are required to fill in and process transactions. As such, many RERC staff are trained to collect cash and checks and input them into the general ledger system.

Cash and billing reconciliation currently requires approval by a second employee (Operations + Environmental Services Division Manager) prior to completing the reconciliation process. The Manager then delivers collection to the Finance Department. As per the above, given limited staffing and high customer flow at the RERC, it is not feasible to limit collection of customer payments to one employee at a time. However, the Division's policy at the front counter is to utilize a hand written, serially number, duplicate receipt for all cash/check transactions (which does not include sales of recyclable materials shipped), provide a copy of that receipt to the customer, and file the remaining copy (with receipt from New World Services) with the cash/check. During the reconciliation and batching process, all receipts are reviewed by the Division Manager to ensure that there are no gaps in the serial numbers provided or investigate why any gaps exist. This investigation may include use of the RERC's CCTV system which overlooks the cashier area. The Division Manager will re-train all staff to ensure that the serial receipts are used in all transactions, and that customers must always be provided the receipts.

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2013-07 Building Permits Calculations

Building permit fees should be calculated using the City's Master Fee Schedule. Due to the results of our building permits testing in prior years (see Memorandum on Internal Control items 2012-01, 2011-01, 2009-02 and 2008-03), we again selected twenty-five building permit receipts to recalculate the rates charged in accordance with the Council-approved Master Fee Schedule adopted with Resolution # 2012-33. Although the errors were not to the magnitude of prior year errors, we again noted calculation errors as follows:

- a. Three permits included a fee for the fire department's review of plans in the amounts of \$380, \$377, and \$377. However, the fire department's plan review fee is not included on the Master Fee Schedule and is based on a memorandum from the Fire Department to the Building Official that indicates the review fee should be 50% of the building plan fee.
- b. One permit for the installation of new windows in a residential remodeling project in the amount of \$339 for the installation and \$935.50 for the building plan check fee appeared to have been miscalculated and should have charged \$289 for the installation and \$936 for the plan check fee, a difference of \$49.50.
- c. Three permits did not include the mandated Strong Motion Instrumentation fee in the amounts of \$1.34, \$0.88 and \$0.68.

All building permit fees, including the fire department plan review, should be included in the Master Fee Schedule to ensure there is no confusion and that fees are charged to customers in a consistent manner, and all fees should be accurately calculated and charged to the customers.

Again, although these errors are not material errors like we have seen in the past, this volume of errors in our testing (7 of 25) indicates that there continues to be an issue with the permit fee calculation process and it appears to continue to be a significant deficiency. As we'd recommended in the prior years, the City must implement procedures to ensure that permit fees are calculated accurately and that all permits are reviewed and approved by a second person and the fees in the system agree to the Master Fee Schedule.

Current Status:

- a. Implemented with the 2015 Master Fee Schedule. The Fire Department plan review fees are listed in the Fire section of the Master Fee Schedule, which the Building Department collects after the Fire Department completes its review. (The Fire Plan Review is not 50% of the building plan fee.) The Building section of the Master Fee Schedule was revised to refer the reader to the Fire section of the schedule for easier calculation.

For building permits, the department calculates plan check and inspection fees separately, but collects 50% of the combined amount when an application is received, which is applied first to plan check fees and the remainder to inspection fees. It appears that the amount showing as a plan check fee is the amount collected for the two combined.

- b. The Department will implement procedures to ensure that permit fees are calculated accurately, permits are reviewed and approved by a second person, and the fees in the system reflect those approved in the Master Fee Schedule.
- c. Not yet implemented.

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2012-01 Building Permit Fee Calculations and Documentation

Building permit fees should be calculated using the City's Master Fee Schedule. Due to the results of our building permits testing in prior years (See Memorandum on Internal Control items #2011-01, 2009-02 and 2008-03), we again selected 15 building permit receipts to recalculate the rates charged in accordance with the Council-approved rate schedule. Although the errors were not up to the magnitude of prior year errors, we found the following:

- a. Two permits paid in July and October 2011 were each undercharged the Travel and Documentation fee by \$5 because the change to the Travel and Documentation fee in the 2012 Master Fee Schedule was not updated in the system until late October 2011.

The City should implement procedures to review the annual system update of the Master Fee Schedule in detail to ensure all associated fees are updated correctly and all fees reflect those in the current Schedule.

- b. Two permits overcharged customers a total of \$4 for the California Building Standards Commission (CBSC) Fee. Senate Bill 1473 requires that Cities collect a fee from applicants for building permits. The fee is based on the schedule below obtained from Building Standards Bulletin 08-01:

<u>Permit Valuation:</u>	<u>Fee:</u>
\$1-25,000	\$1
\$25,001-50,000	\$2
\$50,001-75,000	\$3
\$75,001-100,000	\$4

Every \$25,000 or fraction thereof above \$100,000, add \$1.

We had noted this same error in the prior year testing (see prior year comment 2011-01) and it appears that the system has not been corrected.

Fee schedules in the system should be reviewed in detail at least annually, and of course each time there is a fee change, to ensure they are accurate and they should be tested to ensure that permits issued are being calculated correctly.

- c. One permit for the fire department review fee of \$441 was charged based upon a memo from the Fire Department to the Building Official that indicates the review fee should be 50% of the building plan fees of \$882. The fee does not appear to be included on the Master Fee Schedule.

All building permit fees should be included on the Master Fee Schedule to ensure that there is no confusion and that fees are charged to customers in a consistent manner.

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**STATUS OF PRIOR YEAR
SCHEDULE OF SIGNIFICANT DEFICIENCIES**

2012-01 Building Permit Fee Calculations and Documentation (Continued)

Again, although these errors are not material errors like we have seen in the past, this volume of errors in our testing (4 of 15) indicates that there continues to be an issue with the permit fee calculation process and it appears to continue to be a significant deficiency. As we'd recommended in the prior years, the City must implement procedures to ensure that permit fees are calculated accurately and that all permits are reviewed and approved by a second person and the fees in the system agree to the Master Fee Schedule.

Current Status:

The City has made progress in addressing issues with the permit fee calculation process. The City will ensure that current fees are reflected accurately in the system at the annual update and that they are the fees being charged to customers. Recent changes in leadership in the division provide an opportunity for better oversight and consistency.

See also Current Status of comment 2013-07.

2012-02 Recording Interfund Activity Between the City's Component Units

The City's reporting entity includes three legally separate entities that are accounted for in the City's governmental funds: the former El Cerrito Redevelopment Agency, the El Cerrito Public Financing Authority, and the El Cerrito Municipal Services Corporation. Although they are separate legal entities, the City is financially accountable for their activities and City Council serves as the Board or the majority of the Board for each entity and they are reported as blended component units of the City. Blended component units are in substance part of the City's operations and are reported as an integral part of the City's financial statements. Transactions between these entities that are not those of a vendor-customer relationship should be reported as interfund transactions (transfers in and transfers out) in the City's financial statements.

During fiscal year 2012, the Municipal Services Corporation approved contributions to the City's General Fund and Federal, State and Local Grants Special Revenue Fund totaling \$2 million to fund a consulting services agreement and grants for projects and programs "consistent with the Corporation's charitable purposes and goals." These contributions were recorded in the general ledger as expenditures of the Corporation and revenues to the General Fund and the Federal, State and Local Grants Special Revenue Fund.

We understand that City staff recorded the transactions in this manner, because City staff views the Corporation as a separate entity. However, since the Corporation is a blended component unit of the City, these contributions should have been recorded as interfund transfers between the funds. In the separately issued financial statements of the Corporation, the transactions can be reported as contributions or expenditures.

City staff should review future transactions between the City and its blended component units to ensure that they are properly reported in the City's general ledger and financial statements.

Current Status:

See 2014-04.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF SIGNIFICANT DEFICIENCIES**

2011-01 Building Permit Fee Calculations and Documentation

Building permit fees should be calculated using the City's Master Fee Schedule. Due to the results of our building permits testing in prior years (See Memorandum on Internal Control items #2009-02 and 2008-03), we again selected 19 building permit receipts to recalculate the rates charged in accordance with the Council-approved rate schedule and found the following:

- a. One permit was miscalculated due to mathematical errors and the fee being based on the initial project square footage, rather than the larger final square footage. In addition, we noted that the permit had been calculated manually. The errors resulted in the developer being undercharged by \$19,370.

If permits cannot be calculated directly in the billing system, manual calculations should be performed using a spreadsheet with formulas, rather than pencil and paper, to minimize the chance of errors. And, although the City did subsequently bill the developer for the additional fees after we brought the error to the attention of City staff, the fee should have been reviewed and approved in detail to minimize the chance of such a miscalculation.

- b. One permit was miscalculated due to the fee being based on square footage that was not the final project square footage, which resulted in the customer being undercharged by \$625. If permits are to be based on the actual square footage, a process should be put in place to ensure that the final square footage is used and the basis for the fee is reviewed and approved.
- c. Seven permits, including the two above and one of the permits below, overcharged customers a total of \$28 for the California Building Standards Commission (CBSC) Fee. Senate Bill 1473 requires that Cities collect a fee from applicants for building permits. The fee is based on the schedule below obtained from Building Standards Bulletin 08-01:

<u>Permit Valuation:</u>	<u>Fee:</u>
\$1-25,000	\$1
\$25,001-50,000	\$2
\$50,001-75,000	\$3
\$75,001-100,000	\$4

Every \$25,000 or fraction thereof above \$100,000, add \$1.

The seven permits tested were for jobs with valuations over \$100,000, and the CBSC fee is automatically calculated by the permit system based on the entered job valuation. It appears that the formula for calculating the fee for jobs over \$100,000 was input incorrectly, because we recalculated the fees and noted that each permit was overcharged by \$4.

Fee schedules in the system should be reviewed in detail at least annually, and of course each time there is a fee change, to ensure they are accurate and they should be tested to ensure that permits issued are being calculated correctly.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF SIGNIFICANT DEFICIENCIES**

2011-01 Building Permit Fee Calculations and Documentation (Continued)

- d. Supporting documentation for two permits selected for testing could not be located by City staff and therefore we were unable to determine that the correct fees had been calculated and charged. The two permit fees totaled \$14,071. According to City staff, the permits had been finalized and the supporting documentation had not been retained, however we noted that they had expiration dates of 10/25/11 and 10/30/11.

Supporting documentation for fees paid during the fiscal year should be subject to the City's "normal" records retention policy and we would expect that policy would require the retention for at least a year after payment.

This volume of errors in our testing indicates that there continues to be an issue with the permit fee calculation process. As we'd recommended in the prior years, the City must implement procedures to ensure that permit fees are calculated accurately and that all permits are reviewed and approved by a second person. In the absence of a change to the Master Fee Schedule, the City should determine whether the fee adjustments, or at least the documentation of the calculation and approval, could be incorporated into the permit system, which would reduce the need for manual calculations and manual approval worksheets. In addition, the City should continue to ensure that any manual overrides of fees in the permit system are well documented and that they are reviewed in detail and approved by the Building Official or the Community Development Director.

Current Status:

The City recognizes that there are issues with the permit fee calculation process. Currently, the City is in the process of upgrading the permitting software, and through this exercise the entire permitting process is being examined to determine the appropriate procedures necessary to prevent errors in the future. Actions have already been taken to prevent calculation errors in the future by not allowing for the adjustment or modification of fees. Additionally, action has been taken on the leadership in the division in order to ensure that the recommendations in this memorandum are addressed and corrected.

See also Current Status of Comment 2012-01 and 2013-07.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF OTHER MATTERS**

2013-08 Purchasing Policy Compliance – Purchase Orders and Contracts

Section C2 of the City's July 2011 Purchasing Policy requires that purchases of goods and services valued at \$15,000 or more must be made with a purchase order, and the Purchasing by Formal Competitive Bid section of the Policy requires that purchases of supplies or equipment in excess of \$25,000 that are not subject to exemptions elsewhere in the Policy are subject to formal bidding.

We selected a sample of forty disbursements to test the effectiveness of disbursement processing, procedures, and compliance with the Policy and noted the following:

- One disbursement for goods and services in the amount of \$16,512 for landscaping services did not have a purchase order. The City spent a total of \$126,000 with the vendor during fiscal year 2013.
- One disbursement in the amount of amount of \$52,500 for maintenance of the City's radios did not have a purchase order and was not subject to competitive bidding.
- One disbursement in the amount of \$29,135 for the purchase of fuel for City vehicles was not subject to competitive bidding and the City did not have a contract with the vendor. The City spent a total of \$238,457 with the vendor during fiscal year 2013.

Although the above disbursements were approved by City staff, none of the transactions appear to meet the exceptions to the purchase order, contract or competitive bidding requirements of the City's Purchasing Policy. The City should either revise its procedures to comply with the requirements of the Purchasing Policy, or revise the Purchasing Policy to reflect current practices.

Current Status:

The Finance Department is reviewing the current purchasing policies and practices. We have convened a multi-department purchasing committee that will be reviewing items such as the City's purchase order requirements, procurement practices and pricing for most frequently used vendors as well as implementing blanket purchase orders for recurring expenses such as utilities.

2013-09 Terminated Employees in Active Payroll System

Terminated employees should be removed from the payroll system immediately upon receiving their last paycheck.

During our testing of twelve terminated employees to ensure they were removed from the payroll system in a timely manner, we noted that one recreation employee was not terminated from the system until two months after the date of their last paycheck.

We understand the recreation employee was a part-time employee that the department thought may return for other projects.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF OTHER MATTERS**

2013-09 Terminated Employees in Active Payroll System (Continued)

Although the employee did not receive any payments subsequent to their last paycheck, terminated employees should not remain in the active payroll records. As we recommended in prior year Memorandum on Internal Controls comments 2012-07 and 2011-04, the City should develop procedures to ensure that subsequent to receiving their last paycheck, terminated employees are immediately removed from the active payroll system. In the event the employee is expected to return, the City should determine whether a procedure could be developed to deactivate the employee in the system and then re-activate the employee only upon appropriate approval (i.e. the payroll clerk should not be able to re-activate employees).

Current Status:
Implemented.

2013-10 Investment Policy Compliance and Reporting

We reviewed the City's Investment Policy for compliance with the California Government Code requirements and we reviewed the City's Investment Report for compliance with the Government Code and the Investment Policy reporting requirements and noted the following:

- a. California Government Code Section 53646 (b)(1) requires that the quarterly Investment Report be submitted to the City Council within 30 days following the end of the quarter covered by the report. The Quarterly Investment Reports for the quarters ending December 31, 2012 and March 31, 2013 were not submitted to the City Council as of July 2, 2013, and the June 30, 2013 Report was not submitted to the City Council until September 17, 2013. The City should submit the quarterly reports within the 30 day requirement.
- b. California Code Section 53646 (b)(3) states that "the quarterly report shall include a statement denoting the ability of the local agency to meet its pool's expenditure requirements for the next six months, or provide an explanation as to why sufficient money shall, or may, not be available" In addition, Section 14 of the City's Investment Policy also requires the above element to be included on the Investment Report.

Per review of the City's December 31, 2012 Investment Report it did not contain the applicable provision above as required by California Code Section 53646 (b)(3) and the City's Investment Policy. Although the statement was added back to the March 2013 Investment Report, the City should ensure continual compliance with the reporting requirements of its Investment Policy and the Government Code.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF OTHER MATTERS**

2013-10 Investment Policy Compliance and Reporting (Continued)

- c. Internal Controls are to be Audited Annually - Section 13.0 (Internal Controls) of the City's Investment Policy adopted on February 23, 2012 requires "the City Treasurer will maintain a system of internal controls to ensure compliance with investment procedures of the City of El Cerrito and the California Government Code and these controls will be audited annually by the City's external audit firm." We have not been notified or engaged to audit the City's system of internal controls as required by Section 13.0 of their Investment Policy. The City should either notify us or another firm to perform a review of the internal controls to ensure compliance with investment procedures or the City should remove this section from the policy.
- d. Section 5 of the City's Investment Policy delegates the investment function to the City Treasurer under California Government Code Section 53607; however this section of the Code requires *monthly* reporting of investment transactions to the legislative body as follows:

The authority of the legislative body to invest or to reinvest funds of a local agency, or to sell or exchange securities so purchased, may be delegated for a one-year period by the legislative body to the treasurer of the local agency, who shall thereafter assume full responsibility for those transactions until the delegation of authority is revoked or expires, and shall make a monthly report of those transactions to the legislative body. Subject to review, the legislative body may renew the delegation of authority pursuant to this section each year."

The City currently reports investment balances to City Council on a quarterly basis, but not transactions. The City should report the transactions to the City Council on a monthly basis in compliance with the requirements Government Code Section 53607. This reporting does not have to be in the form of an Investment Report, it need only include the investment transactions or a notation that there were no such transactions for the month.

The City should develop procedures to comply with the various provisions of its Investment Policy and the California Government Code, or revise the Policy to reflect the current practices, if and when they are in compliance with the California Government Code.

Current Status:

Items A & B have been corrected and should not appear as a future finding.

Item C will be referred to the City's Financial Advisory Board to determine a set of appropriate internal controls that will ensure compliance.

Item D The only investment transactions that are occurring are related to the scheduled debt service payments. These transactions will be included as part of the regular investment reports including the corresponding dates of transactions.

See also current year comment 2014-05.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF OTHER MATTERS**

2013-11 Recycling and Environmental Resource Center – Develop Uncollectible Accounts Policy

During our review of the cash collection procedures at the Recycling and Environmental Resource Center, we noted that the Center does not have a formal policy for addressing uncollectible accounts. We understand the Environmental Analyst looks at the Excel spreadsheet that is used to track the materials sales and rental fees billings and collections to determine what bills are overdue and then calls the customer to remind them of their overdue bill. However, determining which bills are overdue is subjective and not standard each time the billing spreadsheet is reviewed.

The City should establish a formal uncollectible accounts policy for the Recycling and Environmental Resource Center, or subject the Center to the City's other uncollectible accounts policies.

Current Status:

The vast majority of materials sold by the City are subject to the terms of recycling purchase agreements, wherein terms of non-payment are specified. The RERC will be subject to the City's uncollectible account policies, and will implement those policies for any past due amounts identified during quarterly review of the Materials Database against records provided directly by the materials buyers.

NEW GASB PRONOUNCEMENTS OR PRONOUNCEMENTS NOT YET EFFECTIVE

The following comment represents new pronouncements taking affect in the next few years. We cite them here to keep you abreast of developments:

EFFECTIVE FISCAL 2014:

GASB 70 - *Accounting and Financial Reporting for Nonexchange Financial Guarantees*

Some governments extend financial guarantees for the obligations of another government, a not-for-profit entity, or a private entity without directly receiving equal or approximately equal value in exchange (a nonexchange transaction). As a part of this nonexchange financial guarantee, a government commits to indemnify the holder of the obligation if the entity that issued the obligation does not fulfill its payment requirements. Also, some governments issue obligations that are guaranteed by other entities in a nonexchange transaction. The objective of this Statement is to improve accounting and financial reporting by state and local governments that extend and receive nonexchange financial guarantees.

This Statement requires a government that extends a nonexchange financial guarantee to recognize a liability when qualitative factors and historical data, if any, indicate that it is more likely than not that the government will be required to make a payment on the guarantee. The amount of the liability to be recognized should be the discounted present value of the best estimate of the future outflows related to the guarantee expected to be incurred. When there is no best estimate but a range of the estimated future outflows can be established, the amount of the liability to be recognized should be the discounted present value of the minimum amount within the range.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF OTHER MATTERS**

GASB 70 - Accounting and Financial Reporting for Nonexchange Financial Guarantees (Continued)

This Statement requires a government that has issued an obligation guaranteed in a nonexchange transaction to recognize revenue to the extent of the reduction in its guaranteed liabilities. This Statement also requires a government that is required to repay a guarantor for making a payment on a guaranteed obligation or legally assuming the guaranteed obligation to continue to recognize a liability until legally released as an obligor. When a government is released as an obligor, the government should recognize revenue as a result of being relieved of the obligation. This Statement also provides additional guidance for intra-entity nonexchange financial guarantees involving blended component units.

This Statement specifies the information required to be disclosed by governments that extend nonexchange financial guarantees. In addition, this Statement requires new information to be disclosed by governments that receive nonexchange financial guarantees.

The provisions of this Statement are effective for reporting periods **beginning after June 15, 2013**. Except for disclosures related to cumulative amounts paid or received in relation to a financial guarantee, the provisions of this Statement are required to be applied retroactively. Disclosures related to cumulative amounts paid or received in relation to a financial guarantee may be applied prospectively.

How the Changes in this Statement Will Improve Financial Reporting

The requirements of this Statement will enhance comparability of financial statements among governments by requiring consistent reporting by those governments that extend nonexchange financial guarantees and by those governments that receive nonexchange financial guarantees. This Statement also will enhance the information disclosed about a government's obligations and risk exposure from extending nonexchange financial guarantees. This Statement also will augment the ability of financial statement users to assess the probability that governments will repay obligation holders by requiring disclosures about obligations that are issued with this type of financial guarantee.

EFFECTIVE FISCAL 2015:

GASB 68 - Accounting and Financial Reporting for Pensions (an amendment of GASB 27)

This Statement will have material impact on the City's financial statements. The primary objective of this Statement is to improve accounting and financial reporting by state and local governments for pensions.

This Statement establishes standards for measuring and recognizing liabilities, deferred outflows of resources, and deferred inflows of resources, and expense/expenditures. For defined benefit pensions, this Statement identifies the methods and assumptions that should be used to project benefit payments, discount projected benefit payments to their actuarial present value, and attribute that present value to periods of employee service.

Note disclosure and required supplementary information requirements about pensions also are addressed. Distinctions are made regarding the particular requirements for employers based on the number of employers whose employees are provided with pensions through the pension plan and whether pension obligations and pension plan assets are shared.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF OTHER MATTERS**

**GASB 68 - Accounting and Financial Reporting for Pensions (an amendment of GASB 27)
(Continued)**

The following are the major impacts:

- This Statement requires the liability of employers and nonemployer contributing entities to employees for defined benefit pensions (**net pension liability**) to be measured as the portion of the present value of projected benefit payments to be provided through the pension plan to current active and inactive employees that is attributed to those employees' past periods of service (**total pension liability**), less the amount of the pension plan's **fiduciary net position**.
- Actuarial valuations of the total pension liability are required to be performed at least every two years, with more frequent valuations encouraged. If a valuation is not performed as of the measurement date, the total pension liability is required to be based on update procedures to roll forward amounts from an earlier actuarial valuation performed as of a date no more than 30 months and 1 day prior to the employer's most recent year-end).
- The actuarial present value of projected benefit payments is required to be attributed to periods of employee service using the entry age actuarial cost method with each period's service cost determined as a level percentage of pay. The actuarial present value is required to be attributed for each employee individually, from the period when the employee first accrues pensions through the period when the employee retires.

Single and Agent Employers

- In financial statements prepared using the economic resources measurement focus and accrual basis of accounting, a single or agent employer that does not have a special funding situation is required to recognize a liability equal to the net pension liability. The net pension liability is required to be measured as of a date no earlier than the end of the employer's prior fiscal year (the measurement date), consistently applied from period to period.
- The pension expense and deferred outflows of resources and deferred inflows of resources related to pensions that are required to be recognized by an employer primarily result from changes in the components of the net pension liability—that is, changes in the total pension liability and in the pension plan's fiduciary net position.
- This Statement requires that most changes in the net pension liability be included in pension expense in the period of the change. For example, changes in the total pension liability resulting from current-period service cost, interest on the total pension liability, and changes of benefit terms are required to be included in pension expense immediately. Projected earnings on the pension plan's investments also are required to be included in the determination of pension expense immediately.

CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL

STATUS OF PRIOR YEAR
SCHEDULE OF OTHER MATTERS

GASB 68 - Accounting and Financial Reporting for Pensions (an amendment of GASB 27)
(Continued)

- The effects of certain other changes in the net pension liability are required to be included in pension expense over the current and future periods. The effects on the total pension liability of (1) changes of economic and demographic assumptions or of other inputs and (2) differences between expected and actual experience are required to be included in pension expense in a systematic and rational manner over a closed period equal to the average of the expected remaining service lives of all employees that are provided with benefits through the pension plan (active employees and inactive employees), beginning with the current period. The effect on the net pension liability of differences between the projected earnings on pension plan investments and actual experience with regard to those earnings is required to be included in pension expense in a systematic and rational manner over a closed period of five years, beginning with the current period. Changes in the net pension liability not included in pension expense are required to be reported as deferred outflows of resources or deferred inflows of resources related to pensions.
- Employer contributions subsequent to the measurement date of the net pension liability are required to be reported as deferred outflows of resources.
- In governmental fund financial statements: A net pension liability should be recognized to the extent the liability is normally expected to be liquidated with expendable **available** financial resources. Pension expenditures should be recognized equal to the total of (1) amounts paid by the employer to the pension plan and (2) the change between the beginning and ending balances of amounts normally expected to be liquidated with expendable available financial resources.
- Notes to financial statements of single and agent employers include descriptive information, such as the types of benefits provided and the number and classes of employees covered by the benefit terms. Single and agent employers also should disclose the following information:
 - For the current year, sources of changes in the net pension liability
 - Significant assumptions and other inputs used to calculate the total pension liability, including those about inflation, salary changes, ad hoc postemployment benefit changes (including ad hoc COLAs), and inputs to the discount rate, as well as certain information about mortality assumptions and the dates of experience studies.
 - The date of the actuarial valuation used to determine the total pension liability, information about changes of assumptions or other inputs and benefit terms, the basis for determining employer contributions to the pension plan, and information about the purchase of allocated insurance contracts, if any.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF OTHER MATTERS**

**GASB 68 - Accounting and Financial Reporting for Pensions (an amendment of GASB 27)
(Continued)**

- Required Supplementary Information: Single and agent employers are required to present in required supplementary information the following information, determined as of the measurement date, for each of the 10 most recent fiscal years:
 - Sources of changes in the net pension liability
 - The components of the net pension liability and related ratios, including the pension plan's fiduciary net position as a percentage of the total pension liability, and the net pension liability as a percentage of covered-employee payroll.
 - Schedule covering each of the 10 most recent fiscal years that includes information about the actuarially determined contribution, contributions to the pension plan, and related ratios. If the contributions of a single or agent employer are not actuarially determined but are established in statute or by contract, the employer should present a schedule covering each of the 10 most recent fiscal years that includes information about the statutorily or contractually required contribution rates, contributions to the pension plan, and related ratios.
 - Significant methods and assumptions used in calculating the actuarially determined contributions, if applicable, should be presented as notes to required supplementary information. In addition, the employer should explain factors that significantly affect trends in the amounts reported in the schedules, such as changes of benefit terms, changes in the size or composition of the population covered by the benefit terms, or the use of different assumptions.

Cost-Sharing Employers

- Government-wide and accrual basis of accounting financial statements: A cost-sharing employer that does not have a special funding situation is required to recognize a liability for its **proportionate** share of the net pension liability (of all employers for benefits provided through the pension plan)—the collective net pension liability. An employer's proportion is required to be determined on a basis that is consistent with the manner in which contributions to the pension plan are determined, and consideration should be given to separate rates, if any, related to separate portions of the collective net pension liability. The use of the employer's projected long-term contribution effort as compared to the total projected long-term contribution effort of all employers as the basis for determining an employer's proportion is encouraged.
- A cost-sharing employer is required to recognize pension expense and report deferred outflows of resources and deferred inflows of resources related to pensions for its proportionate shares of collective pension expense and collective deferred outflows of resources and deferred inflows of resources related to pensions.

**CITY OF EL CERRITO
MEMORANDUM ON INTERNAL CONTROL**

**STATUS OF PRIOR YEAR
SCHEDULE OF OTHER MATTERS**

**GASB 68 - Accounting and Financial Reporting for Pensions (an amendment of GASB 27)
(Continued)**

- In addition, the effects of (1) a change in the employer's proportion of the collective net pension liability and (2) differences during the measurement period between the employer's contributions and its proportionate share of the total of contributions from employers included in the collective net pension liability are required to be determined. These effects are required to be recognized in the employer's pension expense in a systematic and rational manner over a closed period equal to the average of the expected remaining service lives of all employees that are provided with pensions through the pension plan (active employees and inactive employees). The portions of the effects not recognized in the employer's pension expense are required to be reported as deferred outflows of resources or deferred inflows of resources related to pensions. Employer contributions to the pension plan subsequent to the measurement date of the collective net pension liability also are required to be reported as deferred outflows of resources related to pensions.
- In governmental fund financial statements, the cost-sharing employer's proportionate share of the collective net pension liability is required to be recognized to the extent the liability is normally expected to be liquidated with expendable available financial resources. Pension expenditures should be recognized equal to the total of (1) amounts paid by the employer to the pension plan and (2) the change between the beginning and ending balances of amounts normally expected to be liquidated with expendable available financial resources.
- Notes to financial statements of cost-sharing employers include descriptive information about the pension plans through which the pensions are provided. Cost-sharing employers should identify the discount rate and assumptions made in the measurement of their proportionate shares of net pension liabilities, similar to the disclosures about those items that should be made by single and agent employers. Cost-sharing employers, like single and agent employers, also should disclose information about how their contributions to the pension plan are determined.
- This Statement requires cost-sharing employers to present in required supplementary information 10-year schedules containing (1) the net pension liability and certain related ratios and (2) if applicable, information about statutorily or contractually required contributions, contributions to the pension plan, and related ratios.

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REQUIRED COMMUNICATIONS

To the City Council of
the City of El Cerrito
City of El Cerrito, California

We have audited the basic financial statements of the City of El Cerrito for the year ended June 30, 2014. Professional standards require that we communicate to you of the following information related to our audit under generally accepted auditing standards, *Governmental Auditing Standards* and OMB Circular A-133.

Significant Audit Findings

Accounting Policies

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City are described in Note 1 to the financial statements.

The following pronouncements became effective, but did not have a material effect on the financial statements:

GASB 70 - *Accounting and Financial Reporting for Nonexchange Financial Guarantees*

Some governments extend financial guarantees for the obligations of another government, a not-for-profit entity, or a private entity without directly receiving equal or approximately equal value in exchange (a nonexchange transaction). As a part of this nonexchange financial guarantee, a government commits to indemnify the holder of the obligation if the entity that issued the obligation does not fulfill its payment requirements. Also, some governments issue obligations that are guaranteed by other entities in a nonexchange transaction. The objective of this Statement is to improve accounting and financial reporting by state and local governments that extend and receive nonexchange financial guarantees.

This Statement requires a government that extends a nonexchange financial guarantee to recognize a liability when qualitative factors and historical data, if any, indicate that it is more likely than not that the government will be required to make a payment on the guarantee. The amount of the liability to be recognized should be the discounted present value of the best estimate of the future outflows related to the guarantee expected to be incurred. When there is no best estimate but a range of the estimated future outflows can be established, the amount of the liability to be recognized should be the discounted present value of the minimum amount within the range.

Unusual Transactions, Controversial or Emerging Areas

We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period. However, the dissolution of the former Redevelopment Agency continued to have a material impact to the financial statements of the City and its component units, and the State Board of Equalization's sales tax adjustment has an impact on the financial statements of the City:

Redevelopment Agency Dissolution

As discussed in Note 15 to the financial statements, pursuant to ABx1 26 adopted by the State of California which was validated by the California Supreme Court on December 28, 2011, the El Cerrito Redevelopment Agency was dissolved and its assets turned over to and liabilities assumed by Successor Agencies effective February 1, 2012. The City elected to become the Housing Successor to the Redevelopment Agency and pursuant to the laws it received the encumbered housing assets of the former Redevelopment Agency. Certain other assets were distributed to and all of the Redevelopment Agency's debts were assumed by a Successor Agency governed by an Oversight Board. This Successor Agency is reported as a private purpose trust fund. Certain transactions undertaken by the El Cerrito Redevelopment Agency prior to the date of dissolution may be subject to review by the State as discussed in Note 15, but the effect of that review cannot be determined as of June 30, 2014.

In fiscal 2011 and 2012, pursuant to a cooperation agreement and assignment and assumption agreements, the former Redevelopment Agency transferred \$12,550,552 of assets to the of El Cerrito Municipal Services Corporation, a component unit of the City. ABx1 26 and AB 1484 contain provisions that such transfers are subject to a review by the State Controller's Office. According to Health and Safety Code 34167.5, if such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the Successor Agency. As of June 30, 2014, assets totaling \$10,279,207, comprised of current assets of \$4,752,073 and capital assets of \$5,527,134, were held by the Municipal Services Corporation, but the City, Successor Agency and the Municipal Services Corporation are in litigation with the State Controller as to whether the Corporation is subject to this provision of the Health and Safety Code. The State Controller's Office has completed its asset transfer review of the former Agency and released its final report in July 2014. The final report indicates the former Redevelopment Agency made unallowable transfers to the Municipal Services Corporation in fiscal years 2011 and 2012 totaling \$12,550,551, consisting of cash of \$2,382,232, land held for redevelopment of \$4,634,789 and capital assets of \$5,533,530. These transfers were also deemed unallowable by the Department of Finance as discussed below, disputed by the City, Successor Agency and Corporation, and subject to litigation as discussed below. Therefore, the amount, if any of assets that may be required to be returned to the Successor Agency cannot be determined at this time.

Prior to the Redevelopment Agency dissolution, the Agency Board approved various agreements which obligated it to repay certain advances from the Agency's Low and Moderate Income Housing Fund to make payments required by the State to the Educational Revenue Augmentation Fund (ERAF) and Supplemental ERAF from tax increment revenue received. The advance was assumed as a receivable by the City as Housing Successor, and the advance is now payable to the City's Low and Moderate Income Housing Asset Fund. Repayment of these agreements is subject to certain administrative procedures and review and approval by the California Department of Finance and/or the Oversight Board, and as a result the time frame for repayment by the Successor Agency from redevelopment property tax is not determinable at this time.

AB1484 requires the Successor Agency to complete two Due Diligence Reviews (DDR) to determine the amount of the remaining assets that should be transferred by the City to the Successor Agency or by the Successor Agency to the County for distribution to the affected taxing entities. The DDR for cash balances in the Low and Moderate Income Housing Fund indicated that there were no balances available for distribution to the affected taxing entities. In April 2013, the State Department of Finance (DOF) completed its review of this DDR and concurred with its findings. In June 2013, the DOF completed its review of the DDR of all other funds of the former Redevelopment Agency. The DDR indicated there were no assets available for allocation to the affected taxing entities, but that amount was adjusted by the DOF to \$1,981,989. In addition, the DOF demanded the City reverse \$10,168,319 of property conveyances executed in fiscal year 2012 and a payment of \$400,243 of bond proceeds to the Municipal Services Corporation. The City, Successor Agency and Municipal Services Corporation are disputing the adjustment and demand in litigation against the DOF.

Also as discussed in Note 14, prior to its dissolution, the Redevelopment Agency obligated certain Redevelopment funds pursuant to a cooperation agreement with the City that was partially assigned to the Municipal Services Corporation. Subsequent to dissolution, the cooperation agreement was rejected by the DOF. The Successor Agency and DOF have met and conferred to settle the matter and the Department determined that it is not an enforceable obligation of the Successor Agency at this time. Management continues to believe the transactions are valid and the City, Successor Agency and Municipal Services Corporation have included this matter in the litigation against DOF.

On September 3, 2014, the Court ruled against the City, Successor Agency and Municipal Services Corporation regarding the transfers and the cooperation agreement. The City, Successor Agency and Municipal Services Corporation have appealed the decision, as discussed in Note 15.

Prior to the Redevelopment Agency dissolution, the Agency board approved various agreements which obligated it to repay certain advances to the Agency's Low and Moderate Income Housing Fund. The advance was assumed by the City as Housing Successor, and the advance is now payable to the City's Low and Moderate Income Housing Asset Fund. Repayment of these agreements is subject to certain administrative procedures and review and approval by the California Department of Finance and/ or the Oversight Board, and as a result the amount disallowed is not determinable at this time.

The City's position on these matters is not a position of settled law and there is considerable legal uncertainty regarding these matters. It is possible that a legal determination may be made at a later date by an appropriate judicial authority that would resolve this issue favorably or unfavorably to the City. No provision for liabilities resulting from the outcome of these uncertain matters has been recorded in the financial statements.

State Board of Equalization Sales Tax Adjustment

As discussed in Note 13B to the financial statements, in October 2013, the BOE found that the City's historical sales tax revenues had been misallocated by \$2,499,975 and would withhold that amount from the December 2013 remittance. This finding did not include any adjustments for the sales tax sharing agreement the City has with the City of Richmond and payments that had been made by the City under that agreement in the 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 reviews BOE's methodology and calculations. The BOE did not withhold the amount from the December remittance, pending the City's review and potential appeal.

In October 2014, the BOE rescinded the demand letters and agreed to implement the sales tax sharing agreement between the cities with regard to sales taxes. The BOE indicated that it will not implement an agreement regarding district taxes, so the cities are preparing a separate agreement to address maintaining the 70% - 30% split of district taxes after the BOE begins administering the sales tax sharing agreement.

The City recalculated the historical actual allocations of sales and district taxes for the commercial property to each City for fiscal years 2006 to 2014 and the sales tax sharing payments during that period and determined that the City owes the City of Richmond \$1,037,862. The BOE and the City of Richmond agreed that the City will repay the amount due from future sales tax revenues. Therefore, the City has recorded an accrued liability in that amount that is included in the Statement of Net Position.

Estimates

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's current judgments. Those judgments are normally based on knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ markedly from management's current judgments. The most sensitive accounting estimates affecting the financial statements are:

Estimated Fair Value of Investments: As of June 30, 2014, the City held approximately \$5.0 million of cash and investments as measured by fair value as disclosed in Note 3 to the Financial Statements. Fair value is essentially market pricing in effect as of June 30, 2014. These fair values are not required to be adjusted for changes in general market conditions occurring subsequent to June 30, 2014.

Estimated Depreciation: Management's estimate of the depreciation is based on useful lives determined by management. These lives have been determined by management based on the expected useful life of assets as disclosed in Note 6 to the financial statements. We evaluated the key factors and assumptions used to develop the depreciation estimate and determined that it is reasonable in relation to the basic financial statements taken as a whole.

Estimated Compensated Absences: Accrued compensated absences, which are comprised of accrued vacation and sick leave, is estimated using accumulated unpaid leave hours and hourly pay rates in effect at the end of the fiscal year, and are disclosed in Note 1I to the financial statements. We evaluated the key factors and assumptions used to develop the accrued compensated absences and determined that it is reasonable in relation to the basic financial statements taken as a whole.

Estimated Net OPEB Obligation: Management's estimate of the net OPEB obligation is disclosed in Note 10C to the financial statements and is based on actuarial study determined by a consultant, which is based on the experience of the City. We evaluated the key factors and assumptions used to develop the estimate and determined that it is reasonable in relation to the basic financial statements taken as a whole.

Disclosures

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosure affecting the financial statements was the disclosure of the Redevelopment Agency dissolution and former Redevelopment Agency funds held by the Municipal Services Corporation in Note 15 to the financial statements and the State Board of Equalization's sales tax adjustment disclosed in Note 13B to the financial statements. See discussion under *Unusual Transactions, Controversial or Emerging Areas* above regarding the unsettled law and highly contingent nature of these matters.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected certain such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole, except for the adjustments to record grants receivable for reimbursement requests filed after the fiscal year end and to offset those grants receivable and others that were not collected during the accrual period with unavailable revenue since the grant reimbursements hadn't been filed timely as discussed in item 2014-02 of the Memorandum on Internal Control, the adjustment to record the corrections and reclassifications related to transactions between the Municipal Services Corporation and other City funds as discussed in item 2014-03 of the Memorandum on Internal Control, and to the adjustment to record the fiscal year capital asset depreciation expense.

Professional standards require us to accumulate all known and likely uncorrected misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. We have no such misstatements to report to the City Council.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in a management representation letter dated February 24, 2015.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the City's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Information Accompanying the Financial Statements

With respect to the supplementary information accompanying the financial statements, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

With respect to the required supplementary information accompanying the financial statements, applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not express an opinion nor provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

The Introductory and Statistical Sections included as part of the Comprehensive Annual Financial Report have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we did not express an opinion nor provide any assurance on them.

This information is intended solely for the use of the City Council, and management and is not intended to be, and should not be, used by anyone other than these specified parties.

Mane & Associates

Pleasant Hill, CA
February 24, 2015

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AGENDA BILL

Agenda Item No. 6(A)

Date: June 2, 2015
To: El Cerrito City Council
From: Lisa Malek-Zadeh, Finance Director/City Treasurer
Subject: Public Hearing to Confirm the Diagram and to Levy the Assessment for FY 2015-16 for Landscape and Lighting Assessment District No. 1988-1

ACTION REQUESTED

Conduct a public hearing and upon conclusion adopt a resolution setting the annual Landscape and Lighting Assessment for FY 2015-16 as \$72 per residential parcel and as noted in the Engineer's Report for other classes of properties.

BACKGROUND AND ANALYSIS

On June 6, 1988, the City Council established Assessment District No. 1988-1 pursuant to the Landscape and Lighting Act of 1972. The purpose of this Landscape and Lighting Assessment District (LLAD) is to raise funds to support improvements and maintenance of the City's park areas, landscaping areas, and street lighting. Every year since 1988, this Assessment District has generated approximately \$774,000 to support LLAD activities.

In November 1996, the LLAD was approved by the voters and therefore complies with the provisions of Proposition 218. Any increase in the assessment fee level would be subject to Proposition 218's voter approval requirement.

In order to impose this annual assessment, the City Council must annually authorize an Engineer's Report to identify the costs, uses, and general benefits of those parcels within the Assessment District. As detailed in the Engineer's Report, the revenues are used for eligible activities including staff salaries and wages, streetlight maintenance, utility costs for the District, landscaping services, graffiti removal, and park maintenance.

The City Council authorized such a report on April 7, 2015. The Engineer of Record, NBS Local Government Solutions (NBS) prepared and delivered the Engineer's Report prior to the May 19, 2015 City Council meeting. At the May 19, 2015 City Council meeting, this public hearing was scheduled.

In order for these assessments to be imposed, the City Council must accept the Engineer's Report and conduct a public hearing to hear comments on their imposition. The City is also required to cause the notice of the public hearing to be published one time at least ten days prior to the hearing in a newspaper of general circulation. Such a notice was published in the *West County Times* on May 22, 2015.

Agenda Item No. 6(A)

The purpose of this public hearing is to confirm the diagram and the assessment, as appearing in the Engineer's Report. The procedures for conducting the public hearing and receiving protests are the same as for forming the District; however, there are no provisions for majority protest.

The California Streets and Highways Code Section 22631 specifies the options available to the City Council, as follows:

If a majority protest has not been filed, the legislative body may adopt a resolution confirming the diagram and assessment, either as originally proposed or as changed by it. The adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the assessment.

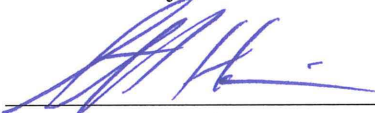
FINANCIAL CONSIDERATIONS

Staff estimates that the current rate of assessment will generate approximately \$774,000 of revenue, which is included in the total revenue estimate for the City's FY 2015-16 Budget. To the extent the expenditures eligible for funding by the LLAD exceed the amount received from this assessment, City staff are in the process of identifying other funding sources and reductions in expenditures, in order to keep the LLAD budget in balance.

LEGAL CONSIDERATIONS

The provisions of the Landscape and Lighting Act of 1972 require that a public hearing be held prior to adopting a resolution levying the annual assessment.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO CONFIRMING THE DIAGRAM AND LEVYING THE ASSESSMENT FOR FISCAL YEAR 2015-16 FOR THE LANDSCAPE AND LIGHTING ASSESSMENT DISTRICT NO. 1988-1

WHEREAS, the City of El Cerrito, by Resolution No. 88-53 dated June 6, 1988, adopted Assessment District No. 1988-1 pursuant to the Landscape and Lighting Act of 1972; and

WHEREAS, the City of El Cerrito, by Resolution No. 2015-27 dated April 7, 2015, directed the filing of the Annual Report for Assessment District No. 1988-1; and

WHEREAS, the Engineer of Record, NBS Local Government Solutions prepared and, on April 29, 2015 filed said Annual Report; and

WHEREAS, the City Council by Resolution No. 2015-34, dated May 19, 2015, reviewed and accepted said annual report and declared its intent to order improvements and provided notice of a public hearing to be held June 2, 2015, and notice of the hearing was given in the time and manner required by law; and

WHEREAS, in November 1996, the voters approved the Landscape and Lighting Assessment thereby complying with the provisions of Proposition 218; and

WHEREAS, the City Council has not actually increased the amounts levied from year to year; and

WHEREAS, at the public hearing, the City Council afforded to every interested person an opportunity to make a protest to the annual report, and the City Council has considered each protest.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that the diagram and assessment as set forth in the Annual Report of the Engineer of Record is hereby confirmed and the assessment set forth therein for Fiscal Year 2015-16 is hereby levied.

BE IT FURTHER RESOLVED that this resolution is adopted pursuant to California Streets and Highways Code §22631.

BE IT FURTHER RESOLVED that upon adoption of this resolution, the diagram and assessment, or a certified copy thereof is hereby directed to be filed with the County Auditor no later than August 10, 2015.

I CERTIFY that at the regular meeting on June 2, 2015 the El Cerrito City Council passed this resolution by the following vote:

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

Agenda Item No. 6(A)
Attachment 1

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June __, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 6(B)

Date: June 2, 2015
To: El Cerrito City Council
From: Lisa Malek-Zadeh, Finance Director
Subject: Public Hearing regarding Fiscal Year 2015-16 Storm Drain Annual Report and Method of Collecting Storm Drain Fees

ACTION REQUESTED

Conduct a public hearing and upon conclusion adopt a resolution approving the Fiscal Year 2015-16 Storm Drain Annual Report and directing that Storm Drain Fees be collected on the property tax rolls.

BACKGROUND

In March 1993, the voters of the City of El Cerrito approved the issuance of \$6.3 million in revenue bonds for the reconstruction of the City's storm drain system. In June 1993, the City Council adopted Ordinance 93-4, which amends Title 4 (Revenue and Finance) of the El Cerrito Municipal Code by adding a new Chapter 4.44, providing for the imposition and collection of Storm Drain Fees to pay the debt service on the revenue bonds. Ordinance 93-4 set the Storm Drain Fee at \$58 for each single-family residential property and other amounts for other property types.

Ordinance 93-4 further provided that the Storm Drain Fees are to be collected on the property tax roll, based on amounts specified in an annual written report. Attachment 2 to this staff report is the FY 2015-16 Storm Drain Annual Report (Annual Report) which contains the description of each parcel of real property receiving storm drain services and the amount of the annual fee for each parcel. The engineering firm of NBS Local Government Solutions prepared the Annual Report.

The City must annually conduct a public hearing to consider the method of collecting the Storm Drain Fees. Notice of such a public hearing must be made at least twice within a two-week period, as specified in Government Code §6066, as follows:

Publication of notice pursuant to this section shall be once a week for two successive weeks. Two publications in a newspaper published once a week or oftener, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The period of notice commences upon the first day of publication and terminates at the end of the fourteenth day, including therein the first day.

The City met this notification requirement by publishing the notice of public hearing in the *West County Times* on May 4, 2015 and May 11, 2015.

This hearing is not for consideration of the amounts of the Storm Drain Fees, which were already set by the City Council by adoption of Ordinance 93-4; however, the City Council may consider corrections to the use classification of properties in the Annual Report.

ANALYSIS

The City Council needs to determine whether a majority protest exists with respect to the method of collecting the Storm Drain Fees. If a majority protest is lodged against collecting these fees on the property tax roll (as a method of collection), the Storm Drain Fees shall be collected on behalf of the City by a public utility and the City Council would be required to authorize negotiation of an agreement with such a utility.

If the City Council finds that protest is made by the owners of a majority of the parcels of property described in the Annual Report, then the Annual Report shall not be adopted. In the event of such majority protest, the Storm Drain Fees may be collected with the rates for any publicly or privately owned utility through an agreement with such utility.

The administrative costs of collecting the Storm Drain Fee through utility services are substantially higher than by using the property tax bill. Also, if collected through a utility, the Storm Drain Fees would not constitute a lien against any parcel or parcels of land, which would make delinquent collections far more cumbersome and costly.

Since the amount of the Storm Drain Fee is based on property use, the public hearing also provides an opportunity for property owners to contest the fee amount based on the actual use of their property. The City Council may accordingly adjust the fee amount based on the property use.

The adoption of the Annual Report requires the same two-thirds vote as was required to enact Ordinance 93-4. If approved, the Annual Report must be filed with the County Auditor-Controller not later than August 10, 2015, per California Health and Safety Code Section 5474.4, as follows:

On or before the tenth day of August of each year following such final determination, the legislative body shall certify to the auditor a list of the lots or parcels of land, as they appear on the current assessment roll, subject to such fees or charges and the amounts of the installments of such fees or charges and interest to be entered against such lots or parcels on the assessment roll.

FINANCIAL CONSIDERATIONS

The annual Storm Drain Fee will continue to be assessed at \$58 for each single-family residential unit. Such a rate is expected to generate annual revenues of approximately \$700,000. The last debt service payment on the Storm Drain Revenue Bonds was paid in FY 2013-14. Therefore, the FY 2015-16 proceeds of the Storm Drain Fees will be used to fund storm drain improvements, which will be reflected in the City's FY 2015-16 Budget.

LEGAL CONSIDERATIONS

California Health and Safety Code Section 5470 et seq. requires that a public hearing be held prior to adopting a resolution to accept the Annual Report and levying the annual Storm Drain Fees. The City has complied with the minimum public notice requirements.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Resolution
2. FY 2015-16 Storm Drain Annual Report

RESOLUTION 2015--XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ADOPTING THE FISCAL YEAR 2015-16 STORM DRAIN ANNUAL REPORT AND DIRECTING THAT STORM DRAIN FEES FOR FISCAL YEAR 2015-16 BE COLLECTED THROUGH THE PROPERTY TAX ROLLS

WHEREAS, the City of El Cerrito, by Ordinance 93-4, directed the filing of an annual report for the imposition and collection of storm drain fees; and

WHEREAS, the Engineering firm of NBS Local Government Solutions has prepared said Fiscal Year 2015-16 Storm Drain Annual Report (the "Annual Report"); and

WHEREAS, the City provided notice on May 4, 2015 and May 11, 2015 of a public hearing to be held by the City Council, with the notice of the hearing being given in the time and manner required by law; and

WHEREAS, at the public hearing the City Council afforded to every interested person an opportunity to make a protest to the Annual Report and the City Council has considered each protest.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito hereby confirms the storm drain fees as set forth in the Annual Report, directs the collection of these fees through the property tax rolls, and directs the City Clerk to file the Annual Report or a certified copy thereof with the County Auditor-Controller not later than August 10, 2015.

I CERTIFY that at the regular meeting on June 2, 2015 the El Cerrito City Council 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 June ____, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor



City of El Cerrito

Storm Drain Reconstruction Project

Fiscal Year 2015/16

Main Office

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Temecula, CA 92592
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CITY OF EL CERRITO
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CITY COUNCIL

Mark Friedman, Mayor

Greg Lyman, Mayor Pro Tem

Janet Abelson, Councilmember

Jan Bridges, Councilmember

Gabe Quinto, Councilmember

CITY STAFF

Lisa K. Malek-Zadeh, Finance Director/City Treasurer

NBS

Tim Seufert, Client Services Director

Kevin Skeels, Financial Analyst

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1. EXECUTIVE SUMMARY

On March 2, 1993, the qualified voters of the City of El Cerrito (the "City") approved the issuance of revenue bonds, in an amount not to exceed \$6.3 million, to finance the first phase of the reconstruction of the City's storm drain system. The qualified voters also approved the repayment of those bonds through the imposition of an annual storm drain fee on property within the City.

Section 5470, et seq. of the *California Health and Safety Code* authorizes cities to enact an ordinance, approved by a two-thirds vote of the members of the legislative body, establishing fees and charges for services and facilities furnished by the City in connection with its storm drain system. The proceeds of these fees and charges may be used only for the acquisition, construction, reconstruction, maintenance, and operation of its storm drain facilities, including the repayment of principal and interest on bonds issued to finance the construction or reconstruction of such facilities.

The storm drain fees and charges may be used exclusively for the purposes of the storm drain system and for the payment of interest and redemption, including premiums payable from the calling of bonds, for those bonds authorized by the qualified voters on March 2, 1993, and for the payment of interest and redemption, including premiums payable from the calling of bonds, for any other bonds for storm drain construction or reconstruction which may be authorized in the future, provided that such bonds are approved in the manner required by California law.

The authorized amounts and rates for storm drain fees and charges are as follows:

Parcel Classification	Rate
Single Family residential	\$58.00 per unit
Multi Family residential 2 through 20 units	43.50 per unit
Multi Family residential over 20 units	870.00 plus 29.00 for each unit over 20
Commercial/Industrial	870.00 per acre
Institutional (Churches, Schools, Fraternal and Service Organizations)	406.00 per acre
Golf Courses, Cemeteries, Vacant Land	11.60 per acre

The following table summarizes the annual levy by Classification of parcel:

Parcel Classification	Number of Parcels (1)	Levy Total (2)
Single Family residential	7,508	\$440,676.00
Multi Family residential	616	121,655.00
Commercial/Industrial	259	102,971.62
Institutional (Churches, Schools, Fraternal and Service Organizations)	51	32,114.27
Golf Courses, Cemeteries, Vacant Land	217	2,404.91
Total:	8,651	\$699,821.80

(1) Includes parcels divided by City boundaries.

(2) Total amount may vary slightly due to rounding adjustments.

2. ASSESSMENTS

2.1. Method of Assessment

The number of Equivalent Residential Units ("ERUs") was determined for each parcel based upon an estimate of the impervious surface associated with the use of the property.

- 1) Single Family (detached) Residential ("SFR") parcels were assumed to have an average of 2,900 sq. ft. of impervious surface. Approximately 90% of the properties in the City are SFR. These parcels were assigned 1.0 ERU.
- 2) Multi Family dwelling unit complexes of up to 20 units were assigned 0.75 ERU (2,175 sq. ft) of impervious surface area per unit. Complexes of more than 20 units were assigned 15 ERU plus 0.5 ERU (1,450 sq. ft) for each unit over 20.
- 3) Commercial/Industrial uses were assigned 15.0 ERU (43,560/2,900 sq. ft.) of impervious surface area per acre.
- 4) Institutional uses such as Churches, Schools, Fraternal, and Service Organizations were assigned 7.0 ERU (21,000 sq. ft.) of impervious surface area per acre based upon the Contra Costa County Report on Stormwater Utility Assessment dated March 1994 (County Report).
- 5) Golf courses, cemeteries, and other open spaces were assigned 0.2 ERU (580 sq. ft.) per acre based upon the County Report.

The storm drain fee for a parcel is calculated by multiplying the number of ERU assigned to such parcel by the rate per ERU. The rate for the 2015/16 Fiscal Year is \$58.00/ERU.

The following table shows a breakdown of Classification of parcels by County Use Code and the associated rates for Fiscal Year 2015/16:

Parcel Classification	County Use Code (1)	ERU (2)	Rates
Single Family residential	11, 12, 13, 14, 15, 16, 19, 29, 89	1.0	\$58.00 per unit
Multi Family residential 2 through 20 units	21, 22, 23, 24, 25, 26, 27, 28	0.75*n	43.50 per unit
Multi Family residential over 20 units	21, 22, 23, 24, 25, 26, 27, 28	15.0 + 0.5*m	870.00 + 29.00 for each unit over 20
Commercial/Industrial	31, 32, 33, 34, 35, 36, 41, 42, 43, 44, 46, 47, 48, 49, 53, 85	15.0*A	870.00 per acre
Institutional (Churches, Schools, Fraternal and Service Organizations)	70, 71, 72, 75, 76	7.0*A	406.00 per acre
Golf Courses, Cemeteries, Vacant Land	10, 17, 18, 20, 30, 37, 38, 50, 63, 74, 78, 81	0.2*A	11.60 per acre

(1) Use Code 79 is assigned to Government Owned, and is not charged

(2) n = number of residential units up to 20

m = number of residential units over 20

A = acreage, per Contra Costa County Assessor or City Estimate

2.2. Collection of Fees and Charges

The storm drain fees and charges may be collected on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, the City's general taxes.

The City Council will have prepared each year, prior to the commencement of the fiscal year, a written report which will be filed with the City. The report is to contain a description of each parcel of real property receiving storm drain services and the amount of the annual fee and charge for each parcel. This charge will be computed in conformity with the fees and charges prescribed in the report.

2.3. Annual Hearing

Each year, prior to the commencement of the fiscal year, the City Council will hold a public hearing at which the Council will hear and consider all objections and protests, if any, to the written report. The City Council may continue the hearing from time to time. If the City Council finds that protest is made by the owners of a majority of the parcels of property described in the report, then the report will not be adopted. In the event of such majority protest, the storm drain fees and charges will be collected with the rates for any other publicly or privately owned public utility through agreement with such utility. If collected in this manner, the storm drain fees and charges will not constitute a lien against any parcel or parcels of land.

2.4. Notice

Notice of the filing of the report and of the time and place of hearing thereon, is to be published once a week for two consecutive weeks prior to the hearing, in a newspaper of general circulation printed, published or distributed in the City.

3. LIST OF CHARGES

The parcel list of charges is provided as a separate document.



**June 2, 2015
Regular City Council Meeting**

**Agenda Item No. 6(B)
Attachment 2 – Storm Drain Reconstruction Project
FY 2015/16
3. List of Charges**

Hardcopies are available for review at:

Office of the City Clerk
10890 San Pablo Avenue
El Cerrito, CA
(510) 215-4305

and

The El Cerrito Library
6510 Stockton Avenue
El Cerrito, CA



AGENDA BILL

Agenda Item No. 7(A)

Date: June 2, 2015
To: El Cerrito City Council
From: Karen Pinkos, Assistant City Manager
Subject: Results of Survey by Godbe Research on a Future Revenue Measure for a Library Facility

ACTION REQUESTED

Receive a presentation from Godbe Research on the results of their survey of El Cerrito residents to ascertain voter opinions related to a future revenue measure to fund a new library facility, and discuss and provide comments and feedback.

BACKGROUND

The City's Strategic Plan identifies "Develop and Rehabilitate Public Facilities as Community Focal Points" as a primary goal. The strategies outlined for this goal include continuing to assess facilities to prioritize and strategize investment (i.e., library, public safety building, senior center, community center).

The El Cerrito Library was built in 1948 and does not currently meet earthquake safety standards of libraries built today. The Library is overcrowded and too small for the community's public safety, educational, and informational needs. In July 2013, staff received consensus from the City Council to pursue planning for a new library building, including the steps necessary to consider a ballot measure to fund the facility in November 2016. In March 2014, the Council received the results from the update to the 2006 Needs Assessment for the El Cerrito Library as part of the first phase of the planning process. The City Council then authorized a survey in February 2015 that focused on the funding mechanisms and potential language for a ballot measure in 2016 would assist the City in determining the best options for financing the facility.

The City commissioned Godbe Research to conduct an independent opinion research study of El Cerrito constituents to gauge the feasibility of a bond measure to replace the City's 67-year-old library, and to determine what library services residents prioritize. Godbe Research was originally selected as the City's polling and research firm as a result of a competitive procurement process. Since that time, they have assisted the City in survey research related to the Utility Users Tax, Landscape and Lighting Assessment District, communication methods, City facilities, capital improvement programs, the street improvement program Measure A, and the sales tax Measure R. Godbe has also provided valuable assistance with determining timing of potential measures as well as development of ballot phrasing and language.

ANALYSIS

Tonight Godbe Research will present the key findings from their research and be prepared to answer questions. As Mr. Godbe will report, constituents strongly support a seismically safe, modern library that includes the following features:

- A safe, energy-efficient library that meets earthquakes and fire codes
- Updated wiring to accommodate computers and technology
- Children's area with space for children's story time
- Space for public access computers, a computer learning center, and free Wi-Fi
- Improved access for seniors and disabled residents

Next Steps

The next steps in this process include, but are not limited to: identification of funding for necessary studies and plans; engagement of an architectural firm to assist with site selection, massing studies, elevations, and ultimately design; possible site studies (e.g., seismic and hazardous materials) and environmental review; and engagement of a consultant for development of a public information strategy.

After consideration of the survey results, City Council feedback, and budget analysis, staff would then expect to return to Council with recommendations for completion of the identified tasks necessary to move forward with a ballot measure.

STRATEGIC PLAN CONSIDERATIONS

This planning process is within the considerations of *Goal D: Develop and Rehabilitate Public Facilities as Community Focal Points* as detailed in the City of El Cerrito Strategic Plan; as well as *Goal B: Achieve Long-term Financial Sustainability* and *Goal C: Deepen a Sense of Place and Community Identity*. Specifically, this would contribute to achieving the following strategies:

- *Continue the facilities assessment to prioritize and strategize investment (i.e., library, public safety building, senior center, community center).*
- *Develop a financial plan to address ongoing and deferred maintenance of facilities and infrastructure.*
- *Identify, promote, and/or develop entertainment, recreational, and leisure activities for people of all ages and demographics.*

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Godbe Research Presentation



MEMORANDUM

May 27, 2015

TO: City of El Cerrito

FROM: Bryan Godbe
President
Godbe Research

RE: 2015 Library Facilities Needs and Service Priorities Survey – Summary of the Results

Introduction:

The City of El Cerrito commissioned Godbe Research to conduct an internet and telephone survey to assess residents' facility needs and service priorities for the El Cerrito Library.

Top constituent priorities include a seismically safe, energy-efficient library that meets earthquake and fire codes, has updated wiring to accommodate computers and technology including free Wi-Fi, increased public access and a computer learning center, and provides children space for story time and increased access for seniors and disabled residents. Over 72% of respondents support a local library bond measure to replace the current 67-year-old El Cerrito Library.

Methodology:

Interviews were conducted from March 23 through March 30, 2015, and the average phone interview time was approximately 20 minutes. A total of 621 likely November 2016 voters in the City of El Cerrito participated in the survey (418 online and 203 phone), and the study parameters resulted in a margin of error of plus or minus 3.77 percent. The survey sample is representative of likely November 2016 El Cerrito voters in terms of gender, age, and other demographics.

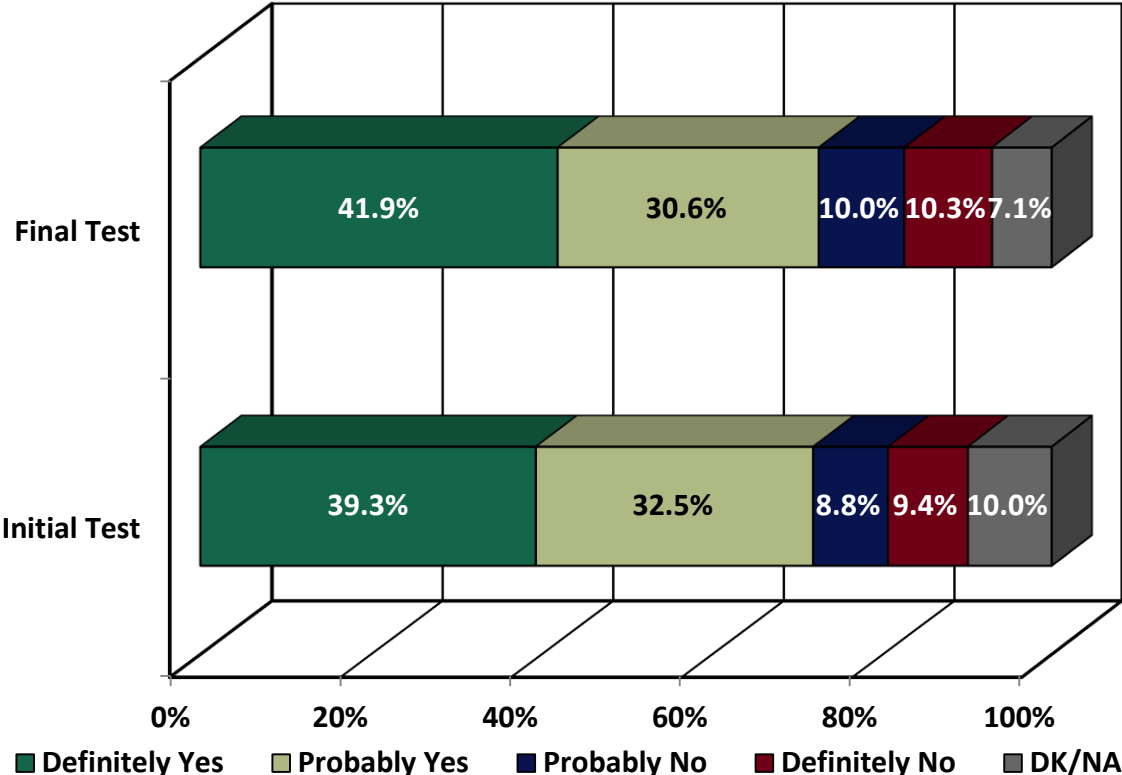
Respondents identified the following facility needs and service priorities:

Survey respondents were presented with a variety of El Cerrito Library needs and services to determine their importance. The survey results suggests constituents have clear priorities:

2M. Provide a safe, energy-efficient library that meets earthquake and fire codes	1.30
2AA.Include updated wiring to accommodate computers and technology	1.25
2Y. Provide a library that meets current health, safety and seismic standards	1.24
2K. Provide a children's area with space for children's story times	1.22
2A. Provide space for public access computers, a computer learning center, and with free wifi	1.19
2N. Provide improved access for seniors and disabled residents	1.15
2B. Be an up-to-date, functioning 21st century library	1.15
2C. Provide space for summer reading programs for school age children	1.14
2V. Provide a homework center for students	1.14
2D. Provide space for additional book and up-to-date resource collections	1.13
2BB. Provide adequate heating, plumbing, and ventilation systems	1.10
2W. Provide a children's area with parent/child reading space	1.09
2Q. Provide space for literacy tutoring programs	1.05
2O. Provide more space for computer work stations	1.03
2S. Provide space for community meeting rooms and education classrooms	.99
2Z. Provide adequate lighting	.99
2P. Provide more space for reference materials, books, audio-visual materials, and periodicals	.98
2E. Provide adequate public seating for reading	.98
2F. Create space for free family programs, activities, and classes	.98
2G. Provide meeting space for community use	.95
2T. Provide quiet adult reading areas	.94
2R. Provide classrooms for educational and vocational courses	.91
2H. Provide quiet study rooms	.86
2U. Provide adequate parking	.85
2J. Provide a separate teen area	.70
2I. Provide space for a cafe and coffee bar	.32

The survey results indicate a solid base of support for a library bond measure among likely November 2016 voters.

Initially, without any discussion of facility needs or service priorities, 71.8 percent of those surveyed indicated support, including 39.3 percent who indicated they would definitely support a library bond measure.



After identifying facility and service priorities needs, the definitely yes category increased to 41.9 percent, with a total yes of 72.5 percent. Even when the margin of error is accounted for, 68.7 percent of the voters support the measure – a very strong level for a measure requiring a two-thirds majority for approval.

Understanding the impacts of the measure strongly increases support:

Survey respondents were presented with a variety of statements about the measure, all of which significantly increased support for the measure – between 81 and 70 percent:

3E. The El Cerrito library was built in 1948 and does not currently meet the earthquake safety standards for libraries built today. This measure would build a new seismically safe library for residents to use for years to come	1.39
3L. When school gets out, the El Cerrito Library is packed with the school children. The El Cerrito Library is simply overcrowded, and too small for what our community needs	1.34
3P. None of the money raised by the measure would be used for City administrator salaries	1.32
3A. The measure will give El Cerrito local control over local funds for local needs. The money cannot be taken by the state	1.32
3U. Built in 1948, the El Cerrito Library is outdated and literally bursting at the seams. Space is limited for books, programs, and people - these constraints bring the library to a standstill when youth use the library after school	1.31
3V. Library programs for children and teens, including homework help and reading resources, are critical to providing our students with the resources they need	1.28
3C. El Cerrito's library is in poor condition when compared to libraries in Hercules, Albany, or Walnut Creek. Significant improvements are needed to address cramped, dilapidated conditions, poor lighting, and lack of space for seating, book collections, computer stations and group study or meetings	1.25
3B. The measure requires independent citizen oversight, mandatory financial audits, and yearly reports to the community to ensure that all funds are spent as promised	1.25
3T. This new library will provide space for more programs for older and younger adults	1.24
3W. Given historic low interest rates it will cost less to build a new library now. This is the right time to invest in our community	1.24
3D. Providing updated facilities and space will allow more after-school programs for youth and children, an expanded collection, additional seating and public computers, group study areas, and community meeting rooms -- all of which are important to serving the needs of today's library users	1.24
3O. The El Cerrito Library is substandard when considering its high community usage and book circulation rates	1.23
3F. The new library will have the most up to date computer technology for public use, including a wireless network	1.22

3R. Many seniors on fixed incomes rely on libraries because buying books is just too expensive	1.21
3S. The old library doesn't meet national standards for books, computers, meeting space and seating for a city of the size of El Cerrito	1.20
3H. The El Cerrito library helps support the economic vitality of the community by helping residents of all ages and backgrounds learn to read, prepare for jobs, use computers, and succeed in school	1.19
3J. The new library will be larger than the current library to accommodate growing collections and programs	1.18
3N. The new library will use green building materials, and energy efficient design and cost less to operate	1.17

Conclusion:

Likely November 2016 voters in El Cerrito strongly support a library bond measure, and have clear priorities for a safe, modern El Cerrito Library that meets earthquake and fire codes, can accommodate current technology including free W-Fi, provides more space for children and increased access for seniors and disabled patrons.



GODBE RESEARCH
Gain Insight



City of El Cerrito: 2015 Library Bond Measure Feasibility Survey

June 2015

Overview and Research Objectives

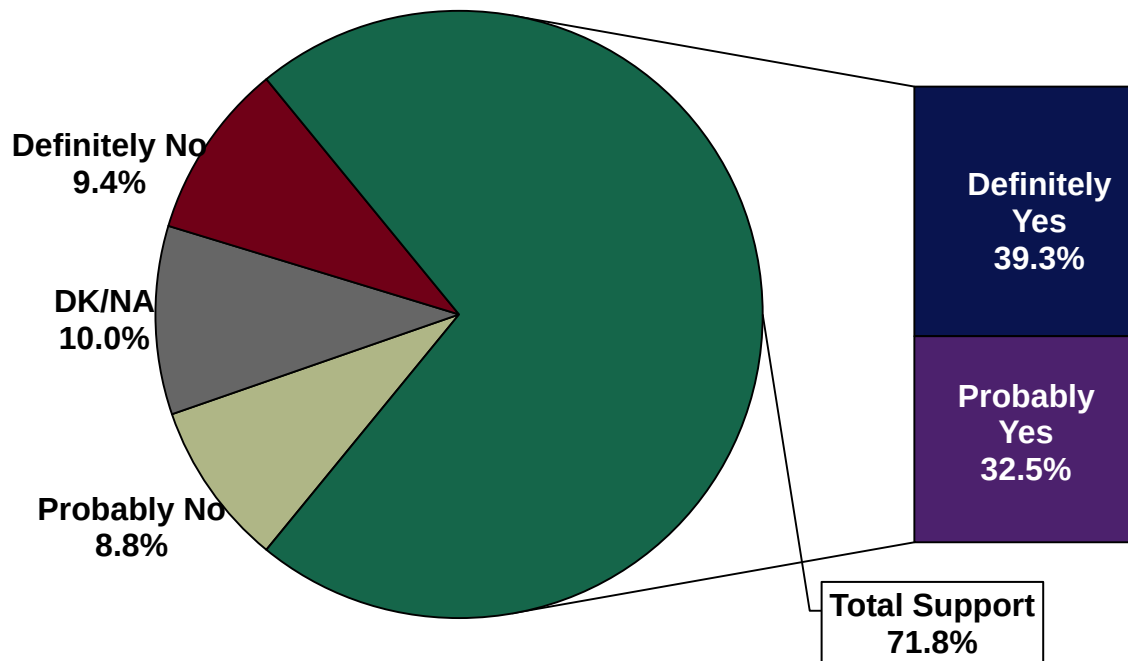
The City of El Cerrito commissioned Godbe Research to conduct a survey of its residents to gauge the feasibility of a bond measure in order to fund replacement of the 67-year-old Library, with the following research objectives:

- Gauge base support for a bond measure;
- Determine library features and constituent service priorities and,
- Assess the rate at which voters will support the bond;
- Identify any differences in voter support due to demographic and/or voter behavioral characteristics.

- Data Collection Telephone and Internet Interviewing
- Universe 12,041 registered likely November 2016 voters in the City of El Cerrito
- Fielding Dates March 23 through March 30, 2015
- Interview Length 20 minutes
- Sample Size n=621
Online, n=418
Phone, n=203
- Margin of Error $\pm 3.77\%$

Q1. Uninformed Support (n=621)

November 2016 Sample

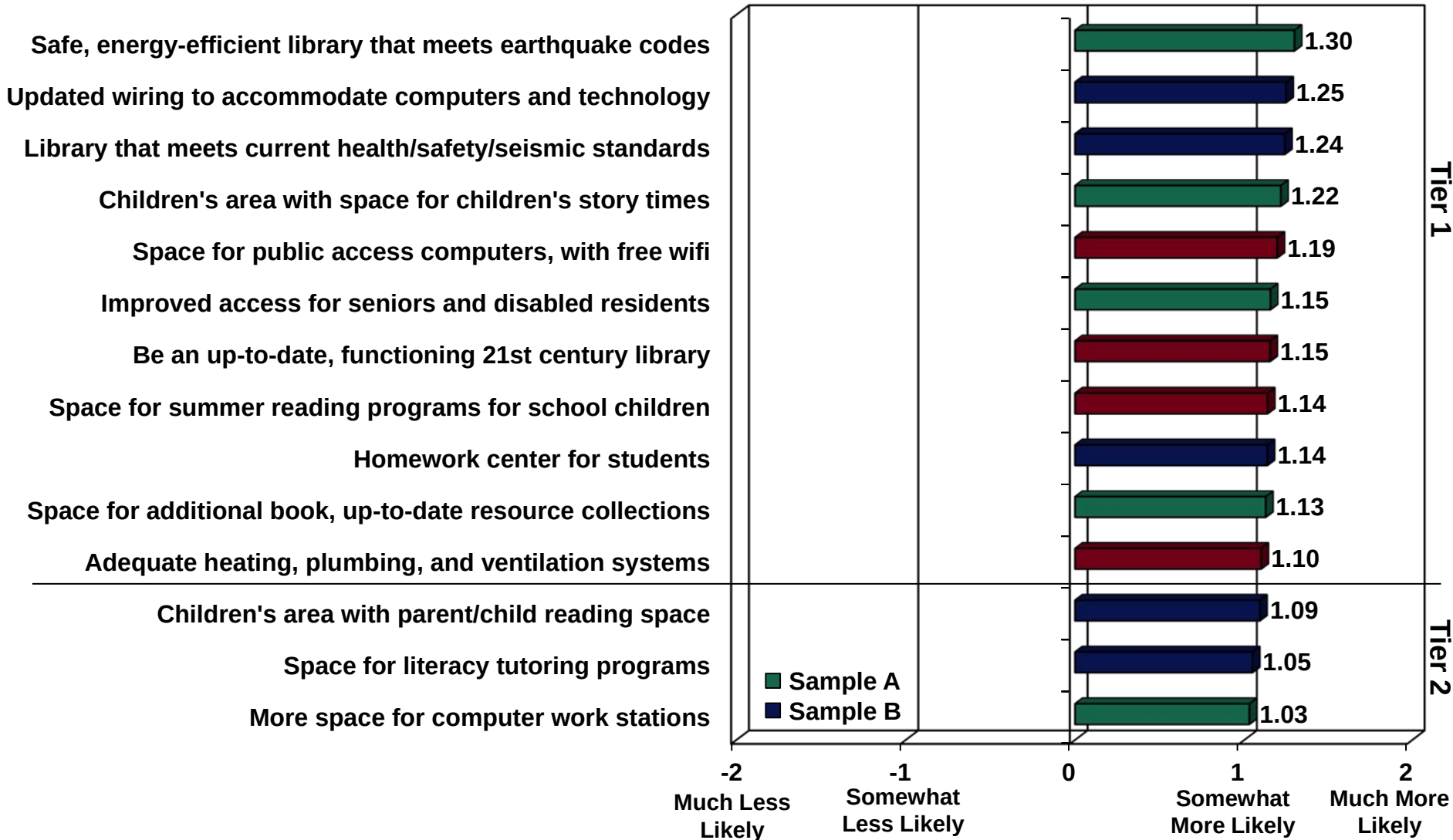


To meet educational and information needs of El Cerrito by replacing the 67-year-old library with a safe, energy efficient, 21st century library that meets earthquake and fire codes with space for:

- a children's area for children's story times;
- public access computers and computer lab;
- literacy tutoring programs;
- family programs, activities, and classes;
- additional book and up-to-date resource collections; and
- senior and disabled access;

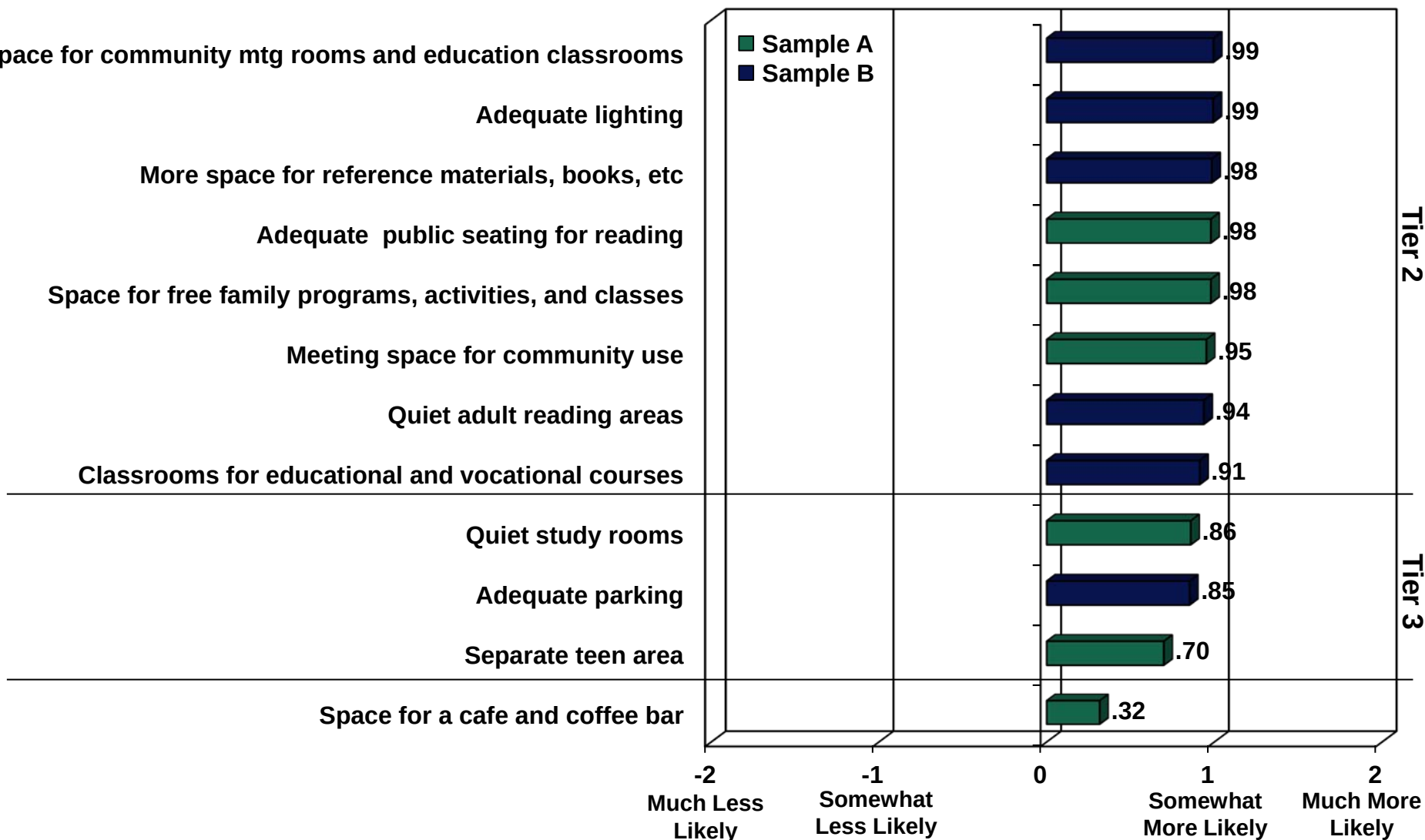
shall El Cerrito issue \$30 million dollars in bonds, with independent oversight and all funds staying local?

Q2. Features of the Measure (n=621)



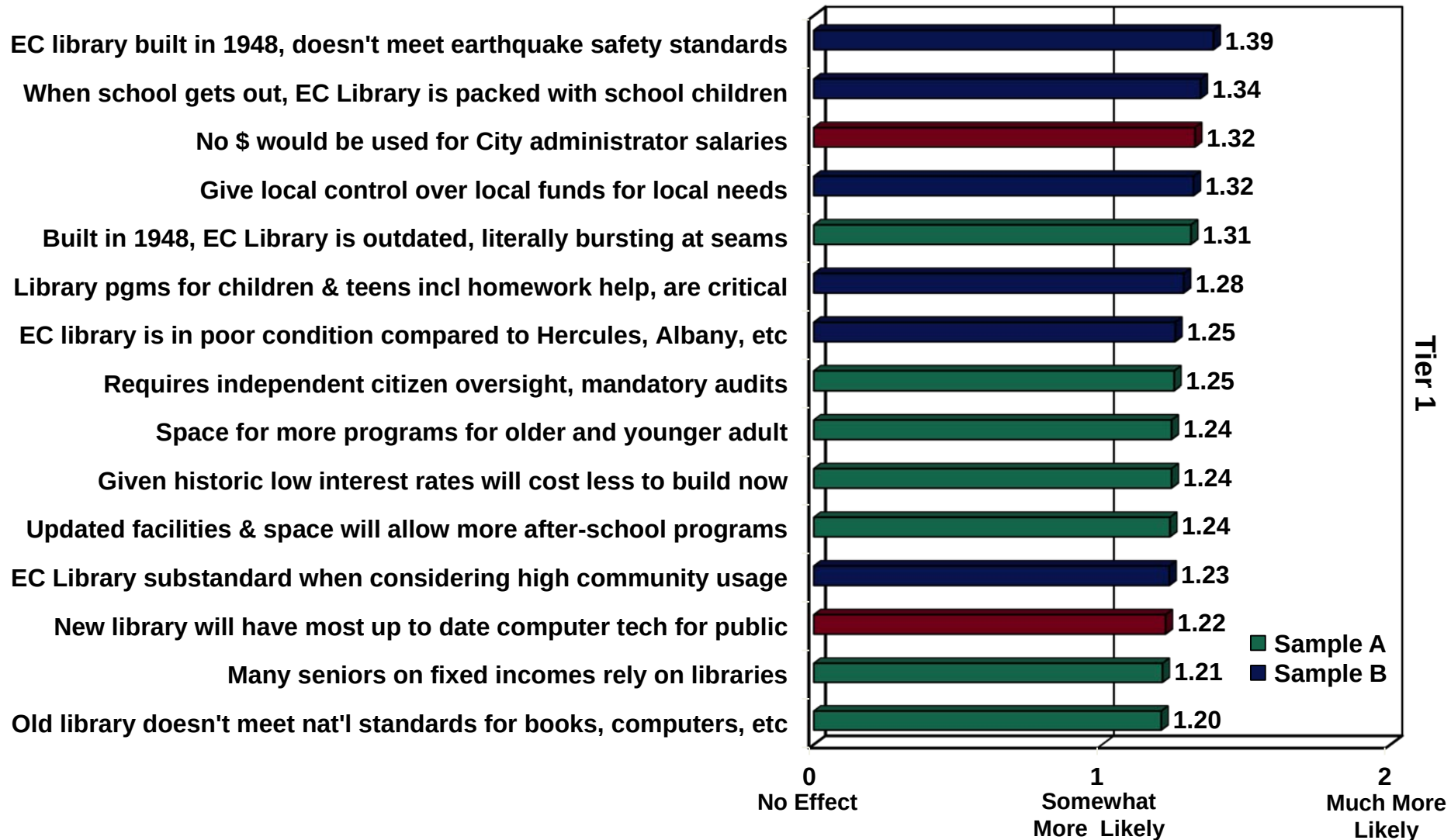
Note: The above rating questions have been abbreviated for charting purposes, and responses were recoded to calculate mean scores: "Much More Likely" = +2, "Somewhat More Likely" = +1, "No Effect" = 0, "Somewhat Less Likely" = -1, and "Much Less Likely" = -2.

Q2. Features of the Measure (continued) (n=621)



Statements About the Measure

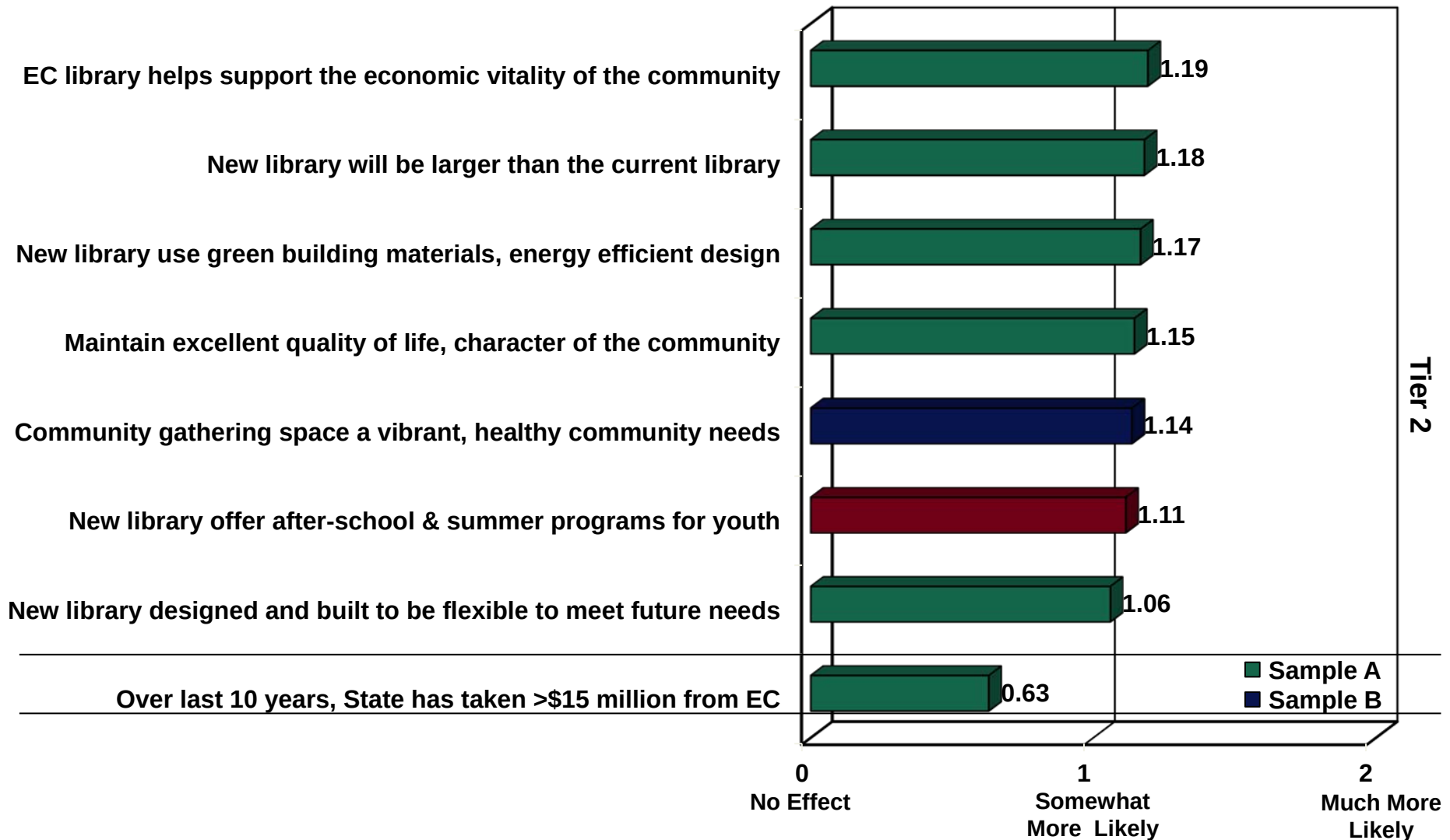
Tier 1 (n=621)



Note: The above rating questions have been abbreviated for charting purposes, and responses were recoded to calculate mean scores: "Much More Likely" = +2, "Somewhat More Likely" = +1, and "No Effect" = 0.

Statements About the Measure

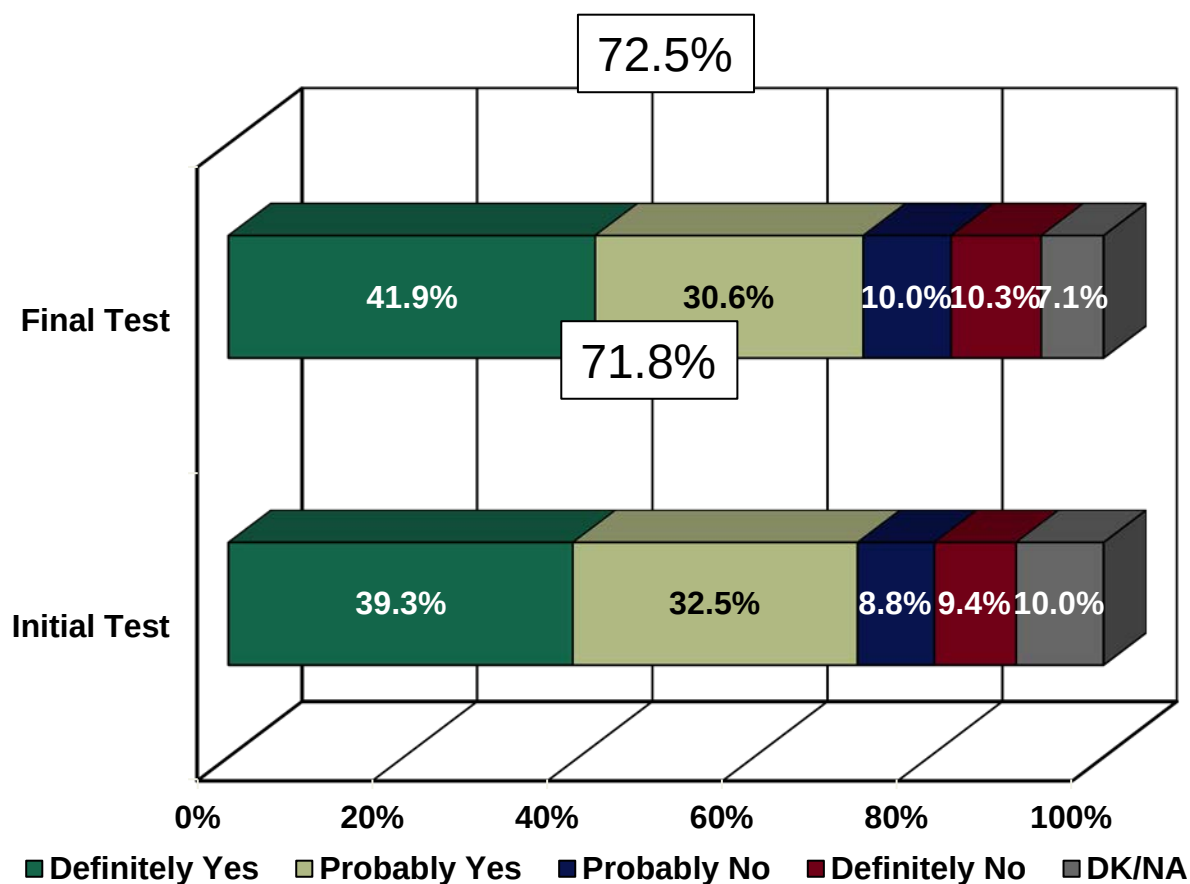
Tier 2 & 3 (n=621)



Note: The above rating questions have been abbreviated for charting purposes, and responses were recoded to calculate mean scores: "Much More Likely" = +2, "Somewhat More Likely" = +1, and "No Effect" = 0.

Q5. Uninformed and Informed Support (n=621)

November 2016 Sample

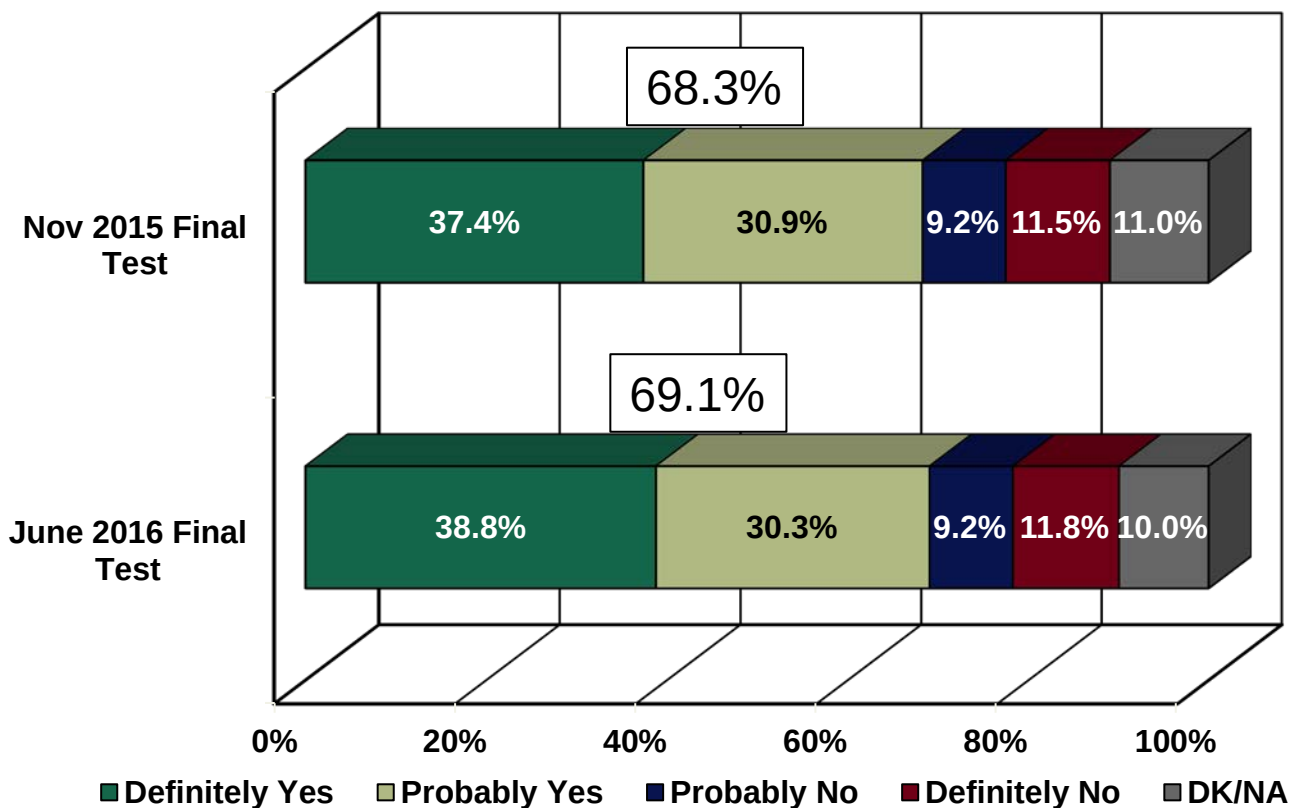


To meet educational and information needs of El Cerrito by replacing the 67-year-old library with a safe, energy efficient, 21st century library that meets earthquake and fire codes with space for:

- a children's area for children's story times;
- public access computers and computer lab;
- literacy tutoring programs;
- family programs, activities, and classes;
- additional book and up-to-date resource collections; and
- senior and disabled access;

shall El Cerrito issue \$30 million dollars in bonds, with independent oversight and all funds staying local?

Q5. Informed Support (Nov 2015 & June 2016)



To meet educational and information needs of El Cerrito by replacing the 67-year-old library with a safe, energy efficient, 21st century library that meets earthquake and fire codes with space for:

- a children's area for children's story times;
- public access computers and computer lab;
- literacy tutoring programs;
- family programs, activities, and classes;
- additional book and up-to-date resource collections; and
- senior and disabled access;

shall El Cerrito issue \$30 million dollars in bonds, with independent oversight and all funds staying local?



GODBE RESEARCH
Gain Insight



www.godberesearch.com

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