



AGENDA

REGULAR CITY COUNCIL MEETING
Tuesday, February 19, 2013 – 7:00 p.m.
City Council Chambers

Meeting Location

El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Jan Bridges

Councilmember Rebecca Benassini
Councilmember Mark Friedman

ROLL CALL

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

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – Mayor Lyman

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 limited to 3 minutes per person. Please 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. Introduction of Bay Area Rapid Transit (BART) Director Zakhary Mallet – *Director Mallet has requested ten minutes of the City Council's time to introduce himself to the City Council and Public and share his vision for the future of BART.*

B. Annual El Cerrito Streets Oversight Committee Report – Presentation by Al Miller, former Committee Chair.

C. Sustainability Tools for Assessing and Rating Communities (STAR) Overview – Presentation by Melanie Mintz, Environmental Services Division Manager.

The City has been selected as one of approximately thirty communities across the United States to test the STAR Community Rating System. STAR is the nation's first, voluntary self-reporting framework for evaluating, quantifying, and improving the livability and sustainability of communities. Staff will discuss the STAR framework and what to expect from the pilot project.

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

Consent Calendar items are considered to be routine by the City Council and will be enacted by one motion unless a request for removal for discussion or explanation is received prior to the time Council votes on the motion to adopt the Consent Calendar.

A. Minutes for Approval

Approve the February 5, 2013 Regular City Council meeting minutes.

B. Proclamation in Recognition of Officer Sid Hubbs

Approve a proclamation congratulating Officer Sid Hubbs for his recognition by the Richmond Elks Lodge No. 1251 as the El Cerrito Police Department honoree for Police Officer Appreciation Night to be held on February 20, 2013. The City Council extends sincere appreciation to Officer Hubbs for his devotion to the mission, vision and values of the Police Department. Officer Hubbs truly epitomizes community-based policing in the City of El Cerrito.

C. Support for Assembly Bill 39 – Upgrading our Schools and Creating Clean Energy Jobs

At the request of Mayor Pro Tem Abelson, authorize Mayor Lyman to sign a letter expressing the City Council's support for Assembly Bill 39 to implement Proposition 39. Proposition 39 provided up to \$550 million per year for clean energy programs at schools and other public buildings. Assembly Bill 39 (Assemblymember Skinner and Speaker Perez) establishes guidelines for clean energy expenditures at schools, colleges and other public facilities and for job training.

D. Support for Assembly Bill 48 – Bulletproofing Communities

At the request of Mayor Pro Tem Abelson, authorize Mayor Lyman to sign a letter expressing the City Council's support for Assembly Bill 48 (Skinner) which will require ammunition vendors to report all ammunition purchases to the Department of Justice and ban possession of magazine conversion kits.

E. Support for Assembly Bill 127 – Safer Building Insulation

At the request of Mayor Pro Tem Abelson, authorize Mayor Lyman to sign a letter expressing the City Council's support for Assembly Bill 127 which intends to reduce chemical flame retardants in plastic foam building insulation without reducing fire safety.

F. Tree Committee Appointment

Approve a Tree Committee recommendation to appoint Cathy Bleier to the Tree Committee effective March 11, 2013.

6. PUBLIC HEARING – *None*

7. POLICY MATTERS

CITY COUNCIL ITEM

A. Release of Draft Climate Action Plan

The City has released the draft Climate Action Plan (CAP) for public comment. Staff will present an overview of the content in the CAP and the public review timeline.

CITY COUNCIL ITEM AND CITY COUNCIL ACTING AS EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY ITEMS

B. Redevelopment Agency Successor Agency's Fiscal Year 2013-14 Administrative Budget, its Draft Recognized Obligations Payment Schedule 13-14A (July-December 2013), and a Cash Flow Loan Agreement Between the City and Successor Agency

Staff requests approval of the following actions:

1. Adopt a Successor Agency resolution approving its Fiscal Year 2013-14 administrative budget;
2. Adopt a Successor Agency resolution reviewing and authorizing submittal of the draft Recognized Obligation Payment Schedule 13-14A, covering the period July to December 2013;
3. Adopt separate City Council and Successor Agency resolutions approving a cash flow loan agreement for consideration by the Oversight Board to the Successor Agency.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Lyman Assignments: Commission/Committee Rules Subcommittee, Contra Costa County Mayors' Conference, Crime Prevention Committee, Human Relations Commission, Municipal Services Corporation Chair, Pension Trust Board Chair, Public Financing Authority Chair, San Pablo Avenue Area Specific Plan Committee, Successor Agency to the Former Redevelopment Agency Chair, Tree Committee, West Contra Costa Transportation Advisory Committee Alternate, West County Mayors' & Supervisors' Association and West County Integrated Waste Management Authority Delegate.

B. Mayor Pro Tem Abelson Assignments: Committee on Aging, Contra Costa County Mayors' Conference Alternate, Contra Costa Transportation Authority Board Vice-Chair, League of California Cities East Bay Division Delegate (also attends as the Council's Delegate to the Annual League Conference), Environmental Quality Committee, Municipal Services Corporation Vice-Chair, Pension Trust Board Vice-Chair, Successor Agency to the Former Redevelopment Agency Vice-Chair, West Contra Costa Transportation Advisory Committee Delegate and West County Mayors' & Supervisors' Association Alternate.

C. Councilmember Benassini Assignments: Association of Bay Area Governments General Assembly Delegate, Financial Advisory Board, Planning Commission, San Pablo Avenue Area Specific Plan Committee and Tom Bates Regional Sports Field Joint Powers Authority Delegate.

D. Councilmember Bridges Assignments: Tom Bates Regional Sports Field Joint Powers Authority Delegate and Design Review Board, Park and Recreation Commission.

E. Councilmember Friedman Assignments: Arts and Culture Commission, Association of Bay Area Governments General Assembly Alternate, Economic Development Board, Commission/Committee Rules Subcommittee, League of California Cities East Bay Division Alternate and West County Integrated Waste Management Authority Alternate.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, March 5, 2013 at 7:00 p.m. in the City Council Chambers, 10890 San Pablo Avenue, El Cerrito, California.

- 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. 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.



RECEIVED

JAN 31 2013

CITY OF EL CERRITO
BUILDING DIVISION

Date: January 28, 2013
To: El Cerrito City Council
From: Street Oversight Committee
Subject: Annual Report to City Council and Citizens of El Cerrito

On this date, the 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 2011-12, 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 stated 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, 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.

A handwritten signature in blue ink, appearing to read "Al Miller", is written over a horizontal line.

Al Miller, Chair, Street Oversight Committee



AGENDA BILL

Agenda Item No. 4(C)

Date: February 19, 2013

To: El Cerrito City Council

From: Melanie Mintz, Environmental Services Division Manager

Subject: STAR Community Rating System Pilot Community

ACTIONS REQUESTED

This item is for presentation only.

BACKGROUND & ANALYSIS

The City of El Cerrito has been selected as one of approximately thirty communities across the United States and Canada to test and evaluate the STAR Community Rating System (STAR). STAR is the nation's first, voluntary self-reporting framework for evaluating, quantifying, and improving the livability and sustainability of U.S. Communities. According to STAR, the intent of the system is "to inform and advance a 'race to the top' for quality of life of residents by indentifying, validating, and supporting implementation of governance actions that best improve sustainable community conditions."

Pilot communities will be the first to use the STAR Community Rating System to assess how sustainable they already are, set goals for moving ahead and measure progress along the way. Pilot communities will also be the first to receive a rating based on their responses using STAR products, such as the STAR Technical Guide, Online Reporting Tool, and others that are designed to help local communities establish and measure their own sustainability. More information about the Pilot communities can be found at: www.starcommunities.org/communities

STAR was created through a partnership between ICLEI-Local Governments for Sustainability, the U.S. Green Building Council, the Center for American Progress and National League of Cities to "address the needs of U.S. cities, towns and counties seeking a common framework for sustainability." STAR focuses not only on environmental performance but integrates and advances a number of community priorities across the "three pillars of sustainability: economy, environment and society." The system is built upon goals, objectives, outcomes and local actions across seven goal areas: Built Environment; Climate & Energy, Education, Arts & Community; Economy & Jobs; Equity & Empowerment, Health & Safety and Natural Systems. (Attachment 1: STAR Framework of Goals & Objectives)

STAR furthers the City's mission of creating an economically and environmentally sustainable future. The framework provides an additional tool for implementation of,

Agenda Item No. 4(C)

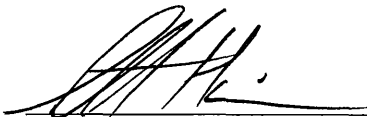
and is complementary to, the City's strategic planning efforts and the draft Climate Action Plan.

Over the next year, staff will work internally to identify and evaluate the City's current performance and programs within the STAR framework and with STAR staff and products to measure ourselves within this framework. Staff will then generate a short report with recommendations for continuing to improve the City's "score" and for incorporating actions into parallel planning efforts. Staff made a presentation to the Environmental Quality Committee at its November 13, 2012 meeting and, as is appropriate, may schedule similar presentations with other Boards, Commissions and Committees to present the framework and objectives as they pertain to their areas of concern. Staff has also convened an interdepartmental team to participate in this evaluation.

FINANCIAL CONSIDERATIONS

The cost of participating in the STAR Pilot program is \$3,500 and is accounted for in the adopted FY2012-13 budget.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. STAR Community Index- Framework of Goals and Objectives

STAR Community Index – Framework of Goals & Objectives

Built Environment	Climate & Energy	Education, Arts & Community	Economy & Jobs	Equity & Empowerment	Health & Safety	Natural Systems
Ambient Noise & Light	Climate Adaptation	Arts, Culture and Heritage	Business Retention & Support	Civil & Human Rights	Active Living	Green Infrastructure
Compact & Complete Communities	Resource Efficient Infrastructure	Community Cohesion	Community-Based Economic Development	Community Empowerment	Emergency Prevention & Response	Invasive Species
Housing	Greenhouse Gas Mitigation	Education Opportunities	Local Economy	Environmental Justice	Food Access & Nutrition	Land Conservation
Infill & Redevelopment	Greening the Energy Supply	Social & Cultural Diversity	Market Demand	Equitable Services & Access	Community Health & Health System	Natural Resources Protection
Public Spaces	Industrial Sector Resource Efficiency	Historic Preservation	Quality Jobs & Living Wages	Human Services	Indoor Air Quality	Outdoor Air Quality
Transportation Choices	Resource Efficient Buildings	Workforce Readiness	Targeted Industry Sectors	Poverty Prevention & Alleviation	Natural & Human Hazards	Water in the Environment
	Waste Minimization				Safe Communities	Working Lands
					Water for Human Use	

EL CERRITO CITY COUNCIL

MINUTES

REGULAR CITY COUNCIL MEETING

Tuesday, February 5, 2013 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Jan Bridges

Councilmember Rebecca Benassini
Councilmember Mark Friedman

ROLL CALL

Councilmembers Abelson, Benassini, Bridges, Friedman and Mayor Lyman.

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

Mayor Lyman convened the regular City Council meeting at 7:03 p.m.

1. **PLEDGE OF ALLEGIANCE TO THE FLAG** was led Mayor Lyman
2. **COUNCIL / STAFF COMMUNICATIONS**

CITY COUNCIL COMMENTS

Councilmember Benassini acknowledged the attendance of West Contra Costa Unified School District Board of Education Director of Todd Groves at the meeting and reported that she had just attended the Whale Week event at Fairmont School where an entire set of gray whale bones was put together amongst other festivities. Councilmember Benassini expressed appreciation for Ben Klein who organized the event. On February 12, 2013 the City will present the draft Climate Action Plan for comment. Councilmember Benassini informed the public that the City Council had spent January interviewing Board and Commission candidates, acknowledged the tremendous response to the City Council's recruitment effort, thanked all who applied and noted that those selected will serve the City very well.

Mayor Lyman reported that the West County Mayors Association recently received a presentation regarding community identification cards. The City of Richmond has selected a vendor that will provide a community identification card that can also function as an automatic teller money card. Mayor Lyman stated that this is an interesting program and noted that he has asked whether El Cerrito could piggyback on this program. He will receive more information

about the program next month.

STAFF COMMENTS

Paul Keith, Police Lieutenant, commented briefly on crime trends on the Ohlone Greenway and the Police Department's response to crime and the fear of crime. Lieutenant Keith presented statistics that illustrate a significant decline in crime on the Ohlone Greenway from 2008-2012. Much of the Greenway was closed in 2012 due to BART construction and landscaping. Significant reductions in 2008 and 2010 are attributed to changes on the BART path such as the installation of video surveillance cameras and the use of police bicycle patrols along BART path. The police also worked with the parks maintenance crew to modify plantings along the greenway. Lieutenant Keith stated that the department is looking forward to the widening of the path and working with the public to increase sight-lines and emphasized that the department is committed to fulfilling its mission, to service, safety and enhancing the public trust through professionalism and leadership.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Peter Loubal, El Cerrito, stated that there is a tie-in between the discussion of the Pledge of Allegiance and the Loyalty Oath (*Oath of Office*). Mr. Loubal commented on the Oath of Office and the request for advisory board members to take the Oath of Office five years ago. Mr. Loubal distributed an editorial opinion authored by Rosemary Loubal that appeared in the Berkeley Daily Planet in 1998 along with a 1997 California Attorney General Opinion which states that advisory bodies are not required to take the Oath of Office. Mr. Loubal noted that the poll on the Patch is recording a 50-50 split on the Pledge of Allegiance and stated that he wanted to ensure that the Oath of Office does not become a robotic formality and asked the Council to agendaize it for a future meeting.

Tom Panas, El Cerrito, noted that revised plans submitted by Eden Housing and discussed by the Council on November 17, 2011 are not perfect but are a start in the right direction. Mr. Panas stated that he is in favor of approving the contract with PMC (*Consent Calendar Item No. 5(D)*) for environmental review services related to the Eden Housing project. Mr. Panas stated that there will need to be mitigation for historic resources and that the community must be present and its voice must be heard regarding any discussion of the historic resource on the site, particularly when a plan for mitigation of the historic resource is being developed.

4. PRESENTATIONS

National Night Out Award – *Presentation by Lieutenant Robert De La Campa and Crime Prevention Committee Members.*

The City received the 2012 Police-Community Partnership National Award from the National Association of Town Watch in recognition of outstanding participation in "America's Night Out Against Crime."

Eugene Go and Catherine Krueger attended on behalf of the Crime Prevention Committee. Police Lieutenant De La Campa summarized the Police Department's planning efforts and different events and block parties that occurred at the 2012 National Night Out event. Lieutenant De La Campa also described the role the Crime Prevention Committee played in planning the event. The City ranked 13 out of 288 participating organizations.

Action: Received presentation.

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

Moved, seconded (Abelson/Bridges) and carried unanimously to adopt Consent Calendar Item Nos. 5A through 5G in one motion as indicated below.

A. Minutes for Approval

Approve the following City Council meeting minutes: 1) December 18, 2012 Special City Council and Regular City Council; 2) January 7, 2013 Special City Council; 3) January 12, 2013 Special City Council; 4) January 15, 2013 Special City Council; and 5) January 26, 2013 Special City Council.

Action: Approved minutes as submitted.

B. Moeser Lane and Ashbury Avenue Pedestrian and Bicycle Corridor Improvements Project, City Project No. C-3061, Federal Project No. RSTP-5239 (018)

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

Action: Adopted Resolution No. 2013–01.

C. Award Municipal Tree Inventory and Outreach Contract

Adopt a resolution authorizing the City Manager to execute a professional services agreement with Davey Resources Group in an amount not to exceed \$69,338 for the Municipal Tree Inventory and Outreach project.

Action: Adopted Resolution No. 2013–02.

D. Eden Housing San Pablo Avenue Mixed-Use Senior Apartments Environmental Review Contract Award

Adopt a resolution authorizing the City Manager to execute a contract with Pacific Municipal Consultants (PMC) in an amount not to exceed \$113,088.70 to perform environmental review services for the Eden Housing Senior Apartments project.

Action: Adopted Resolution No. 2013–03.

E. City Classification Plan Amendment

Adopt a resolution amending the City's Classification Plan to revise the class specification of Development Services Manager.

Action: Adopted Resolution No. 2013–04.

F. Adjustment to City Clerk Salary Control Point

Consider adoption of a resolution amending Section 2.1 of Resolution No. 2006–52, adjusting the monthly salary control point for the City Clerk position to \$11,247.

Action: Adopted Resolution No. 2013–05.

G. Committee on Aging Appointment

Approve a Committee on Aging recommendation to appoint Joanna Kim-Selby to the Committee on Aging effective February 6, 2013.

Action: Approved recommendation.

6. PUBLIC HEARING

Adoption of Growth Management Element of the El Cerrito General Plan

Conduct a public hearing and upon conclusion, approve a resolution adopting a revised Growth Management Element and Revisions to Chapter 4: Community Development and Design of the El Cerrito General Plan.

Presenter: Sean Moss, Senior Planner.

Mayor Lyman opened the public hearing.

Speakers: Tom Panas, El Cerrito, stated that although the Element states that the City will initiate a survey of the City, there is no reference to a historic resources ordinance in the document. Mr. Panas noted that Section 15 of the Element refers to a historic resources survey but it is mentioned nowhere else. The City Council requested that the Strategic Plan include a historic resources ordinance. Mr. Panas also requested inclusion of a consideration for historic resources into Sections 8 and 10 of the Element as well.

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

Action: Moved, seconded (Friedman/Bridges) and carried unanimously to adopt Resolution No. 2013–06 adopting a revised Growth Management Element and Revisions to Chapter 4: Community Development and Design of the El Cerrito General Plan as revised by staff to correct typographical errors and as amended by Mayor Lyman to modify page 4-56, *Cutting Boulevard*, to clarify that the most significant congestion occurs at the intersection of San Pablo Avenue and Cutting Boulevard in El Cerrito.

7. POLICY MATTERS

A. Amendment of City Council Meeting Rules and Procedures to Eliminate the Pledge of Allegiance

At the request of Councilmember Friedman consider a motion removing the ceremonial pledge of allegiance from all City Council meetings by adopting a resolution amending Resolution No. 97-99 and Section 3(A) of the City Council Meeting Rules and Procedures to remove the Pledge of Allegiance from agenda preparation and order of business.

Presenter: Councilmember Friedman.

Speakers: Al Miller, El Cerrito, stated that he believes strongly in the separation of church and state and for this reason ceased repeating the Pledge of Allegiance in 1954. Mr. Miller expressed his support for eliminating the Pledge of Allegiance from the City Council agenda and adopting the pledge of service to the residents of El Cerrito as proposed by Councilmember Friedman.

Action: Motion by Councilmember Friedman to amend Resolution No. 97-99 died for lack of a second.

Moved, seconded (Friedman/Benassini) and carried unanimously to direct the City Clerk to modify Section 1 of the Order of Business on City Council meeting agendas to read Pledge of Allegiance to the Flag or Observance of a Moment of Silence.

B. Appointment of City Council Subcommittee

At the request of City Manager Hanin, appoint two councilmembers to form a Council Subcommittee to work with staff and the West Contra Costa Unified School District on the ultimate disposition of the Portola Middle School site.

Presenter: Scott Hanin, City Manager.

Action: Councilmember Benassini and Mayor Lyman were appointed to the City Council Subcommittee.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Lyman reported that the Human Relations Commission (HRC) received a presentation from High School students and teachers at its January 2, 2013 meeting. The HRC provided a grant to a High School mentoring program for materials and time to provide one on one interaction between teachers and students. The students were very grateful for the grant and the difference the program made in their lives. The HRC also discussed the January 21, 2013 Martin Luther King Day Parade.

On January 10, 2013 the Contra Costa County Mayors Conference received a presentation from the Greenbelt Alliance about the Alliance's efforts to maintain open space for the benefit of all Contra Costa County residents. In order to reduce pressure on open spaces, the Alliance is providing a tremendous amount of support for infill development and is facilitating public outreach to promote good infill development. Members of the Conference also made appointments of representatives to the East Bay Regional Communication System, Bay Area Air Quality Management District, and one other committee.

The Tree Committee met on January 14, 2013 and is completing its charge to update an approved list of street and park trees. On January 24, 2013 the five Mayors in West Contra Costa County met and discussed bringing West County candidates forward for Contra Costa Mayors Conference appointments to better represent and promote the West County region. Mayor Lyman volunteered to research when various appointments and terms expire. On January 25 Mayor Lyman represented the city during the unveiling of the Lincoln Highway signs. There are four signs in the City along San Pablo Avenue. The Lincoln Highway existed on San Pablo Avenue for one year in 1926-27. It was the first cross country paved road that stretched from Times Square in New York to Lincoln Park in San Francisco.

B. Mayor Pro Tem Abelson reported that the Committee on Aging is approaching full membership. At its last meeting, the Committee on Aging received a presentation from a representative of the Department of Motor Vehicles about senior driving issues. The meeting was well attended. Janet Bilbas, Director of Senior Services, is soliciting input from the public about what is desired in terms of senior programs. Mayor Pro Tem Abelson also clarified that she is Vice-Chair of the Contra Costa Transportation Authority and reported that Jerry Bradshaw, who is currently working with the city on a part time basis as a consultant, is also working part time as interim executive director of the West Contra Costa Transportation Advisory Committee.

C. Councilmember Benassini reported that the Planning Commission met in January to discuss the Growth Management Plan Element and three permits for fences. The Planning Commission is receiving a lot of activity related to fences and may request that the City Council conduct a special study session to provide more direction to the Commission regarding fences.

D. Councilmember Bridges reported on the January 2, 2013 meeting of the Design Review Board (DRB). The DRB considered a project at 11858 San Pablo Avenue, the former Mitsubishi

Dealership site. The site involves an automobile sales and minor repair facility. The project was previously before the City Council on September 18, 2012.

The Council made three recommendations. The businesses located on the site have since ironed out some of their differences. The project is going to move forward however the architect and applicant are going to return to the DRB at a future date to present a color board of the plantings and signage. Councilmember Bridges also reported on her attendance at the January 23, 2013 Park and Recreation Commission meeting. The Commission discussed the West Contra Costa Unified School District's Joint Use Agreement with the City regarding facilities. Comments received during the Strategic Plan process indicate that a lot of facilities at the School District are locked and unavailable for city use. Facility users have reported that submitting an application for use of the fields and tennis courts is a very time consuming process. The application cannot be completed on-line or faxed. It has to be hand-carried. Additionally, applications have been getting lost by the School District. A key point of contention is the District's lack of recognition for a lot of maintenance that the City does, particularly of the fields and that use of city facilities is free but the city will be charged for use of District facilities. The City will not accept the agreement as currently drafted. Councilmember Bridges stated that City Manager Hanin and Recreation Director Chris Jones have met with WCCUSD Superintendent Harter and staff person in charge of fields and will continue to meet with them to iron out some of the issues.

E. Councilmember Friedman reported on the January 10, 2013 meeting of the Integrated Waste Management Authority. The Authority Board discussed negotiation of the contract with Republic regarding recycling services. The Authority Board debated whether recycling needs to be every week or every two weeks. One or two of the members from the City of Richmond thought every two weeks is sufficient. Another member from Richmond thought every week was best. Councilmember Friedman stated that he supports having recycling services every week. This is important if the City is going to reach its goals for waste diversion and increasing recycling efforts in the community. El Cerrito is a little different from the other cities in that it has its own contract. Mayor Lyman, Councilmember Friedman and staff are making sure, as negotiations go forward, that El Cerrito's interests are protected.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 2 Council/Staff Communications

1. Ohlone Greenway Violent Crime Trend powerpoint presentation – *Submitted by Paul Keith, Police Lieutenant.*

Item No. 5(D) Eden Housing San Pablo Avenue Mixed-Use Senior Apartments Environmental Review Contract Award

2. Comments supporting approval of the PMC contract for environmental review – *Submitted by Tom Panas.*

3. Comments on Eden Housing Project submitted to the City Council at its November 17, 2011 meeting – *Submitted by Tom Panas.*

Item No. 6 Adoption of Growth Management Element of the El Cerrito General Plan

4. Revised Growth Management Element incorporating comments received from Mayor Lyman and Councilmember Benassini. *Changes are illustrated with strikeout and underline.*

5. Comments requesting the incorporation of historic resources into the Growth

Management Element – *Submitted by Tom Panas.*

Other

6. Commentary: Loyalty Oath Mania Overtakes El Cerrito by Rosemary Loubal, Berkeley Daily Planet -*Submitted by Peter Loubal.*
7. Attorney General Opinion No. 96–1001 – *Submitted by Peter Loubal.*
9. **ADJOURNED REGULAR CITY COUNCIL MEETING** at 8:30 p.m.

CITY OF EL CERRITO PROCLAMATION

Commending and Congratulating Officer Sid Hubbs for his recognition by the Richmond Elks Lodge No. 1251 as the El Cerrito Police Department Honoree for Police Officer Appreciation Night

WHEREAS, Officer Sid Hubbs embodies professionalism and leadership in the field of Law Enforcement; and

WHEREAS, Officer Hubbs began with the El Cerrito Police Department as a volunteer Reserve Officer on September 5, 2001; and

WHEREAS, Officer Hubbs graduated from Basic Police Academy on February 28, 2006 and became a full-time Officer with the El Cerrito Police Department; and

WHEREAS, Officer Hubbs competed in June of 2012 in his first Police Motorcycle Skill competition; and

WHEREAS, Officer Hubbs became a Field Training Officer in 2012; and

WHEREAS, Officer Hubbs was a dedicated member of the Crime Scene Investigation Unit and made the new Crime Scene Response Trailer operational; and

WHEREAS, Officer Hubbs has demonstrated adherence to the Mission of the Department which states, "The El Cerrito Police Department is committed to service, safety and enhancing the public trust through professionalism and leadership."

NOW THEREFORE, the City Council of the City of El Cerrito hereby commends Officer Sid Hubbs on the occasion of his recognition by the *Richmond Elks Lodge No. 1251* on February 20, 2013. The City Council extends sincere appreciation to Officer Sid Hubbs for his devotion to the mission, vision and values of the Police Department. Officer Hubbs truly epitomizes community based policing in the City of El Cerrito.

Dated: February 19, 2013

Gregory B. Lyman, Mayor



OFFICE OF THE MAYOR
Gregory B. Lyman

February 19, 2013

The Honorable Nancy Skinner
California State Assembly
State Capitol
Sacramento, CA 95814

Re: AB 39 (Skinner, Perez) – Upgrading Schools and Creating Clean Energy Jobs

Dear Assembly Member Skinner:

On behalf of the City of El Cerrito, I am writing to express the Council's support for Assembly Bill 39 to implement Proposition 39.

With the passage of Proposition 39, the voters of California established a path forward for schools and clean energy jobs. For the next five years, Proposition 39 provides up to \$550 million annually to the Clean Energy Job Creation Fund. The funds are to be used for projects in schools, universities, and other public buildings. Funds from Proposition 39 allow the State to reduce utility bills at public schools while promoting clean energy jobs that can't be outsourced. Over the next five years, Proposition 39 could lead to 30,000 California jobs.

In California, seventy percent of K-12 public school classrooms are over 25 years old. Combined, schools account for approximately 12 percent of all commercial energy consumption, which costs taxpayers \$1.1 billion a year – more than was spent on books and supplies, combined. In an era of budget cuts, the savings from more efficient buildings will give schools flexibility to pay for student learning, rather than utility bills.

AB 39 establishes guidelines for clean energy expenditures from the Clean Energy Job Creation Fund, including for K-12 schools, colleges and universities, other public facilities, and workforce training. AB 39 states that the money may be available in the form of grants, low or no-interest loans, or other forms of financial assistance.

Sincerely,

Gregory B. Lyman
Mayor

Upgrading our Schools & Creating CleanEnergy Jobs

AB 39 – Skinner, Speaker Pérez

SUMMARY

Proposition 39 provides up to \$550 million per year for clean energy programs at schools and other public buildings. However, the initiative contained little direction for how to prioritize projects and implement the act. Assembly Bill 39 establishes guidelines for clean energy expenditures at schools, colleges, other public facilities and for job training.

BACKGROUND

With the passage of Proposition 39, the voters of California established a path forward for schools and clean energy jobs. For the next 5 years, Prop 39 provides up to \$550,000,000 annually to the Clean Energy Job Creation Fund for job creation and clean energy projects in schools, universities, and other public buildings. Funds from Prop 39 will allow the state to reduce utility bills at public schools while promoting clean energy jobs that can't be outsourced. Over the next five years, Prop 39's could lead to 30,000 California jobs.

In California, 70 percent of K–12 public school classrooms are over 25 years old. Combined, schools account for approximately 12% of all commercial energy consumption, which costs taxpayers \$1.1 billion a year – more than was spent on books and supplies, combined. In an era of budget cuts, the savings from more efficient buildings will give schools flexibility to pay for student learning, rather than utility bills.

Retrofits at Oakland Unified School District, Murrieta Valley Unified School District and Antelope Valley High School District, saw annual savings of **\$100,000**, **\$420,000**, and **\$303,000** respectively.

EXISTING LAW

Proposition 39 closed a tax loophole for multi-state corporations, ensuring that all companies that do business in California are treated equally under the tax code. The initiative requires that, for the next 5 years, half of the expected revenue (up to \$550 million annually) be deposited into the Clean Energy Job Creation Fund.

THIS BILL

AB 39 establishes guidelines for clean energy expenditures from the Clean Energy Job Creation Fund, including for K-12 schools, colleges and universities, other public facilities, and workforce training. AB 39 states that the money may be available in the form of grants, low- or no-interest loans, or other forms of financial assistance. AB 39 ensures that expenditures, for the first year, go toward “shovel-ready” projects to put people to work.

For K-12 schools, AB 39 states that funds will be awarded by the CA Energy Commission using existing expertise and resources. In coordination with the Superintendent of Public Instruction, schools will be prioritized based on the age of the school, the proportion of disadvantaged students, whether the facilities have been recently modernized, the potential for demand reduction, and the school's Energy Star score. AB 39 ensures that the savings from energy retrofits at schools are used to benefit the students at those facilities.

CURRENT BILL STATUS

MEASURE : A.B. No. 39
AUTHOR(S) : Skinner and John A. Pérez.
TOPIC : Proposition 39: implementation.
HOUSE LOCATION : ASM

TYPE OF BILL :

Active
Non-Urgency
Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 01/14/2013
LAST HIST. ACTION : Referred to Com. on NAT. RES.
COMM. LOCATION : ASM NATURAL RESOURCES

TITLE : An act to add Division 16.4 (commencing with Section 26225) to the Public Resources Code, relating to energy efficiency, and making an appropriation therefor.

ASSEMBLY BILL**No. 39****Introduced by Assembly Members Skinner and John A. Pérez**

December 3, 2012

An act to add Division 16.4 (commencing with Section 26225) to the Public Resources Code, relating to energy efficiency, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 39, as introduced, Skinner. Proposition 39: implementation.

The California Clean Energy Jobs Act, an initiative approved by the voters as Proposition 39 at the November 6, 2012, statewide general election, made changes to corporate income taxes and, except as specified, provides for the transfer of \$550,000,000 annually from the General Fund to the Clean Energy Job Creation Fund (Job Creation Fund) for 5 fiscal years beginning with the 2013–14 fiscal year. Moneys in the Job Creation Fund are available, upon appropriation by the Legislature, for purposes of funding eligible projects that create jobs in California improving energy efficiency and expanding clean energy generation. Existing law provides for the allocation of available funds to public school facilities, university and college facilities, other public buildings and facilities, as well as job training and workforce development, and public-private partnerships, for eligible projects, as specified. Existing law establishes prescribed criteria that apply to all expenditures from the Job Creation Fund. Existing law creates the Citizens Oversight Board with specified responsibilities relative to the review of expenditures from the Job Creation Fund, including the submission of an evaluation to the Legislature.

This bill would require the State Energy Resources Conservation and Development Commission (Energy Commission) to administer grants, no-interest loans, or other financial assistance to an eligible institution, defined as a public school providing instruction in kindergarten or grades 1 to 12, inclusive, for the purpose of projects that create jobs in California by reducing energy demand and consumption at eligible institutions. This bill would continuously appropriate for prescribed fiscal years an unspecified amount to the Energy Commission for this purpose in each year that at least that amount of money is transferred to the Job Creation Fund. This bill would require the Energy Commission to administer the grants, no-interest loans, or other financial assistance program to ensure that projects satisfy the prescribed criteria that apply to all expenditures from the Job Creation Fund. This bill would require an eligible institution that receives a grant, no-interest loan, or other financial assistance to report the amount of energy saved to the Energy Commission and to compute the cost of energy saved as a result of implementing projects funded by the grant, as prescribed.

This bill would set forth certain criteria to be used to prioritize projects to be funded from moneys in the Job Creation Fund relative to public schools, school districts, public colleges and universities, and other public buildings and facilities. This bill would require moneys for job training and workforce development to be available from the Job Creation Fund, upon appropriation by the Legislature, to the California Conservation Corps, Certified Community Conservation Corps, Youth Build, and other existing workforce development programs, as specified, consistent with the requirements of the California Clean Energy Jobs Act. This bill would require moneys for public-private partnerships to be available from the Job Creation Fund, upon appropriation by the Legislature, for assistance to certain local governments to establish and implement Property Assisted Clean Energy programs or similar financial and technical assistance consistent with the requirements of the California Clean Energy Jobs Act.

The bill would require a person or entity receiving financial assistance from the Job Creation Fund to report certain information to the Citizens Oversight Board. The bill would require this information to be included in an annual report by the board to the Legislature.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) With the passage of Proposition 39 at the November 6, 2012,
4 statewide general election, the people of California declared their
5 intent to have multistate businesses treated equally under the
6 Revenue and Taxation Code and to establish a path forward for
7 schools and clean energy jobs.

8 (b) Between the 2013–14 and 2017–18 fiscal years, Proposition
9 39 will dedicate up to \$550,000,000 annually to the Clean Energy
10 Job Creation Fund.

11 (c) Proposition 39 establishes objectives for clean energy job
12 creation, including funding energy efficiency projects and
13 renewable energy installations in public schools, universities, and
14 other public facilities.

15 (d) Proposition 39 identifies energy efficiency retrofits and clean
16 energy installations at public schools as one way to promote
17 private-sector jobs to save energy and money.

18 (e) The United States Environmental Protection Agency
19 estimates that schools waste 30 percent of their energy
20 unnecessarily through inefficiencies. The financial savings from
21 more efficient buildings would provide schools with the flexibility
22 to pay for other upgrades and programs that enhance student
23 learning.

24 (f) In California, more than 70 percent of the state’s kindergarten
25 and grades 1 to 12, inclusive, public school classrooms are over
26 25 years old and schools account for approximately 12 percent of
27 all commercial energy consumption. This represents a significant
28 cost to public schools and to California taxpayers.

29 (g) With the passage of Proposition 39, the state will be able to
30 reduce energy demand at public schools and provide long-term
31 savings and budgetary flexibility so schools can concentrate their
32 limited resources on education and not utility bills.

33 (h) Proposition 39 also establishes a Citizens Oversight Board
34 to review expenditures, audit the Clean Energy Job Creation Fund,
35 and maintain accountability of the fund.

36 (i) It is the intent of the Legislature to establish guidelines for
37 clean energy expenditures from the Clean Energy Job Creation
38 Fund.

(j) It is further the intent of the Legislature, during the 2013–14 fiscal year, to ensure that expenditures from the Clean Energy Job Creation Fund go toward “shovel-ready” clean energy projects with guidelines for future expenditures to be developed thereafter.

SEC. 2. Division 16.4 (commencing with Section 26225) is added to the Public Resources Code, to read:

DIVISION 16.4. PROPOSITION 39 IMPLEMENTATION:
UPGRADING OUR SCHOOLS AND CREATING CLEAN
ENERGY JOBS

26225. For purposes of this division, the following terms have the following meanings:

(a) “Commission” means the State Energy Resources Conservation and Development Commission.

(b) “Eligible institution” means a public school or school district providing instruction in kindergarten or grades 1 to 12, inclusive.

(c) “Job Creation Fund” means the Clean Energy Job Creation Fund established in Section 26205.

(d) “Public buildings” has the same meaning as in subdivision (k) of Section 4217.11 of the Government Code.

26230. (a) The commission shall administer grants, no-interest loans, or other financial assistance to eligible institutions for the purpose of projects that create jobs in California by reducing energy demand and consumption at eligible institutions in accordance with this section.

(b) Notwithstanding Section 13340 of the Government Code, for the purposes of this section, _____ dollars (\$_____) is continuously appropriated for fiscal years 2013–14 through 2017–18, inclusive, from the Job Creation Fund to the commission in each year that money in at least that amount is transferred to the Job Creation Fund pursuant to Section 26205.

(c) To implement this section, the commission shall do all of the following:

(1) Administer the grants, no-interest loans, or other financial assistance to ensure that projects satisfy the criteria in Section 26206.

(2) Utilize existing resources, programs, and expertise to the extent possible.

1 (3) Establish a system to prioritize eligible institutions for grants,
2 no-interest loans, and other financial assistance through this section
3 in consultation with the Superintendent of Public Instruction.
4 Prioritization shall take into consideration circumstances that shall
5 include, but not be limited to, the following:

6 (A) The age of the school facilities.

7 (B) The proportion of students receiving free and reduced-price
8 meals.

9 (C) Whether the facilities have been recently modernized.

10 (D) Whether the facilities are operated as a year-round school.

11 (E) The potential for demand reduction.

12 (F) The school's score from an energy rating system such as
13 the United States Environmental Protection Agency's Energy Star
14 system.

15 (d) (1) Any eligible institution may submit an application to
16 the commission for a grant, no-interest loan, or other financial
17 assistance. The commission shall award moneys pursuant to this
18 section only to eligible institutions.

19 (2) Each year, in accordance with a schedule established by the
20 commission, an eligible institution that receives a grant, no-interest
21 loan, or other financial assistance pursuant to this section shall
22 report the amount of energy saved to the commission and compute
23 the cost of energy saved as a result of implementing energy
24 efficiency retrofit and clean energy installation projects funded by
25 this section. The cost shall be calculated in a manner established
26 by the commission.

27 (e) The commission shall ensure that adequate energy audit,
28 measurement, and verification procedures are employed to ensure
29 that energy savings and greenhouse gas emissions reductions occur
30 as a result of any grants, no-interest loans, or other financial
31 assistance provided pursuant to this section.

32 (f) The commission shall use a net present value analysis or life
33 cycle cost analysis when determining eligible measures for energy
34 savings.

35 (g) This section shall not affect the eligibility of any eligible
36 entity awarded a grant, no-interest loan, or other financial assistance
37 pursuant to this section to receive other incentives available from
38 federal, state, and local government, or from public utilities or
39 other sources, or to leverage the grant from this section with any
40 other incentive.

1 (h) It is the intent of the Legislature that monetary savings at
2 eligible institutions from retrofit and installation projects pursuant
3 to this section be used to benefit students and learning at those
4 institutions.

5 26235. (a) Moneys for eligible colleges and universities, and
6 other public buildings and facilities shall be available from the Job
7 Creation Fund, upon appropriation by the Legislature, for projects
8 that meet the requirements of Division 16.3 (commencing with
9 Section 26200). Eligible projects are projects that create jobs in
10 California by improving energy efficiency, installing clean energy
11 technologies, or making other energy system improvements.

12 (b) Eligible facilities shall be prioritized based on the
13 requirements of Section 26206 and all of the following criteria:

14 (1) The potential for job creation within California.

15 (2) The potential for energy demand reduction.

16 (3) The extent to which the project is coordinated with the
17 commission or the Public Utilities Commission, or both, to achieve
18 the maximum amount of job creation within California and energy
19 benefits from available funds.

20 26240. Moneys for job training and workforce development
21 shall be available from the Job Creation Fund, upon appropriation
22 by the Legislature, to the California Conservation Corps, Certified
23 Community Conservation Corps, Youth Build, and other existing
24 workforce development programs to train and employ
25 disadvantaged youth, veterans, and others on energy efficiency
26 and clean energy projects, consistent with the requirements of
27 Division 16.3 (commencing with Section 26200).

28 26245. Moneys for public-private partnerships shall be
29 available from the Job Creation Fund, upon appropriation by the
30 Legislature, for assistance in establishing and implementing
31 Property Assisted Clean Energy (PACE) programs or similar
32 financial and technical assistance for cost-effective retrofits and
33 installations that include repayment requirements, consistent with
34 the requirements of Division 16.3 (commencing with Section
35 26200).

36 26250. (a) No later than one year after a person or entity
37 receives a grant, loan, or other assistance from the Job Creation
38 Fund, the person or entity shall submit a report to the Citizens
39 Oversight Board created pursuant to Chapter 3 (commencing with

1 Section 26210) of Division 16.3 containing the following
2 information, to the extent applicable:

3 (1) The number of jobs created.

4 (2) The amount of energy saved.

5 (3) The amount of new clean energy generation installed.

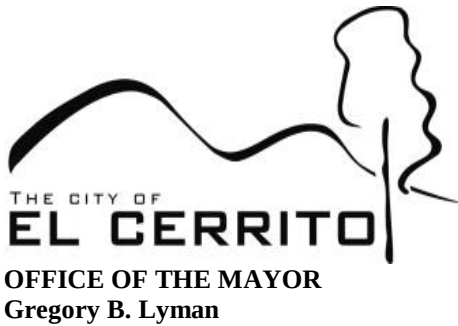
6 (4) The number of trainees.

7 (5) The portion of financial assistance provided that was used
8 for administrative costs.

9 (6) The amount of time between awarding of the financial
10 assistance and the completion of the project or training activities.

11 (b) The Citizens Oversight Board shall report the information
12 it receives pursuant to subdivision (a) to the Legislature as part of
13 its responsibilities pursuant to subdivision (d) of Section 26210.
14 The board's report shall be submitted annually. The report shall
15 also be posted on a publically accessible Internet Web site.

16 26255. Funding for clean energy, energy efficiency, or job
17 creation programs from sources other than the Job Creation Fund
18 shall not be reduced or eliminated as a result of the availability of
19 moneys from the fund.



February 19, 2013

The Honorable Tom Ammiano
Chair, Assembly Public Safety Committee
1020 N Street, Room 111
Sacramento, CA 95814

Re: Support for Assembly Bill 48 – Bulletproofing Communities (Skinner)

Dear Assembly Member Ammiano:

The City of El Cerrito is writing in support of AB 48, which will require ammunition vendors to report all ammunition purchases to the Department of Justice, and ban possession of magazine conversion kits.

AB 48 will require anyone selling or transferring ammunition to an individual in California to require proper identification, to be an authorized firearms dealer, and to report the sales to the Department of Justice.

Currently, it is more difficult to purchase over the counter cold medicine like pseudoephedrine than it is for ammunition. Furthermore, current state law does not require tracking of ammunition sales. AB 48 will provide oversight of our state's ammunition market and makes buying ammunition at least as difficult as buying cold medicine.

Additionally, this bill will make it unlawful to possess any parts that can be assembled into a complete high capacity magazine, capable of accepting more than 10 rounds. Currently, it is illegal to possess large-capacity magazines that can accept more than 10 rounds of ammunition in California. Unfortunately, some individuals obtain parts that allow them to assemble a complete such magazine themselves; AB 48 will close this loophole.

Communities throughout our state and across the nation have been stunned with the horrific and tragic events that have recently occurred due to gun violence. The mass shooting in Aurora, Colorado, where the alleged shooter amassed 6,000 rounds of ammunition over a few-week period without raising red flags highlighted the need for further protection to help reduce the threat of gun violence in our communities. In

Congressman Ammiano

Page 2

February 19, 2013

Newtown, Connecticut, police found the shooter with multiple high-capacity magazines and hundreds of unspent rounds.

While incidents like Aurora and Newtown may be rare, gun violence is an ongoing, yet unnecessary threat in communities throughout California.

We have an obligation to minimize gun violence and make our communities safer.

Sincerely,

Gregory B. Lyman

Mayor

cc: The Honorable Nancy Skinner, Assemblymember, 15th District



Assembly Bill 48 (Skinner)

Bulletproofing Communities

ISSUE

Today in California, it's easier to buy bullets than to buy alcohol, cigarettes or certain cold medicines. Sales of some cold medicines are reported to the Department of Justice but not ammunition sales. We expect to show ID to buy alcohol or tobacco, but there is no such requirement for bullets. Bullets, the very thing that makes a gun deadly, should not be easier to buy than alcohol or cigarettes.

Existing law prohibits individuals convicted of a felony, a violent misdemeanor, or those with mental health issues from purchasing or possessing ammunition. Additionally, current state law does not require tracking of ammunition sales. The few restrictions California does have are difficult to enforce because ammunition sellers do not have to check ID's or keep records of sales.

Furthermore, our state may have one of the nation's toughest gun laws, but laws regulating ammunition are almost absent in California.

Safeguards were the norm all across the United States 40 years ago when federal law was passed to regulate ammunition sales. Under the Gun Control Act of 1968, mail-order ammunition sales across state lines were prohibited; retailers, importers, or manufacturers could only transport or ship ammunition to other licensed retailers, importers, or manufacturers. Unfortunately, these provisions were removed in 1986 when Congress adopted the Firearm Owners Protection Act, which was backed by the National Rifle Association.

AB 48 (SKINNER)

Adopts some of the same procedures that now cover guns sales to also cover the sale and purchase of bullets.

Requires:

- Sellers of ammunition to be licensed,
- Purchasers of ammunition to show ID,
- Sales to be reported to the Department of Justice, and
- Local law enforcement to be informed when someone buys a large quantity of ammunition over a short time period.

Additionally, AB 48 makes it illegal for gun owners to purchase parts that allow them to convert their guns into assault-style weapons that can fire more than 10 rounds of bullets without reloading.

Currently, it is illegal in California to possess an ammunition feeding device that can hold more than 10 rounds of bullets. Unfortunately, some individuals are obtaining parts that allow them to assemble an ammunition cartridge that can hold as many as 30 rounds; AB 48 will close this loophole.

Assemblymember Nancy Skinner

Staff Contact: Tony Bui (916) 319-2015 or Tony.Bui@asm.ca.gov

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 48
AUTHOR : Skinner
TOPIC : Firearms: ammunition: sales.

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY

2013

Feb. 5 Re-referred to Com. on PUB. S.
Feb. 4 From committee chair, with author's amendments: Amend, and re-refer
to Com. on PUB. S. Read second time and amended.
Jan. 14 Referred to Com. on PUB. S.
Jan. 7 Read first time.

2012

Dec. 21 From printer. May be heard in committee January 20.
Dec. 20 Introduced. To print.

AMENDED IN ASSEMBLY FEBRUARY 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 48

Introduced by Assembly Member Skinner
(~~Coauthor: Assembly Member~~ *Coauthors: Assembly Members*
***Ammiano, Bonta, and Williams*)**
(~~Coauthor: Senator~~ *Coauthors: Senators De León and Hancock*)

December 20, 2012

An act to amend Sections 16740, 16890, and 32390 of, and to add Sections 16740.5, 30301, and 32311 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, Skinner. Firearms: ammunition: sales.

(1) Except as specified, existing law makes it a crime to manufacture, import, keep for sale, offer or expose for sale, or give or lend any large-capacity magazine, and makes a large-capacity magazine a nuisance. Existing law defines “large-capacity magazine” to mean any ammunition feeding device with the capacity to accept more than 10 rounds but excludes, in pertinent part, a feeding device that has been permanently altered so that the magazine cannot accommodate more than 10 rounds.

This bill would make it a misdemeanor, punishable by a fine of not more than \$1,000 or imprisonment in a county jail not to exceed 6 months, or by both that fine and imprisonment, to knowingly manufacture, import, keep for sale, offer or expose for sale, or give or lend any device that is capable of converting an ammunition feeding device into a large-capacity magazine. The bill would revise the definition of “large-capacity magazine” to mean any ammunition feeding

device with the capacity to accept more than 10 rounds, including a readily restorable, as defined, disassembled large-capacity magazine, and an oversize magazine body that appears to hold in excess of 10 rounds. The bill would make related, conforming changes. By creating a new crime, this bill would impose a state-mandated local program.

(2) Existing law prohibits any person, corporation, or dealer from selling ammunition to a person under 18 years of age, selling ammunition designed for use in a handgun to a person under 21 years of age, or providing possession of any ammunition to any minor who the person, corporation, or dealer knows is prohibited from possessing that ammunition at that time. Existing law prohibits a person, corporation, or firm from giving possession or control of ammunition to any person who he or she knows is prohibited by law from possessing ammunition. Existing law also regulates handgun ammunition vendors and provides that a handgun ammunition vendor shall not permit any employee who the vendor knows or reasonably should know is a person who has been convicted of a felony or other specified crimes to handle, sell, or deliver handgun ammunition in the course and scope of employment.

This bill would require anyone in the state, prior to selling, transferring, or otherwise furnishing ammunition to an individual or business entity in this state or any other state to require proper identification, as prescribed, to be an authorized firearms dealer, and to report the sales to the Department of Justice. An individual who fails to make the required report or who knowingly makes a report with false or fictitious information would be guilty of a misdemeanor, as specified. *This bill would exempt an individual in the state who sells, transfers, or furnishes ammunition to certain specified law enforcement individuals from those identification and reporting requirements.* By creating a new crime, this bill would impose a state-mandated local program.

The bill would require the department to alert local law enforcement entities in the community in which the purchaser resides if an individual purchaser who is not a peace officer obtains more than ____ rounds within a 5-day period.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16740 of the Penal Code is amended to
2 read:

3 16740. (a) As used in this part, “large-capacity magazine”
4 means any ammunition feeding device with the capacity to accept
5 more than 10 rounds, including, but not limited to, a readily
6 restorable disassembled large-capacity magazine and an oversize
7 magazine body that appears to hold in excess of 10 rounds. A
8 magazine body is not a large-capacity magazine if it is only of
9 sufficient size to accommodate no more than 10 rounds of
10 ammunition and the internal working parts of the magazine,
11 including the follower and spring.

12 (b) As used in this section, “readily restorable” means magazine
13 parts under the custody and control of an individual or individuals
14 that can be assembled into a complete magazine.

15 SEC. 2. Section 16740.5 is added to the Penal Code, to read:

16 16740.5. As used in this part, a “large-capacity magazine” shall
17 not be construed to include any of the following:

18 (a) A .22 caliber tube ammunition feeding device.

19 (b) A tubular magazine that is contained in a lever-action
20 firearm.

21 SEC. 3. Section 16890 of the Penal Code is amended to read:

22 16890. As used in Section 16150, 16740, 30305, or 30515,
23 “magazine” means any ammunition feeding device, including
24 readily restorable disassembled magazines. For purposes of this
25 section, “readily restorable” means magazine parts under the
26 custody and control of an individual or individuals that can be
27 assembled into a complete magazine.

28 SEC. 4. Section 30301 is added to the Penal Code, to read:

29 30301. (a) Anyone in this state, prior to selling, transferring,
30 or otherwise furnishing ammunition to an individual or business
31 entity in this state or any other state, shall do all of the following:

32 (1) Require proper identification from the purchaser in the form
33 of a driver’s license or other photographic identification issued by
34 a state or the federal government.

35 (2) Be an authorized firearms dealer, pursuant to Section 26500.

(3) Submit a report to the Department of Justice for all of the transactions, in a manner to be determined by the department.

(b) The Department of Justice shall alert local law enforcement entities in the community in which the purchaser resides if the purchaser obtains more than ____ rounds within a five-day period and the purchaser is an individual and not an authorized firearms dealer. The department is not required to alert local law enforcement of sales of ammunition made to peace officers.

(c) (1) Any individual who does not submit the report required by paragraph (3) of subdivision (a), or who knowingly submits a report with false or fictitious information, shall be punished by imprisonment in a county jail not exceeding six months, by a fine not exceeding five thousand dollars (\$5,000), or by both the fine and imprisonment.

(2) Any individual who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county jail not exceeding one year, by a fine not exceeding one hundred thousand dollars (\$100,000), or by both the fine and imprisonment.

(d) Subdivisions (a), (b), and (c) do not apply to or affect the sale, delivery, or transfer of ammunition to any of the following:

(1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for the exclusive use by that government agency and, prior to the sale, delivery, or transfer of the ammunition, written authorization from the head of the agency employing the purchaser or transferee is obtained identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

SEC. 5. Section 32311 is added to the Penal Code, to read:

32311. Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing January 1, 2014, any person in this state who knowingly manufactures or

1 causes to be manufactured, imports into the state, keeps for sale,
2 or offers or exposes for sale, or who gives or lends any device that
3 is capable of converting an ammunition feeding device into a
4 large-capacity magazine is punishable by a fine of not more than
5 one thousand dollars (\$1,000) or imprisonment in a county jail not
6 to exceed six months, or by both that fine and imprisonment.

7 SEC. 6. Section 32390 of the Penal Code is amended to read:

8 32390. (a) Except as provided in Article 2 (commencing with
9 Section 32400) of this chapter and in Chapter 1 (commencing with
10 Section 17700) of Division 2 of Title 2, and in subdivision (b),
11 any large-capacity magazine is a nuisance and is subject to Section
12 18010.

13 (b) Subdivision (a) does not apply to the possession of a readily
14 restorable disassembled large-capacity magazine or an oversize
15 magazine body that has been permanently altered so that the
16 magazine cannot accommodate more than 10 rounds by a person
17 who lawfully possessed the magazine prior to January 1, 2014.

18 SEC. 7. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.



OFFICE OF THE MAYOR
Gregory B. Lyman

February 19, 2013

The Honorable Nancy Skinner
Chair of the Assembly Rules Committee
California State Capitol
Sacramento, CA 95814

Re: AB 127 (Skinner) – SUPPORT

Dear Assemblymember Skinner:

On behalf of the City of El Cerrito, I am writing to express my support for AB 127 (Skinner), the Safer Building Insulation bill. Specifically, AB 127 recognizes the potential adverse health effects surrounding the chemical flame retardants used in building insulation. If implemented, AB 127 will make building insulation safer and less toxic, without reducing fire safety for building occupants.

The City of El Cerrito has a long history of supporting environmental initiatives. The City's mission is to serve, lead and support our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

Use of plastic foam insulation in buildings is quite common for achieving energy efficiency goals, and flame retardant chemicals are added in an attempt to reduce fire risk. Unfortunately, research has found that these same flame retardants leach into our indoor environments. Here in California, the ubiquitous presence of flame retardants in our environments and in our bodies is well documented. We have higher levels of flame retardants in our bodies than anywhere else in the United States, and much higher levels than in Europe. The potential for these chemicals to adversely affect our health, and especially the health of our children, is cause for concern. Additionally, once the flame retardants do catch fire, they are toxic to breathe in, which can cause harm to emergency responders. Finally, there are no good ways to dispose of insulation with these flame retardants without further polluting our environment. Together these concerns are cause for action.

Outdated building code requires both: (1) that a thermal barrier is installed to provide fire protection, and (2) that insulation passes a flammability test. In practice, the amount of flame retardant used does not help buildings meet the 15 minutes of protection needed,

Honorable Nancy Skinner

Page 2

February 19, 2013

which is provided by the thermal barrier. Thus, safety for emergency responders is met solely by the presence of a thermal barrier, and the flame retardants provide no additional benefit.

Given the existing requirement for a thermal barrier, there is no need to use flame retardants in plastic foam building insulation. AB 127 will reduce the use of these toxic chemicals, thereby avoiding human health and environmental impacts.

We happily support AB 127.

Sincerely,

Gregory B. Lyman
Mayor

Fact Sheet

AB 127 – Skinner

Safer Building Insulation

SUMMARY

AB 127 will reduce chemical flame retardants in building insulation without reducing fire safety. Flame retardant chemicals are known to be toxic and, unfortunately, are ubiquitous in our homes. California is already acting to limit these chemicals in our furniture, and now is the time to get them out of our walls.

BACKGROUND

The use of plastic foam insulation in buildings has increased as building energy efficiency efforts have increased. However, due to the inherent flammability of plastic insulations, flame retardant chemicals – usually highly-toxic compounds called “organohalogens” – are added in an attempt to reduce fire risk.

Unfortunately, research has found that these same flame retardants leach into our indoor environments. They are found at increasing levels in the human body and in the environment, creating significant health concerns for building occupants. Moreover, once the flame retardants do catch fire, they are toxic to breathe in, which will harm those emergency responders for whom the flame retardants were initially intended to protect. Finally, there are no good ways to dispose of insulation with these flame retardants.

EXISTING LAW

Current building code requires (1) that a thermal barrier is installed to provide structural elements at least 15 minutes of protection from fire, and (2) that insulation pass a test for flammability without the thermal barrier.

In practice, the amount of flame retardant used does not help buildings meet the 15 minutes of protection needed, which is provided instead by the thermal barrier. Thus, safety for emergency responders is met solely by the presence of a thermal barrier and the flame retardants provide no additional benefit.

Given the existing requirement for a thermal barrier, there is no need to use flame retardants in plastic foam building insulation.

THIS BILL

This bill states the intent to reduce flame retardants in plastic foam building insulation.

SUPPORT

US Green Building Council (Sponsor)

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 127

AUTHOR : Skinner

TOPIC : Fire safety: fire retardants: building insulation.

TYPE OF BILL :

- Active
- Non-Urgency
- Non-Appropriations
- Majority Vote Required
- Non-State-Mandated Local Program
- Non-Fiscal
- Non-Tax Levy

BILL HISTORY

2013

Jan. 15 From printer. May be heard in committee February 14.

Jan. 14 Read first time. To print.

ASSEMBLY BILL**No. 127**

**Introduced by Assembly Member Skinner
(Coauthor: Assembly Member Rendon)**

January 14, 2013

An act relating to fire safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 127, as introduced, Skinner. Fire safety: fire retardants: building insulation.

Existing law authorizes the State Energy Resources Conservation and Development Commission to adopt regulations pertaining to urea formaldehyde foam insulation materials that are reasonably necessary to protect the public health and safety. Existing law provides that these regulations may include prohibition of the manufacture, sale, or installation of this insulation. Existing law also authorizes the Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation to establish by regulation insulation material standards governing the quality of all insulation material sold or installed in the state.

This bill would state that it is the intent of the Legislature to enact subsequent legislation that would reduce the use of flame retardants in plastic foam building insulation.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) To improve energy efficiency and to reduce global climate
4 change, the use of plastic insulation materials, such as polystyrene,
5 polyisocyanurate, and polyurethane, is increasing in buildings and
6 especially in green buildings.

7 (b) In the United States, flammability requirements for plastic
8 foam insulations and other building materials are incorporated into
9 building codes and fire regulations for building materials. To meet
10 these requirements, plastic insulation materials have flame-retardant
11 chemicals added to them, usually as halogenated organic
12 compounds with chlorine or bromine bonded to carbon.

13 (c) Studies have shown that these halogenated organic
14 compounds are associated with neurological and developmental
15 toxicity and endocrine disruption, and are possible carcinogens.

16 (d) Flame retardants, whose primary use is in building insulation,
17 are found at increasing levels in household dust, human body fluids,
18 and the environment.

19 (e) Code provisions regulating plastic foam insulations in
20 buildings were first introduced in the early 1960s. Those code
21 provisions do not specify that chemicals be added to foam plastic
22 insulation, but in practice organohalogen flame-retardant
23 compounds are added to meet test requirements.

24 (f) Despite these requirements, in the 1970s, serious fires
25 occurred from exposed foam plastic insulation. To address this
26 issue, the 1976 Uniform Building Code required plastic foam
27 insulation to be protected by a thermal barrier, usually as or in the
28 form of 0.5-inch-thick gypsum wallboard.

29 (g) Although the thermal barrier regulations have been deemed
30 to be sufficient for fire safety, chemical flame retardants are still
31 also required.

32 (h) Given the additional cost of adding flame-retardant chemicals
33 to plastic foam building insulation, their potential adverse health
34 and ecological impacts, and the sufficiency of the thermal barrier,
35 it is important to question whether their use is a necessary
36 requirement for improved fire safety.

37 (i) Therefore, it is in the best interest of the State of California
38 to eliminate unnecessary chemicals from building insulation, while

1 preserving building fire safety and encouraging healthy building
2 practices.

3 SEC. 2. It is the intent of the Legislature to enact legislation
4 that would reduce the use of flame retardants in plastic foam
5 building insulation while simultaneously ensuring that both fire
6 safety and long-term human and ecological health are properly
7 accounted for without a reduction in overall building fire safety.

O



AGENDA BILL

Agenda Item No. 5(F)

Date: February 19, 2013
To: El Cerrito City Council
From: Stephen Prée, Environmental Programs Manager / City Arborist
Public Works Department
Subject: Tree Committee Membership Recommendation

ACTION REQUESTED

Approve a Tree Committee recommendation to appoint Cathy Bleier to the Tree Committee, effective March 11, 2013.

BACKGROUND

Cathy Bleier applied for the Tree Committee in June 2012 but was unavailable for the City Council interviews in September. She has attended the Tree Committee meetings regularly since November and is collaborating with the El Cerrito Garden Club on organizing the 2013 Arbor Day event. The Tree Committee members have become familiar with Ms. Bleier's contributions during open discussions at three committee meetings.

Ms. Bleier is a Registered Professional Forester with several years of professional experience with the California Department of Forestry and Fire Protection. She has served on the Board of Directors for the Friends of the Estuary and has worked for the California Resources Agency. Ms. Bleier has demonstrated her commitment to serve the City of El Cerrito and to promote and foster its urban forestry programs to the Tree Committee. The Committee recommended her for appointment at its February 11, 2013 regular meeting.

The Tree Committee currently has seven of fifteen possible seats filled. Upon appointment of Ms. Bleier, the Committee will have seven vacancies.

Attachments

1. Application

Reviewed by:

Scott Hanin, City Manager



**February 19, 2013
Regular City Council Meeting**

**Agenda Item No. 5(F)
Attachment - Application**

Documents 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: February 19, 2013

To: El Cerrito City Council

From: Maria Sanders, Environmental Analyst
Melanie Mintz, Environmental Services Division Manager
Karen Pinkos, Assistant City Manager

Subject: Public Release of the draft Climate Action Plan

ACTIONS REQUESTED

Receive a presentation from staff on the elements of the draft Climate Action Plan and the public review process.

BACKGROUND

On February 22, 2011 the City Council adopted greenhouse gas (GHG) emissions reduction targets of 15% below 2005 emission levels by the year 2020 and 30% below 2005 emission levels by 2035 (Resolution 2011-12). Staff has completed a Climate Action Plan (CAP) to help guide the City and community towards achieving these goals. On February 12, 2013 the City released the Draft CAP for a 30-day public comment period. The public comment period will close on March 14, 2013.

The Draft CAP provides a tangible picture of where El Cerrito's current GHG emissions originate and where the greatest opportunities exist for reducing them. During the CAP development process, it became apparent that the City of El Cerrito is already laying a strong foundation for meeting these reduction targets; however, it will require robust implementation and more action to create a steady decrease in emissions over the next 22 years.

The Draft CAP investigates further actions the City and community can take to meet the targeted reduction levels by 2020 and 2035, such as vehicle trip reduction incentive programs, solar collectors on City buildings, incentives for residential energy efficiency, and increasing the depth and breadth of our waste reduction programs.

The Draft CAP includes goals, objectives and strategies to:

- Create a transportation infrastructure that invites people to walk, bike, and take transit;
- Encourage greater energy efficiency, water efficiency, and renewable energy in existing and new buildings;
- Decrease the volume of material going to the landfill through a variety of waste reduction and recycling programs; and

Agenda Item No. 7(A)

- Establish more compact, higher density, mixed-use infill development along major transportation corridors in order to create more economic activity, serve the daily needs of residents and employees, and decrease daily vehicle miles traveled.

Public Review Process:

During the regular Environmental Quality Committee (EQC) meeting on February 12, 2013, staff held a public meeting to kick-off the 30-day comment period. At this meeting, staff provided an overview of the content of the Draft CAP, answered questions, and received public comment. The EQC will also receive public comment at its regular meeting on March 12, 2013.

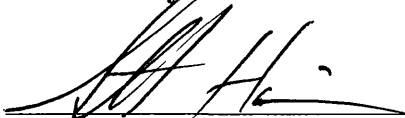
The Draft CAP and CAP environmental review documents are available for download from the City's website at <http://www.el-cerrito.org/climateactionplan>. Hard copies are also available for public review during normal business hours at:

- El Cerrito City Hall, 10890 San Pablo Avenue
- Recycling + Environmental Resource Center, 7501 Schmidt Lane
- El Cerrito Library, 6510 Stockton Avenue

Written public comments on the Draft CAP must be submitted by 5 pm on Thursday, March 14, 2013. Written comments should be directed to msanders@ci.el-cerrito.ca.us or Climate Action Plan, City of El Cerrito, 10890 San Pablo Avenue, El Cerrito, 94530.

Following this review period, a final CAP will be developed and brought to the EQC on April 9, 2013, which will consider making a recommendation encouraging the City Council to approve the CAP. In addition, the CAP environmental review document (Initial Study/ Negative Declaration) will be brought to the Planning Commission on March 20, 2013, which will consider a resolution approving the CEQA document. It is anticipated that the Final CAP will be brought forward for the City Council consideration on April 16, 2013.

Reviewed by:



Scott Hanin, City Manager

Attachments:

1. Draft Climate Action Plan
2. Draft Initial Study/ Negative Declaration.



**February 19, 2013
Regular City Council Meeting**

**Agenda Item No. 7(A)
Attachment 1: Draft Climate Action Plan
Attachment 2: Draft Initial Study Negative
Declaration**

Documents are available for review online at:

<http://ca-elcerrito.civicplus.com/index.aspx?NID=325>

or

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(B)

Date: February 19, 2013

To: City Council of the City of El Cerrito
El Cerrito Redevelopment Agency Successor Agency

From: Lori Treviño, Economic Development Manager

Subject: El Cerrito Redevelopment Successor Agency's Fiscal Year 2013-14 Administrative Budget, its draft Recognized Obligations Payment Schedule 13-14A (July-December 2013), and a Cash Flow Loan Agreement Between the City and Successor Agency

ACTION REQUESTED

Staff requests approval of following actions:

1. Adopt a Successor Agency resolution approving its FY2013-14 administrative budget;
2. Adopt a Successor Agency resolution reviewing and authorizing submittal of the draft Recognized Obligations Payment Schedule 13-14A, covering the period July to December 2013; and
3. Adopt separate City Council and Successor Agency Resolutions approving a cash flow loan agreement for consideration by the Oversight Board to the Successor Agency.

BACKGROUND

ABx1 26 ("Dissolution Act") dissolved the El Cerrito Redevelopment Agency ("RDA") and established the El Cerrito Redevelopment Agency Successor Agency ("Successor Agency") on February 1, 2012. At that time, the County Auditor-Controller ("A-C") established a Redevelopment Property Tax Trust Fund ("RPTTF") and the Successor Agency established a Redevelopment Obligation Retirement Fund ("RORF").

Under the Dissolution Act, the portion of property tax revenues collected from the City of El Cerrito Redevelopment Project Area ("Project Area") that was considered Tax Increment prior to the RDA's dissolution are deposited into the RPTTF. The A-C distributes the funds in the RPTTF to the Successor Agency to retire the former RDA's obligations and to taxing entities that were affected by the Redevelopment Plan for the Project Area.

The Successor Agency must review and authorize submittal of a Recognized Obligation Schedule ("ROPS") for each six-month period. Each ROPS must then be approved by the Oversight Board to the Successor Agency ("Oversight Board") and the California Department of Finance ("DOF") before funding is disbursed from the RPTTF by the A-C for payments on the approved ROPS. Starting with the upcoming ROPS period, the DOF has adopted a new naming convention for ROPS schedule, using the fiscal year.

Agenda Item No. 7(B)

Each fiscal year is broken into two ROPS periods A and B, so the schedule being reviewed this evening is the draft ROPS 13-14A.

The Successor Agency must submit ROPS 13-14A approved by the Oversight Board to DOF no later than March 1, 2013. The Oversight Board is scheduled to consider ROPS 13-14A at a special meeting on February 26, 2013. After submittal, DOF then has 45 days to review the ROPS and approve or disapprove of any items. The Successor Agency can request additional review by DOF and an opportunity to meet and confer on disputed items, and must make that request within five business days of receiving a DOF initial determination. The DOF is required to notify the Successor Agency and A-C of its further review at least 15 days prior to the date of distributions from the RPTTF. For ROPS 13-14A, the notification date is May 17, 2013 for the June 1, 2013 disbursement.

Pursuant to the Dissolution Act, the Successor Agency must prepare a budget for administrative expenses each fiscal year to be approved by the Oversight Board. The Successor Agency is entitled to an administrative allowance of \$250,000 annually, regardless of its actual expenses.

The State enacted Assembly Bill 1484 ("Trailer Bill") in June 2012 amending the Dissolution Act, including Health & Safety Code Section 34173 (h) that allows loans by the City to the Successor Agency for administrative costs, enforceable obligations, or project-related expenses as reported on a ROPS and approved by the Oversight Board.

ROPS 13-14A

The proposed ROPS 13-14A is Exhibit A to the attached Successor Agency resolution, reviewing and authorizing its submittal. It includes a summary of funds available and total obligations for the period, an itemized listing of obligations, and a reconciliation of ROPS II payments. Obligations included on ROPS 13-14A are as follows:

- Tax Allocation Bond Debt Service. Payments are due to the trustee Union Bank by December 27, 2013.
- ERAF and SERAF Loans. While the Trailer Bill clarified the enforceability of SERAF and ERAF loans, it also delayed their repayment until FY2013-14. The annual payment listed for FY2013-14 is estimated. However, actual payment will be based on calculations in Health & Safety Code Section 34176, once the amount of residual RPTTF if any can be determined.
- Accrued Vacation Liability. Due to insufficient RPTTF funding in the ROPS III period for this approved item, funding is being requested on ROPS 13-14A.
- Valente Note. No payment is due during the ROPS 13-14A period.
- Ohlone Gardens Loan Agreement. Due to insufficient RPTTF funding in the ROPS III period for this approved item, it is being funded on ROPS 13-14A.
- Eden Housing Loan Agreement. This item was initially an obligation of \$350,000 when included on the Redevelopment Agency's Enforceable

Agenda Item No. 7(B)

Obligation Schedule approved in August 2011. The Redevelopment Agency funded \$40,000 of the obligation prior to dissolution. The balance of \$310,000 was initially disapproved on ROPS I and ROPS II, but then appeared to have been approved on an amended ROPS I to be paid from the Low & Moderate Income Housing Fund ("LMIHF"), although the Successor Agency never received an approval letter for its amended ROPS I and ROPS II from DOF. Due to lack of clarity and insufficient funds, the \$310,000 obligation was not paid from ROPS I funds, but was placed on ROPS III to be paid from RPTTF.

DOF initially approved \$100,000 in RPTTF on ROPS III, based on the terms of the agreement with Eden Housing (although the balance of the pre-DDA obligation was actually \$60,000). The Successor Agency held a meet and confer with DOF on the item to appeal the disapproval of the remaining \$250,000 obligation due to Eden Housing once a Disposition and Development Agreement ("DDA") is negotiated with the Housing Functions Successor. Following the meet and confer, DOF disapproved the entire \$310,000. Disapproval of this item on ROPS I and ROPS II and the subsequent unclear communication from DOF appearing to approve the item from LMIHF on ROPS I was one of several subjects of the Successor Agency's True Up Payment litigation against the County A-C and DOF and was addressed in discussions with DOF legal counsel leading up to the stipulated judgment issued by Sacramento County Superior Court on December 21, 2012. Although this item was not directly addressed in the stipulated judgment, the Successor Agency relied upon discussions with DOF legal counsel in determining its use of ROPS I and ROPS III RPTTF and in its request to amend its Housing Due Diligence Review.

The \$60,000 balance of the pre-DDA obligation is being listed on ROPS 13-14A for funding with RPTTF consistent with the stipulated judgment discussions and DOF's initial ROPS III approvals.

- Eden Housing Loan Agreement Post-DDA. The full \$310,000 obligation to Eden Housing had been placed on ROPS III and initially DOF disapproved \$250,000 of the obligation that was contingent on negotiation of a DDA with Eden Housing, stating that the Successor Agency did not have the authority to negotiate a DDA. However, the Housing Functions Successor does have the authority to negotiate a DDA with Eden Housing on a property that was listed on the DOF-approved Housing Asset Transfer List and the Successor Agency retained the obligation to fund the loan agreement. DOF stated that the Successor Agency can terminate the agreement due to dissolution, but the Successor Agency is not required to terminate under the Dissolution Act and the DOF cannot require the Successor Agency to do so. Eden Housing and the Housing Functions Successor are in the process of negotiating a DDA, but do not anticipate requiring funding of this obligation during FY2013-14.
- Cooperation Agreement with the El Cerrito Municipal Services Corporation. After a meet and confer on this disputed item, DOF disapproved this item on ROPS III. However, no payment had been requested on ROPS III due to insufficient RPTTF. The Successor Agency intends to continue pursuing funding

Agenda Item No. 7(B)

of this item with RPTTF on ROPS 13-14A. The total outstanding obligation has been revised from prior ROPS based on estimated funding requirements under the terms of the agreement.

- FY 2012-13 Administrative Allowance. Funding was approved on ROPS III. However, due to insufficient funds, the Successor Agency was unable to pay the City the entire amount. The City advanced funds anticipating approval of a loan agreement pursuant to Health & Safety Code Section 34173 (h). This advance is included in the loan agreement being considered by the City and Successor Agency.
- Due Diligence Review. Funding was approved on ROPS III. However, due to insufficient funds, the Successor Agency was unable to pay the selected accounting firm. The City advanced funds anticipating approval of a loan agreement pursuant to Health & Safety Code Section 34173 (h). This advance is included in the loan agreement being considered by the City and Successor Agency.
- FY2011-12 Administrative Allowance. This item was disapproved on ROPS III because it was required to be funded from ROPS I RPTTF, per original DOF approvals and as discussed with DOF legal counsel during meetings regarding True Up Payment litigation. Subsequent to resolution of the litigation, the Successor Agency used ROPS I RPTTF to pay its Administrative Allowance to the City for its FY2011-12 expenses administering the Successor Agency.
- Cash Flow Loan Agreement. Due to the Successor Agency having insufficient RPTTF for approved payments on ROPS III, the City advanced funds anticipating approval of a loan agreement pursuant to Health & Safety Code Section 34173 (h) for reimbursement from future RPTTF distributions. Per discussions with Department of Finance legal counsel, cost of the Successor Agency's True Up litigation is an enforceable obligation of RPTTF. The City of El Cerrito advanced to the Successor Agency its litigation costs anticipating reimbursement from RPTTF on ROPS 13-14A. Inclusion of this item on the ROPS 13-14A submitted to DOF is contingent on Oversight Board approval of the loan agreement.
- FY13-14 Administrative Allowance. Due to the uneven nature of the Successor Agency's FY2013-14 obligations of RPTTF, the entire administrative allowance is being included on ROPS 13-14A.

The total amount of RPTTF funding required for ROPS 13-14A is estimated to be \$2,290,857. However, the amount of RPTTF expected to be distributed is estimated by the A-C to be \$1,368,492. This is based on estimates received from the A-C, which are included in the following table, which summarizes RPTTF distributions and payments for FY2011-12 and FY2013-14.

**El Cerrito Redevelopment Successor Agency
Distributions and Payments of Redevelopment Property Tax
FY2011-12 Actual and FY2013-14 Projected**

	FY2012-13		FY2013-14	
	ROPS 2	ROPS 3	13-14A	13-14B
Projected RPTTF Available	2,221,333	2,606,039	2,606,039	2,684,220
County Admin	48,673	48,009	48,009	49,449
County Deducted Pass-Thrus	223,412	482,915	482,915	497,402
Prior Subordinated Pass-Thrus		-	706,623	-
RPTTF Distribution	1,949,248	2,075,115	1,368,492	2,137,368
Payments				
Debt Service	1,949,248	1,591,140	389,243	1,694,705
Other ROPS	1,949,248	483,975	1,901,614	288,215
Remainder	-	-	(922,189)	154,448

Based on current projections, there is insufficient RPTTF for all obligations due during the ROPS 13-14A period.

SUCCESSOR AGENCY FY2013-14 ADMINISTRATIVE BUDGET

A proposed FY2013-14 Administrative Budget is included as Exhibit A to the Successor Agency Resolution (Attachment 1). Staff related expenses have been kept flat from the FY2012-13 Administrative Budget but other expenses have been reduced to reflect decreased expenses expected after the first year of redevelopment dissolution. Note that this budget does not include litigation costs or the cost of the Due Diligence Review, as provided in the Dissolution Act. This budget will be included within the City's overall FY2013-14 Operating Budget and the City will be reimbursed once the Successor Agency receives its allowance. Regardless of the Successor Agency's actual administrative expenses, the administrative allowance is capped at \$250,000 annually.

CASH FLOW LOAN AGREEMENT

Due to the Successor Agency having insufficient RPTTF for approved payments on ROPS III, the City utilized its cash reserves to fund Successor Agency expenses, anticipating approval of a loan agreement pursuant to Health & Safety Code Section 34173 (h) for reimbursement from future RPTTF distributions. The estimated amount to be advanced is \$78,740 for administrative expenses that are subject to the Successor Agency's FY2012-13 Administrative Allowance and \$30,000 for the Due Diligence Review being performed by MGO CPAs. The cost of the True Up Payment litigation was \$127,824.

The Dissolution Act allows the City and Successor Agency to enter into a loan agreement pursuant to Health & Safety Code Section 34173 (h) for reimbursement of these expenses out of future RPTTF, if approved by the Oversight Board. The proposed agreement is included as Exhibit A to the attached City and Successor Agency resolutions. (Attachments 3 and 4). To allow for interest payments, the combined amounts in the obligations funded by City advances has been rounded up to \$238,000 in the proposed agreement and on ROPS 13-14A. If approved by the City and Successor

Agency, it will be considered by the Oversight Board at its February 26, 2013 special meeting.

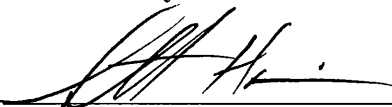
DUE DILIGENCE REVIEW

The Trailer Bill required the Successor Agency to hire a certified accounting firm to complete a Due Diligence Review ("DDR"), reviewing the dissolution of the Redevelopment Agency. The DDR includes a review of both Housing and Non-Housing funds. Note that based on the unclear funding source of the Housing loan obligations approved on ROPS I, the Successor Agency reported on its Housing DDR a Low-Moderate Income Housing Fund ("LMIHF") balance as being held to pay those enforceable obligations on ROPS III. However, while the funds reported were deposited into the LMIHF on December 16, 2011 when they were considered tax increment, they were transferred to the Successor Agency as RPTTF upon dissolution on January 31, 2012, as directed by DOF. The Housing DDR was completed prior to the issuance of the stipulated judgment in the True Up Payment litigation, which made clear that the funds were not LMIHF and should not have been reported on the Housing DDR. Rather, the funds were RPTTF and were used to pay approved ROPS I items. Despite the Successor Agency's request to amend the Housing DDR prior to receiving a determination letter from DOF, DOF ordered the reported funds to be paid to the A-C to be distributed to the taxing entities. Staff is working with DOF to resolve this conflicting information and is attempting to amend the Housing DDR at the same time the Non-Housing DDR is being completed. Oversight Board review of both DDRs is anticipated at its February 26, 2012 special meeting.

LEGAL CONSIDERATIONS

Actions being taken by the City and Successor Agency are consistent with the Dissolution Act, as amended by the Trailer Bill.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Successor Agency Resolution, approving its FY2013-14 Administrative Budget
2. Successor Agency Resolution, reviewing and authorizing submittal of the draft Recognized Obligation Payment Schedule 13-14A
3. City Council Resolution, approving a loan agreement with the Successor Agency for \$238,000
4. Successor Agency Resolution approving a loan agreement with the City of El Cerrito for \$238,000

SUCCESSOR AGENCY RESOLUTION 2012-XX

**RESOLUTION OF THE EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR
AGENCY APPROVING ITS FY2013-14 ADMINISTRATIVE BUDGET**

WHEREAS, pursuant to the California Community Redevelopment Law (the “Redevelopment Law”), the City Council (the “City Council”) of the City of El Cerrito (the “City”) adopted the Redevelopment Plan for the City of El Cerrito Redevelopment Project Area by Ordinance No. 77-17, as amended by Ordinances No. 80-13; No. 89-5; No. 94-4; No. 2004-3; No. 2005-01; and No. 2006-10 (collectively, the “Redevelopment Plan”); and

WHEREAS, the El Cerrito Redevelopment Agency (the “RDA”) was responsible for implementation of the Redevelopment Plan; and

WHEREAS, as part of the 2011-12 State budget bill, ABx1 26 (the “Dissolution Act”) was enacted significantly modifying the Redevelopment Law to require the dissolution of redevelopment agencies throughout California and the establishment of successor agencies to wind down the former redevelopment agencies’ affairs; and

WHEREAS, on August 15, 2011, pursuant to the Dissolution Act, the City elected to serve as the El Cerrito Redevelopment Agency Successor Agency (the “Successor Agency”), should the RDA be dissolved; and

WHEREAS, California redevelopment agencies were dissolved on February 1, 2012; and

WHEREAS, pursuant to the Dissolution Act, upon dissolution, the RDA transferred as a matter of law all remaining liabilities, debts and obligations to the Successor Agency; and transferred all unencumbered funds and assets to the Successor Agency’s Redevelopment Obligation Retirement Fund (the “RORF”), for disposition and/or use by the Successor Agency to retire RDA debt and pay for RDA obligations; and

WHEREAS, AB 1484 adopted in June 2012 amending the Dissolution Act made clear that the Successor Agency is a separate public entity and is not a component unit of the City, but the City is providing administrative services for the Successor Agency; and

WHEREAS, pursuant to the Dissolution Act, the Successor Agency is entitled to an administrative allowance of \$250,000 annually to be paid from the property tax revenues collected in the Project Area, regardless of its actual administrative expenses; and

WHEREAS, the Successor Agency must prepare a budget for those administrative expenses each fiscal year to be approved by an Oversight Board, as required in the Dissolution Act; and

WHEREAS, the Oversight Board to the Successor Agency to the El Cerrito Redevelopment Agency (the “Oversight Board”) was formed on April 4, 2012; and

Agenda Item No. 7(B)
Attachment 1

WHEREAS, an Administrative Budget prepared for FY2013-14 is attached and incorporated into this Resolution as Exhibit A.

NOW THEREFORE, BE IT RESOLVED that the El Cerrito Redevelopment Agency Successor Agency hereby finds the above recitals to be true and accurate.

BE IT FURTHER RESOLVED that the El Cerrito Redevelopment Agency Successor Agency approves its Administrative Budget for FY2013-14.

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

* * * * *

I CERTIFY that at the regular meeting on February 19, 2013, the City Council of the City of El Cerrito acting as the El Cerrito Redevelopment Agency Successor Agency passed this resolution by the following vote:

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

IN WITNESS of this action, I sign this document on February __, 2013.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

Exhibit A
Successor Agency Administrative Budget
Fiscal Year 2013-14

Entity/Activity	Successor Agency	Oversight Board
<i>Staffing Functions (Total Compensation plus Overhead for Indirect Costs)</i>		
City Management	\$50,000	\$30,000
Finance	\$50,000	\$30,000
Risk Management	\$4,000	\$2,000
Economic Development	\$25,000	\$10,000
City Clerk	\$15,000	\$10,000
Information Systems	\$4,000	\$4,000
Legal Services	\$50,000	
Financial & Audit Services	\$10,000	
Bond-related Costs	\$10,000	
Supplies	\$1,000	\$500
Postage	\$250	\$250
Copies	\$200	\$200
Website	\$1,500	\$1,500
Advertising/Legal Notices	\$1,000	\$1,000
Property Management	\$1,000	
Total	\$222,950	\$89,450
Combined Total		\$312,400
Funding Source		
Redevelopment Property Tax Trust Fund		\$250,000
Unfunded		\$62,400

SUCCESSOR AGENCY RESOLUTION 2013-XX

RESOLUTION OF THE EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY AUTHORIZING SUBMITTAL OF THE DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE 13-14A, AS REQUIRED UNDER THE DISSOLUTION ACT

WHEREAS, pursuant to the California Community Redevelopment Law (the “Redevelopment Law”), the City Council (the “City Council”) of the City of El Cerrito (the “City”) adopted the Redevelopment Plan for the City of El Cerrito Redevelopment Project Area by Ordinance No. 77-17, as amended by Ordinances No. 80-13; No. 89-5; No. 94-4; No. 2004-3; No. 2005-01; and No. 2006-10 (collectively, the “Redevelopment Plan”); and

WHEREAS, the El Cerrito Redevelopment Agency (the “RDA”) was responsible for implementation of the Redevelopment Plan; and

WHEREAS, as part of the 2011-12 State budget bill, ABx1 26 (the “Dissolution Act”) was enacted significantly modifying the Redevelopment Law to require the dissolution of redevelopment agencies throughout California and the establishment of successor agencies to wind down the former redevelopment agencies’ affairs; and

WHEREAS, on August 15, 2011, pursuant to the Dissolution Act, the City elected to serve as the El Cerrito Redevelopment Agency Successor Agency (the “Successor Agency”), should the RDA be dissolved; and

WHEREAS, California redevelopment agencies were dissolved on February 1, 2012; and

WHEREAS, pursuant to the Dissolution Act, upon dissolution, the RDA transferred as a matter of law all remaining liabilities, debts and obligations to the Successor Agency; and transferred all unencumbered funds and assets to the Successor Agency’s Redevelopment Obligation Retirement Fund (the “RORF”), for disposition and/or use by the Successor Agency to retire RDA debt and pay for RDA obligations; and

WHEREAS, pursuant to the Dissolution Act, the Contra Costa County Auditor Controller (the “Auditor-Controller”) established the Redevelopment Property Tax Trust Fund (the “RPTTF”) to hold Redevelopment Property Tax collected from the City of El Cerrito Redevelopment Project Area to be disbursed to the Successor Agency for payment of its enforceable obligations and to taxing entities affected by the Redevelopment Plan; and

WHEREAS, AB 1484 (the “Trailer Bill”) was enacted on July 1, 2012 modifying the Dissolution Act to require the Successor Agency to submit an Oversight Board-approved Recognized Obligations Payment Schedule 13-14A (“ROPS 13-14A”) covering the period July through December, 2013 to the DOF by March 1, 2013; and

WHEREAS, the Trailer Bill made clear that the Successor Agency is a separate public entity from the City; and

Agenda Item No. 7(B)
Attachment 2

WHEREAS, the Successor Agency has reviewed the draft ROPS 13-14A that was prepared pursuant to the Dissolution Act and the Trailer Bill, which is attached and incorporated as Exhibit A to this Resolution, for submittal to the Oversight Board of the Successor Agency, the Auditor-Controller, and DOF; and

WHEREAS, the Successor Agency wishes to authorize Successor Agency staff to amend the ROPS 13-14A administratively to account for any additional changes made by the Department of Finance ("DOF") to the ROPS form that occur after the Successor Agency's consideration.

NOW THEREFORE, BE IT RESOLVED that the City El Cerrito Redevelopment Agency Successor Agency hereby finds the above recitals to be true and accurate.

BE IT FURTHER RESOLVED that the El Cerrito Redevelopment Agency Successor Agency authorizes the submittal of the draft Recognized Obligation Payment Schedule 13-14A as required under the Dissolution Act, subject to such changes as may be necessary to accommodate changes in the DOF approved form, any such changes to be approved by the City Manager.

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

I CERTIFY that at the regular meeting on February 19, 2013, the City Council of the City of El Cerrito acting as the El Cerrito Redevelopment Agency Successor Agency passed this resolution by the following vote:

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

IN WITNESS of this action, I sign this document on February __, 2013.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE

Filed for the July 1, 2013 to December 31, 2013 Period

Agenda Item No. 7(B)
Attachment 2, Exhibit A

Name of Successor Agency: EL CERRITO (CONTRA COSTA)

Outstanding Debt or Obligation	Total
Total Outstanding Debt or Obligation	\$27,435,253

Current Period Outstanding Debt or Obligation	Six-Month Total
A Available Revenues Other Than Anticipated RPTTF Funding	\$0
B Enforceable Obligations Funded with RPTTF	\$2,040,857
C Administrative Allowance Funded with RPTTF	\$250,000
D Total RPTTF Funded (B + C = D)	\$2,290,857
E Total Current Period Outstanding Debt or Obligation (A + B + C = E) <i>Should be same amount as ROPS form six-month total</i>	\$2,290,857
F Enter Total Six-Month Anticipated RPTTF Funding	\$1,368,492
G Variance (F - D = G) <i>Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding</i>	(\$922,365)

Prior Period (July 1, 2012 through December 31, 2012) Estimated vs. Actual Payments (as required in HSC section 34186 (a))

H Enter Estimated Obligations Funded by RPTTF <i>(lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed)</i>	\$1,949,250
I Enter Actual Obligations Paid with RPTTF	\$1,949,250
J Enter Actual Administrative Expenses Paid with RPTTF	\$0
K Adjustment to Redevelopment Obligation Retirement Fund (H - (I + J) = K)	\$0
L Adjustment to RPTTF (D - K = L)	\$2,290,857

Certification of Oversight Board Chairman:

Pursuant to Section 34177(m) of the Health and Safety code,

I hereby certify that the above is a true and accurate Recognized

Obligation Payment Schedule for the above named agency.

Name	Title
/s/	
Signature	Date

EL CERRITO (CONTRA COSTA)
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 13-14A)
July 1, 2013 through December 31, 2013

Oversight Board Approval Date: _____

Item #	Project Name / Debt Obligation	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Total Due During Fiscal Year 2013-14	Funding Source					
									Bond Proceeds	Reserve Balance	Admin Allowance	RPTTF	Other	Six-Month Total
							\$27,435,253	\$4,273,777	\$0	\$0	\$250,000	\$2,040,857	\$0	\$2,290,857
1	Tax Allocation Bonds 1997 A	12/17/1997	7/1/2019	Union Bank	Refunding of prior TAB for Redev Projs	City of El Cerrito	3,150,250	563,750	0	0	0	66,875	0	66,875
2	Tax Allocation Bonds 1998 B	12/17/1997	7/1/2015	Union Bank	Refunding of prior TAB for L&M Hsg Projs	City of El Cerrito	437,182	221,788	0	0	0	10,894	0	10,894
3	Tax Allocation Bonds 2004 A	10/21/2004	7/1/2023	Union Bank	Tax-exempt TAB for Infrastructure Projs	City of El Cerrito	12,461,626	1,026,690	0	0	0	213,114	0	213,114
4	Tax Allocation Bonds 2004 B Non-Hsg	10/21/2004	7/1/2012	Union Bank	Taxable TAB for Redev Projs	City of El Cerrito	0	0	0	0	0	0	0	0
5	Tax Allocation Bonds 2004 B Hsg	10/21/2004	7/1/2023	Union Bank	Taxable TAB for L&M Hsg Projs	City of El Cerrito	4,983,212	271,720	0	0	0	98,360	0	98,360
6	2009-10 SERAF Loan	2/16/2010		City L&M Housing Fund	Funds advanced for SERAF payment	City of El Cerrito	995,741	132,776	0	0	0	132,776	0	132,776
7	2005-06 ERAF Loan	4/17/2006		City L&M Housing Fund	Funds advanced for ERAF payment	City of El Cerrito	251,577	33,544	0	0	0	33,544	0	33,544
8	Accrued Vacation Liability	2/1/2012		City of El Cerrito	Accrued Vacation Liability of RDA-funded employees	City of El Cerrito	19,392	19,392	0	0	0	19,392	0	19,392
9	Valente Promissory Note	3/5/2009	3/5/2024	George Valente	Loan for land acquisition	City of El Cerrito	3,170,371	288,215	0	0	0	0	0	0
10	Ohlone Gardens Loan Agreement	6/24/2009		Ohlone Gardens LP	Undisbursed loan commitment	City of El Cerrito	471,152	471,152	0	0	0	471,152	0	471,152
11	Eden Housing Loan Agreement	5/17/2011		Eden Housing	Undisbursed loan commitment	City of El Cerrito	0	0	0	0	0	0	0	0
12	Cooperation Agreement	3/7/2011	11/24/2024	El Cerrito MSC	Implementation of City of El Cerrito Redevelopment Plan	City of El Cerrito	0	0	0	0	0	0	0	0
13	FY 2012-13 Administrative Allowance			City of El Cerrito	Administrative Allowance per AB1x26	City of El Cerrito	0	0	0	0	0	0	0	0
14	Due Diligence Review			NONE	Accountant for AB1484 Due Diligence Review	City of El Cerrito	0	0	0	0	0	0	0	0
15	FY 2011-12 Administrative Allowance			City of El Cerrito	Administrative Allowance per AB1x26	City of El Cerrito	0	0	0	0	0	0	0	0
16	Cash Flow Loan Agreement	2/19/2013	12/31/2012	City of El Cerrito	Cash Flow Loan pursuant to H&S Code Section 34173(h) for ROPS III Items and Successor Agency litigation costs funded by City of El Cerrito	City of El Cerrito	238,000	238,000				238,000		238,000
17	Eden Housing Loan Agreement Pre-DDA	5/17/2011		Eden Housing	Undisbursed loan commitment for pre-development	City of El Cerrito	60,000	60,000				60,000		60,000
18	Eden Housing Loan Agreement Post-DDA	5/17/2011		Eden Housing	Undisbursed loan commitment contingent on DDA	City of El Cerrito	250,000	0				0		0
19	Cooperation Agreement	3/7/2011	11/24/2024	El Cerrito MSC	Implementation of Redevelopment Plan	City of El Cerrito	696,750	696,750				696,750		696,750
20	FY13-14 Administrative Allowance			City of El Cerrito	Administrative Allowance per AB1x26	City of El Cerrito	250,000	250,000			250,000			250,000

EL CERRITO (CONTRA COSTA)
Pursuant to Health and Safety Code section 34186 (a)
PRIOR PERIOD ESTIMATED OBLIGATIONS vs. ACTUAL PAYMENTS
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS II)
July 1, 2012 through December 31, 2012

Item #	Project Name / Debt Obligation	Payee	Description/Project Scope	Project Area	LMIHF		Bond Proceeds		Reserve Balance		Admin Allowance		RPTTF		Other	
					Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual	Estimate	Actual
					\$781,152	\$0	\$0	\$0	\$0	\$0	\$250,000	\$0	\$2,157,137	\$1,949,250	\$0	\$0
1	Tax Allocation Bonds 1997 A	Union Bank	Refunding of prior TAB for Redev Projs	City of El Cerrito									553,805	553,805		
1	Tax Allocation Bonds 1998 B	Union Bank	Refunding of prior TAB for L&M Hsg Projs	City of El Cerrito									216,751	216,751		
1	Tax Allocation Bonds 2004 A	Union Bank	Tax-exempt TAB for Infrastructure Projs	City of El Cerrito									426,228	426,228		
1	Tax Allocation Bonds 2004 B Non-Hsg	Union Bank	Taxable TAB for Redev Projs	City of El Cerrito									481,045	481,045		
1	Tax Allocation Bonds 2004 B Hsg	Union Bank	Taxable TAB for L&M Hsg Projs	City of El Cerrito									271,421	271,421		
2	Valente Promissory Note	George Valente	Loan for land acquistion	City of El Cerrito									0	0		
3	Cooperation Agreement	El Cerrito MSC	Redevelopment Plan implementation (non-housing)	City of El Cerrito									0	0		
4	Cooperation Agreement	City of El Cerrito	Redevelopment Plan implementation (housing)	City of El Cerrito									0	0		
5	2009-2010 SERAF Loan	L&M Housing Fund	Funds advanced for SERAF payment	City of El Cerrito									165,957	0		
6	2005-2006 ERAF Loan	L&M Housing Fund	Funds advanced for ERAF payment	City of El Cerrito									41,930	0		
7	FY12-13 Administrative Allowance	City of El Cerrito	Administrative Allowance per AB1x26	City of El Cerrito							250,000	0	0	0		
8	Ohlone Gardens Loan Agreement	Ohlone Gardens LP	Undisbursed loan commitment	City of El Cerrito	471,152	0							0	0		
9	Eden Housing Loan Agreement	Eden Housing	Undisbursed loan commitment	City of El Cerrito	310,000	0							0	0		
10	Unpaid 2009-2010 SERAF Loan	L&M Housing Fund	Funds advanced for SERAF payment	City of El Cerrito									0	0		
11	Unpaid 2005-2006 ERAF Loan	L&M Housing Fund	Funds advanced for ERAF payment	City of El Cerrito									0	0		
12	FY11-12 Pass-Through Payments	Taxing Entities	Attributable to 12/16/2011 Tax Increment Payment	City of El Cerrito									0	0		
13	Unpaid FY11-12 Admin Allowance	City of El Cerrito	Administrative Allowance per AB1x26	City of El Cerrito									0	0		
14	ROPS II Pass-Through Payments	Taxing Entities	Per County Auditor-Controller for 6/1/12 RPT Distribution	City of El Cerrito									0	0		

EL CERRITO (CONTRA COSTA)
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 13-14A) -- Notes (Optional)
July 1, 2013 through December 31, 2013

Item #	Project Name / Debt Obligation	Notes/Comments
1	Tax Allocation Bonds 1997 A	
2	Tax Allocation Bonds 1998 B	
3	Tax Allocation Bonds 2004 A	
4	Tax Allocation Bonds 2004 B Non-Hsg	The debt service schedule for TAB 2004B was structured such that the portion being paid from tax increment (Item #4) was retired in 2012 and the remainder was an obligation of LMIHF (Item #5). However, this distinction is no longer relevant, as there is no longer LMIHF, so all debt service payments are obligations of RPTTF.
5	Tax Allocation Bonds 2004 B Hsg	The debt service schedule for TAB 2004B was structured such that the portion being paid from tax increment (Item #4) was retired in 2012 and the remainder was an obligation of LMIHF (Item #5). However, this distinction is no longer relevant, as there is no longer LMIHF, so all debt service payments are obligations of RPTTF.
6	2009-10 SERAF Loan	Annual payment is estimated. However, actual payment will be based on calculations in H&S Code Section 34176, once the amount of residual RPTTF if any can be determined.
7	2005-06 ERAF Loan	Annual payment is estimated. However, actual payment will be based on calculations in H&S Code Section 34176, once the amount of residual RPTTF if any can be determined.
8	Accrued Vacation Liability	Due to insufficient RPTTF funding in ROPS III period for this approved item, funding is included on ROPS 13-14A.
9	Valente Promissory Note	Payment due on ROPS 13-14B.
10	Ohlone Gardens Loan Agreement	Due to insufficient RPTTF funding in ROPS III period for this approved item, funding is being included on ROPS 13-14A.
11	Eden Housing Loan Agreement	See Notes 17 and 18 below.
12	Cooperation Agreement	see Note 19 below.
13	FY 2012-13 Administrative Allowance	Funding approved on ROPS III. However, due to insufficient funds, the Successor Agency was unable to pay the City the entire amount. The City advanced funds anticipating approval of a loan agreement pursuant to Health & Safety Code Section 34173 (h). This advance is included in Item #16.
14	Due Diligence Review	Funding approved on ROPS III. However, due to insufficient funds, the Successor Agency was unable to pay the City the entire amount. The City advanced funds anticipating approval of a loan agreement pursuant to Health & Safety Code Section 34173 (h). This advance is included in Item #16.
15	FY 2011-12 Administrative Allowance	Approved ROPS I Item, paid from ROPS I RPTTF subsequent to resolution of True Up Payment litigation.

EL CERRITO (CONTRA COSTA)

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 13-14A) -- Notes (Optional)

July 1, 2013 through December 31, 2013

Item #	Project Name / Debt Obligation	Notes/Comments
16	Cash Flow Loan Agreement	Due to insufficient RPTTF, the City of El Cerrito advanced funds to the Successor Agency for approved ROPS III obligations. The City and Successor Agency entered into a loan agreement pursuant to H&S Code Section 34173 (h) for reimbursement of these expenses out of future RPTTF. Per discussions with Department of Finance legal counsel, cost of litigation is an enforceable obligation of RPTTF. The City of El Cerrito advanced funds to the Successor Agency its litigation costs, anticipating reimbursement from RPTTF on ROPS 13-14A.
17	Eden Housing Loan Agreement Pre-DDA	This item was initially an obligation of \$350,000 when included on the Redevelopment Agency's Enforceable Obligation Schedule approved in August 2011. The Redevelopment Agency funded \$40,000 of the obligation prior to dissolution. The balance of \$310,000 was initially disapproved on ROPS I and ROPS II, but then appeared to have been approved on an amended ROPS I to be paid from LMIHF, although the Successor Agency never received an approval letter for its amended ROPS I and ROPS II from DOF. Due to lack of clarity and insufficient funds, the \$310,000 obligation was not paid from ROPS I funds, but was placed on ROPS III to be paid from RPTTF. DOF initially approved \$100,000 in RPTTF on ROPS III, based on the terms of the agreement with Eden Housing (although the balance of the pre-DDA obligation was actually \$60,000). The Successor Agency held a meet and confer with DOF on the item to appeal the disapproval of the remaining \$250,000 obligation due to Eden Housing once a Disposition and Development Agreement (DDA) is negotiated with the Housing Functions Successor. Following the meet and confer, DOF disapproved the entire \$310,000. Disapproval of this item on ROPS I and ROPS II and the subsequent unclear communication from DOF appearing to approve the item from LMIHF on ROPS I was one of several subjects of the Successor Agency's True Up Payment litigation against the County Auditor-Controller and DOF and was addressed in discussions with DOF legal counsel leading up to the stipulated judgment issued by Sacramento County Superior Court on December 21, 2012. Although this item was not directly addressed in the stipulated judgment, the Successor Agency relied upon discussions with DOF legal counsel in determining its use of ROPS I and ROPS III RPTTF and in its request to amend its Housing Due Diligence Review. The \$60,000 balance of the pre-DDA obligation is being listed on ROPS 13-14A for funding with RPTTF consistent with the stipulated judgment discussions and DOF's initial ROPS III approvals.
18	Eden Housing Loan Agreement Post-DDA	As discussed in Note 20, the full \$310,000 obligation to Eden Housing had been placed on ROPS III and initially DOF disapproved \$250,000 of the obligation that was contingent on negotiation of a DDA with Eden Housing, stating that the Successor Agency did not have the authority to negotiate a DDA. However, the Housing Functions Successor does have the authority to negotiate a DDA with Eden Housing on a property that was listed on the DOF-approved Housing Asset Transfer List and the Successor Agency retained the obligation to fund the loan agreement. DOF stated that the Successor Agency can terminate the agreement due to dissolution, but the Successor Agency is not required to terminate under the Dissolution Act and the DOF cannot require the Successor Agency to do so. Eden Housing and the Housing Functions Successor are in the process of negotiating a DDA and anticipate requiring funding of this obligation during FY2013-14.

EL CERRITO (CONTRA COSTA)

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS 13-14A) -- Notes (Optional)

July 1, 2013 through December 31, 2013

Item #	Project Name / Debt Obligation	Notes/Comments
19	Cooperation Agreement	After a meet and confer on this disputed item, DOF disapproved this item on ROPS III. However, no payment had been requested on ROPS III due to insufficient RPTTF. The Successor Agency intends to continue pursuing funding of this item with RPTTF on ROPS 13-14A. The outstanding obligation has been revised from prior ROPS based on estimated funding requirements under the terms of the agreement.
20	FY13-14 Administrative Allowance	Due to the uneven nature of the Successor Agency's FY2013-14 obligations of RPTTF, the entire administrative allowance is being included on ROPS 13-14A.

CITY COUNCIL RESOLUTION 2012-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING A
CASH FLOW LOAN AGREEMENT WITH THE EL CERRITO REDEVELOPMENT
AGENCY SUCCESSOR AGENCY**

WHEREAS, pursuant to the California Community Redevelopment Law (the “Redevelopment Law”), the City Council (the “City Council”) of the City of El Cerrito (the “City”) adopted the Redevelopment Plan for the City of El Cerrito Redevelopment Project Area by Ordinance No. 77-17, as amended by Ordinances No. 80-13; No. 89-5; No. 94-4; No. 2004-3; No. 2005-01; and No. 2006-10 (collectively, the “Redevelopment Plan”); and

WHEREAS, the El Cerrito Redevelopment Agency (the “RDA”) was responsible for implementation of the Redevelopment Plan; and

WHEREAS, as part of the 2011-12 State budget bill, ABx1 26 (the “Dissolution Act”) was enacted significantly modifying the Redevelopment Law to require the dissolution of redevelopment agencies throughout California and the establishment successor agencies to wind down the former redevelopment agencies’ affairs; and

WHEREAS, on August 15, 2011, pursuant to the Dissolution Act, the City elected to serve as the El Cerrito Redevelopment Agency Successor Agency (the “Successor Agency”), should the RDA be dissolved; and

WHEREAS, California redevelopment agencies were dissolved on February 1, 2012; and

WHEREAS, pursuant to the Dissolution Act, upon dissolution, the RDA transferred as a matter of law all remaining liabilities, debts and obligations to the Successor Agency; and transferred all unencumbered funds and assets to the Successor Agency’s Redevelopment Obligation Retirement Fund (the “RORF”), for disposition and/or use by the Successor Agency to retire RDA debt and pay for RDA obligations; and

WHEREAS, AB 1484, adopted in June 2012, amending the Dissolution Act, made clear that the Successor Agency is a separate public entity from the City and is not a component unit of the City, but the City is providing administrative services for the Successor Agency; and

WHEREAS, pursuant to the Dissolution Act, the Contra Costa County Auditor Controller (the “Auditor-Controller”) established the Redevelopment Property Tax Trust Fund (the “RPTTF”) to hold Redevelopment Property Tax collected from the City of El Cerrito Redevelopment Project Area to be disbursed to the Successor Agency for payment of its enforceable obligations and to taxing entities affected by the Redevelopment Plan; and

WHEREAS, the Dissolution Act requires the Successor Agency to prepare a Recognized Obligations Payment Schedule (“ROPS”) for each six-month period setting forth its enforceable obligations, including an administrative cost allowance of \$250,000 per fiscal year; and

WHEREAS, Health & Safety Code Section 34173 (h) allows the City to loan funds to the Successor Agency for administrative costs, enforceable obligations and project-related expenses reported on a ROPS and approved by the Oversight Board; and

WHEREAS, the Successor Agency prepared ROPS III for obligations payable during the period January through June, 2013 and the Department of Finance ("DOF") approved the enforceable obligations listed on ROPS III; and

WHEREAS, the Successor Agency filed litigation against the Auditor-Controller and DOF over the True Up Payment, the cost of which is an enforceable obligation of RPTTF that was included on the ROPS for July through December, 2013 ("ROPS 13-14A"), so that the Successor Agency can repay the advance from the City for its litigation costs; and

WHEREAS, there are insufficient funds available in the RPTTF to pay all approved enforceable obligations and administrative expenses approved by the DOF during the ROPS III period and the litigation costs on ROPS 13-14A; and

WHEREAS, the estimated cash flow advance to the Successor Agency required during the ROPS III period will be \$238,000; and

WHEREAS, to enable the Successor Agency to meet its fiduciary responsibilities to holders of enforceable obligations and for the Successor Agency to have adequate funds for administrative costs and other obligations, the City desires to loan to the Successor Agency an amount not to exceed \$238,000; and

WHEREAS, Exhibit A to this Resolution is a proposed Cash Flow Loan Agreement ("Loan Agreement") pursuant to the authority granted by Health and Safety Code Section 34173 (h); and

WHEREAS, the City and Successor Agency have determined that entering into the proposed Loan Agreement is in the best interests of the City and the Successor Agency; and

WHEREAS, the Loan Agreement is subject to the approval of the Oversight Board of the El Cerrito Redevelopment Successor Agency ("Oversight Board").

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito hereby finds the above recitals to be true and accurate.

BE IT FURTHER RESOLVED that the City Council of the City of El Cerrito approves execution of the Cash Flow Loan Agreement substantially in the form attached hereto as Exhibit A subject only to those changes approved by the City Manager and further subject to approval of the Oversight Board.

BE IT FURTHER RESOLVED that consistent with the terms of the Loan Agreement, the City's advance of the Loan shall not exceed \$238,000 and the Successor Agency shall list the loan as an enforceable obligation on future ROPS until the loan is paid in full, at an interest rate

Agenda Item No. 7(B)
Attachment 3

on the Loan equal to the rate applicable to funds on deposit in the Local Agency Investment Fund.

BE IT FURTHER RESOLVED that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179 (h).

I CERTIFY that at the regular meeting on February 19, 2013, the City Council of the City of El Cerrito passed this resolution by the following vote:

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

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

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

Exhibit A

CASH FLOW LOAN AGREEMENT
(City Advance to Successor Agency)

This Cash flow Loan Agreement (the “Loan Agreement”) is made and entered into as of February __, 2013, by and between the City of El Cerrito, a municipal corporation (the “City”), and the El Cerrito Redevelopment Agency Successor Agency (“Successor Agency”).

RECITALS

WHEREAS, pursuant to AB1x 26 (the “Dissolution Act”), the Successor Agency must prepare a Recognized Obligation Payment Schedule (“ROPS”) for each six-month period setting forth all enforceable obligations (as defined in the Dissolution Act) of the Successor Agency; and

WHEREAS, the Dissolution Act created an oversight board (“Oversight Board”) to oversee the wind down of the El Cerrito Redevelopment Agency; and

WHEREAS, on February 26, 2013 the Successor Agency requested that the Oversight Board approve a proposed loan between the City and the Successor Agency pursuant to Health & Safety Code Section 34173(h), wherein the City would advance funds to the Successor Agency in an amount not to exceed \$238,000 (the “Loan”) for the purpose of paying certain Successor Agency administrative costs and enforceable obligations approved as part of ROPS III, for which there were insufficient funds in the Redevelopment Property Tax Trust Fund (“RPTTF”), and to pay costs associated with litigation related to the True Up Payment required by the Successor Agency pursuant to the Dissolution Act; and

WHEREAS, pursuant to Health & Safety Code Section 34173(h), the Successor Agency listed the enforceable obligations and administrative costs to be paid for with the Loan on the Third ROPS approved by the Oversight Board covering the period from January through June, 2013 and the costs were approved by the Department of Finance; and

WHEREAS, pursuant to Health & Safety Code Section 34173(h), the Successor agency listed as an enforceable obligation on the ROPS for the period from July 1, 2013 through December 31, 2013 (the “ROPS 13-14A”) to be paid for with the Loan the cost of repaying the City for the cost of the Successor Agency’s True Up Payment litigation; and

WHEREAS, the City and the Successor Agency have determined that entering into this Loan Agreement is in the best interests of the City and the Successor Agency.

NOW, THEREFORE, in consideration of the promises and the mutual agreements herein contained, the parties hereto do hereby agree as follows. The foregoing recitals are hereby incorporated by reference and made part of this Loan Agreement.

ARTICLE I.

LOAN PROVISIONS

Section 1.01 **Loan.** The City hereby agrees to lend to the Successor Agency the principal amount of Two Hundred Third Eight Thousand Dollars (\$238,000) (the “Loan”) for the purposes set forth in Section 1.03.

Section 1.02 **Interest.**

(a) Interest. Interest on the Loan shall accrue as of the Effective Date, continuing until such time as the Loan is repaid in full, at a rate equal to the interest rate applicable to funds on deposit in the Local Agency Investment Fund as of the Effective Date, compounded annually.

(b) Default Interest. In the event of a Default, interest on the Loan shall begin to accrue as of the date of Default and continuing until such time as the Loan is repaid in full or the Default is cured, at the default rate of the lesser of eight percent (8%) per annum, compounded annually (the “Default Rate”) or the highest rate permitted by law.

Section 1.03 Use of Loan Funds. The Successor Agency shall use the Loan for the purpose of paying the following obligations: those Successor Agency administrative costs as set forth in Item 13 on the Third ROPS, the consulting contract for the Due Diligence Review as set forth in Item 14 on the Third ROPS, and for the purpose of reimbursing the City for litigation expenses incurred by the Successor Agency related to the filing and settlement of *El Cerrito vs. Robert Campbell, et al.*

Section 1.04 Repayment of Loan.

(a) Pursuant to Health & Safety Code Section 34173(h), the Loan is an enforceable obligation of the Successor Agency and is payable on June 1 and January 2 of each year from the RPTTF maintained by the Contra Costa County Auditor-Controller for the purpose of paying enforceable obligations of the Successor Agency.

(b) The Loan shall be set forth in full as an enforceable obligation of the Successor Agency on ROPS 13-14A. It shall be due and payable in full from the Successor Agency's Redevelopment Obligation Retirement Fund ("RORF") following the June 1, 2013 payment to the RORF by the Contra Costa County Auditor-Controller. However, should the Successor Agency receive insufficient funds from the RPTTF to pay all costs shown on the ROPS13-14A, then the amount due and payable on the Loan shall equal the amount deposited into the RORF less all other approved costs shown on the ROPS13-14A and the balance of any principal and interest due on the Loan shall be due and payable in full on the next ROPS.

(c) The procedure described in subsection (b) of this Section shall continue to be followed for each ROPS until the principal and interest due on the Loan are paid in full. Any remaining principal and interest due on the Loan shall continue to be shown as an enforceable obligation on each ROPS until the Successor Agency has received sufficient funds to pay all principal and interest due on the Loan.

(d) All Loan payments shall first be used to pay all accrued interest and then to reduce the principal balance.

Section 1.05 Optional Prepayment of the Loan. The Successor Agency shall have the right to prepay the unpaid principal and interest of the Loan at any time.

Section 1.06 Books and Accounts; Financial Statements. The Successor Agency will keep, or cause to be kept, proper books of record and accounts showing the use of the Loan funds, interest due on the Loan, Loan repayments, and principal and interest outstanding.

ARTICLE II.

DEFAULT AND REMEDIES

Section 2.01 **Event of Default.** Failure by the Successor Agency to pay the principal or interest on the Loan when due and payable shall constitute a Default.

Section 2.02 **No Waiver.** A waiver of any Default by the City shall not affect any subsequent Default or impair any rights or remedies on the subsequent default.

Section 2.03 Remedies Not Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

ARTICLE III.

MISCELLANEOUS

Section 3.01 **No Merger.** In entering into this Loan Agreement, the City is acting in its capacity as a municipal corporation, and, pursuant to Health & Safety Code Section 34173(g), the Successor Agency is a separate public entity from the City; and both the City and the Successor Agency are acting pursuant to the specific authority granted by the Oversight Board and by Health & Safety Code Sections 34173(h) and 34180(h) authorizing agreements between the City and the Successor Agency. In consequence, the parties to this Loan Agreement are not merged.

Section 3.02 Successor is Deemed Included in All References to Predecessor. Whenever in this Loan Agreement either the Successor Agency or the City is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Loan Agreement contained by or on behalf of the Successor Agency or the City shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 3.03 **Amendment.** This Loan Agreement may be amended by the parties hereto but only by a written instrument signed by both parties and with the approval of the Oversight Board.

Section 3.04 **Effective Date.** This Loan Agreement shall take effect upon approval by the Oversight Board and, following that approval, at the time and in the manner prescribed in Health & Safety Code Section 34179(h) (the “Effective Date”).

Section 3.05 Severability. If any Section, paragraph, sentence, clause or phrase of this Loan Agreement shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Loan Agreement. The City and the Successor Agency hereby declare that they would have adopted this Loan Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the Loan irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Loan Agreement may be held illegal, invalid or unenforceable.

IN WITNESS WHEREOF, the City of El Cerrito and the El Cerrito Redevelopment Agency Successor Agency have caused this Agreement to be signed by their respective officers.

**CITY OF EL CERRITO, CALIFORNIA,
a California municipal corporation (“CITY”)**

Approved:

Date:

Scott Hanin, City Manager

APPROVED AS TO FORM:

Sky Woodruff, City Attorney

**EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY,
the successor to the former El Cerrito Redevelopment Agency
(“SUCCESSOR AGENCY”)**

Approved:

Date:

Scott Hanin, Executive Officer

APPROVED AS TO FORM:

Karen Tiedemann, Successor Agency Attorney

SUCCESSOR AGENCY RESOLUTION 2012-XX

**RESOLUTION OF THE EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR
AGENCY APPROVING A CASH FLOW LOAN AGREEMENT
WITH THE CITY OF EL CERRITO**

WHEREAS, pursuant to the California Community Redevelopment Law (the “Redevelopment Law”), the City Council (the “City Council”) of the City of El Cerrito (the “City”) adopted the Redevelopment Plan for the City of El Cerrito Redevelopment Project Area by Ordinance No. 77-17, as amended by Ordinances No. 80-13; No. 89-5; No. 94-4; No. 2004-3; No. 2005-01; and No. 2006-10 (collectively, the “Redevelopment Plan”); and

WHEREAS, the El Cerrito Redevelopment Agency (the “RDA”) was responsible for implementation of the Redevelopment Plan; and

WHEREAS, as part of the 2011-12 State budget bill, ABx1 26 (the “Dissolution Act”) was enacted significantly modifying the Redevelopment Law to require the dissolution of redevelopment agencies throughout California and the establishment successor agencies to wind down the former redevelopment agencies’ affairs; and

WHEREAS, on August 15, 2011, pursuant to the Dissolution Act, the City elected to serve as the El Cerrito Redevelopment Agency Successor Agency (the “Successor Agency”), should the RDA be dissolved; and

WHEREAS, California redevelopment agencies were dissolved on February 1, 2012; and

WHEREAS, pursuant to the Dissolution Act, upon dissolution, the RDA transferred as a matter of law all remaining liabilities, debts and obligations to the Successor Agency; and transferred all unencumbered funds and assets to the Successor Agency’s Redevelopment Obligation Retirement Fund (the “RORF”), for disposition and/or use by the Successor Agency to retire RDA debt and pay for RDA obligations; and

WHEREAS, the AB 1484, adopted in June 2012, amending the Dissolution Act, made clear that the Successor Agency is a separate public entity from the City and is not a component unit of the City, but the City is providing administrative services for the Successor Agency; and

WHEREAS, pursuant to the Dissolution Act, the Contra Costa County Auditor Controller (the “Auditor-Controller”) established the Redevelopment Property Tax Trust Fund (the “RPTTF”) to hold Redevelopment Property Tax collected from the City of El Cerrito Redevelopment Project Area to be disbursed to the Successor Agency for payment of its enforceable obligations and to taxing entities affected by the Redevelopment Plan; and

WHEREAS, the Dissolution Act requires the Successor Agency to prepare a Recognized Obligations Payment Schedule (“ROPS”) for each six-month period setting forth its enforceable obligations, including an administrative cost allowance of \$250,000 per fiscal year; and

WHEREAS, Health & Safety Code Section 34173 (h) allows the City to loan funds to the Successor Agency for administrative costs, enforceable obligations and project-related expenses reported on a ROPS and approved by the Oversight Board; and

WHEREAS, the Successor Agency prepared ROPS III for obligations payable during the period January through June, 2013 and the Department of Finance ("DOF") approved the enforceable obligations listed on ROPS III; and

WHEREAS, the Successor Agency filed litigation against the Auditor-Controller and DOF over the True Up Payment, the cost of which is an enforceable obligation of RPTTF that was included on the ROPS for July through December, 2013 ("ROPS 13-14A"), so that the Successor Agency can repay the advance from the City for its litigation costs; and

WHEREAS, there are insufficient funds available in the RPTTF to pay all approved enforceable obligations and administrative expenses approved by the DOF during the ROPS III period and the litigation costs on ROPS 13-14A; and

WHEREAS, the estimated cash flow advance to the Successor Agency required during the ROPS III period will be \$238,000; and

WHEREAS, to enable the Successor Agency to meet its fiduciary responsibilities to holders of enforceable obligations and for the Successor Agency to have adequate funds for administrative costs and other obligations, the City desires to loan to the Successor Agency an amount not to exceed \$238,000; and

WHEREAS, Exhibit A to this Resolution is a proposed Cash Flow Loan Agreement ("Loan Agreement") pursuant to the authority granted by Health and Safety Code Section 34173(h); and

WHEREAS, the City and Successor Agency have determined that entering into the proposed Loan Agreement is in the best interests of the City and the Successor Agency; and

WHEREAS, the Loan Agreement is subject to the approval of the Oversight Board of the El Cerrito Redevelopment Successor Agency ("Oversight Board").

NOW THEREFORE, BE IT RESOLVED that the El Cerrito Redevelopment Agency Successor Agency hereby finds the above recitals to be true and accurate.

BE IT FURTHER RESOLVED that the El Cerrito Redevelopment Agency Successor Agency approves execution of the Cash Flow Loan Agreement substantially in the form attached hereto as Exhibit A subject only to those changes approved by the Successor Agency Executive Officer and further subject to approval of the Oversight Board.

BE IT FURTHER RESOLVED that consistent with the terms of the Loan Agreement, the City's advance of the Loan shall not exceed \$238,000 and the Successor Agency shall list the loan as an enforceable obligation on future ROPS until the loan is paid in full, at an interest rate

on the Loan equal to the rate applicable to funds on deposit in the Local Agency Investment Fund.

BE IT FURTHER RESOLVED that this Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179 (h).

I CERTIFY that at the regular meeting on February 19, 2013, the City Council of the City of El Cerrito acting as the governing board of the El Cerrito Redevelopment Agency Successor Agency passed this resolution by the following vote:

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

IN WITNESS of this action, I sign this document on February __, 2013.

Cheryl Morse, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

Exhibit A

CASH FLOW LOAN AGREEMENT
(City Advance to Successor Agency)

This Cash flow Loan Agreement (the “Loan Agreement”) is made and entered into as of February __, 2013, by and between the City of El Cerrito, a municipal corporation (the “City”), and the El Cerrito Redevelopment Agency Successor Agency (“Successor Agency”).

RECITALS

WHEREAS, pursuant to AB1x 26 (the “Dissolution Act”), the Successor Agency must prepare a Recognized Obligation Payment Schedule (“ROPS”) for each six-month period setting forth all enforceable obligations (as defined in the Dissolution Act) of the Successor Agency; and

WHEREAS, the Dissolution Act created an oversight board (“Oversight Board”) to oversee the wind down of the El Cerrito Redevelopment Agency; and

WHEREAS, on February 26, 2013 the Successor Agency requested that the Oversight Board approve a proposed loan between the City and the Successor Agency pursuant to Health & Safety Code Section 34173(h), wherein the City would advance funds to the Successor Agency in an amount not to exceed \$238,000 (the “Loan”) for the purpose of paying certain Successor Agency administrative costs and enforceable obligations approved as part of ROPS III, for which there were insufficient funds in the Redevelopment Property Tax Trust Fund (“RPTTF”), and to pay costs associated with litigation related to the True Up Payment required by the Successor Agency pursuant to the Dissolution Act; and

WHEREAS, pursuant to Health & Safety Code Section 34173(h), the Successor Agency listed the enforceable obligations and administrative costs to be paid for with the Loan on the Third ROPS approved by the Oversight Board covering the period from January through June, 2013 and the costs were approved by the Department of Finance; and

WHEREAS, pursuant to Health & Safety Code Section 34173(h), the Successor agency listed as an enforceable obligation on the ROPS for the period from July 1, 2013 through December 31, 2013 (the “ROPS 13-14A”) to be paid for with the Loan the cost of repaying the City for the cost of the Successor Agency’s True Up Payment litigation; and

WHEREAS, the City and the Successor Agency have determined that entering into this Loan Agreement is in the best interests of the City and the Successor Agency.

NOW, THEREFORE, in consideration of the promises and the mutual agreements herein contained, the parties hereto do hereby agree as follows. The foregoing recitals are hereby incorporated by reference and made part of this Loan Agreement.

ARTICLE I.

LOAN PROVISIONS

Section 1.01 **Loan.** The City hereby agrees to lend to the Successor Agency the principal amount of Two Hundred Third Eight Thousand Dollars (\$238,000) (the “Loan”) for the purposes set forth in Section 1.03.

Section 1.02 **Interest.**

(a) Interest. Interest on the Loan shall accrue as of the Effective Date, continuing until such time as the Loan is repaid in full, at a rate equal to the interest rate applicable to funds on deposit in the Local Agency Investment Fund as of the Effective Date, compounded annually.

(b) Default Interest. In the event of a Default, interest on the Loan shall begin to accrue as of the date of Default and continuing until such time as the Loan is repaid in full or the Default is cured, at the default rate of the lesser of eight percent (8%) per annum, compounded annually (the “Default Rate”) or the highest rate permitted by law.

Section 1.03 Use of Loan Funds. The Successor Agency shall use the Loan for the purpose of paying the following obligations: those Successor Agency administrative costs as set forth in Item 13 on the Third ROPS, the consulting contract for the Due Diligence Review as set forth in Item 14 on the Third ROPS, and for the purpose of reimbursing the City for litigation expenses incurred by the Successor Agency related to the filing and settlement of *El Cerrito vs. Robert Campbell, et al.*

Section 1.04 Repayment of Loan.

(a) Pursuant to Health & Safety Code Section 34173(h), the Loan is an enforceable obligation of the Successor Agency and is payable on June 1 and January 2 of each year from the RPTTF maintained by the Contra Costa County Auditor-Controller for the purpose of paying enforceable obligations of the Successor Agency.

(b) The Loan shall be set forth in full as an enforceable obligation of the Successor Agency on ROPS 13-14A. It shall be due and payable in full from the Successor Agency's Redevelopment Obligation Retirement Fund ("RORF") following the June 1, 2013 payment to the RORF by the Contra Costa County Auditor-Controller. However, should the Successor Agency receive insufficient funds from the RPTTF to pay all costs shown on the ROPS13-14A, then the amount due and payable on the Loan shall equal the amount deposited into the RORF less all other approved costs shown on the ROPS13-14A and the balance of any principal and interest due on the Loan shall be due and payable in full on the next ROPS.

(c) The procedure described in subsection (b) of this Section shall continue to be followed for each ROPS until the principal and interest due on the Loan are paid in full. Any remaining principal and interest due on the Loan shall continue to be shown as an enforceable obligation on each ROPS until the Successor Agency has received sufficient funds to pay all principal and interest due on the Loan.

(d) All Loan payments shall first be used to pay all accrued interest and then to reduce the principal balance.

Section 1.05 Optional Prepayment of the Loan. The Successor Agency shall have the right to prepay the unpaid principal and interest of the Loan at any time.

Section 1.06 Books and Accounts; Financial Statements. The Successor Agency will keep, or cause to be kept, proper books of record and accounts showing the use of the Loan funds, interest due on the Loan, Loan repayments, and principal and interest outstanding.

ARTICLE II.

DEFAULT AND REMEDIES

Section 2.01 **Event of Default.** Failure by the Successor Agency to pay the principal or interest on the Loan when due and payable shall constitute a Default.

Section 2.02 **No Waiver.** A waiver of any Default by the City shall not affect any subsequent Default or impair any rights or remedies on the subsequent default.

Section 2.03 Remedies Not Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

ARTICLE III.

MISCELLANEOUS

Section 3.01 **No Merger.** In entering into this Loan Agreement, the City is acting in its capacity as a municipal corporation, and, pursuant to Health & Safety Code Section 34173(g), the Successor Agency is a separate public entity from the City; and both the City and the Successor Agency are acting pursuant to the specific authority granted by the Oversight Board and by Health & Safety Code Sections 34173(h) and 34180(h) authorizing agreements between the City and the Successor Agency. In consequence, the parties to this Loan Agreement are not merged.

Section 3.02 Successor is Deemed Included in All References to Predecessor. Whenever in this Loan Agreement either the Successor Agency or the City is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Loan Agreement contained by or on behalf of the Successor Agency or the City shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 3.03 **Amendment.** This Loan Agreement may be amended by the parties hereto but only by a written instrument signed by both parties and with the approval of the Oversight Board.

Section 3.04 **Effective Date.** This Loan Agreement shall take effect upon approval by the Oversight Board and, following that approval, at the time and in the manner prescribed in Health & Safety Code Section 34179(h) (the “Effective Date”).

Section 3.05 Severability. If any Section, paragraph, sentence, clause or phrase of this Loan Agreement shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Loan Agreement. The City and the Successor Agency hereby declare that they would have adopted this Loan Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the Loan irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Loan Agreement may be held illegal, invalid or unenforceable.

IN WITNESS WHEREOF, the City of El Cerrito and the El Cerrito Redevelopment Agency Successor Agency have caused this Agreement to be signed by their respective officers.

**CITY OF EL CERRITO, CALIFORNIA,
a California municipal corporation (“CITY”)**

Approved:

Date:

Scott Hanin, City Manager

APPROVED AS TO FORM:

Sky Woodruff, City Attorney

**EL CERRITO REDEVELOPMENT AGENCY SUCCESSOR AGENCY,
the successor to the former El Cerrito Redevelopment Agency
(“SUCCESSOR AGENCY”)**

Approved:

Date:

Scott Hanin, Executive Officer

APPROVED AS TO FORM:

Karen Tiedemann, Successor Agency Attorney