THE CITY OF
EL CERRITO

AGENDA

CONCURRENT CITY COUNCIL/PUBLIC FINANCING AUTHORITY/SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING
Tuesday, August 21, 2012 – 7:00 p.m.
City Council Chambers

SPECIAL CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY CLOSED SESSION
Tuesday, August 21, 2012 – Immediately following the Concurrent City Council/Public Financing Authority/Successor Agency Meeting
Hillside Conference Room

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

Bill Jones – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Rebecca Benassini
Councilmember Ann Cheng
Councilmember Janet Abelson

ROLL CALL

7:00 p.m. **CONVENE CONCURRENT CITY COUNCIL/PUBLIC FINANCING AUTHORITY / SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING**

1. **PLEDGE OF ALLEGIANCE TO THE FLAG** – Councilmember Benassini.

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.)*

   Report on local collaboration meeting with West Contra Costa Unified School District Principals of El Cerrito Schools – *Councilmember Benassini*

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. El Cerrito Wall of Fame Ceremony

Adopt two separate resolutions recognizing the leadership, contributions and achievements of community members Jane Bartke and Amy Shinsako and inducting both individuals into the El Cerrito Wall of Fame.

B. Proclamation in Recognition of Ellen Paasch

Approve and present a proclamation commending and recognizing the many contributions made by Ellen MacDonald–Paasch to the residents of El Cerrito and the importance of her role in helping older adults maximize their quality of life.

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

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.

JOINT CITY COUNCIL/PUBLIC FINANCING AUTHORITY/SUCCESSOR AGENCY ITEM

A. Minutes for Approval

Approve the: 1) July 17, 2012 Special City Council Closed Session, Concurrent City Council/Public Financing Authority/City Council acting as the Successor Agency to the Former Redevelopment Agency, and Special City Council acting as the Successor Agency to the Former Redevelopment Agency Closed Session meeting minutes; and 2) August 13, 2012 Special City Council meeting minutes.

JOINT CITY COUNCIL/PUBLIC FINANCING AUTHORITY ITEMS

B. Recycling Center Refinancing – Change from a Lease to a Bond Structure

Adopt a resolution authorizing the City Manager/Executive Director to enter into required agreements with JP Morgan Chase Bank (Chase) for refinancing of the Recycling Center $3,500,000 Lease–Purchase Financing as a Revenue Bond.

CITY COUNCIL ITEMS

C. Various Traffic and Parking Revisions

Adopt resolutions authorizing the Public Works Director/City Engineer to: 1) Install stop signs on a) Scott Street at Schmidt Lane and b) Humboldt Avenue and Key Boulevard; and 2) Install 18 feet of green curb marking on the south side of Stockton Avenue in front of the El Cerrito Public Library, located at 6500 Stockton Avenue.

D. Amend the 2012-13 Capital Improvement Program to Fund Neighborhood Traffic Programs

Adopt a resolution amending the 2012–13 Capital Improvement Program to: 1) Combine the

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

E. Co-Sponsorship Application for Friends of the El Cerrito Library

Adopt a resolution authorizing the City Manager to grant co-sponsorship status to the Friends of the El Cerrito Library for use of City facilities.

F. Meyers Nave Contract Amendment

Adopt a resolution authorizing the City Manager to execute an amended and restated agreement with Meyers, Nave, Riback, Silver and Wilson LLP for City Attorney services and appointing Jennifer Faught as Assistant City Attorney.

G. Paying and Reporting the Value of Employer Paid Member Contributions for Management Employees

Adopt a resolution amending paying and reporting the value of employer paid member contributions for management employees.

H. Change in September 18, 2012 City Council Meeting Start Time

Approve a recommendation rescheduling the start time for the September 18, 2012 City Council meeting from 7:00 p.m. to 7:30 p.m. to accommodate the observance of the Jewish holiday Rosh Hashanah.

6. PUBLIC HEARINGS

Fees for Expanded Recycling Services at the Recycling and Environmental Resource Center

Conduct a public hearing and upon conclusion consider adoption of a resolution amending Miscellaneous Services Fees within the Master Fee Schedule to add fees relating to: 1) Drop-off collection and recycling of compact fluorescent bulbs (CFLs) and fluorescent tubes for patrons who currently do not pay for local Household Hazardous Waste programs; and 2) Rental of solid waste – recycling, compost and garbage – event stands and bags.

7. POLICY MATTERS

CITY COUNCIL ITEMS

A. Two Years Public Employee Retirement System Service Credit

Staff requests that the City Council take the following three actions: 1) Adopt a resolution designating a window period from August 22, 2012 through November 27, 2012 within which miscellaneous and public safety employees may receive two-years of service credit if they retire during the designated window period; 2) Authorize the Mayor to certify compliance with Government Code Section 20903; and 3) Direct the City Clerk to certify the Council's action and compliance with Government Code Section 7507.

B. November 6, 2012 Municipal Election – Consideration of Facts with Option to Appoint Council Members In Lieu of Election

Staff requests that the City Council review the Certification of Facts and consider taking action to either: 1) Adopt a resolution appointing nominees Jan Bridges, Mark Friedman and Greg Lyman to elected offices effective the first City Council meeting in December 2012; or 2) Elect to hold the November 6, 2012 General Municipal Election.

JOINT CITY COUNCIL/PUBLIC FINANCING AUTHORITY ITEM

C. Measure A (Swim Center) Lease Revenue Bond Refinancing

Adopt a City Council resolution and a Public Financing Authority resolution which authorize the City Manager/Executive Director to enter into the required agreements with JP Morgan Chase Bank for refinancing of the Measure A (Swim Center) Lease Revenue Bonds.

CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY ITEM

D. Review and Authorization to Submit Draft Recognized Obligations Payment Schedule III (January through June 2013)

Adopt a Successor Agency resolution reviewing and authorizing submittal of the draft Recognized Obligations Payment Schedule III covering the period January through June 2013.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Jones Assignments: Contra Costa County Mayors' Conference, Crime Prevention Committee, Design Review Board, Disaster Preparedness Council Delegate, Municipal Service Corporation Chair, Oversight Board of the Successor Agency for the Former El Cerrito Redevelopment Agency, Pension Board Chair, Temporary Permits Committee, Tom Bates Regional Sports Field JPA, Underground Utilities Committee, West County Integrated Waste Management Authority Alternate and West County Mayors' & Supervisors' Association.

B. Mayor Pro Tem Lyman Assignments: Commission/Committee Rules Subcommittee, Contra Costa County Mayors' Conference Alternate, Disaster Preparedness Council Alternate, Economic Development Board, Municipal Services Corporation Vice-Chair, Pension Board Alternate, Planning Commission, Tree Committee, West County Integrated Waste Management Authority Delegate and West County Mayors' & Supervisors' Association Alternate.

C. Councilmember Abelson Assignments: Association of Bay Area Governments (ABAG) General Assembly Alternate, Committee on Aging, Contra Costa Transportation Authority, Environmental Quality Committee, League of California Cities East Bay Division Delegate and West Contra Costa Transportation Advisory Committee Delegate.

D. Councilmember Benassini Assignments: Arts and Culture Commission, Park and Recreation Commission, Redevelopment Agency Vice-Chair, and Tom Bates Regional Sports Field JPA Alternate.

E. Councilmember Cheng Assignments: Association of Bay Area Governments (ABAG) General Assembly Delegate, Commission/Committee Rules Subcommittee, Financial Advisory Board, Human Relations Commission, League of California Cities East Bay Division Alternate, Redevelopment Agency Chair and West Contra Costa Transportation Advisory Committee Alternate.

9. ADJOURN CONCURRENT CITY COUNCIL/PUBLIC FINANCING AUTHORITY / SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING

The next regularly scheduled City Council meeting is scheduled on Tuesday, September 18, 2012. The meeting will take place in the City Council Chambers at City Hall, 10890 San Pablo Avenue, El Cerrito.

ROLL CALL

10. CONVENE SPECIAL CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING

ANNOUNCEMENT OF CLOSED SESSION

Conference with Legal Counsel – Existing Litigation *(Pursuant to Government Code Section 54956.9)*: City of El Cerrito, et al. v. Robert R. Campbell, et al., Case No. 34-2012-80001200, Sacramento Superior Court.

ORAL COMMUNICATIONS FROM THE PUBLIC *(Comments are limited to three minutes and to items on this Special Closed Session agenda only.)*

RECESS INTO CLOSED SESSION

POSSIBLE REPORT OUT OF CLOSED SESSION

ADJOURN SPECIAL CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING

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

- Council Meetings can be heard live on FM Radio, KECG – 88.1 and 97.7 FM and viewed live on Cable TV - KCRT- Channel 28. 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.

Agenda Item No. 4(A)(1)

RESOLUTION 2012–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO INDUCTING JANE BARTKE INTO THE EL CERRITO WALL OF FAME

WHEREAS, Jane Bartke, a long-time resident of the City of El Cerrito, is a graduate of St. Mary's College at Notre Dame in South Bend, Indiana, and California State University East Bay where she obtained her Masters degree in Public Administration; and

WHEREAS, Jane Bartke taught in local public schools from 1970 to 2000, and after retirement worked part-time as a counselor, administrator and teacher. She holds a California life-time teaching credential for grades K through 8. She also served the West Contra Costa Unified School District as a Department Chair, Mentor Teacher and briefly as an elementary school Principal; and

WHEREAS, during her years as an educator, Jane Bartke received numerous awards such as Teacher of the Year from the Ed Fund, California Outstanding Education Award from Johns Hopkins University, Outstanding Educator from California State University, and Mentor Teacher from the State Superintendent of Public Instruction; and

WHEREAS, Jane Bartke took an active role in the community as a Board member and President of the Contra Costa Chapter National Women's Political Caucus, of the YWCA of West County, of Soroptimist International of El Cerrito, of the El Cerrito Jaycettes and the El Cerrito Junior Women's Club; and

WHEREAS, for her community service, Jane Bartke has been recognized with several distinguished awards such as Circle of 100, Congressional Recognition in 2008, Soroptimists Woman of Distinction, El Cerrito Woman of the Year associated with Women's History Month, and Diablo District Citizen of the Year from the Junior Women's Club; and

WHEREAS, Jane Bartke continues her community involvement as a Board member, and presently as President of the Trust for Rosie the Riveter/ World War II Home Front National Historical Park, a national park located in Richmond to tell the nation's story of the home front effort of WWII, and

WHEREAS, Jane Bartke exemplifies dedication in public service by contributing innumerable hours of her time and energy to civic affairs and local government, including Chair of the city's Park & Recreation Commission and later being elected to the El Cerrito City Council. She served on the City Council from 1991 to 1999, including two terms as Mayor in 1993 and 1997. While serving on the City Council, Jane Bartke represented El Cerrito at the Contra Costa Mayors Conference and was elected Chairwoman of the Conference, the only El Cerritan to have been so elected Chair in the past thirty years; she also served on the Executive Board of ABAG, and chaired a state committee for the League of California Cities, and

WHEREAS, Jane Bartke single-handedly created the El Cerrito Community Foundation, a non-profit agency organized, among other projects, to receive and preserve the Sundar Shadi holiday display, and she has coordinated its preservation, restoration, fund-raising and public presentation each Christmas season, serving as its chairperson every year since its inception in 2001.

NOW THEREFORE, be it resolved, by the City Council of the City of El Cerrito, that it hereby inducts Jane Bartke into the El Cerrito Wall of Fame in recognition of her significant contributions to the El Cerrito community.

* * * * *

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

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

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

Cheryl Morse, City Clerk

APPROVED:

William C. Jones III, Mayor

Agenda Item No. 4(A)(2)

RESOLUTION 2012–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO INDUCTING AMY SHINSAKO INTO THE EL CERRITO WALL OF FAME

WHEREAS, Ms. Amy Shinsako is a retired teacher from Harding Elementary where she taught for 20 years and for the last seven years has volunteered daily as a reading teacher; and

WHEREAS, Ms. Shinsako is a board member, volunteer and leader of the food committee at the Sakura Kai Senior Center for the last 30 years, her father was an original board member since 1973 and she and her mother have held active roles since; and

WHEREAS, under the leadership of Ms. Shinsako, the Sakura Kai Senior Center has thrived; and J-Sei, a multi-generational and multi-cultural organization with its roots in Nikkei values and culture, has recognized her contributions as a board member, providing care and assistance to Seniors and Families; and

WHEREAS, Ms. Shinsako was also the founding member of Daruma No Gakko, one of the first Japanese cultural program for K-6 credits and the summer program is still going strong.

NOW THEREFORE, be it resolved, by the City Council of the City of El Cerrito, that it hereby inducts Amy Shinsako into the El Cerrito Wall of Fame in recognition of her significant contributions to the El Cerrito community.

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

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

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

Cheryl Morse, City Clerk

APPROVED:

William C Jones, III, Mayor

Agenda Item No. 4(B)

EL CERRITO CITY COUNCIL PROCLAMATION

In Recognition of Ellen MacDonald-Paasch

WHEREAS, Ellen MacDonald-Paasch, Adult Programs Supervisor, has served her community with passion, honor, and dedication and upon the occasion of her retirement, is deserving of recognition. Ellen was born in Glasgow, Scotland, immigrated to the United States to attend the University of California, Berkeley, received a Bachelor of Arts Degree in Anthropology, and became a citizen of the United States of America in 1972; and

WHEREAS, Ellen began her career in the recreation field as a volunteer for the I-House at UC Berkeley, directed a Montessori style preschool, ran a consultation business for home day care, and volunteered for the El Cerrito Senior Services Division; and

WHEREAS, Ellen began employment with the City of El Cerrito in 1978 as a part-time van driver for the City's "Dial-A-Ride" Program and gradually worked her way into full time status as the Adult Programs Supervisor for the El Cerrito Recreation Department and performed her duties in an exemplary and innovative manner; and

WHEREAS, Ellen continued her professional growth as a member of the California Parks and Recreation Society, National Council on Aging, and the American Society on Aging, and served with distinction for eight consecutive years as the local chapter president of SEIU 790; and

WHEREAS, Ellen has consistently and substantially overseen improvements to the Senior Services Division of El Cerrito over the years by helping to secure funding for the expansion of the Open House Senior Center, fostering partnerships with over forty community organizations, utilizing over one hundred forty volunteers per year, re-establishing paratransit service in El Cerrito, establishing a Computer Learning Center and Cyber Café, amongst many other accomplishments; and

WHEREAS, over the course of Ellen's career she has raised more than $600,000 to support programming for older adults in El Cerrito through direct appeals, endowments, and bingo programs; and

WHEREAS, Ellen has been a strong advocate of programming and services for the residents of El Cerrito and surrounding communities that allow them to age in place at their homes, and for programs that support healthy living and wellness; and

WHEREAS, Ellen has served the residents of the City of El Cerrito and surrounding communities, and in retiring from her position as Adult Programs Supervisor, concludes a career with the El Cerrito Recreation Department that exceeds thirty-three years.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby commend and recognize Ellen MacDonald-Paasch for the many contributions made by her to the residents of El Cerrito and acknowledges the importance of her role in helping older adults maximize their quality of life.

Dated: August 21, 2012

William C. Jones III, Mayor

Agenda Item No. 5(A)(1)

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING – CLOSED SESSION
Tuesday, July 17, 2012 – 6:15 p.m.
Hillside Conference Room

CONCURRENT CITY COUNCIL/PUBLIC FINANCING AUTHORITY/SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING
Tuesday, July 17, 2012 – 7:00 p.m.
City Council Chambers

SPECIAL CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING
Tuesday, July 17, 2012 – Immediately following the Concurrent City Council/Public Financing Authority/Successor Agency Meeting
Hillside Conference Room

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

Bill Jones – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Rebecca Benassini
Councilmember Ann Cheng
Councilmember Janet Abelson

6:15 p.m. **ROLL CALL**

Councilmembers Abelson, Benassini, Cheng, Lyman and Mayor Jones all present.

CONVENE SPECIAL CITY COUNCIL MEETING – CLOSED SESSION

Mayor Jones convened the Special City Council meeting – closed session at 6:17 p.m.

ANNOUNCEMENT OF CLOSED SESSION

Conference with Labor Negotiators *(Pursuant to Government Code Section 54957.6)*
Agency designated representatives: Scott Hanin, City Manager, Sky Woodruff, City Attorney, Glenn Berkheimer, IEDA, Sukari Beshears, Employee Services Manager
Employee organizations: Service Employees International Union, Local 1021

ORAL COMMUNICATIONS FROM THE PUBLIC – No speakers.

RECESSED INTO CLOSED SESSION at 6:17 p.m.

POSSIBLE REPORT OUT OF CLOSED SESSION

ADJOURNED SPECIAL CITY COUNCIL MEETING – CLOSED SESSION at 6:48 p.m.

ROLL CALL

Councilmembers Abelson, Benassini, Cheng, Lyman and Mayor Jones all present.

7:00 p.m. **CONVENE CONCURRENT CITY COUNCIL/PUBLIC FINANCING AUTHORITY / SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING**
Mayor Jones convened the Special Concurrent City Council/Public Financing Authority/Successor Agency to the Former Redevelopment Agency meeting at 7:02 p.m.

1. **PLEDGE OF ALLEGIANCE TO THE FLAG** was led by Mayor Jones.

2. **COUNCIL / STAFF COMMUNICATIONS**

Mayor Jones reported that the City Council had just met in closed session pursuant to Government Code Section 54957.6 regarding labor negotiations and provided direction to staff.

Mayor Pro Tem Lyman announced the Police Department's hosting of the Pixar film, CARS 2, on August 6 at 5:00 p.m. at the Rialto Cerrito Theater. Admission and a small popcorn are free. Mayor Pro Tem Lyman reminded all that National Night Out follows on August 7, 2012.

Councilmember Abelson reported that the City is moving forward on its Climate Action Plan. The Environmental Quality Committee convened a study session last week. Many opinions were submitted. The Climate Action Plan will be coming to the Council soon for consideration.

Report on July 3, 2012 Successor Agency Closed Session and Update on Impacts Associated with Assembly Bill 1484 – Mayor Jones

OVERVIEW

Mayor Jones reported that the Council, acting as the Successor Agency to the Former Redevelopment Agency, with very little time to consider recent State action, met in closed session on July 3, 2012 and gave the following direction to staff : if the State would not give relief to the Successor Agency related to AB 1484 then the City should file a lawsuit against the State and all pertinent parties. On July 12, consistent with Council/Successor Agency direction, the City's legal team filed suit in Sacramento and the City refused to pay the $1.7 million state demand. On July 10 city staff met with the State Department of Finance to meet and confer on issues pertaining to AB 1484. The State dismissed the Successor Agency's and City's concerns outright and without serious consideration. The City is challenging the constitutional legality of the "clean up bill, AB 1484" which followed the statute to dissolve Redevelopment Agencies. Specifically, the City maintains that the methodology and resulting "true up" payment ($1.7 million) demanded by the State is flawed, improper and unlawful. Legal action is being taken to protect and shield the City's general fund, assets of the city, the rights of the community to develop such assets and secure local designated sales tax revenues needed to keep employees at current levels of service for the residents of El Cerrito. The legal team and city staff have put together a very solid and compelling case and everyone is confident in the mission to succeed on behalf of the City and its residents.

COUNCIL COMMENTS

Mayor Jones stated that it does not appear the city can turn to its state representatives to support and protect the city at the state legislative level. In his opinion, the city's state representatives have sided with the Governor and the State Department of Finance against cities on this issue. The Council feels that there is no alternative way to redress legitimate grievances other than to turn toward the judicial system to enforce proper constitutional law of the state. This is a pure and simple money grab by the state legislature and the Department of Finance and it oversteps the original Redevelopment Dissolution Act. AB 1484 is called a "clean-up bill." Mayor Jones stated that he calls it a "clean-out cities and counties bill." During the last year California cities and successor agencies have been following the law of the Dissolution Act and dismantling the redevelopment agencies.

The Successor Agencies, in accordance with the letter of the law were able to save many of their projects and assets that were already developed or under contract. The Dissolution Act was so poorly presented and ignorant of subject matter on several levels that predictably it did not deliver the revenue that the Governor and the Department of Finance promised. The Legislature and the Department of Finance had to introduce AB 1484 in order to change the rules and procedures, redefine the definition of "city," blocking the lawful efforts of Successor Agencies and then back dating all the new procedures to the original Dissolution Act thus trying to increase the collection of revenues and negate most of the successor agencies efforts. In addition, AB 1484 established a $22 million war chest to administer and defend the Department of Finance in administration of this program. At roughly the same time, the state legislature had shut down a $14 million health program which primarily helps children and turned around and gave $22 million to the Department of Finance. Two million of the $22 million dollars is earmarked for the judicial system. The legislation also sets up the Department of Finance as judge, jury and executioner without due process or transparency to unilaterally carry out AB1484.

Mayor Jones stated that it is his opinion that if the City had paid the $1.7 million demanded then it would have no leverage in negotiating change. Even if the City had won its arguments, Mayor Jones has no confidence that the city would be refunded the money by the state. The State would have found some other excuse to keep it in the state coffers. Mayor Jones said it should also be noted that the demand for payment was issued on July 9th with payment due three days later on July 12. There was very little time, by design, for cities to review the demand and make decisions going forward. AB 1484 may be setting precedent for taking sales tax revenue from cities general funds.

Since the inception of redevelopment in 1952 cities have never been responsible for the debts of a redevelopment agency. In AB 1484 the State, through unilateral actions of the Department of Finance, can take money from the cities. This action has transferred the responsibility and liability of the bond indebtedness away from any responsibility of the state and sets it squarely on the shoulders of the cities and counties. With one swift and unprecedented action of the legislature, cities and counties are now responsible for something they were never involved in and responsible for in over sixty years. If this action is allowed it opens up the gate for more actions in the future which are unrelated to redevelopment and allows the state to grab more money from the cities and counties general funds. The Council views it as illegal and unconstitutional by state law. This cannot go unchecked. What should be disheartening to the residents of El Cerrito and the State of California, is that this secretive and non-transparent action that the Department of Finance, State Legislature and Governor took to ramrod this law through the so called legislative process. There was very little, if any, public notification, public review or comment for this legislation. The total process from introduction of legislation to the Governor's signature took approximately 36 hours. Very few, if any, people in city and county government knew the details of the legislation until after it was passed into law. This far reaching bill was passed without legitimate review and consideration. Several cities in the State are at or near bankruptcy as they struggle to save their cities while the State hits them with this type of illegal action. El Cerrito has asked for and received support from its residents and employees as the City tries to get through these tough economic times and maintain current service levels. Residents and employees have delivered, only to have the State, year after year, continue to take away parts of its funding. Now the state wants city sales tax money and to declare cities liable for bonds and debt for which cities had no involvement. Local governments have a much higher approval rate with the residents of California than State government. This would have been an excellent opportunity for State and local government to interact together during these rough times. However, the punitive action of AB 1484 indicates the State has an unapologetic disregard for its cities. The supportive partnership between cities and the state is rapidly disappearing and this issue is only one example of this. Mayor Jones stated the line has been drawn in the sand and the City must fight for its rights. Sadly and very disappointingly, El Cerrito must sue its own government in order to protect and defend its residents' rights and local government funding.

Mayor Pro Tem Lyman stated that he echoes Mayor Jones statements and emphasized that one aspect of the lawsuit that he wished to highlight is that the State's demand was not calculated properly, and that the State is asking the City to make two payments on its bond payments which total approximately $1.7 million each. The State wants the City to pay $3.4 million but has only provided $1.7 million to pay it with. The City is trying to protect its general fund, because the payment would have to come out of the general fund and not any other fund. The City is telling the State and the Department of Finance that its demand is an unacceptable request and that the State should be giving the City $1.7 million to make the second payment with.

Councilmember Abelson stated that she agrees with what has been said and at some point you have to say enough is enough. The City doesn't have the resources to keep paying the demands. The City has several responsibilities; the most important is public safety. Sales tax and property tax pay for safety. The City needs to continue to rely on these funds to pay for safety and expenses. The $1.7 million that the State wants to take out of the general fund is over half of the city's reserves. Councilmember Abelson stated that this is the most egregious issue she has seen since she has been on the City Council. The action taken by the State destroys local government. When residents have a medical emergency or if there is someone trying to break down a door, the residents need to know that the City can send someone in a reasonable amount of time. Filing the lawsuit is telling the State that enough is enough and that the City is drawing the line.

Councilmember Benassini stated that the City Council undertook the decision to file the lawsuit against the state government very seriously. There are two things that were promised by state legislators during the dissolution of redevelopment: 1) Bond obligations of the redevelopment agency would not be imperiled by the dissolution process; and 2) Dissolution will not damage cities' general fund. Redevelopment Agencies were separate legal entities. If the Successor Agency is unable to make bond payments it will send a very poor message to the investment community and will also make it difficult to function and plan in terms of the budget process. If the general fund is imperiled the City is not able to function and plan in terms of its budget process. This is something that could not go without pushback. Additionally, there are miscalculation problems. Councilmember Benassini said the City thinks it has a good case and she believes the City Council is making a good decision to protect the City by refusing to make the payment and leaving it up to a Judge.

Councilmember Cheng stated that although she has been out with a back injury, she appreciates the Council's decision to assert the City's position. This is one element of the public trust between councilmembers, community and city staff. The City Council is exercising its fiduciary responsibility to say "No." Councilmember Cheng stated that the State legislature dissolved redevelopment without knowing how much they could count on and are now clawing back funding. Councilmember Cheng stated that the public trusts the City to spend taxes on what the City says it will do and when the City can't do that everything breaks down. Councilmember Cheng thanked the Council for weathering through the last month.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Peter Loubal, El Cerrito, stated that El Cerrito is up the wall with this lawsuit, does not have the money and may have to default. If the City loses even parts of the lawsuit, city services will have to be cut. Mr. Loubal asked whether default means bankruptcy and what this would cost. Mr. Loubal also requested information regarding risks. The City Council should deal with the issue in open rather than in closed session. Mr. Loubal said that he has an been outspoken person about the City living beyond its means including the City Hall building and purchase of the Tradeway site. Redevelopment debt has turned into city debt. Mr. Loubal asked the City Council to be more open and ensure that all voices are heard.

4. PRESENTATIONS – None.

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

Moved, seconded (Lyman/Abelson) and carried unanimously to approve Consent Calendar Item Nos. 5A through 5D in one motion as indicated below. Item No. 5E was removed from the Consent Calendar and voted on separately at the request of Mayor Jones.

JOINT CITY COUNCIL/PUBLIC FINANCING AUTHORITY ITEM

CITY COUNCIIL ACTING AS SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY ITEM

A. Minutes for Approval

1) Approve the June 19, 2012 Special City Council meeting, Special Concurrent City Council/Public Financing Authority meeting and Special City Council Acting as Successor Agency to the Former Redevelopment Agency Closed Session meeting minutes; and

2) Approve the July 3, 2012 Special City Council Acting as Successor Agency to the Former Redevelopment Agency Closed Session meeting minutes.

Action: Approved minutes.

CITY COUNCIL ITEMS

B. National Night Out Proclamation

Approve a proclamation calling upon all residents of the City of El Cerrito to participate in "National Night Out" on Tuesday, August 7, 2012.

Action: Approved proclamation.

C. Direct Update of the Conflict of Interest Code

Adopt a resolution, directing the City Clerk to review the Conflict of Interest Code and if any changes are necessary to submit a revised Code to the City Council for approval, or if no changes are necessary to so notify the Council.

Action: Adopted Resolution No. 2012–51.

D. Revision to Equipment Lease Refinancing Resolution

Adopt a revised resolution authorizing the City Manager to enter into an agreement with JP Morgan Chase Bank (Chase) for the refinancing of six equipment leases and amending Resolution No. 2012–40 to add the lease with option to purchase agreement dated June 15, 2007.

Action: Adopted Resolution No. 2012–52.

E. El Cerrito New Priorities Campaign Working Group

At the request of Mayor Jones and Mayor Pro Tem Lyman, adopt a resolution expressing concerns about how the national defense budget and spending impacts not only our nation but also the residents of the City of El Cerrito. The City Council supports public discussion and dialogue about the costs of excessive military spending within the context of national and local priorities, what each resident must pay and the permanent disability and loss of life experienced by local residents who willingly serve in the armed forces for the safety and welfare of our County. The City Council calls upon Senators Boxer and Feinstein and Congressional Representative Garamendi to oppose further funding of the war in Afghanistan, except as needed to affect the safe rapid withdrawal of all military forces and contractors, and urges them to take leadership position in Congress to bring our troops safely home, substantially reduce overall military spending, and redirect federal tax dollars to the pressing educational, employment, health, housing, nutritional, infrastructure, energy and environmental needs of our city, state and county, and support federal funding for Iraq and Afghanistan war veterans to ensure they receive health care, housing, jobs, education and other supportive services they deserve.

Speakers: Al Miller, El Cerrito, stated that the working group, as part of a nationwide grassroots effort, is trying to encourage elected officials who represent El Cerrito to influence federal legislators to bring war dollars home for services, create new priorities and invest in the future. Mr. Miller stated that staff members have brought over $4 million in federal grants to El Cerrito for a variety of projects.

Jean Rabovsky, El Cerrito, stated that money that is spent on war is money that is not available for local services and urged the City Council to support the resolution. Ms. Rabovsky also spoke about the rising cost of the Senior Center hiking program registration fee.

Joanna Pearlman, El Cerrito, urged the City Council to support the resolution.

Michael Eisenscher, Oakland, Coordinator of Bay Area New Priorities Campaign, stated that Contra Costa County taxpayers contributed about $2.3 billion in 2012 toward the Department of Defense base budget. The El Cerrito share of this contribution is $51.5 million dollars. Mr. Eisenscher stated that El Cerrito wouldn't have a budget deficit if taxpayers were giving the City money instead of money going to the Pentagon and corrupt Afghan war lords. Mr. Eisenscher spoke in support of passage of the resolution and stated that the American people want a change in priorities.

Peter Loubal, El Cerrito, said that it is easy to agree with the sentiment of the New Priorities resolution and stated that in the past the United States has used its military might to bully other countries but that people must remember that when the United States was pacifist and isolationist then other nations became the bully resulting in 60-80 million lives lost in World War II. Military spending during the Reagan Administration led to the Soviet collapse, a free Eastern Europe and prevented the cold war from dragging on and becoming a hot war. Mr. Loubal said the New Priorities resolution is naïve and counterproductive. Saying that passage of the resolution will solve fiscal problems is misleading.

Helen Dickey, El Cerrito, stated that the antidote to despair is action and that she has put her energy into [the Campaign for New Priorities] because something must be done.

Mildred Dandridge, El Cerrito, stated that domestic needs are great. Reducing military spending and using federal tax dollars to support domestic needs should be a priority for all.

Action: Removed from the Consent Calendar and placed for comment after the Pledge of Allegiance at the request of Mayor Jones. Moved, seconded (Lyman/Abelson) and carried unanimously to adopt Resolution No. 2012–53.

6. PUBLIC HEARINGS

Fire Hazard Abatement

Staff requests that the City Council take the following actions:

1) Adopt a resolution declaring that weeds, rubbish, litter or other flammable material on certain real property as identified in the resolution constitutes a public nuisance; and

2) Conduct a public hearing an upon conclusion, adopt a resolution overriding objections by property owners and direct the City Manager or his designee to abate certain public nuisances pursuant to El Cerrito Municipal Code Chapter 16.26.

Presenter: Michael Bond, Battalion Chief.

Action: Moved, seconded (Lyman/Abelson) and carried unanimously to adopt Resolution No. 2012–54, including a revised Exhibit A, declaring that weeds, rubbish, litter or other flammable material on certain real property as identified in the revised Exhibit A attached to the resolution constitutes a public nuisance.

Mayor Jones opened the public hearing. One speaker.

Speakers: James Richardson, M.D., El Cerrito, expressed concerns over the timely removal of dry, tall grass and weeds on the City of El Cerrito's own property and on three vacant lots which are adjacent to his property. Dr. Richardson stated that he has asked that the weeds be removed and they are still standing. There has been a significant fire on one of the lots during the time Dr. Richardson has owned the adjacent property. Dr. Richardson said he is frustrated about having to contact the weed abatement officer who then contacts the property owner every year. Dr. Richardson stated that July 4th is a critical hazard time and properties need to be cleared before this date. Dr. Richardson suggested that a regulation should be put into place that directs a single notice to be sent to property owners to clear weeds by June 29 if someone has been cited three years or more in a row. Dr. Richardson complained that the current procedure is too long and too cumbersome.

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

Action: Moved, seconded (Benassini/Cheng) and carried unanimously to adopt Resolution No. 2012–55, including a revised Exhibit A, overriding objections by property owners and ordering the City Manager or his designee to abate the public nuisances, by having the weeds, rubbish, refuse, dirt or other fire hazard or noxious or dangerous materials removed pursuant to El Cerrito Municipal Code Chapter 16.26 and Government Code 39574. The City Manager or his designee shall keep an account of the cost of abatement for each parcel of land on which work is performed. The City Manager or designee shall then prepare an itemized written report to be presented to the City Council, so that, after the notice and hearing, during the City Council meeting of September 18, 2012, these abatement costs can be confirmed as a special assessment against those parcels.

7. POLICY MATTERS

A. CalPERS Service Credits

Review the attached report regarding costs and implementation of two years additional PERS Service Credit and direct the City Manager to submit a resolution for the City Council's consideration at its August 21, 2012 meeting that designates a two-year service credit retirement period from August 22, 2012 through November 27, 2012 for eligible miscellaneous and public safety employees.

Presenter: Sukari Beshears, Employee Services Manager.

Action: Moved, seconded (Abelson/Lyman) and carried unanimously to direct the City Manager to return to the City Council on August 21, 2012 with an item for consideration which designates a two year window period from August 22, 2012 through November 27, 2012 for eligible miscellaneous and public safety employees.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

A. Mayor Jones reported that the Contra Costa Mayors Conference members discussed what cities are doing to meet the obligations imposed by the State. It was a spirited discussion with lots of emotion and good healthy debate. Mayor Jones also said that he read in the newspaper that El Cerrito is not the only city filing suit. Each of the cities have a different situation to handle and the law applies in different ways. It will be interesting to see how the judicial system handles this. Mayor Jones also reported on his attendance at the Gilman Sports Field Joint Powers Authority (JPA) meeting in which the group received an update and discussed where to go with fields in terms of improvements that are needed, finishing up the master plan and funding. For the third year in a row revenues are greater than expenses and the five cities that make up the JPA will not have to contribute any funds to support the project. Mayor Jones said that the JPA is fortunate to have a good management group for that project.

B. Mayor Pro Tem Lyman – No report.

C. Councilmember Abelson – No report.

D. Councilmember Benassini – No report.

E. Councilmember Cheng thanked the City Council for recognizing June as Lesbian, Gay, Bi-Sexual, and Transgender (LBGBT) month on behalf of the Human Relations Commission.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 2 Council Communications – Report on July 3, 2012 Successor Agency Closed Session and Update on Impacts Associated with Assembly Bill 1484

1. Comments on lawsuit and redevelopment – *Submitted by Peter Loubal.*

Item No. 5(E) El Cerrito New Priorities Campaign Working Group

2. Listing of Relevant Facts, Redefining "National Security," Pentagon Spending and Social Need in Contra Costa County, Correspondence to Mayor Jones with sample resolution, Information specific to El Cerrito, and U.S. Conference of Mayors Resolution regarding elimination of nuclear weapons and redirection of nuclear weapons spending to meet urgent needs of cities – *Submitted by Michael Eisencher, Coordinator, New Priorities Campaign.*

3. Emails in support of the New Priorities Resolution – *Submitted by Joan Bartulovich and Dorothy Kemp.*

Item No. 6 Fire Hazard Abatement

4. Revised Exhibit A to Resolutions submitted as Attachments 5 and 6 to the Fire Abatement Staff Report – Revised List of Real Property Constituting Public Nuisances – *Submitted by Battalion Chief Bond.*

5. Written comments on the weed abatement process and five photographs – *Submitted by James M. Richardson, M.D., El Cerrito.*

9. ADJOURNED CONCURRENT CITY COUNCIL/PUBLIC FINANCING AUTHORITY / SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING at 8:48 p.m.

ROLL CALL

10. CONVENED SPECIAL CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING at 8:49 p.m.

Successor Agency Chair Jones convened the Special Successor Agency meeting at 8:49 p.m.

ANNOUNCEMENT OF CLOSED SESSION

Conference with Legal Counsel – Anticipated Litigation *(Pursuant to Government Code Section 54956.9(b))*: One potential case

ORAL COMMUNICATIONS FROM THE PUBLIC *(Comments are limited to three minutes and to items on this Special Closed Session agenda only.)*

RECESSED INTO CLOSED SESSION at 8:52 p.m.

POSSIBLE REPORT OUT OF CLOSED SESSION

ADJOURNED SPECIAL CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY MEETING at 9:38 p.m.

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING
Monday, August 13, 2012 – 6:30 p.m.
Hillside Conference Room

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

Bill Jones – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Rebecca Benassini
Councilmember Ann Cheng
Councilmember Janet Abelson

6:30 p.m. **ROLL CALL**

Councilmembers Abelson, Benassini, Cheng, Lyman and Mayor Jones all present.

CONVENE SPECIAL CITY COUNCIL MEETING

Mayor Jones convened the Special City Council meeting at 6:32 p.m.

ORAL COMMUNICATIONS FROM THE PUBLIC – No speakers.

COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Conduct interviews of candidates for city boards and commissions. Interviews may result in an announcement of appointment at the meeting. The City Council may also discuss and determine the scheduling and structure of future interviews, including interviews for the Tree Committee.

Action: Conducted interviews. Mayor Jones announced the appointment of Bruce Yow to the Financial Advisory Board to fill an unexpired term ending on January 1, 2013.

The City Council will schedule a special meeting in September 2012 to continue interviews of Board and Commission candidates.

ADJOURNED SPECIAL CITY COUNCIL MEETING at 9:39 p.m.

THE CITY OF EL CERRITO

AGENDA BILL

Agenda Item No. 5(B)

Date: August 21, 2012

To: El Cerrito City Council
El Cerrito Public Financing Authority Board

From: Mary Dodge, Administrative Services Director/City Treasurer

Subject: Recycling Center Refinancing –Change from a Lease to a Bond Structure

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ACTION REQUESTED

Adopt a City Council resolution and a Public Financing Authority resolution authorizing the City Manager/Executive Director to enter into the required agreements with JP Morgan Chase Bank (Chase) for refinancing of the Recycling Center $3,500,000, 2010 Lease-Purchase Financing as a Revenue Bond.

BACKGROUND

As discussed at the June 11, 2012 Council meeting, declines in interest rates have enabled the City to reduce interest costs on certain existing debt obligations. The City Council previously approved refinancings for the City's Storm Drain Revenue Bonds and six equipment capital leases, which were successfully concluded last month. At that same meeting the Council also approved resolutions for refinancing the Recycling Center Lease-Purchase financing, but due to a required change in the financing structure to a Revenue Bond by JP Morgan Chase Bank (Chase), additional resolutions are required to complete the financing.

The refinancing cost/savings factors previously presented to Council have been updated; the main difference between the analysis presented June 11, 2012 and the one attached, is a scheduled payment that was made as of July 1, 2012 that reduced the principal balance by $53,000 and that the current proposed interest rate has decreased about 1/6 of a percent (.156%).

ANALYSIS

As noted in our report in June, the City, with assistance of Cooperman Associates, an independent Financial Advisor, conducted an informal bid process with multiple financial institutions to obtain a market interest rate for the refunding of the Storm Drain Revenue Bonds, the Swim Center Revenue Bonds, the Recycling Center lease-purchase debt and capital leases on fire trucks, recycling vehicles and toters. Four bids were received and Chase submitted the most advantageous rates and terms.

Subsequent to this, the four refundings were individually reviewed by the Financial Advisory Board (FAB) at meetings in April and May, and the FAB recommended approval of each of the transactions to the City Council. Council approved the

Recycling Center, Storm Drain and equipment lease refinancings at its June 11, 2012 meeting, however, the reports to Council showed the structure for the Recycling Center agreement to be a lease-purchase financing when Chase was actually requiring a lease revenue bond due to their internal financing requirements. Resolutions are required from the City Council and the Public Financing Authority Board to effect this change, which does not change the overall economics of the refinancing, and necessary to complete this transaction.

Financial Considerations

While the actual rate for the bond will not be determined until shortly before the closing, the rates as of August 5th for the Federal Reserve index used by Chase would be 2.34% for the recycling center. The rate on the term sheet presented in June was 2.496%, so the delay in closing due to the debt structure change has generated an even more favorable interest rate. The current financing is at 3.88% and extends until October 1, 2025. The refunding bond would mature at the same time and with the same quarterly payment schedule as is in the current issue. After payment of costs of issuance and a required 3% call premium under the existing lease, savings to the City would be about $212,000 over the term, or almost $174,000 on a present value basis.

Legal Considerations

The change necessitated by internal guidelines by Chase is to have the Public Financing Authority issue Revenue Bonds, backed by a lease arrangement with the City, as opposed to a lease-purchase certificate of participation financing with the City. As previously discussed, the impact to the City from this change is negligible (i.e., new resolutions are required) as the debt service and underlying credit remain the same whether bonds or a lease is issued.

Legal documents are being drafted by municipal bond attorneys at Meyers Nave, which serves as the City's outside counsel. Documents will also be reviewed by Squire Sanders, a national law firm, on behalf of the Bank. Standard opinions of counsel respecting the validity and tax-exempt nature of the obligations will be provided to the City as part of the closing.

Reviewed by:

Scott Hanin, City Manager

Attachments:

1. Recycling Facility Bond Refunding City Resolution
2. Recycling Facility Public Financing Authority Bond Refunding Resolution
3. Recycling Facility Bond Refunding Financial Analysis
4. Recycling Facility Bond proposal from Chase

Agenda Item No. 5(B)

RESOLUTION 2012-XX

RESOLUTION APPROVING ISSUANCE AND SALE BY THE EL CERRITO PUBLIC FINANCING AUTHORITY OF NOT TO EXCEED $3,405,600 PRINCIPAL AMOUNT OF 2012 RECYCLING CENTER LEASE REVENUE REFUNDING BONDS; APPROVING FORM AND SUBSTANCE OF A SITE LEASE AND A LEASE/PURCHASE AGREEMENT, AUTHORIZING MODIFICATIONS THEREOF AND EXECUTION AND DELIVERY THEREOF AS MODIFIED; APPROVING THE FORM AND SUBSTANCE OF A FISCAL AGENT AGREEMENT, AND AN ASSIGNMENT AGREEMENT; AND AUTHORIZING RELATED ACTIONS NECESSARY TO IMPLEMENT THE PROPOSED REFUNDING PROGRAM

WHEREAS, on November 1, 2010 the City entered into that certain site lease and lease purchase agreement with Holman Capital Corporation for the purpose of financing (the "Prior Financing") a portion of the cost of construction of a recycling facility (the "Project"); and

WHEREAS, by separate resolution adopted by its Governing Board (the "Authority Resolution"), the Authority has authorized the issuance of its El Cerrito Public Financing Authority 2012 Lease Revenue Refunding Bonds (the "Bonds") in a principal amount not to exceed $3,405,600 to provide funds needed to implement the refunding of the remaining outstanding Prior Financing (the "Refunding Program") and, for said purpose, has approved the form and substance of a Site Lease, dated as of October 1, 2012 (the "Site Lease"), between the Authority and the City, a Lease Purchase Agreement, dated as of October 1, 2012 (the "Lease Purchase Agreement"), between the City and the Authority, a Fiscal Agent Agreement, dated as of October 1, 2012 (the "Fiscal Agent Agreement"), between the Authority and the Administrative Services Director of the City of El Cerrito (the "City"), as Fiscal Agent; and

WHEREAS, the Authority has received a proposal from JPMorgan Chase Bank, NA (the "Bank"), dated August 9, 2012 (the "Proposal"), a copy of which is attached to the Authority Resolution as Exhibit A thereto, to purchase the Bonds by private placement, subject to certain conditions, and the Authority has authorized the sale of the Bonds to the Bank on terms and conditions substantially the same as those set forth in the Proposal; and

WHEREAS, among the conditions of the Proposal is that the Bonds be designated as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Internal Revenue Code of 1986 (the "Code"), and this City Council of the City (this "City Council") concurs in the finding set forth in the Authority Resolution that neither the City nor any subordinate entity of the City, including but not limited to the Authority, expects or intends to provide for the issuance of more than $10,000,000 aggregate principal amount of tax-exempt obligations during calendar year 2012; and

WHEREAS, the Bonds will be payable from rental payments made by the City from the Integrated Waste Management System Fund (the "Revenues") and the City Council agrees to pledge the Revenues to secure the payment of the rental payments; and

WHEREAS, the Authority has determined that all things necessary to make the Bonds, when executed on behalf of the Authority and authenticated by the Fiscal Agent, as provided in the Fiscal Agent Agreement, the valid, binding and legal obligations of the Authority according to the import thereof and hereof have been done and performed; and

WHEREAS, in furtherance of implementing the Refunding Program, there has been filed with the City Clerk for consideration and approval by this City Council forms of the following:

(a) the Site Lease, under the terms of which the City leases to the Authority for a nominal consideration the real property on which the Project has been constructed (the "Site");

(b) the Lease Purchase Agreement, under the terms of which the Authority leases back to the City the Site, as improved by the Project (together, the "Leased Property"), and the City agrees to make certain rental payments (the "Base Rental Payments" and the "Additional Payments") for the use and enjoyment of the Leased Property;

(c) the Fiscal Agent Agreement, under the terms of which the Bonds are to be issued and the Revenues (as said term is defined in the Fiscal Agent Agreement) are to be administered to pay the principal of and interest on the Bonds; and

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

Section 1. The foregoing recitals are true and correct, and this City Council so finds and determines.

Section 2. This City Council hereby finds and determines that the implementation of the Refunding Program, including issuance by the Authority of the Bonds and sale thereof to the Bank, as provided by the Authority Resolution, and the resulting redemption of the Prior Financing will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs.

Section 3. This City Council hereby approves of the issuance of the Bonds by the Authority and the sale thereof to the Bank, as more fully provided by the Authority Resolution.

Section 4. The forms of the Site Lease and Lease Purchase Agreement, substantially in the form on file with the City Clerk, are hereby approved, subject to such changes as the City Manager or designee shall approve, such approval to be conclusively established by the execution thereof on behalf of the City. The City Manager is authorized and directed to execute the Site Lease and the Lease Purchase Agreement and each of them on behalf of the City.

<u>Section 5</u>. The forms of Fiscal Agent Agreement and Assignment Agreement, substantially in the form on file with the City Clerk, are hereby approved, with such changes as the Authority shall approve prior to execution thereof.

<u>Section 6</u>. All actions heretofore taken by the officers and agents of the City with are hereby approved, confirmed and ratified. Notwithstanding any provision of this resolution authorizing the City Manager to take any action or execute any document to the contrary, in the absence of the City Manager or in lieu of the City Manager, the person designated in writing by the City Manager, may take such action or execute such document with like effect as fully as though named in this resolution instead of the City Manager.

<u>Section 7</u>. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and to implement the refunding program. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

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

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

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

Cheryl Morse, City Clerk

APPROVED:

William Jones, III, Mayor

Agenda Item No. 5(B)
Attachment 2

EL CERRITO PUBLIC FINANCING AUTHORITY RESOLUTION 2012-XX

RESOLUTION OF THE GOVERNING BOARD OF THE EL CERRITO PUBLIC FINANCING AUTHORITY AUTHORIZING THE ISSUANCE AND SALE BY PRIVATE PLACEMENT TO JPMORGAN CHASE BANK, NA, OF NOT TO EXCEED $3,405,600 PRINCIPAL AMOUNT OF 2012 RECYCLING CENTER LEASE REVENUE REFUNDING BONDS; DESIGNATING THE BONDS AS QUALIFIED TAX-EXEMPT OBLIGATIONS PURSUANT TO SECTION 265(b) OF THE INTERNAL REVENUE CODE OF 1986; APPROVING THE FORM AND SUBSTANCE OF A SITE LEASE, A LEASE PURCHASE AGREEMENT, A FISCAL AGENT AGREEMENT AND AN ASSIGNMENT AGREEMENT AND AUTHORIZING THE MAKING OF MODIFICATIONS THERETO AND THE EXECUTION AND DELIVERY THEREOF AS MODIFIED; AND AUTHORIZING RELATED ACTIONS NECESSARY TO IMPLEMENT THE PROPOSED REFUNDING PROGRAM

WHEREAS, the El Cerrito Public Financing Authority is a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California (the "Authority"); and

WHEREAS, the City of El Cerrito is a municipal corporation organized and existing under the Constitution and laws of the State of California (the "City"); and

WHEREAS, the Authority is empowered under the provisions of the Marks-Roos Local Bond Pooling Act of 1985, being Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (the "Law"), to issue its bonds for the purpose of refunding bonds previously issued by the Authority; and

WHEREAS, on November 1, 2010 the City entered into that certain site lease and lease purchase agreement with Holman Capital Corporation for the purpose of financing (the "Prior Financing") a portion of the cost of construction of a recycling facility (the "Project"); and

WHEREAS, the Authority has determined to issue its El Cerrito Public Financing Authority 2012 Recycling Center Lease Revenue Refunding Bonds (the "Bonds") for the purpose of implementing a program to refund the remaining outstanding Prior Financing (the "Refunding Program"); and

WHEREAS, the Bonds will be payable from rental payments made by the City from the Integrated Waste Management System Fund (the "Revenues") and the City Council had agreed to pledge the Revenues to secure the payment of the rental payments; and

WHEREAS, the Authority has determined that, in order to implement the Refunding Program, including payment of the redemption price of the Prior Financing on the date to be selected for such redemption (after taking into consideration funds on hand with respect to the Prior Financing), and payment of the costs of the Refunding Program, including the costs of issuance of the Bonds, the Authority needs to authorize the issuance and sale of Bonds in the aggregate principal amount of not to exceed Three Million Four Hundred Five Thousand Six Hundred Dollars ($3,405,600); and

WHEREAS, the Authority has determined that all things necessary to make the Bonds, when executed on behalf of the Authority, authenticated by the Trustee, and delivered to JPMorgan Chase Bank, NA (the "Bank"), the valid, binding and legal obligations of the Authority according to the import thereof and hereof have been done and performed; and

WHEREAS, in furtherance of implementing the above-described Refunding Program, Meyers, Nave, Riback, Silver & Wilson, as bond counsel to the Authority for the Refunding Program ("Bond Counsel"), has prepared and submitted to the Authority Secretary for consideration and approval by this Board forms of the following:

(a) a Site Lease, dated as of October 1, 2012 (the "Site Lease"), between the City and the Authority, under the terms of which the City leases to the Authority for a nominal consideration the real property on which the Project has been constructed (the "Site");

(b) a Lease Purchase Agreement, dated as of October 1, 2012 (the "Lease Purchase Agreement"), between the Authority and the City, under the terms of which the Authority leases back to the City the Site, as improved by the Project (together, the "Leased Property"), and the City agrees to make certain rental payments (the "Base Rental Payments" and the "Additional Payments") for the use and enjoyment of the Leased Property;

(c) a Fiscal Agent Agreement, dated as of October 1, 2012 (the "Fiscal Agent Agreement"), between the Authority and the Administrative Services Director of the City (the "Fiscal Agent"), under the terms of which the Bonds are to be issued and the Revenues (as said term is defined in the Fiscal Agent Agreement) are to be administered to pay the principal of and interest on the Bonds; and

(d) an Assignment Agreement, dated as of October 1, 2012 (the "Assignment Agreement"), between the Authority and the Fiscal Agent (the "**Assignee**"), under the terms of which the Bonds are to be issued and the Revenues (as said term is defined in the Assignment Agreement) are to be administered to pay the principal of and interest on the Bonds; and

WHEREAS, being fully advised in the matter of the proposed Refunding Program, this Board wishes to proceed with implementation of the Refunding Program, provided that certain prescribed conditions set forth herein are satisfied; and

WHEREAS, as required by the Law, the City has by separate resolution determined that the issuance of the Bonds by the Authority will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation and bond issuance costs; and

WHEREAS, the Authority has received a proposal from the Bank, dated August 9, 2012 (the "Proposal"), to purchase by private placement $3,405,600 principal amount of 2012 Recycling Center Lease Revenue Refunding Bonds, subject to certain prescribed conditions; and

WHEREAS, this Board hereby finds and determines that the proposed sale of the Bonds in accordance with and upon terms and conditions which are substantially the same as those specified in the Proposal will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation and bond issuance costs; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the issuance, sale and delivery of the Bonds and the consummation of the Refunding Program authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Authority is now duly authorized and empowered, pursuant to each and every requirement of law, to authorize the execution and delivery of certain documents in order to further implement the Refunding Program in the manner and upon the terms herein provided; and

WHEREAS, this Board wishes by this resolution to authorize the issuance, sale and delivery of the Bonds by private placement to the Bank on terms and conditions substantially the same as those specified in the Proposal, a copy of which is attached to this resolution as Exhibit A and by this reference incorporated herein;

NOW THEREFORE, BE IT RESOLVED by the Governing Board of the El Cerrito Public Financing Authority as follows:

Section 1. The foregoing recitals are true and correct, and this Board so finds and determines.

Section 2. Pursuant to the Law, this Board hereby authorizes the issuance of the Bonds in the aggregate principal amount of not to exceed Three Million Four Hundred Five Thousand Six Hundred Dollars ($3,405,600). The term of the Bonds, which shall be issued as a single, fully-registered term bond with annual mandatory partial sinking fund redemptions of the principal amount thereof, shall not extend beyond October 1, 2025, which is the last maturity of the Prior Financing.

Section 3. The Bonds shall be sold and delivered to the Bank on terms and conditions substantially the same as those specified by the Proposal, as modified by the Bank with the approval of the Executive Director of the Authority (the "Executive Director") prior to the execution thereof (the "Final Proposal"); provided that any modifications of the Proposal in arriving at the Final Proposal shall not substantially change the terms and conditions of the Proposal, as set forth in Exhibit A hereto; and provided further that the purchase price shall be equal to not less than one hundred percent (100%) of the principal amount of the Bonds and the interest rate specified in the Final Proposal shall not exceed the interest rate in the Proposal by more than fifty (50) basis points.

Subject to the approval of the Final Proposal by the Executive Director, the Executive Director is hereby authorized and directed to execute the Final Proposal on behalf of the Authority; provided that the Executive Director shall not be obligated to approve any proposed modifications of the Proposal requested by the Bank which the Executive Director, in the Executive Director's sole discretion, deems not to be in the best interest of the Authority, and in the event that the Executive Director and the Bank are unable to agree on modifications to the

Proposal to establish the Final Proposal, the Authority shall have no obligation to issue and deliver the Bonds.

Section 4. The form and substance of the Site Lease, the Lease Purchase Agreement, the Fiscal Agent Agreement and the Assignment Agreement are hereby approved. The Executive Director or designee thereof (all references hereafter in this resolution to "Executive Director" shall be deemed to include reference to any designee of the Executive Director) is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Site Lease, the Lease Purchase Agreement, the Fiscal Agent Agreement, and the Assignment Agreement in substantially said form, with such changes therein as the Executive Director, following consultation with Bond Counsel, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. In satisfaction of one of the conditions of the Proposal, this Board hereby designates the Bonds and all of them as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986. In furtherance of such designation, this Board finds and determines and hereby declares that it has no expectation or intention of issuing additional tax-exempt obligations during calendar year 2012 in a principal amount, which when combined with the principal amount of the Bonds, would result in issuance of tax-exempt obligations during calendar year 2012 in an aggregate principal amount in excess of $10,000,000.

Section 6. The officers of the Authority are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 7. This resolution shall take effect immediately upon its passage.

I CERTIFY that at the regular meeting on August 21, 2012, the Governing Board of the El Cerrito Public Financing Authority passed this resolution by the following vote:

AYES:	BOARDMEMBERS
NOES:	BOARDMEMBERS
ABSENT:	BOARDMEMBERS
ABSTAIN:	BOARDMEMBERS

* * * * *

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

Cheryl Morse
Secretary of the El Cerrito Public Financing Authority

APPROVED:

William C. Jones, III
Chair of the El Cerrito Public Financing Authority Board

Agenda Item No. 5(B)
Attachment 3

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(Holman Capital Lease Purchase - Recycling Center)
Sources and Uses of Funds (Proposed Pricing 8/5/12)

Notes: (Private Placement, BQ, 10/1/12 Settlement / Prior Issue Call)

Sources of Funds		
	Loan Amount	3,405,600.00
	Plus: Accrued Interest	-
	Less: (OID) Plus: OIP	-
	Less: Underwriter's Discount (1)	-
	Net Proceeds at Closing	3,405,600.00
	Prior Issue Reserve Fund	-
	Other Source of Funds	-
	Total Prior Issue Funds	-
	Total Sources of Funds	**3,405,600.00**
Uses of Funds		
	Cost to Payoff Lease	3,362,016.67
	Beginning Escrow Cash Balance	-
	Reserve Fund (2)	-
	Surety Bond Premium (3)	-
	Bond Insurance Premium (4)	-
	Costs of Issuance (5)	43,583.33
	Accrued Interest	-
	Total Uses of Funds	**3,405,600.00**
	Adjustment	**-**

Assumptions

(1) Not Applicable
(2) Not Applicable
(3) Not Applicable
(4) Not Applicable
(5) See Attached Schedule

Run Date **August 10, 2012**
Run Time **11:27 AM**

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(Holman Capital Lease Purchase - Recycling Center)

Costs of Issuance

Bond Counsel	15,000.00
Financial Advisor	15,000.00
Investor Counsel	10,000.00
Title Insurance	3,500.00
Rounding Adjustment	83.33
Total	**43,583.33**

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(Holman Capital Lease Purchase - Recycling Center)
Summary Statistics

Arbitrage Yield	2.34000 %
TIC	2.34000 %
"All-In" TIC	2.54625 %
Average Coupon	2.34000 %
Net Interest Cost (NIC)	2.34000 %
Average Life	6.953 Years

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(Holman Capital Lease Purchase - Recycling Center)
Gross Debt Service Schedule and Savings Calculation (NPV Basis)

Date	Principal	Rate	Interest	Periodic Debt Service	Fiscal Debt Service	Prior Issue Periodic Debt Service	Prior Issue Fiscal Debt Service	Fiscal (Savings) / Cost	2.34000 Present Value
10/1/2012									
1/1/2013	56,200	2.340	19,922.76	76,122.76		80,224.75			(4,070.24)
4/1/2013	56,500	2.340	19,593.99	76,093.99		80,224.75			(4,067.07)
7/1/2013	56,900	2.340	19,263.47	76,163.47	228,380.22	80,224.75	240,674.25	(12,294.04)	(3,967.71)
10/1/2013	57,200	2.340	18,930.60	76,130.60		80,224.75			(3,968.87)
1/1/2014	57,500	2.340	18,595.98	76,095.98		80,224.75			(3,971.45)
4/1/2014	57,900	2.340	18,259.61	76,159.61		80,224.75			(3,879.98)
7/1/2014	58,200	2.340	17,920.89	76,120.89	304,507.08	80,224.75	320,899.00	(16,391.92)	(3,886.62)
10/1/2014	58,600	2.340	17,580.42	76,180.42		80,224.75			(3,800.60)
1/1/2015	58,900	2.340	17,237.61	76,137.61		80,224.75			(3,811.10)
4/1/2015	59,300	2.340	16,893.05	76,193.05		80,224.75			(3,730.31)
7/1/2015	59,600	2.340	16,546.14	76,146.14	304,657.22	80,224.75	320,899.00	(16,241.78)	(3,744.50)
10/1/2015	59,900	2.340	16,197.48	76,097.48		80,224.75			(3,759.85)
1/1/2016	60,300	2.340	15,847.07	76,147.07		80,224.75			(3,685.93)
4/1/2016	60,700	2.340	15,494.31	76,194.31		80,224.75			(3,615.03)
7/1/2016	61,000	2.340	15,139.22	76,139.22	304,578.07	80,224.75	320,899.00	(16,320.93)	(3,636.08)
10/1/2016	61,400	2.340	14,782.37	76,182.37		80,224.75			(3,569.83)
1/1/2017	61,700	2.340	14,423.18	76,123.18		80,224.75			(3,594.07)
4/1/2017	62,100	2.340	14,062.23	76,162.23		80,224.75			(3,532.30)
7/1/2017	62,400	2.340	13,698.95	76,098.95	304,566.72	80,224.75	320,899.00	(16,332.29)	(3,559.56)
10/1/2017	62,800	2.340	13,333.91	76,133.91		80,224.75			(3,502.08)
1/1/2018	63,200	2.340	12,966.53	76,166.53		80,224.75			(3,447.27)
4/1/2018	63,500	2.340	12,596.81	76,096.81		80,224.75			(3,479.35)
7/1/2018	63,900	2.340	12,225.33	76,125.33	304,522.57	80,224.75	320,899.00	(16,376.44)	(3,428.56)
10/1/2018	64,300	2.340	11,851.52	76,151.52		80,224.75			(3,380.30)
1/1/2019	64,700	2.340	11,475.36	76,175.36		80,224.75			(3,334.50)
4/1/2019	65,000	2.340	11,096.87	76,096.87		80,224.75			(3,372.83)
7/1/2019	65,400	2.340	10,716.62	76,116.62	304,540.36	80,224.75	320,899.00	(16,358.65)	(3,330.71)
10/1/2019	65,800	2.340	10,334.03	76,134.03		80,224.75			(3,290.93)
1/1/2020	66,200	2.340	9,949.10	76,149.10		80,224.75			(3,253.43)
4/1/2020	66,600	2.340	9,561.83	76,161.83		80,224.75			(3,218.16)
7/1/2020	67,000	2.340	9,172.22	76,172.22	304,617.16	80,224.75	320,899.00	(16,281.84)	(3,185.09)
10/1/2020	67,400	2.340	8,780.27	76,180.27		80,224.75			(3,154.16)
1/1/2021	67,800	2.340	8,385.98	76,185.98		80,224.75			(3,125.33)
4/1/2021	68,200	2.340	7,989.35	76,189.35		80,224.75			(3,098.55)
7/1/2021	68,600	2.340	7,590.38	76,190.38	304,745.96	80,224.75	320,899.00	(16,153.04)	(3,073.79)
10/1/2021	69,000	2.340	7,189.07	76,189.07		80,224.75			(3,050.99)
1/1/2022	69,400	2.340	6,785.42	76,185.42		80,224.75			(3,030.11)
4/1/2022	69,800	2.340	6,379.43	76,179.43		80,224.75			(3,011.12)
7/1/2022	70,200	2.340	5,971.10	76,171.10	304,725.00	80,224.75	320,899.00	(16,174.00)	(2,993.97)
10/1/2022	70,600	2.340	5,560.43	76,160.43		80,224.75			(2,978.61)
1/1/2023	71,000	2.340	5,147.42	76,147.42		80,224.75			(2,965.02)
4/1/2023	71,400	2.340	4,732.07	76,132.07		80,224.75			(2,953.15)
7/1/2023	71,800	2.340	4,314.38	76,114.38	304,554.28	80,224.75	320,899.00	(16,344.72)	(2,942.96)
10/1/2023	72,200	2.340	3,894.35	76,094.35		80,224.75			(2,934.41)
1/1/2024	72,700	2.340	3,471.98	76,171.98		80,224.75			(2,856.98)
4/1/2024	73,100	2.340	3,046.68	76,146.68		80,224.75			(2,852.56)
7/1/2024	73,500	2.340	2,619.05	76,119.05	304,532.05	80,224.75	320,899.00	(16,366.96)	(2,849.66)
10/1/2024	74,000	2.340	2,189.07	76,189.07		80,224.75			(2,779.38)
1/1/2025	74,400	2.340	1,756.17	76,156.17		80,224.75			(2,780.35)
4/1/2025	74,800	2.340	1,320.93	76,120.93		80,224.75			(2,782.73)
7/1/2025	75,300	2.340	883.35	76,183.35	304,649.52	80,224.75	320,899.00	(16,249.48)	(2,719.19)
10/1/2025	75,700	2.340	442.85	76,142.85		80,224.75			(2,725.19)
1/1/2026									
4/1/2026									
7/1/2026					76,142.85		80,224.75	(4,081.91)	
Totals	**3,405,600**		**554,119.02**	**3,959,719.02**	**3,959,719.02**	**4,171,687.00**	**4,171,687.00**	**(211,967.98)**	**(173,732.52)**
						Plus: Prior Issue Reserve Fund		-	-
						Plus: Prior Issue Other Funds		-	-
						Less: New Issue Reserve Fund		-	-
							Net Total	**(211,967.98)**	**(173,732.52)**
								Savings % New	**5.10%**
								Savings % Prior	**5.32%**

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(Holman Capital Lease Purchase - Recycling Center)
Gross Debt Service Schedule

Date	Principal	Rate	Interest	Periodic Debt Service	Fiscal Debt Service
10/1/2012					
1/1/2013	56,200	2.340	19,922.76	76,122.76	
4/1/2013	56,500	2.340	19,593.99	76,093.99	
7/1/2013	56,900	2.340	19,263.47	76,163.47	228,380.22
10/1/2013	57,200	2.340	18,930.60	76,130.60	
1/1/2014	57,500	2.340	18,595.98	76,095.98	
4/1/2014	57,900	2.340	18,259.61	76,159.61	
7/1/2014	58,200	2.340	17,920.89	76,120.89	304,507.08
10/1/2014	58,600	2.340	17,580.42	76,180.42	
1/1/2015	58,900	2.340	17,237.61	76,137.61	
4/1/2015	59,300	2.340	16,893.05	76,193.05	
7/1/2015	59,600	2.340	16,546.14	76,146.14	304,657.22
10/1/2015	59,900	2.340	16,197.48	76,097.48	
1/1/2016	60,300	2.340	15,847.07	76,147.07	
4/1/2016	60,700	2.340	15,494.31	76,194.31	
7/1/2016	61,000	2.340	15,139.22	76,139.22	304,578.07
10/1/2016	61,400	2.340	14,782.37	76,182.37	
1/1/2017	61,700	2.340	14,423.18	76,123.18	
4/1/2017	62,100	2.340	14,062.23	76,162.23	
7/1/2017	62,400	2.340	13,698.95	76,098.95	304,566.72
10/1/2017	62,800	2.340	13,333.91	76,133.91	
1/1/2018	63,200	2.340	12,966.53	76,166.53	
4/1/2018	63,500	2.340	12,596.81	76,096.81	
7/1/2018	63,900	2.340	12,225.33	76,125.33	304,522.57
10/1/2018	64,300	2.340	11,851.52	76,151.52	
1/1/2019	64,700	2.340	11,475.36	76,175.36	
4/1/2019	65,000	2.340	11,096.87	76,096.87	
7/1/2019	65,400	2.340	10,716.62	76,116.62	304,540.36
10/1/2019	65,800	2.340	10,334.03	76,134.03	
1/1/2020	66,200	2.340	9,949.10	76,149.10	
4/1/2020	66,600	2.340	9,561.83	76,161.83	
7/1/2020	67,000	2.340	9,172.22	76,172.22	304,617.16
10/1/2020	67,400	2.340	8,780.27	76,180.27	
1/1/2021	67,800	2.340	8,385.98	76,185.98	
4/1/2021	68,200	2.340	7,989.35	76,189.35	
7/1/2021	68,600	2.340	7,590.38	76,190.38	304,745.96
10/1/2021	69,000	2.340	7,189.07	76,189.07	
1/1/2022	69,400	2.340	6,785.42	76,185.42	
4/1/2022	69,800	2.340	6,379.43	76,179.43	
7/1/2022	70,200	2.340	5,971.10	76,171.10	304,725.00
10/1/2022	70,600	2.340	5,560.43	76,160.43	
1/1/2023	71,000	2.340	5,147.42	76,147.42	
4/1/2023	71,400	2.340	4,732.07	76,132.07	
7/1/2023	71,800	2.340	4,314.38	76,114.38	304,554.28
10/1/2023	72,200	2.340	3,894.35	76,094.35	
1/1/2024	72,700	2.340	3,471.98	76,171.98	
4/1/2024	73,100	2.340	3,046.68	76,146.68	
7/1/2024	73,500	2.340	2,619.05	76,119.05	304,532.05
10/1/2024	74,000	2.340	2,189.07	76,189.07	
1/1/2025	74,400	2.340	1,756.17	76,156.17	
4/1/2025	74,800	2.340	1,320.93	76,120.93	
7/1/2025	75,300	2.340	883.35	76,183.35	304,649.52
10/1/2025	75,700	2.340	442.85	76,142.85	
1/1/2026					
4/1/2026					
7/1/2026					76,142.85
Totals	**3,405,600**		**554,119.02**	**3,959,719.02**	**3,959,719.02**

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(Holman Capital Lease Purchase - Recycling Center)
Prior Issue Debt Service Schedule and Redemption Provisions

Date	Principal	Rate	Interest	Periodic Debt Service	Fiscal Debt Service	10/1/2012 Called Bonds	3.00% Call Premium	Periodic Debt Service	Defeasance Debt Service
7/1/2012								-	3,362,016.67
10/1/2012									
1/1/2013	48,563.04	3.880	31,661.71	80,224.75		48,563.04	1,456.89		
4/1/2013	49,034.10	3.880	31,190.65	80,224.75		49,034.10	1,471.02		
7/1/2013	49,509.73	3.880	30,715.02	80,224.75	240,674.25	49,509.73	1,485.29		
10/1/2013	49,989.98	3.880	30,234.77	80,224.75		49,989.98	1,499.70		
1/1/2014	50,474.88	3.880	29,749.87	80,224.75		50,474.88	1,514.25		
4/1/2014	50,964.49	3.880	29,260.26	80,224.75		50,964.49	1,528.93		
7/1/2014	51,458.84	3.880	28,765.91	80,224.75	320,899.00	51,458.84	1,543.77		
10/1/2014	51,957.99	3.880	28,266.76	80,224.75		51,957.99	1,558.74		
1/1/2015	52,461.98	3.880	27,762.77	80,224.75		52,461.98	1,573.86		
4/1/2015	52,970.87	3.880	27,253.88	80,224.75		52,970.87	1,589.13		
7/1/2015	53,484.68	3.880	26,740.07	80,224.75	320,899.00	53,484.68	1,604.54		
10/1/2015	54,003.48	3.880	26,221.27	80,224.75		54,003.48	1,620.10		
1/1/2016	54,527.32	3.880	25,697.43	80,224.75		54,527.32	1,635.82		
4/1/2016	55,056.23	3.880	25,168.52	80,224.75		55,056.23	1,651.69		
7/1/2016	55,590.28	3.880	24,634.47	80,224.75	320,899.00	55,590.28	1,667.71		
10/1/2016	56,129.50	3.880	24,095.25	80,224.75		56,129.50	1,683.89		
1/1/2017	56,673.96	3.880	23,550.79	80,224.75		56,673.96	1,700.22		
4/1/2017	57,223.70	3.880	23,001.05	80,224.75		57,223.70	1,716.71		
7/1/2017	57,778.77	3.880	22,445.98	80,224.75	320,899.00	57,778.77	1,733.36		
10/1/2017	58,339.22	3.880	21,885.53	80,224.75		58,339.22	1,750.18		
1/1/2018	58,905.11	3.880	21,319.64	80,224.75		58,905.11	1,767.15		
4/1/2018	59,476.49	3.880	20,748.26	80,224.75		59,476.49	1,784.29		
7/1/2018	60,053.41	3.880	20,171.34	80,224.75	320,899.00	60,053.41	1,801.60		
10/1/2018	60,635.93	3.880	19,588.82	80,224.75		60,635.93	1,819.08		
1/1/2019	61,224.10	3.880	19,000.65	80,224.75		61,224.10	1,836.72		
4/1/2019	61,817.97	3.880	18,406.78	80,224.75		61,817.97	1,854.54		
7/1/2019	62,417.61	3.880	17,807.14	80,224.75	320,899.00	62,417.61	1,872.53		
10/1/2019	63,023.06	3.880	17,201.69	80,224.75		63,023.06	1,890.69		
1/1/2020	63,634.38	3.880	16,590.37	80,224.75		63,634.38	1,909.03		
4/1/2020	64,251.64	3.880	15,973.11	80,224.75		64,251.64	1,927.55		
7/1/2020	64,874.88	3.880	15,349.87	80,224.75	320,899.00	64,874.88	1,946.25		
10/1/2020	65,504.16	3.880	14,720.59	80,224.75		65,504.16	1,965.12		
1/1/2021	66,139.55	3.880	14,085.20	80,224.75		66,139.55	1,984.19		
4/1/2021	66,781.11	3.880	13,443.64	80,224.75		66,781.11	2,003.43		
7/1/2021	67,428.88	3.880	12,795.87	80,224.75	320,899.00	67,428.88	2,022.87		
10/1/2021	68,082.94	3.880	12,141.81	80,224.75		68,082.94	2,042.49		
1/1/2022	68,743.35	3.880	11,481.40	80,224.75		68,743.35	2,062.30		
4/1/2022	69,410.16	3.880	10,814.59	80,224.75		69,410.16	2,082.30		
7/1/2022	70,083.44	3.880	10,141.31	80,224.75	320,899.00	70,083.44	2,102.50		
10/1/2022	70,763.25	3.880	9,461.50	80,224.75		70,763.25	2,122.90		
1/1/2023	71,449.65	3.880	8,775.10	80,224.75		71,449.65	2,143.49		
4/1/2023	72,142.71	3.880	8,082.04	80,224.75		72,142.71	2,164.28		
7/1/2023	72,842.50	3.880	7,382.25	80,224.75	320,899.00	72,842.50	2,185.28		
10/1/2023	73,549.07	3.880	6,675.68	80,224.75		73,549.07	2,206.47		
1/1/2024	74,262.50	3.880	5,962.25	80,224.75		74,262.50	2,227.88		
4/1/2024	74,982.84	3.880	5,241.91	80,224.75		74,982.84	2,249.49		
7/1/2024	75,710.17	3.880	4,514.58	80,224.75	320,899.00	75,710.17	2,271.31		
10/1/2024	76,444.56	3.880	3,780.19	80,224.75		76,444.56	2,293.34		
1/1/2025	77,186.08	3.880	3,038.67	80,224.75		77,186.08	2,315.58		
4/1/2025	77,934.78	3.880	2,289.97	80,224.75		77,934.78	2,338.04		
7/1/2025	78,690.75	3.880	1,534.00	80,224.75	320,899.00	78,690.75	2,360.72		
10/1/2025	79,453.78	3.880	770.97	80,224.75		79,453.78	2,383.61		
1/1/2026									
4/1/2026									
7/1/2026					80,224.75				
Totals	**3,264,093.85**		**907,593.15**	**4,171,687.00**	**4,171,687.00**	**3,264,093.85**	**97,922.82**	**-**	**3,362,016.67**

CHASE

August 10, 2012

Mary Dodge
Administrative Services Director/City Treasurer
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA, 94530

RE: Private Placement for $3,405,600 Recycling Facility Lease Revenue Refunding Bonds, Series 2012 for The El Cerrito Public Financing Authority (El Cerrito, California)

JPMorgan Chase Bank, NA ("Bank") is pleased to submit this proposal for tax-exempt financing to the City of El Cerrito acting as the El Cerrito Public Financing Authority (the "City" or "Issuer"). This proposal is presented in the form of a non-binding "Term Sheet", subject to final credit approval, negotiation and acceptance of all terms, conditions and documentation for the transaction. The letter does NOT signify a commitment by Bank to extend credit or purchase the Bonds.

TYPE OF FINANCING:	Bank Qualified tax-exempt Revenue Refunding Bonds (the "Bonds") to be issued by the El Cerrito Public Financing Authority and privately placed with Bank pursuant to the provisions of federal state and local statutes. Bank will require a single term instrument with mandatory sinking fund maturities, and without DTC registration. Bank intends to hold the Bonds to final maturity. Bank will not require either a Standard & Poor's rating for the bonds, or the purchase of bond insurance for repayment.
FORM OF BONDS:	Bank will require a single term bond with sinking fund payments equivalent to the maturity schedule.
BANK QUALIFIED:	The Bonds will be designated as "bank qualified" tax-exempt obligations under the Code Section 265(b).
LEGAL OPINION:	Purchase of the Bonds will be subject to the opinion of Meyers, Nave, Riback, Silver & Wilson, Bond Counsel, to the effect that under existing laws and assuming continuous compliance by the Borrower with certain covenants designed to meet the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), interest on the Bonds will be excluded from gross income of the owners for Federal income tax purposes and is also exempt from California personal income taxes. Purchase of the Bonds will also be subject to a satisfactory opinion of Issuer's Counsel or Bond Counsel that the Issuer's obligations under the bond documents are legal, valid, binding and enforceable against the Issuer.

USE OF PROCEEDS:	Approximately $3,405,600 to provide for a refunding of the City's outstanding Lease Purchase Agreement and related Site Lease, in addition to the cost of issuance of the Bonds.
PRINCIPAL AMOUNT:	$3,405,600
FINANCING TERM:	Thirteen (13) years or 156 months
INTEREST RATE	The interest rate will be fixed immediately prior to closing, based upon an index of the 10-year Treasury Constant Maturity Rate as most recently published by the Federal Reserve Board in the Federal Reserve Statistical Release H.15 (519) (the "Index") plus 0.80% (the "Margin") over the Index. However, prior to acceptance, the interest rate may increase if the Bank's cost of funds increases. Bank's cost of funds may increase due to a number of factors including, but not limited to, changes in market conditions. Interest will be calculated on a 30/360 basis. To illustrate, if the financing closed on the date of this Term Sheet, the interest rate would be fixed at 2.34 %, based upon the Index for August 6, 2012.
REPAYMENT TERMS:	Fifty-four (52) quarterly payments of principal and accrued interest on each April 1st, July 1st, October 1st and Jan 1st (each a "Payment Date") commencing January 1,2013 with a final maturity of October 1, 2025.
OPTIONAL REDEMPTION:	The Bonds are not subject to optional redemption, in whole or in part, on any date prior to October 1, 2017. Thereafter, redemption at City's option may be made on any payment date, at the price of par plus accrued interest, with thirty (30) days written notice to Bank via US mail.
SECURITY:	Lease Revenue Bonds payable from lease payments by the city from the Integrated Waste Management System Fund, without limitation to such fund by the City, which is a Major Proprietary Fund of the City that accounts for the City's recycling collection services.
ADDITIONAL PROVISIONS:	No other bonds payable from Integrated Waste Management System revenues may be issued without written consent of Bank. Bank consent will not be unreasonably withheld, especially where the System is operating profitably, is in compliance with all of its financial performance covenants, and covers current outstanding debt at least 1.25x.
FINANCIAL REPORTING:	The City will be required to provide Bank with audited annual financial statements, free of significant deficiencies or

material weakness, and prepared by an independent Certified Public Accountant, within 270 days of the close of its fiscal year. Additionally, the City will provide Bank with a copy of its annual budget, as adopted or amended, within 30 days of adoption or amendment. Other reporting, such as Bank may require from time to time, could include copies of any long-term capital improvement plans.

DOCUMENTATION:

Documentation shall be prepared by Issuer's counsel, Meyers, Nave, Riback, Silver & Wilson which firm represents Issuer at Issuer's expense. This Term Sheet is subject to approval of the documentation by the Bank and its independent Bank counsel, Squire Sanders, in the Bank's sole discretion, including but not limited to the form of bond resolution and form of bond.

BANK COUNSEL FEES:

Independent Bank counsel fees and costs not expected to exceed $10,000, to be paid by Issuer regardless of whether a closing occurs.

WAIVER OF IMMUNITY:

Documentation will provide that Issuer expressly waives and agrees not to claim any such sovereign immunity in any suits or judicial proceedings in connection with the provision of Bank products and services.

EXPIRATION:

This Term Sheet must be accepted on or before August 22, 2012 and funded on or before October 31, 2012. If acceptance or funding has not occurred by the respective dates, the Bank may, at its option and in its sole discretion, terminate the Term Sheet and/or the Interest Rate may be adjusted.

MATERIAL CHANGE:

Any change (whether material or not) in the amount to be financed or a material change in the financial condition or prospects of the Issuer may constitute a re-pricing event and Bank may, at its option and in its sole discretion, terminate this Term Sheet and/or the Interest Rate may be adjusted.

DISPUTE RESOLUTION:

As a material inducement for Lender making entering in to this transaction, the Bond documentation shall contain a Dispute Resolution Provision concerning the resolution of any controversies or claims between or among any guarantor, Lender, Borrower or any other parties to the transaction, whether arising in contract, tort or by statute. Except to the extent expressly provided, any Dispute shall, upon the mutual agreement of the parties, acting in their sole and absolute discretion, be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Federal Arbitration Act"). The Federal Arbitration Act will apply even though the Governing Law Section provides that the transaction is governed by the laws of the State. To the extent any Disputes are not arbitrated, the Disputes shall be resolved in court by a judge without a jury, except any Disputes which are brought in California state court shall be determined by judicial reference. Any Dispute which is not arbitrated and which is brought in California state court will be resolved by a general reference to a referee (or a panel of referees) as provided in California Code of Civil Procedure ("CCP") Section 638. The referee (or presiding referee of the panel) shall be a retired Judge or Justice. The referee (or panel of referees) shall be selected by mutual written agreement of the parties.

We appreciate your interest in us and look forward to your favorable response. Should you have any questions regarding this Term Sheet, please contact me at (510)420-0757 or via email at laura.j.jones@chase.com.

Sincerely,

JPMORGAN CHASE BANK, NA

By:________________________
Laura Jones
Vice President

ACCEPTED BY: The City of El Cerrito

By: ________________________________

Name: ________________________________

Title: ________________________________

Date: ________________________________

IRS Circular 230 Disclosure: Bank and its affiliates (collectively, "Chase") do not provide tax advice. Accordingly, any discussion of U.S. tax matters contained herein (including any attachments) is not intended or written to be used, and cannot be used, in connection with the promotion, marketing or recommendation by anyone unaffiliated with Chase of any of the matters addressed herein or for the purpose of avoiding U.S. tax-related penalties.

AGENDA BILL

THE CITY OF EL CERRITO

Agenda Item No. 5(C)

Date:	August 21, 2012
To:	El Cerrito City Council
From:	Yvetteh Ortiz, Engineering Manager Jerry Bradshaw, Public Works Director / City Engineer
Subject:	Various Traffic and Parking Revisions

ACTION REQUESTED

Adopt two separate resolutions authorizing the Public Works Director/City Engineer to:

1. Install stop signs on:
   a. Scott Street at Schmidt Lane
   b. Humboldt Avenue at Key Boulevard; and

2. Install 18 feet of green curb marking on the south side of Stockton Avenue in front of the El Cerrito Public Library, located at 6500 Stockton Avenue.

DISCUSSION

Stop Sign Installation at Various Locations

The Public Works Department has received requests from residents concerned about safety along Scott Street, from Navellier Street to Schmidt Lane, and Conlon Avenue, from Key Boulevard/Humboldt Avenue to MacDonald Avenue. Public Works staff evaluated the existing traffic control devices, including signs, striping and pavement markings, along these street segments and identified two T-intersections (intersection with 3 legs) that could benefit from the installation of stop signs. The City does not typically use stop signs at T-intersections in residential areas. This is because at T-intersections without stop or yield signs, the right-of-way rules are covered under the California Vehicle Code (Section 21800), which requires that drivers on the terminating leg of the intersection yield to vehicles on the continuing street. However, the California Manual on Uniform Traffic Control Device (MUTCD) indicates that stop signs should be used if engineering judgment indicates that one or more of several conditions exist:

- Intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law;
- Street entering a through highway or street;

- Unsignalized intersection in a signalized area; and/or
- High speeds, restricted view, or crash records indicate a need for control by the STOP sign.

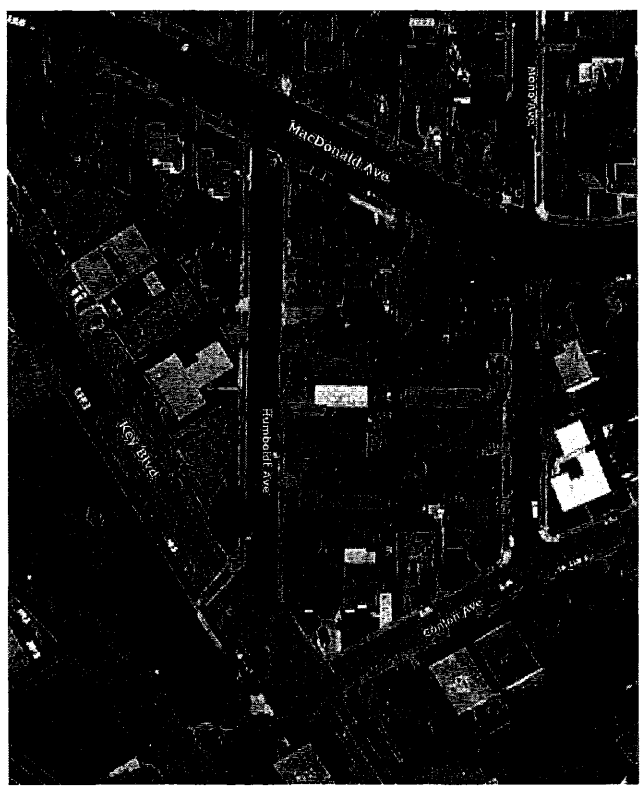
Based on the existing roadway configuration and surrounding traffic control devices at the subject intersections, Public Works staff determined that a stop sign on the terminating leg of each intersection is an appropriate traffic control device. The proposed stop signs comply with the guidelines provided by the MUTCD, as further discussed below.

<u>Scott Street at Schmidt Lane</u>

The T-intersection of Scott Street at Schmidt Lane has no traffic control signs on any of its legs. Scott Street, the terminating street, at 30 feet wide is narrower than Schmidt Lane at 40 feet wide. Scott Street is a local residential street. It is currently stop-controlled at all other intersecting streets including Navellier Street, Donal Avenue, and Manila Avenue. Given the various land uses along Schmidt Lane, it currently functions as a collector street although not classified as such in the General Plan. Schmidt Lane is also a designated pedestrian route in the Circulation Plan for Bicyclists and Pedestrians. Based on the existing traffic control devices along Scott Street and Schmidt Lane's function as a collector and pedestrian route, the Public Works Department is proposing installation of a stop sign on Scott Street to improve traffic safety and operations at the intersection. A "STOP" legend, limit line, and 25 feet of double yellow centerline will also be installed.

<u>Humboldt Avenue at Key Boulevard</u>

Humboldt Avenue intersects Key Boulevard at a skewed angle and is located just immediately north of Conlon Avenue thus forming an awkward four-leg intersection. (See aerial image to the right.) Conlon Avenue is stop-controlled at this intersection with Key Boulevard. However, Humboldt Street and Key Boulevard are not. Key Boulevard is a minor arterial street that varies in width throughout its length. At Humboldt Avenue, it is approximately 60 feet wide, which is very wide compared to other similar arterial streets in El Cerrito. Humboldt Avenue is a local residential street and is currently stop-controlled at MacDonald Avenue, which is the north end of the



subject block. Based on the surrounding traffic control devices and roadway configuration, the Public Works Department is proposing installation of a stop sign on Humboldt Avenue at Key Boulevard to improve traffic safety and operations. A "STOP" legend, limit line, and 60 feet of double yellow centerline will also be installed on Humboldt, while new centerline and edge line striping will be installed on Key Boulevard to visually narrow this wide roadway section.

Green Curb Marking in front of the El Cerrito Library (6500 Stockton Avenue)

The Public Works Department is proposing to install 18 feet of green curb marking on the south side of Stockton Avenue in front of the El Cerrito Library located at 6500 Stockton Avenue. This is in response to a request from library staff and a patron, requesting green curb marking to serve the short-term parking needs of the library such as for book returns. The green curb marking will limit parking duration to fifteen minutes between 10:00 a.m. and 8:00 p.m., except Sundays and holidays. This time frame captures the varying operating hours of the library.

Currently, there are three unrestricted parking spaces and two disabled parking spaces in front of the library. The green curb marking is intended to provide a convenient short-term parking zone for library patrons. The green curb markings will result in the loss of one unrestricted parking space on the south side of Stockton Avenue.

In April 2012, an initial notification regarding the proposed parking modifications was sent to property owners and current residents within a 300-foot radius of this location. One comment was received from a resident who was concerned with the loss of unrestricted parking in the area. In response to the resident's concern, the Public Works Department will also be removing 20 feet of red curb marking across the street from the library, in front of 802 Lexington Avenue, to provide an unrestricted parking space and cancel out the loss of parking on the south side. In July, a final notification regarding these modifications was sent to the library, the concerned resident, and Fairmont School.

LEGAL CONSIDERATIONS

El Cerrito Municipal Code Section 11.36.010 requires that the installation of stop signs be approved by City Council Resolution.

El Cerrito Municipal Code Section 11.40.160 requires that any modification of white, yellow and green curb markings be approved by City Council Resolution.

Because the El Cerrito Municipal Code authorizes the City Engineer to install and remove red curb marking, related modifications to red curb marking do not require action by City Council.

Reviewed by:

Scott Hanin, City Manager

Attachments:

1. Accompanying Resolution for Installation of Stop Signs at Various Locations
2. Accompanying Resolution for Green Curb Marking in front of the El Cerrito Public Library (6500 Stockton Avenue)

Agenda Item No. 5(C)
Attachment 1

RESOLUTION 2012–XX

RESOLUTION OF THE EL CERRITO CITY COUNCIL AUTHORIZING THE INSTALLATION OF STOP SIGNS ON SCOTT STREET AT SCHMIDT LANE AND ON HUMBOLDT AVENUE AT KEY BOULEVARD

WHEREAS, the Public Works Department has received requests from concerned citizens to evaluate the safety of several street segments, which included the T-intersections of Scott Street at Schmidt Lane, and Humboldt Avenue at Key Boulevard; and

WHEREAS, both intersections have no stop-control signs; and

WHEREAS, based on the existing roadway configuration and surrounding traffic control devices at the subject intersections, Public Works staff determined that a stop sign on the terminating leg of each intersection is an appropriate traffic control device to improve traffic safety and operations; and

WHEREAS, it is the judgment of the City Engineer that this intersection meets the guidelines of the California Manual on Uniform Traffic Control Devices for a stop sign; and

WHEREAS, Section 11.36.010 of the El Cerrito Municipal Code requires that the installation of any stop sign be approved by the City Council.

NOW THEREFORE, BE IT RESOLVED by the El Cerrito City Council that it hereby authorizes the Public Works Director / City Engineer to install stop signs on Scott Street at Schmidt Lane and Humboldt Avenue at Key Boulevard.

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

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

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

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

Cheryl Morse, City Clerk

APPROVED:

William C. Jones III, Mayor

Agenda Item No. 5(C)
Attachment 2

RESOLUTION 2012–XX

RESOLUTION OF THE EL CERRITO CITY COUNCIL AUTHORIZING THE INSTALLATION OF 18 FEET OF GREEN CURB MARKING ON THE SOUTH SIDE OF STOCKTON AVENUE IN FRONT OF THE EL CERRITO LIBRARY LOCATED AT 6500 STOCKTON AVENUE

WHEREAS, the Public Works Department has received requests from library staff and a patron for short-term parking to meet the needs of the library; and

WHEREAS, a green curb marking will result in the loss of one unrestricted parking space on the south side of Stockton Avenue in front of the library, but will provide a convenient short-term parking zone for library patrons; and

WHEREAS, the green curb markings proposed would limit parking to fifteen minutes at any time between ten a.m. and eight p.m. except Sundays and holidays; and

WHEREAS, El Cerrito Municipal Code Section 11.40.160 requires that any installation or modification of green curb markings be approved by City Council Resolution.

NOW, THEREFORE, BE IT RESOLVED that the El Cerrito City Council hereby authorizes the Public Works Director / City Engineer to install approximately 18 feet of green curb marking with corresponding parking sign to limit fifteen minute parking between 10:00 a.m. and 8:00 p.m. except Sundays and holidays on the south side of Stockton Avenue in front of the El Cerrito Public Library, located at 6500 Stockton Avenue.

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

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

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

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

____
Cheryl Morse, City Clerk

APPROVED:

____
William C. Jones III, Mayor

AGENDA BILL

THE CITY OF EL CERRITO

Agenda Item No. 5(D)

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

ACTION REQUESTED

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

1) Combine the "Traffic Safety Improvement Program" and the "Neighborhood Traffic Management Program (NTMP)" projects into a new project entitled for "Traffic Safety and Management Program;" and

2) Transfer $100,000 of Measure A Street Improvement Funding from the Street Improvement Project to the Traffic Safety and Management Program.

BACKGROUND

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

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

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

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

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

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

ANALYSIS

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

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

Staff is recommending amending the current CIP to shift approximately 14% of the annual appropriation from the paving project to a new project that would address various traffic problems. This would also constitute an amendment of the Measure A Expenditure Plan. While neighborhood traffic problems were not the first priority for Measure A funds as it was presented to the community in 2007 and 2008, the City has made such significant progress in the area of pavement improvements (the first priority for Measure A funds), that it would not be inappropriate to authorize a modest level of funding for some of the secondary aspects of the fund. The rising expectations for improved traffic conditions is evidenced by the response to the NTMP roll-out, individual requests to Engineering Division, and comments received in other public venues such as the most recent National Night Out event.

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

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

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

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

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

FINANCIAL CONSIDERATIONS

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

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

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

Reviewed by:

Scott Hanin, City Manager

Attachment:

1. Accompanying Resolution

Agenda Item No. 5(D)
Attachment 1

RESOLUTION 2012–XX

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

____
Cheryl Morse, City Clerk

APPROVED:

____
William C. Jones III, Mayor

THE CITY OF
EL CERRITO

AGENDA BILL

Agenda Item No. 5(E)

Date: August 21, 2012

To: El Cerrito City Council

From: Christopher Jones, Recreation Director

Subject: Co-Sponsorship Application – Friends of the El Cerrito Library

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ACTION REQUESTED

Adopt a resolution authorizing the City Manager to grant co-sponsorship status to the Friends of the El Cerrito Library for use of City facilities.

BACKGROUND

The Friends of the El Cerrito Library is a non-profit, 501(c)3 group in El Cerrito that was founded over fifty years ago. The purpose of the association is:

1. To support the programs of the El Cerrito Library;
2. To maintain an association of persons interested in books and libraries;
3. To focus attention on the Library's services, facilities, and needs; and
4. To stimulate gifts of books, services, money, endowments, and bequests to benefit the Library.

Over the years, the Friends of the El Cerrito Library has contributed over $10,000 annually to the library for materials and furniture, and to support programming for children, teens, and adults. They have also helped to publicize the library by staffing a booth each year at El Cerrito's Fourth of July Celebration, writing press releases about library activities, and offering public programs to the community featuring speakers on various topics of interest.

The Friends of the El Cerrito Library is seeking co-sponsorship in order to have access to larger meeting facilities at reduced rates and to increase their recognition and outreach in the El Cerrito Community.

On February 7, 1977 the City Council established a co-sponsorship policy that would assist community non-profit organizations in providing leisure services to El Cerrito residents. The policy provided provisions that would assist community organizations in making public facilities and other services available for the growth and continuation of programs, and to insure that public facilities are being used for the best welfare of the community.

On October 6, 1980, the City Council amended the co-sponsorship policy on the recommendation of the Park and Recreation Commission. This policy governed the relationship between the City and non-profit organizations in the provision of recreation programs in the community. The policy was adopted to formalize a procedure in which groups would receive the use of public facilities at a reduced cost and provide priority usage of City facilities.

On March 19, 2001, the City Council approved a process to review all requests from community based organizations, co-sponsored facility use and funding. The process separated out co-sponsorship from asking for funds.

ANALYSIS

The Friends of the El Cerrito Library's mission and practices conform to Administrative Policy/Procedure I A 5 by increasing community involvement and service in El Cerrito as well as being a 501(c)3 tax exempt organization.

FINANCIAL CONSIDERATIONS

Granting of co-sponsorship status to the Friends of the El Cerrito Library would allow the organization to be charged the reduced, co-sponsorship rates for facility rentals pursuant to the City's Master Fee Schedule.

Reviewed by:

Scott Hanin, City Manager

Attachment

1. Proposed Resolution

Agenda Item No. 5(E)
Attachment 1

RESOLUTION 2012 – XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING APPROVAL OF CO-SPONSORSHIP STATUS TO THE FRIENDS OF THE EL CERRITO LIBRARY FOR THE USE OF CO-SPONSORSHIP RATES ASSOCIATED WITH THE USE OF CITY FACILITIES AS ESTABLISHED IN THE 2012-13 MASTER FEE SCHEDULE.

WHEREAS, on March 19, 2001 the City Council approved a process to review all requests from community based organizations for facility use and funding; and

WHEREAS, the Friends of the El Cerrito Library desire access to larger meeting facilities at reduced rates to further their mission of supporting the El Cerrito Library; and

WHEREAS, the City provides support for community based organizations that have made successful applications to the City for co-sponsored facility use or grants; and

WHEREAS, the Friends of the El Cerrito Library is recognized as a 501(c)3 tax exempt organization by the Internal Revenue Service; and

WHEREAS, community organizations through their design, improve and enhance the quality of life in El Cerrito; and

WHEREAS, public facilities are to be used to benefit the El Cerrito community.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby approves co-sponsorship status for the Friends of the El Cerrito Library and authorizes application of the co-sponsorship rates as established by the 2012-13 Master Fee Schedule for the use of the City facilities.

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

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

AYES:	COUNCIL MEMBERS
NOES:	COUNCIL MEMBERS
ABSENT:	COUNCIL MEMBERS

* * * * *

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

____
Cheryl Morse, City Clerk

APPROVED:

____
William C. Jones, III, Mayor

THE CITY OF EL CERRITO

AGENDA BILL

Agenda Item No. 5(F)

Date: August 21, 2012

To: El Cerrito City Council

From: Scott Hanin, City Manager

Subject: Amending Agreement with Meyers Nave related to City Attorney Services

ACTION REQUESTED

Adopt a resolution of the City Council of the City of El Cerrito authorizing the City Manager to execute an amended and restated agreement with Meyers Nave for City Attorney services and appointing Jennifer Faught as Assistant City Attorney.

BACKGROUND

Pursuant to an agreement approved by the City Council on April 7, 2008, the City of El Cerrito, currently receives City Attorney services from the firm of Meyers, Nave, Riback, Silver & Wilson ("Meyers Nave") and they have proposed an amendment to the agreement and to appoint Jennifer Faught as Assistant City Attorney, in light of the departure of the previous Assistant City Attorney from the firm.

This is the first time that the City Attorney has requested increases to hourly rates and these changes are modest, particularly since it has been four years since the initial rates were approved. General counsel services will now be billed at hourly rates ranging from $195 to $325 (compared with $195-$275), depending on the level of experience of the billing attorney. The hourly rate for Sky Woodruff will be increased from $250 to $260; the hourly rate for Jennifer Faught will be $220, up from $210. Non- routine general counsel work will now be billed hourly at a range of $205-$375 (up from $325) and, specialized attorney services will be billed at $200 to $400 (up from $350) per hour. A copy of the amended agreement is included as Attachment 2.

FINANCIAL CONSIDERATIONS

For FY 2012-13, there is no budget impact as the City Attorney shall work with staff to ensure that fees remain within the approved budget amount of $300,000 unless amended by Council.

LEGAL CONSIDERATIONS

Staff is requesting authority to execute the contract in substantially the form presented.

Attachments:

1. Resolution
2. Proposed Amended Consulting Services Agreement with Meyers Nave

Agenda Item No. 5(F)
Attachment 1

RESOLUTION NO. 2012–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDED AND RESTATED AGREEMENT WITH MEYERS NAVE FOR CITY ATTORNEY SERVICES AND APPOINTING JENNIFER FAUGHT AS ASSISTANT CITY ATTORNEY

WHEREAS, pursuant to an agreement approved on April 7, 2008, the City of El Cerrito, currently receives City Attorney services from the firm of Meyers, Nave, Riback, Silver & Wilson ("Meyers Nave"); and

WHEREAS, Meyers Nave has proposed an amendment to the agreement and to appoint Jennifer Faught as Assistant City Attorney, in light of the departure of the previous Assistant City Attorney from the firm;

WHEREAS, the City Council has determined that the proposed amendment to the agreement is reasonable and wishes to approve the amended agreement.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of El Cerrito hereby authorizes and directs the City Manager to enter into an amended and restated agreement with Meyers Nave for City Attorney Services.

BE IT FURTHER RESOLVED that the City Council appoints Jennifer Faught as Assistant City Attorney.

I CERTIFY that at a regular meeting on June 19, 2012, the El Cerrito City Council passed this resolution by the following vote:

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

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

Cheryl Morse, City Clerk

APPROVED:

William C. Jones III, Mayor

AMENDED AND RESTATED AGREEMENT FOR CITY ATTORNEY SERVICES

This Agreement is made and entered into on this _____ day of August 2012, by and between the City of El Cerrito, hereinafter referred to as "City," and Meyers, Nave, Riback, Silver & Wilson, PLC, hereinafter referred to as "City Attorney."

I. DESCRIPTION OF PROJECT

Through this Agreement, City has retained City Attorney to provide services to the City in connection with legal assistance.

II. SCOPE OF SERVICES BY CITY ATTORNEY

Subject to the terms and conditions set forth in this Agreement, City Attorney shall provide the City with those services specified and City Attorney agrees to perform all necessary legal services as Contract City Attorney, and shall:

1. Attend all regularly scheduled and special City Council meetings and City Council study sessions.

2. Provide legal services on-site during office hours at City Hall at least four (4) hours per week or as otherwise mutually agreed. These hours of on-site service will be at regularly scheduled times made known to all members of the City Council and to all department heads so as to facilitate informal, direct access to legal counsel as necessary.

3. Attend other meetings at City Hall as required by the City Council or the City Manager.

4. Advise the City Council; appointed Commissions, Committees, and Boards; City staff; and other City officials on all legal matters pertaining to City business.

5. Prepare, review, and approve as to form, contracts, agreements, resolutions, ordinances, and all other standard City documents, as requested by the City Council or City Manager.

6. Prepare such written and oral legal opinions as shall, from time to time, be requested by the City Council or City Manager.

7. Perform such other routine legal services as are required, from time to time, by the City Council or the City Manager.

8. Provide in-house training to City staff on issues pertaining to civil liability, personnel and labor, and other issues as, from time to time, are identified by and requested by the City Council or the City Manager.

9. Review and approve as to form and content all proposed adverse personnel actions as, from time to time, are requested by City staff and directed by the City Manager.

10. Perform all work related to advising staff on, and prosecuting, all violations of City's municipal code.

11. Represent the City and the City's officials, officers, and employees in litigation and administrative proceedings as directed by the City Council or the City Manager.

12. Make recommendations concerning the selection of outside legal counsel on appropriate matters and supervise such outside legal counsel handling transactional or litigation matters on behalf of the City.

The City specifically reserves the right to retain, at its sole option, other legal counsel for litigation and other specialized legal matters including, but not limited to, the activities of the Redevelopment Agency, cable television, solid and hazardous waste, and workers' compensation. This reservation of rights does not preclude the City or the Redevelopment Agency from assigning these matters to City Attorney as part of the scope of duties under this Section 2.

It is further understood and agreed by City Attorney and the City that there will be an initial, and as yet undetermined, period of time at the outset of this relationship during which City Attorney will be in transition. City Attorney shall establish and maintain necessary liaison and oversight of all pending matters and projects currently being handled by the existing contract City Attorney either by supervising such work to timely completion or by reassigning such work as deemed appropriate by City Attorney or as directed by the City Manager.

City Attorney will make reasonable efforts to respond to all requests for services from the City Council, City Manager, and City staff within 24 hours. If City Attorney cannot provide a complete response at that time, City Attorney will ascertain the scope of the request and the desired form and timeframe for a complete response, as appropriate. City Attorney will assign the work to ensure timely and efficient completion, informing the City of the attorney performing the work. City Attorney and the City Manager will make reasonable efforts to have a weekly discussion of pending assignments and their respective priorities and budgets.

III. COMPENSATION

A. Compensation for all work performed by City Attorney pursuant to this Agreement, including the work listed in Section II, shall be calculated based upon City Attorney's standard rate for the attorney and type of work, as established and reasonably changed from time to time by City Attorney, not to exceed the maximum rates listed in Exhibit A, which is attached hereto and hereby incorporated by reference.

B. City Attorney shall bill City monthly for the work performed during the preceding month. Such bills shall itemize all charges in such detail as may reasonably be required by City in the usual course of City business. City shall pay City Attorney no later than thirty (30) days upon receipt of the monthly invoice. In the event a dispute arises relating to the services performed, costs incurred, or any other item relating to compensation of City Attorney, such dispute will not delay compensation for those services and costs not in dispute. Any such dispute will be resolved by the parties through negotiations.

IV. Responsibility of City Attorney

City has relied upon the professional training and ability of City Attorney as a material inducement to enter into this Agreement. City Attorney agrees that it shall use its professional efforts and that its services shall be performed in accordance with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

V. Indemnification

To the extent provided by City Attorney's insurance, City Attorney shall indemnify, defend, and hold City, its officers, employees, agents, and volunteers harmless from and against any and all liability, loss, damage, causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, expense, costs (including without limitation the costs and fees of litigation) of every nature arising out of or connected with the performance of work by City Attorney, its officers, employees, agents, volunteers, and subcontractors, under this Agreement, except for any such claim that is the result of the sole negligence or willful misconduct of City, its officers, employees, agents, or volunteers. It is understood that the duty of City Attorney to indemnify and hold harmless includes the duty to defend as set forth in California Civil Code §2778.

VI. Insurance

For the duration of this Agreement, City Attorney shall maintain, in full force and effect, insurance against claims for injury to persons or damage to property, which may arise from or in connection with the performance of the work to be performed by City Attorney, its officers, employees, agents, volunteers, and subcontractors under this Agreement.

A. **Minimum Scope of Insurance**: Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).

3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

4. Professional Liability Insurance.

B. **Minimum Limits of Insurance**: City Attorney shall maintain limits no less than:

1. General Liability: $1,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage.

3. Employer's Liability: $1,000,000 per accident for bodily injury or disease.

4. Professional Liability: $1,000,000 per claim and in the aggregate.

C. **Deductibles and Self-Insured Retentions**: Any deductible or self-insured retentions must be declared to and approved by City.

D. **Other Insurance Provisions**: The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of El Cerrito, its elected or appointed officials, and employees are covered as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of City Attorney; and with respect to liability arising out of work or operations performed by or on behalf of City Attorney.

2. For any claims related to this project, City Attorney's insurance coverage shall be primary insurance as respects the City, its officers, officials, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, and employees shall be excess of City Attorney's insurance and shall not contribute to it.

3. The insurance provided by this policy shall not be reduced in coverage or limits, cancelled, or not renewed except after thirty (30) days written notice has been provided to City by mail, return receipt requested. City Attorney shall notify City thirty (30) days in advance of any anticipated change in the insurance.

E. **Acceptability of Insurers**: Insurance is to be placed with insurers with a current Best's rating of A:VII or better at time the Agreement is executed.

F. **Verification of Coverage**: City Attorney shall furnish City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by City or on other than City's forms or a separate owner's policy, provided those forms or policies are approved by City and amended to conform to City's requirements. All certificates and endorsements are to be received and approved by City before work commences. Failure to provide these forms within the time period specified by City may result in termination of this Agreement pursuant to Section X(C), below.

G. **Subcontractors as Insureds**: If City has approved the use of subcontractors, City Attorney shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

H. **Professional Liability Insurance**: If City Attorney's professional liability coverage is written on a claims made form:

1. The "Retro Date" must be shown, and must be before the date of the contract or the beginning of the contract work.

2. Errors and omissions insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after the completion of the Agreement.

3. A copy of the claims reporting requirements must be submitted to City for review.

VII. Independent Contractor

It is expressly understood and agreed by both parties that City Attorney, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and not an employee of City. City Attorney expressly warrants not to represent at any time or in any manner, that City Attorney is an employee of City.

IIX. Assignment of Staff

City Attorney shall assign only competent personnel to perform services pursuant to this Agreement. City reserves the right to request temporary or permanent removal from City premises of any of City Attorney's employees, agents, or subcontractors at any time without cause, and City Attorney shall comply with City's request.

IX. Assignment and Subcontracting

It is recognized by the parties that a substantial inducement to City for entering into this Agreement was, and is, the professional reputation and competence of City Attorney. City Attorney may assign neither this Agreement nor any interest therein without the prior written approval of the City Manager.

City Attorney shall not subcontract any portion of the performance contemplated and provided for herein without the prior written approval of the City Manager.

XI. Termination

City Attorney shall at all times serve under the terms of this Agreement at the pleasure of the City Council, and the City Council and City Attorney each hereby reserves the right to terminate this Agreement at will, with or without cause, by providing fifteen (15) days written notice to the other. Upon receipt or provision of any notice of termination, City Attorney shall cease all services under this Agreement according to the notice, except as may be specifically approved by the City. At that time, all further obligations of the City to pay City Attorney for services rendered under this Agreement shall thereupon cease; provided, however, that the City shall be obliged to pay for all services, costs, and expenditures lawfully incurred by City Attorney prior to the effective date of such termination, or subsequent to the date of termination at the direction of City.

XII. Suspension of Work

City may suspend, in writing, all or a portion of the work under this Agreement if unforeseen circumstances beyond City's control make normal progress of the work impossible.

XIII. REPORTS, PLANS, AND DOCUMENTS

City Attorney shall keep such books and records as shall be necessary to perform the services required by this Agreement and to enable the City to evaluate the performance of the required services. The City shall have full and free access to such books and records that deal specifically with the services performed by City Attorney for City at all reasonable times, including the right to inspect, copy, audit, and make summaries and transcripts from such records.

All reports, records, documents, and other materials prepared by City Attorney, its employees and agents in the performance of this Agreement shall be the property of the City and shall be delivered to the City upon request by the City or upon termination of this Agreement. City Attorney shall have no claim for further or additional compensation as a result of the exercise by the City of its full rights of ownership of the documents and material hereunder. City Attorney may retain copies of such documents for its own use.

No report, record, document, or other material prepared by City Attorney in the performance of services under this Agreement shall be released publicly without prior written approval of the City, except as may be required by law.

XIV. COPYRIGHT AND PATENT

City Attorney shall execute appropriate documents to assign to City the copyright and patent to works created pursuant to this Agreement.

XV. CHANGES AND/OR EXTRA WORK

Only the City Council or the City Manager may authorize changed work, or modification of the time of completion, for the services to be provided as contained in Section IV of this Agreement. City Attorney expressly recognizes that other City personnel are without authorization to order changed work or to obligate the City to the payment of additional compensation in excess of the costs contained in Section III. In the event City Attorney and City agree that changed work is required, a change order shall be prepared and shall be executed by City Attorney and the City Manager.

XVI. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

City Attorney shall comply with all applicable Federal, State, and Local laws, statutes, ordinances, rules, and regulations affecting the performance of this Agreement, including without limitation laws requiring licensing and non-discrimination in employment because of race, creed, color, sex, age, marital status, physical or mental disability, national origin, or other prohibited bases. Regarding performance of professional services, compliance shall mean compliance with current prevailing professional standard and practices.

XVII. BUSINESS LICENSE

City Attorney shall obtain at City Attorney's own expense a valid City business license. This license must remain valid and in effect during the duration of this Agreement.

XVIII. Retention of Records

City Attorney shall keep and maintain full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to this Agreement, and City Attorney shall make such documents and records available for review and/or audit by the City and the City's representatives at all reasonable times during the contract period and for at least five (5) years from the date of the completion and/or termination of this Agreement.

XIX. Notices

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via hand-delivery, facsimile, or prepaid U.S. certified or registered postage, addressed to recipient as follows:

City:
Scott Hanin
City Manager
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530-2392
Phone: (510) 215-4301
Fax: (510) 215-4319

City Attorney:
Sky Woodruff
Meyers Nave
555 12th Street, Suite 1500
Oakland, CA 94607
Phone: (510) 808-2000
Fax (510) 444-1108

Any party to this Agreement may change the name or address of representatives for purpose of this Section by providing written notice to all other parties ten (10) business days before the change is effective.

XX. CONFLICT OF INTEREST

City Attorney's firm represents many public agencies in California. Since 1986, they have represented over five hundred public clients, including numerous cities, redevelopment agencies, special districts, counties and other public entities. The firm is continually growing and is accepting new engagements all the time. As such it is virtually inevitable that they will work on projects from other clients having different governmental or political objectives, beliefs or views from those of the City. The services rendered to the City under this Agreement are limited in scope and for the benefit of the City only.

In the course of providing a variety of professional services to the public sector, it is possible that City Attorney (firm) will represent public agency clients that are adverse to the City on other matters. In such an event either party may request a meeting to discuss the potential conflict and work out a mutually agreed upon solution. If no such solution is reached to the City's satisfaction, the City may seek outside counsel services for the specific item of conflict.

XXI. Integration

This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

XXII. AMENDMENTS

This Agreement may be modified or amended only by a written document executed by both City Attorney and the City Manager. Such document shall expressly state that it is intended by the parties to amend the terms and conditions of this Agreement.

XXIII. WAIVER

The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

XXIV. GOVERNING LAW AND VENUE

This Agreement shall be governed under the laws of the State of California. The County of Contra Costa shall be the venue for any litigation between City and City Attorney arising out of this Agreement.

XXV. SEVERABILITY

Should any part of this Agreement be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the excised portion, can be reasonably interpreted to give effect to the intentions of the parties.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on the day first above written:

CITY	**CITY ATTORNEY**
Signature ____________________	Signature ____________________
Printed Name ____________________	Printed Name ____________________
Title ____________________	Title ____________________
Date ____________________	Date ____________________

ATTEST:

____
City Clerk

EXHIBIT A

COMPENSATION

A. General Counsel Services: General counsel services will be billed at hourly rates ranging from $195 to $325, depending on the level of experience of the billing attorney. The hourly rate for Sky Woodruff will be $260; the hourly rate for Jennifer Faught will be $220. "General counsel" services shall include:

i. Attendance at regular and special meetings of the City Council, including study sessions and closed sessions.
ii. Attendance at Planning Commission meetings or other City Commission or Board meetings upon request of the City Council or City Manager.
iii. Review and/or prepare routine staff reports, ordinances, resolutions, orders, agreements, forms, notices, declarations, certificates, deeds, leases, and other documents required by the City.
iv.. Consultation with the City Council and City staff as needed, including rendering of legal advice and opinions (oral and written) concerning legal matters that affect the City including new legislation and court decisions.
v. Provide guidance and advice to the City Council and City Manager regarding what position the City (and associated bodies) and its advocate (e.g., lobbyist) should take on matters pending before legislative bodies.
vi. Handle routine real estate transaction and acquisition issues, including lease review and negotiations.
vii. Research and interpret laws, court decisions and other legal authorities in order to prepare legal opinions and to advise the City Council and management staff on legal matters pertaining to City operations.
viii. Perform legal work pertaining to routine property acquisition, property disposal, public improvements, public rights of way and easements, and matters relating to public utilities.
ix. Coordinate with in-house staff on risk management issues, include self-insurance authorities.
x. Coordinate the work of outside counsel as needed and as directed by the City Council and/or City Manager.

B. Services Excluded from the "General Counsel" Category: City Attorney will provide general municipal services that are non-routine or complex at hourly rates ranging from $205 to $375 depending on the type of matter and expertise of the attorney performing the work. Examples of services excluded from "General Counsel" are as follows:

i. Non-routine or highly specialized real estate, affordable housing and land use matters including property acquisition, leasing and disposition.
ii. Complex CEQA analyses, such as on EIR's, exemptions, and negative declarations.
iii. Updates of City's general plan, specific plans, complex zoning ordinances; preparation of impact fee analyses.

iv. Annexations or other changes of organizations.
v. Payroll and income tax issues.
vi. Significant bid disputes, change orders or other disputes relating to construction preparation, award or management.
vii. Non-routine elections issues, such as preparation of or advice regarding complex ballot measures.
viii. Such other issues as discussed and agreed upon by the City Attorney and City Manager.

C. City Attorney will provide services outside the range of general municipal services at hourly rates ranging from $200 to $400, depending on the type of matter and expertise of the attorney performing the work. Examples of such services are as follows:

i. Litigation, eminent domain, arbitration, mediation, administrative hearings and related matters leading to such proceedings.
ii. Brownfields and other environmental and hazardous waste remediation and compliance.
iii. Cable TV franchises and regulations, FCC appeals and related matters.
iv. Negotiation and preparation of franchise agreements and related legislation.
v. Labor negotiations, <u>Skelly</u> hearings, disciplinary hearings, similar non-routine personnel matters, and matters leading to such proceedings.
vi. Redevelopment and inclusionary housing matters.

D. City Attorney will provide services for which the City may recoup its expenses through cost recovery and similar mechanisms at hourly rates ranging from $200 to $400, depending on the type of matter and expertise of the attorney performing the work. Examples of services excluded are as follows:

i. Work related to bond issuance.
ii. Redevelopment.
iii. Code enforcement.
iv. Water rights.
v. Land use and development issues, including development agreements.
vi. Formation or modifications to assessment districts, community facilities districts, and related foreclosures.
vii. Advice and other work related to adjustments to or preparation of development impact and similar fees, as well as taxes such as transient occupancy tax, transactions and use tax, business license tax, utility users tax and parcel tax.
viii. Bankruptcy and foreclosures.
ix. Enterprise fund matters, such as modifications or increase to water, sewer, and transportation fees.
x. Those other matters to which the City may pass payment on to third party.

E. City Attorney will charge for travel time or mileage only for matters listed in Section 2(D) of this <u>Exhibit A</u>. For those matters, travel time may be charged at the billing attorney's hourly rate and mileage may be charged at the then-current Internal Revenue Service rate. City

Attorney shall bill the City monthly at its internal cost for the overhead costs incurred such as charges for normal duplicating, long distance telephone, express mail, postage, messenger services, computer research, and the like. However, the parties agree to discuss annually a fixed percentage overhead charge in lieu of itemized billing.

1950064.1

AGENDA BILL

THE CITY OF EL CERRITO

Agenda Item No. 5(G)

Date: August 21, 2012

To: El Cerrito City Council

From: Sukari Beshears, Employee Services Manager

Subject: Paying and Reporting the Value of Employer Paid Member Contributions for Management Employees

ACTION REQUESTED

Adopt a resolution to amend paying and reporting the value of employer paid member contributions for management employees.

BACKGROUND/ANALYSIS

On June 19, 2012, the City Council approved a modification to pension plan benefits and reimbursement for management employees regarding Employer Paid Member Contributions (EPMC). The modification called for the management group to increase their share of the member contribution from 1% to 4%, with the remaining 4% of member contributions to be paid as EMPC and reported as additional compensation.

Staff prepared a resolution to modify the pension plan benefits for management employees and it was approved by the City Council on June 19, 2012. However, CalPERS requires the governing body of the City of El Cerrito to adopt a separate resolution to amend paying and reporting the value of the employer paid member contributions and has provided specific wording that is included in the resolution presented with this report.

FINANCIAL CONSIDERATIONS

The management group's increase to their share of the member contribution will save the City approximately $93,000 Citywide ($64,000 in the General Fund).

Reviewed by:

Scott Hanin, City Manager

Attachment:

1. Resolution

Agenda Item No.5(G)
Attachment 1

RESOLUTION 2012-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING THE PAYMENT AND REPORTING OF THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTIONS FOR MANAGEMENT EMPLOYEES

WHEREAS, the governing body of the City of El Cerrito has the authority to implement Government Code Section 20636(c)(4) pursuant to Section 20691; and

WHEREAS, the governing body of the City of El Cerrito has a written labor policy or agreement which specifically provides for the normal member contributions to be paid by the employer, and reported as additional compensation; and

WHEREAS, to address a deficit in the general fund and contribute to a reduction in future pension liabilities to the City of El Cerrito, the management employees of the miscellaneous group elected to reduce the percentage of Employer Paid Member Contributions (EPMC) from 7% to 4% beginning with FY2012-13; and

WHEREAS, one of the steps in the procedures to implement Section 20691 is adoption by the governing body of the City of El Cerrito of a Resolution to amend payment of EPMC and reporting the value of said EPMC; and

WHEREAS, the governing body of the City of El Cerrito has identified the following conditions for the purpose of amending the payment of EPMC:

1) This new benefit shall apply to all management employees of the miscellaneous group.
2) This new benefit shall consist of the City paying 4% instead of 7% of the normal contribution as EPMC, and reporting the same percent (value) of the compensation earnable.
3) CalPERS requires additional and specific wording in this resolution to include "Payment of EPMC and reporting the value of EPMC on compensation earnable is on pay rate and special compensation except special compensation delineated in Government Code Section 20636(c)(4) which is the monetary value of EPMC on compensation earnable {excluding Government Code Section 20636(c)(4)} as additional compensation."
4) The effective date of this Resolution shall be June 24, 2012.

NOW THEREFORE, BE IT RESOLVED, that the governing body of the City of El Cerrito elects to amend payment and report the value of the EPMC, as set forth above.

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

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

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

Cheryl Morse, City Clerk

APPROVED:

William C. Jones III, Mayor

THE CITY OF EL CERRITO

AGENDA BILL

Agenda Item No. 6

Date: August 21, 2012

To: El Cerrito City Council

From: Garth Schultz, Environmental Analyst
Melanie Mintz, Environmental Services Division Manager

Subject: Fees for Expanded Recycling Services at the Recycling and Environmental Resource Center

ACTION REQUESTED

Conduct a public hearing and upon conclusion consider adoption of a resolution amending Miscellaneous Services Fees within the Master Fee Schedule (Resolution 2012-34) to add fees relating to:

1. Drop-off collection and recycling of compact fluorescent bulbs (CFLs) and fluorescent tubes for patrons not paying for local Household Hazardous Waste programs; and

2. Rental of solid waste – recycling, compost, and garbage – event stands and bags.

BACKGROUND & ANALYSIS

CFLs and Tubes

In 2010, prior to reconstruction of the City's new Recycling and Environmental Resource Center in 2011/2012, the Environmental Services Division (ESD) held a series of community engagement meetings and solicited survey responses regarding the types and levels of services offered via the Recycling Center. The main thread of comments received from the meetings and survey tended heavily towards the Center accepting a wide array of hard-to-recycle materials, a theme which greatly influenced the design, construction, and now implementation of the new Center. Among the most-commonly requested services was drop-off collection of compact fluorescent bulbs (CFLs) and fluorescent tubes.

Upon completion of the Recycling and Environmental Resource Center in April 2012, the ESD began collecting CFLs and tubes as a satellite operation of the local Household Hazardous Waste (HHW) facility, located in Richmond. Since HHW facility operations are funded by the Integrated Resource Recovery Facility (IRRF) fees paid by all residential solid waste customers in the West Contra Costa Integrated Waste Management Authority (RecycleMore) – which includes El Cerrito, Richmond, San Pablo, Pinole, and Hercules – patrons of the Center who reside in these cities are able to drop-off their CFLs and tubes for recycling at the Center at no cost. Furthermore, as a satellite collection for the HHW facility, the City of El Cerrito bears no direct cost of recycling CFLs and tubes from these "in-area" patrons, since these costs are recovered as a part of the IRRF budget and fee-setting process.

However, the Center still receives multiple daily inquiries from business and residents of other cities (who are not eligible for free drop-off of CFLs and tubes) regarding the potential for City of El Cerrito acceptance of these materials from "out-of-area" residents and businesses, including the unincorporated areas of West Contra Costa County. These populations often lack alternative avenues for safe recycling of these items, and the Center would have the capacity to collect and handle these materials if the ESD were able to recover the costs for handling and recycling them. ESD staff has discussed collection of non-RecycleMore CFLs and tubes with the HHW facility operator and RecycleMore staff and has established that it is possible to collect these materials from out-of-area residents and businesses at no cost to IRRF rate-payers and with no increase to ESD staffing costs.

Providing this cost-based service will enable ESD staff to provide on-site alternatives for safe disposal of these materials and help avoid the negative outcomes that often occur when out-of-area patrons bring CFLs or tubes to the Center, and are informed that they cannot currently be accepted. Specifically, providing this service will: help avoid on and off-site illegal dumping of these materials; foster greater customer satisfaction among all patrons, and; help prevent mercury pollution that is frequently the result of incorrect disposal of CFLs and tubes (a major water quality concern).

Solid Waste Event Stand Rentals

For the past several years the ESD has provided no-cost rentals for event stands and bags for collecting recycling, compost, and garbage to local organizations and businesses holding events in El Cerrito, including private schools, churches, Boy Scouts, and City-sponsored events (including the annual Fourth of July Events in 2011 and 2012). Requests for use of the stands and bags have been increased over the past two years, which has resulted in multiple re-orders of bags and some inventory loss from mishandling of equipment by the users. The ESD is recommending a small Rental Fee for non-City sponsored users in order to cover costs of the bags and handling of equipment and an Event Stand Replacement Fee in order to recover the cost of lost or damaged stands.

FINANCIAL CONSIDERATIONS

These proposed fees will enable the Environmental Services Division to broaden the depth of services available through the Recycling and Environmental Resource Center without impacting Integrated Waste Management (IWM) Fee rate-payers. These fees are based on hard costs for providing the proposed services and include full cost recovery for administration and handling for the services being proposed.

For the CFLs and tubes, the fees take into account the City's actual costs via the HHW facility for safe and proper disposal of these items, with an added margin to cover the additional handling and administrative costs associated with these materials. The large quantity fee is included to cover the greater staffing and administrative costs associated with handling non-residential quantities of these items, and is also intended as an incentive for patrons to recycle these materials as they are generated, rather than stockpiling them. Overall, these fees are slightly higher than what the Berkeley Recycling Center offers for this service, which staff believes is appropriate as the intention is to offer these services at a convenience to Center patrons, and not price these services at a competitive advantage compared to other service providers. For the event stands and bags, the fees are tied to the cost of the bags (which range from $0.50 to $1.00 per bag) and staff time for delivery and set up of the stands. The stand replacement fee is a rounded figure for the cost of replacing a lost or damaged stand and is mainly intended to prevent loss.

Proposed Fees

The table below details the proposed fees:

Service	Fee
Compact Fluorescent Bulb (CFL) Recycling (per bulb)*	$3.00
Fluorescent Tube Recycling (per linear foot)*	$0.50
CFL & Tube Large Quantity Fee (flat fee in addition to per bulb/foot fee for over 15 CFLs and/or 30 feet)	$10.00
Solid Waste Event Stand Rental (per set of 3 per event)	$10.00
Solid Waste Event Stand Replacement (per stand)	$60.00

* Fees for CFL and tube recycling only apply to patrons seeking to recycle these materials at the El Cerrito Recycling and Environmental Resource Center who are not residents of cities within RecycleMore and therefore do not pay for local Household Hazardous Waste (HHW) programs. All residential solid waste rate payers in the Cities of El Cerrito, Richmond, San Pablo, Pinole and Hercules are eligible to recycle these items at the Center at no cost. Fees apply to 1) all businesses seeking to utilize these services and/or 2) residents of cities other than those listed above.

LEGAL CONSIDERATIONS

As required by California Government Code §66018(a), the City is required to conduct a public hearing prior to adopting any new fees or fee increases, as follows:

> *66018(a): Prior to adopting an ordinance, resolution, or other legislative enactment adopting a new fee or approving an increase in an existing fee to which this section applies, a local agency shall hold a public hearing, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, shall be published in accordance with Section 6062a.*

This public hearing satisfies the Government Code requirement and was noticed in the West County Times on August 11, 2012 and August 16, 2012.

Reviewed by:

Scott Hanin, City Manager

Attachments:

1. Resolution

Agenda Item No. 6
Attachment 1

RESOLUTION 2012–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING THE MISCELLANEOUS SERVICE FEES WITHIN THE FISCAL YEAR 2012-2013MASTER FEE SCHEDULE (RESOLUTION 2012–34) TO INCLUDE EXPANDED RECYCLING COLLECTION OPTIONS

WHEREAS, as a result of community input leading up to the redesign and reconstruction of the City of El Cerrito Recycling Center (Center) in 2011/2012 the Environmental Services Division (ESD) identified expanded collection of hard-to-recycle materials as a key area for recycling service improvements in El Cerrito; and

WHEREAS, upon re-opening in April 2012 as the Recycling and Environmental Resource Center the Center began collecting compact fluorescent bulbs (CFLs) and fluorescent tubes at no cost from Integrated Resource Recovery Facility (IRRF) fee-paying residents of El Cerrito, Richmond, San Pablo, Pinole and Hercules in conjunction with the local Household Hazardous Waste (HHW) facility operator; and

WHEREAS, the ESD receives multiple daily inquires from non-IRRF paying residents, including businesses and residents of other cities regarding collection of CFLs and tubes from those patrons, and has determined that collection of CFLs and tubes from this potential customer base is possible if fees for these service can be established; and

WHEREAS, the City Council desires to amend the Miscellaneous Service Fees within the 2012/13 Master Fee Schedule (Resolution 2012–34) to establish fees pertaining to the drop-off collection and recycling of (CFLs) and tubes for non-IRRF fee-paying patrons; and

WHEREAS, the ESD has previously provided free solid waste (recycling, compost, and garbage) event stands and bags to businesses and organizations in El Cerrito, a service which is expanding in popularity and is incurring increasing material and administrative costs; and

WHEREAS, the City Council desires to amend the Miscellaneous Service Fees within the Master Fee Schedule to establish fees pertaining to the rental of waste stands and bags; and

WHEREAS, a public hearing has been noticed and held in accordance with Government Code Sections 6062a, 66016, and 66018.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito hereby adopts additions to the Fiscal Year 2012–13 Master Fee Schedule for the City of El Cerrito, effective September 1, 2012 as follows:

Service	**Fee**
Compact Fluorescent Bulb (CFL) Recycling (per bulb)*	$3.00
Fluorescent Tube Recycling (per linear foot)*	$0.50
CFL & Tube Large Quantity Fee (flat fee in addition to per bulb/foot fee for over 15 CFLs and/or 30 feet)	$10.00
Solid Waste Event Stand Rental (per set of 3 per event)	$10.00
Solid Waste Event Stand Replacement (per stand)	$60.00

* Fees for CFL and tube recycling only apply to patrons seeking to recycle these materials at the El Cerrito Recycling and Environmental Resource Center who do not pay for local Household Hazardous Waste (HHW) programs. All residential solid waste rate payers in the Cities of El Cerrito, Richmond, San Pablo, Pinole and Hercules are eligible to recycle these items at the Center at no cost. Fees apply to 1) all businesses seeking to utilize these services and/or 2) residents of cities other than those listed above.

BE IT FURTHER RESOLVED that Resolution No. 2012–34 is hereby amended.

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

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

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

Cheryl Morse, City Clerk

APPROVED:

William C. Jones, III, Mayor

THE CITY OF
EL CERRITO

AGENDA BILL

Agenda Item No. 7(A)

Date: August 21, 2012

To: El Cerrito City Council

From: Sukari Beshears, Employee Services Manager
Mary Dodge, Administrative Services Director

Subject: Adoption of a Designated Period for Two Years Additional PERS Service Credit for Eligible Employees

ACTION REQUESTED

Staff requests that the City Council take the following actions:

1. Adopt a resolution designating a window period from August 22, 2012 through November 27, 2012 within which miscellaneous and public safety employees may receive two-years of service credit if they retire during the window period;
2. Authorize the Mayor to certify compliance with Government Code Section 20903; and
3. Direct the City Clerk to certify the Council's action and compliance with Government Code Section 7507.

BACKGROUND/ANALYSIS

In September of 1992, in response to fiscal concerns, the El Cerrito City Council adopted an amendment to its contract with CalPERS to provide a retirement incentive for eligible employees. This amendment allows for two years additional service credit to those retiring within the time period designated by the City.

Over the years, the City opened six window periods within which eligible employees could take advantage of the additional two-year service credit option. These periods were as follows: October 1, 1992 through December 31, 1992, July 1, 1993 through December 27, 1993, July 1, 1994 through December 27, 1994, April 1, 1997 through September 27, 1997, December 8, 2003 through June 4, 2004, and finally, July 12, 2009 through October 10, 2009. Each time a period was designated, the City certified that the incentive served the best interests of the agency "because of an impending curtailment of, or change in the manner of performing service" that would result in "impending mandatory transfers, demotions, and layoffs." Further, the City certified to CalPERS that at least one vacancy would remain unfilled resulting in an overall reduction in the work force.

Prior to each window period, the City calculated the potential cost assuming that every eligible employee would retire during the period using formulas set by CalPERS. In accordance with CalPERS regulations, this potential cost is made public at a Council meeting at least two (2) weeks prior to adoption of the resolution setting the window period. For this window period overall costs were discussed at the July 17, 2012 City

Council meeting. Although specific data on the actual number of retirements during the City of El Cerrito window periods was not readily available, CalPERS has acknowledged that only a fraction of eligible employees take advantage of this retirement incentive when offered.

The City also incurs costs associated with payouts of accrued leave balances which are not included in the calculations defined by CalPERS. There is also recruitment and training costs associated with hiring new employees as well as a learning curve for the new employees. Overtime or temporary staffing may be necessary in the short-term to help reduce the impacts to service levels due to retirements but are anticipated to be at a minimum. Hard costs, such as payout of leave balances associated with offering the retirement incentive are offset by the savings due to factors such as: time elapsing between when the vacancy arises and when it is filled, filling vacancies at lower salary steps, hiring entry level positions for vacancies that might arise from more tenured retirement and possible elimination or restructuring of positions.

An analysis of the demographics of the City's workforce revealed a total of 32 miscellaneous and 11 public safety employees who are eligible to take advantage of the two-year additional service credit option if a new window period is designated. Based on continuing discussions with eligible employees, only 10 to 15 employees are likely to take advantage of the retirement incentive. In compliance with CalPERS requirements, the City has identified the Employee Services Account Clerk as the one position to be permanently eliminated. The required CalPERS Resolution and certifications are attached.

FINANCIAL CONSIDERATIONS

The primary purpose of this action is to create current year salary savings and provide an opportunity for longer-term savings by identifying opportunities to reduce or reorganize current staffing. New employees will also have lower benefit accruals and thus are entitled to fewer paid days away from work. In total, the payout of accrued leave expenses is an un-funded liability of the City but the cost of retiree payouts will be more than covered in the operating budget by savings related to retirements associated with this program.

As described in the Fiscal Year 2012-13 Operating Budget, this action is in response to the dissolution of the City's Redevelopment Agency by the State of California, decreases in City property tax revenue and their related impact on City services. Approximately $150,000 in potential savings was identified in the budget and that amount still seems reasonable. Therefore, it is prudent for the City to offer the two years additional service credit as a retirement incentive to City employees. This action was discussed by the Financial Advisory Board (FAB) during their review of the budget. The FAB believed that the decision to implement this program was under the purview of the City Council but expressed a desire to monitor the outcomes in order to evaluate the actual savings.

The overall costs associated with this proposal were presented to the City Council and the public at the Council's July 17, 2012 meeting. An analysis of the savings is included as

Attachment 3. Projected net savings are approximately $153,670 in fiscal year 2012-13. In Fiscal Year 2013-14 the net savings were estimated to be $186,937, in Fiscal Year 2014-15 $127,266 and $74,229 in subsequent years.

Reviewed by:

Scott Hanin, City Manager

Attachments:

1. Resolution Granting Another Designated Period for Two Years Additional Service Credit
2. CalPERS Certifications
3. CalPERS cost/savings analysis

Agenda Item No. 7(A)
Attachment 1

RESOLUTION 2012-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO GRANTING A DESIGNATED PERIOD FOR TWO YEARS ADDITIONAL SERVICE CREDIT

WHEREAS, the City Council of the City of El Cerrito is a contracting Public Agency of the Public Employees' Retirement System; and

WHEREAS, the Public Agency desires to provide another designated period for Two Years Additional Service Credit, Section 20903, based on the contract amendment included in said contract which provided for Section 20903, Two Years Additional Service Credit, for eligible members.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of El Cerrito that it hereby seeks to add a designated period from August 22, 2012 through November 27, 2012 for eligible employees in the miscellaneous and safety classifications.

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

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

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

____
Cheryl Morse, City Clerk

APPROVED:

____
William C. Jones III, Mayor

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Employer Services Division
Contract Maintenance Unit
P.O. Box 942709
Sacramento, CA 94229-2709

CERTIFICATION OF COMPLIANCE WITH GOVERNMENT CODE SECTION 20903

In accordance with Government Code Section 20903 and the contract between the Public Employees' Retirement System, the City Council of the City of El Cerrito hereby certifies that:

1. Because of an impending curtailment of, or change in the manner of performing service, the best interests of the agency will be served by granting such additional service credit.

2. The added cost to the retirement fund for all eligible employees who retire during the designated window period will be included in the contracting agency's employer contribution rate for the fiscal year that begins two years after the end of the designated period.

3. It has elected to become subject to Section 20903 because of impending mandatory transfers, demotions, and layoffs that constitute at least 1 percent of the job classification, department or organizational unit, as designated by the governing body, resulting from the curtailment of, or change in the manner of performing, its services.

4. Its intention at the time Section 20903 becomes operative is to keep all vacancies created by retirements under this section or at least one vacancy in any position in any department or other organizational unit permanently unfilled thereby resulting in an overall reduction in the work force of such department or organizational unit.

THEREFORE, the City Council of the City of El Cerrito hereby elects to provide the benefits of Government Code Section 20903 to all eligible members who retire within the designated period, August 22, 2012 through November 27, 2012.

CITY COUNCIL
OF THE
CITY OF EL CERRITO

BY ____________________________
Presiding Officer

Attest:

____
Clerk/Secretary

August 21, 2012
Date

ATTACHMENT 2

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Actuarial and Employer Services Branch
Public Agency Contract Services
P.O. Box 942709
Sacramento, CA 94229-2709
(888) CalPERS (225-7377)

CERTIFICATION OF GOVERNING BODY'S ACTION

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the

City Council of the
(governing body)

City of El Cerrito
(public agency)

on August 21, 2012.
(date)

____
Clerk/Secretary

City Clerk
Title

ATTACHMENT 2

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Actuarial and Employer Services Branch
Public Agency Contract Services
P.O. Box 942709
Sacramento, CA 94229-2709
(888) CalPERS (225-7377)

CERTIFICATION OF COMPLIANCE WITH GOVERNMENT CODE SECTION 7507

I hereby certify that in accordance with Section 7507 of the Government Code the future annual costs as determined by the System Actuary for the increase in retirement benefit(s) have been made public at a public meeting of the

City Council of the
(governing body)

City of El Cerrito
(public agency)

on July 17, 2012 which is at least two weeks prior to the adoption of the
(date)

Resolution / Ordinance.

____
Clerk/Secretary

City Clerk
Title

Date August 21, 2012

ATTACHMENT 3

City of El Cerrito
Summary of Costs and Savings of Two Year Service Credit
8/21/2012 City Council Meeting

Savings:	
Salary Savings from three month position openings from Annual Pay (1)	$298,351
Step 5 to Step 2 Savings from Annual Pay (1/2 year of 15% salary savings)	89,505
	387,857
Costs:	
Potential Short term staffing costs	(20,000)
Estimated Payouts in FY2012-13 (all Leave Hours + $7K Sick Leave)	(214,187)
	(234,187)
FY2012-13 Net Savings	$153,670
Ongoing Savings:	
FY2013-14 10% of Annual Pay & Position Elimination (1) (2)	$186,937
FY2014-15 5% of Annual Pay & Position Elimination (1)(2)	$127,266
Potential savings target from restructuring opportunities	$50,000
Ongoing savings from account clerk position elimination	67,596
FY2015-16 .004689 rate increase	(63,297)
	$54,299

(1) Benefit cost savings have not been included in order to be conservative.
(2) Ongoing savings from elimination of one position = $67,596

Agenda Item No. 7(A)
Attachment 3

Estimate of Cost Impacts for a Two Year PERS Service Credit

Calcuations Based on PERS formula guidelines

Data Required for Savings/ Cost Analysis

		To Calculate increased PERS Factor					To Calculate costs/savings of service credit				
Positions	Pay Rate	Annual Pay	PERS Cost Factor (1)	Annual Pay adjusted for PERS cost factor	PERS Factor X .97 or .93 (1)	20 Year Amortization Factor 13.24%	Leave Hours	Leave Payout	Eligible Sick Leave Hours (2)	Potential Sick Leave Pay	New Hires
Position 1	$43.60	$126,963	82%	$104,110	$96,822	$7,313	499.17	$21,764		$ -	$ 110,403
Position 2	$43.60	$126,963	75%	$95,222	$88,557	$6,689	446.72	$19,477		$ -	$ 110,403
Position 3	$31.22	$90,913	87%	$79,094	$73,557	$5,556	293.99	$9,178		$ -	$ 78,537
Position 4	$38.46	$111,996	87%	$97,436	$90,616	$6,844	240.00	$9,230		$ -	$ 96,737
Position 5	$47.67	$99,154	87%	$86,264	$80,225	$6,059	513.00	$24,455		$ -	$ 82,534
Position 6	$72.24	$140,870	72%	$101,426	$98,383	$7,431	259.41	$18,740	102	$ 7,365	$ 122,495
Position 7	$33.72	$65,754	66%	$43,398	$42,096	$3,179	215.34	$7,261	37	$ 1,247	$ 59,631
Position 8	$25.32	$49,374	65%	$32,093	$31,130	$2,351	594.41	$15,050	250	$ 6,330	$ 43,290
Position 9	$33.72	$65,754	66%	$43,398	$42,096	$3,179	263.11	$8,872	182	$ 6,143	$ 57,447
Position 10	$25.07	$48,887	66%	$32,265	$31,297	$2,364	980.99	$24,593	250	$ 6,268	$ 42,237
Position 11	$24.06	$46,917	59%	$27,681	$26,851	$2,028	156.71	$3,770		$ -	$ 46,917
Position 12	$27.17	$52,982	66%	$34,968	$33,919	$2,562	773.41	$21,013	250	$ 6,793	$ 45,767
Position 13	$32.72	$63,804	59%	$37,644	$36,515	$2,758	133.00	$4,352	250	$ 8,180	$ 55,127
Position 14	$25.69	$50,096	66%	$33,063	$32,071	$2,422	7.00	$180		$ -	$ 43,271
Position 15	$27.17	$52,982	66%	$34,968	$33,919	$2,562	708.50	$19,250	250	$ 6,793	$ 45,767
Total		$ 1,193,406		$ 883,030	$ 856,539			$ 207,187		$ 49,117	$ 1,040,561

Actuarialy calculated annual PERS increase beginning FY2015-16	$63,297
Estimated Annual Payroll	$13,500,000
Estimated Rate Increase	0.4689%

(1) Factors provided by PERS based on age and type of service. Public Safety rate is .93 and miscellaneous .97.

(2) Some positions not eligible to cash out any sick leave, others may cash out at a 1/4 rate with a cap at 250 hours or convert to hours of service with PERS

AGENDA BILL

THE CITY OF EL CERRITO

Agenda Item No. 7(B)

Date: August 21, 2012

To: El Cerrito City Council

From: Cheryl Morse, City Clerk

Subject: November 6, 2012 General Municipal Election – Consideration of Facts with Option to Appoint Council Members In Lieu of Election

ACTION REQUESTED

Staff requests that the City Council review the Certification of Facts and consider taking action to either: 1) Adopt a resolution appointing nominees Jan Bridges, Mark Friedman and Greg Lyman to elected offices effective the first City Council meeting in December 2012; or 2) Elect to hold the November 6, 2012 General Municipal Election as called.

BACKGROUND

On June 5, 2012, the City Council ordered and called a General Municipal Election to fill three City Council Seats; Requested and Consented to Consolidation of the Municipal Election to be held on November 6, 2012; requested the services of the Contra Costa County Registrar of Voters; provided for Notice of Election and set specifications of the Election Order. The terms of Mayor Jones, Mayor Pro Tem Lyman and Councilmember Cheng will expire this year.

Before the City Council this evening is a certification of facts and options to consider resulting from three candidates qualifying for three open seats on the City Council at the close of the extended nomination period. Staff recommends that the City Council make a determination as to whether it wishes to make appointments or proceed with the scheduled election.

ANALYSIS

The nomination period for the General Municipal Election commenced on July 16, 2012. Since fewer incumbents pulled and filed nomination papers than there will be seats open, the nomination period was extended for non-incumbents only to August 15, 2012 pursuant to Elections Code Section 10225. By August 15th, three individuals had pulled nomination papers for candidacy; one incumbent and two individuals who also happen to be former Councilmembers. These individuals, filed nomination papers and associated paperwork, and qualified for the ballot. The candidates who filed nomination papers by the deadline and who have qualified for placement on the ballot are: Councilmember Greg Lyman and former Councilmembers Mark Friedman and Jan Bridges. Three seats are up for election this year. Therefore, the number of persons nominated is equivalent to the number of expiring terms.

As relevant to the facts here, Section 10229 of the Elections Code provides that, if, by 83rd day before the election, an incumbent fails to file pursuant to Section 10225, for any office or offices that are to be elected at large, and the number of persons who have been nominated for those offices does not exceed the number to be filled at that election, the City Elections Official must submit a certificate of these facts to the governing body of the city. The City Elections Official must also inform the governing body that it may, at a regular or special meeting held before the municipal election, adopt one of the following courses of action: 1) Appoint to the office the person who has been nominated; 2) Appoint to the office any eligible elector if no one has been nominated; or 3) Hold the election, if either no one, or only "one person" has been nominated.[1] The Code further directs the City Elections Official to publish a notice of facts in the newspaper prior to Council action.

The Certification of Facts (Attachment 1) was submitted to the City Council on August 15, 2012 and posted on the City's website and at City Hall, the Community Center and Library. On August 16, the notice, in substantially the same form, was published in the West County Times.

As required by Section 10229, the Certificate of Facts informed the City Council that it may adopt one of the following courses of action:

1) Appoint to the office the person who has been nominated;
2) Appoint to the office any eligible elector if no one has been nominated; or
3) Hold the election, if either no one, or only one person has been nominated.

Because option 2 is not applicable, the City Council may consider either option 1 or 3:

1. Adopt a resolution (Attachment 2) to appoint to the offices the persons who have been nominated; or
3. Hold the election, if either no one or only one person has been nominated.

If the City Council chooses to make the appointments, the nominees shall qualify and take office and serve exactly as if elected at a municipal election for the office. Appointed Councilmembers would take the Oath of Office, be formally seated and begin their term in office at the first City Council meeting in December. If the City Council makes appointments in-lieu of the election prior to August 23, the City Clerk will be prevented from accepting filings for any write-in candidacy, since the appointments will in turn cancel the election. It is important to note that the write-in candidate process is not automatic and that write-in candidates must qualify by filing required nomination papers during a specified period in order for ballots to be counted.

If the Council does not make any appointments by August 23, 2012 (the 75th day before the election), then the election will go forward.

---

[1] City staff takes the position that the "one person" can be interpreted to include the circumstances where there is no more than one candidate per open seat.

FINANCIAL CONSIDERATIONS

Municipal election costs are determined by the number of registered voters, the Registrar of Voters costs for services, and the City's costs for publishing, translations and other associated election costs. Staff estimates a savings of approximately $22,000 to the City if appointments of Councilmembers are made in-lieu of the election and the municipal candidate election is cancelled. There is a $300 fee charged by the Contra Costa County Registrar of Voters to cover the costs of preparation and set up work and for checking signatures on the nomination petitions.

LEGAL CONSIDERATIONS

The City Attorney has reviewed this report and resolution and concurs with the alternatives presented.

Reviewed by:

Scott Hanin, City Manager

Attachments:

1. Certification of Facts
2. Proposed Resolution

Agenda Item No. 7(B)
Attachment 1

CITY CLERK'S NOTICE AND CERTIFICATION THAT THERE ARE NOT MORE CANDIDATES THAN OFFICES TO BE ELECTED

I, CHERYL MORSE, CITY CLERK OF THE CITY EL CERRITO, COUNTY OF CONTRA COSTA, DO HEREBY GIVE NOTICE AND CERTIFY that pursuant to Section 10229 of the Elections Code of the State of California, to the following facts relating to the General Municipal Election to be held on Tuesday, November 6, 2012:

As of the close of the extended nominations period on Wednesday, August 15, 2012, there are not more candidates than offices to be elected.

The persons so nominated are: Jan Bridges
Mark Friedman
Greg Lyman

That Section 10229 of the Elections Code allows one of the following courses of action to be taken by the City Council, when applicable:

1. Appoint to the office the persons who have been nominated.
2. Appoint to the office any eligible voter if no one has been nominated.
3. Hold the election if either no one or only one person has been nominated.

A notice of these facts will be published on August 16, 2012 in the West County Times, a Newspaper of general circulation, in the City of El Cerrito pursuant to Section 6061 of the California Government Code. On August 21, 2012, the City Council will meet at 7:00 p.m. to either make the appointments or direct an election to be held. The persons appointed, if any, shall qualify and take office and serve exactly as if elected at a municipal election for the office.

If, by the 75th day before the municipal election, no person has been appointed to the offices pursuant to (1) or (2) above, the election shall be held.

If the City Council makes an appointment pursuant to Section 10229 of the Elections Code, the City Clerk shall not accept for filing any statement of write-in-candidacy which is submitted after the appointment is made.

____

CHERYL MORSE, City Clerk

Agenda Item No. 7(B)
Attachment 2

RESOLUTION NO. 2012–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO PROVIDING FOR THE APPOINTMENT OF JAN BRIDGES, MARK FRIEDMAN AND GREG LYMAN TO THE EL CERRITO CITY COUNCIL FOR FOUR YEAR TERMS IN LIEU OF ELECTION AND CANCELLING THE NOVEMBER 6, 2012 MUNICIPAL CANDIDATE ELECTION

WHEREAS, pursuant to Government Code 36503 of the State of California, a general municipal election shall be held on a date prescribed by Section 1301 of the Elections Code and elective city offices shall be filled by the city electorate at a general municipal election. City officers holding elective city office shall hold office for their prescribed terms from the date of the installation of officers following adoption by the Council of the official canvass of their election and until their successors are elected and qualified; and

WHEREAS, on June 5, 2012, the City Council of the City of El Cerrito called a general municipal election to be held in the City of El Cerrito on Tuesday, November 6, 2012 for the purpose of filling three expiring terms on the City Council; and

WHEREAS, pursuant to Section 10224 of the Elections Code of the State of California, August 10, 2012 was the last day for candidates to file nomination papers and on this date only one of three incumbents and one candidate who is not an incumbent filed by this deadline; and

WHEREAS, Section 10225 of the Elections Code extends the nomination period five days for non-incumbents only if an incumbent fails to file by the August 10, 2012 nomination deadline; and

WHEREAS, by Wednesday, August 15, 2012 one additional candidate filed nomination papers by the extended nomination period deadline; and

WHEREAS, as of the close of the extended nomination period on Wednesday, August 15, 2012; there were not more candidates than offices to be elected and therefore Section 10229(a) of the Elections Code allows one of the following courses of action to be taken by the City Council:

1. Appoint to the office the persons who have been nominated.
2. Appoint to the office any eligible voter if no one has been nominated.
3. Hold the election if either no one or only one person has been nominated; and

WHEREAS, pursuant to Section 10229 of the Elections Code, a notice, herein attached and incorporated by reference as Exhibit A, was published on August 16, 2012, in the West County Times, certifying these facts and the courses available to the legislative body; and

WHEREAS, pursuant to Section 10229 of the Elections Code, if the City Council makes appointments to all open positions on or before the 75th day before the election (August 23, 2012), the election will be cancelled; and

WHEREAS, appointments in lieu of an election will result in a cost savings of approximately $22,000 to the City's general fund; and

WHEREAS, pursuant to Section 10229 of the Elections Code, once appointments are made, the elections official shall not accept for filing any statement of write-in candidacy that is submitted; and

WHEREAS, this resolution provides for the appointment of the three nominees to the three open positions.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby determines, declares and orders as follows:

Section 1. That the above recitations are true and correct.

Section 2. That pursuant to California Elections Code Section 10229 the following action is taken:

The following persons are appointed to the offices to which they were nominated:

NAME	OFFICE	TERM
Jan Bridges	City Councilmember	4 year term
Mark Friedman	City Councilmember	4 year term
Greg Lyman	City Councilmember	4 year term

Section 3. That pursuant to Elections Code Section 10229, the general municipal election scheduled to be held on Tuesday, November 6, 2012, is cancelled due to the fact that there are no more than three nominees who chose to run for office for the three open seats and the City Council has made the above appointments.

Section 4. The persons appointed shall qualify and take office and serve exactly as if elected at a general municipal election for the office.

Section 5. That the City Clerk shall certify to the passage and adoption of this resolution and so notify the Contra Costa County Registrar of Voters of the City Council's action prior to August 23, 2012 and enter the Council's action into the official minutes and into the book of original resolutions.

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

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

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

____
Cheryl Morse, City Clerk

APPROVED:

____
William C. Jones, III
Mayor

THE CITY OF EL CERRITO

AGENDA BILL

Agenda Item No. 7(C)

Date: August 21, 2012

To: El Cerrito City Council
El Cerrito Public Financing Authority

From: Mary Dodge, Administrative Services Director/City Treasurer

Subject: Measure A (Swim Center) Lease Revenue Bond Refinancing

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ACTION REQUESTED

Adopt a City Council resolution and a Public Financing Authority resolution which authorize the City Manager/Executive Director to enter into the required agreements with JP Morgan Chase Bank for refinancing of the Measure A (Swim Center) Lease Revenue Bonds.

BACKGROUND

As discussed at the June 11, 2012 Council meeting, declines in interest rates have enabled the City to reduce interest costs on certain existing debt obligations. The Council previously approved refinancings for the City's Storm Drain Revenue Bonds and six equipment capital leases, which were successfully concluded last month. The Council also approved resolutions for refinancing the recycling center lease-purchase debt at the June 11, 2012 meeting, but due to a required change in the financing structure from a lease-purchase certificate of participation financing to a lease revenue bond financing, an amended resolution is presented this evening that has no impact on the savings, but has delayed the closing of this transaction.

In addition, as noted in June, a decision was made to delay the refinancing of the City's Measure A (Swim Center) Lease Revenue Bonds (Bonds), due to the impending expiration on September 1 of a pre-existing "call" expense, which would save an additional $24,300 over and above any interest savings. As interest rates have remained favorable in the interim, this refinancing opportunity is now available to the City, without the "call" expense.

All four of these refundings were reviewed individually by the Financial Advisory Board (FAB) at meetings in April and May, including the Swim Center Refinancing. The FAB recommended approval of each of the transactions to the City Council.

ANALYSIS

As noted in Staff's report to the City Council in June, the City, with assistance of Cooperman Associates, an independent Financial Advisor, conducted an informal bid process with multiple financial institutions to obtain a market interest rate for the refunding of the Storm Drain Revenue Bonds, the Swim Center Revenue Bonds, the

Recycling Center lease-purchase debt and existing debt on the fire trucks, recycling vehicles and carts. Four bids were received and JP Morgan Chase Bank (Chase) submitted the most advantageous rates and terms.

The City has closed refinancing of the Storm Drain Revenue Bonds at an all-inclusive interest rate of 1.683%, vs. the prior rate of 5.50%, and the vehicle and cart debt at an all-inclusive rate of 1.78% over seven years, vs. prior rates ranging from 3.90% to 4.85%.

While the actual rates for the remaining two financings will not be determined until shortly before their closings, the rates as of August 6th for the Federal Reserve index used by Chase would be 1.80% for the Swim Center Bonds. Attachment 4 shows the calculations for determining the savings on the refinancing.

FINANCIAL CONSIDERATIONS

The existing Bonds, backed by a parcel tax passed by the City Council on November 29, 1999, and the voters on March 7, 2000, as Measure A, and expiring in 2020, have a par value of $2.43 million with interest rates of 4.00% in 2013, increasing to 4.70% at their final maturity in 2020. The Bonds are callable at a 1% premium, which expires on September 1, 2012, at which time the Bonds are refundable at par. The objective is to complete the refinancing of the Bonds as soon as possible (but after September 1) following approval of the transaction and the proposed Resolution by the City Council and the Public Financing Authority Board.

The 1.80% interest rate from Chase results in savings after costs of issuance of approximately $232,655 on a gross basis, and $212,781 on a net cashflow basis (includes loss of investment earnings on the reduced reserve fund) for the remaining eight year term. The final maturity for the Bonds mirrors substantially the existing maturity schedule on the existing Bonds, which extend only to the fiscal year in which the parcel tax sunsets. The transaction would be recorded as an obligation for accounting purposes and would supersede the earlier refunded obligation. The bonds are being issued on a tax-exempt basis to Chase, as investor, and like the earlier refinancings, will be a private direct placement to Chase.

The City has built one additional benefit into the financing. In 2017, the City will be able to refund the remaining three years of the debt without a call premium at the then-current rates. As this would be considered a short term financing by that time, the City would expect that additional savings would then become available, for a subsequent final refunding.

LEGAL CONSIDERATIONS

Legal documents are currently being drafted by municipal bond attorneys at Meyers Nave. Documents will also be reviewed by Squire Sanders, a national law firm, on behalf of the Bank. Standard opinions of counsel respecting the validity and tax-exempt nature of the obligations will be provided to the City as part of the closing.

RECOMMENDATION

Approve this report and adopt the attached resolutions to proceed with the refinancings.

Reviewed by:

Scott Hanin, City Manager

Attachments:

Swim Center Revenue Bond:

1. Swim Center Bond Refunding City Resolution
2. Swim Center Bond Refunding Public Financing Authority Resolution
3. Swim Center Bond Refunding Proposal
4. Swim Center Bond Refunding Financial Analysis

Agenda Item No. 7(C)
Attachment 1

RESOLUTION 2012-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING THE ISSUANCE AND SALE BY THE EL CERRITO PUBLIC FINANCING AUTHORITY OF NOT TO EXCEED $2,516,500 PRINCIPAL AMOUNT OF 2012 LEASE REVENUE REFUNDING BONDS; APPROVING FORM AND SUBSTANCE OF A SITE LEASE AND A FACILITY LEASE, AUTHORIZING MODIFICATIONS THEREOF AND EXECUTION AND DELIVERY THEREOF AS MODIFIED; APPROVING THE FORM AND SUBSTANCE OF A TRUST AGREEMENT AND A REFUNDING ESCROW AGREEMENT; AND AUTHORIZING RELATED ACTIONS NECESSARY TO IMPLEMENT THE PROPOSED REFUNDING PROGRAM

WHEREAS, pursuant to a resolution of its Governing Board, the El Cerrito Public Financing Authority (the "Authority") was authorized to issue of its 2002 Lease Revenue Bonds (Measure A Capital Improvement Project) (the "Prior Bonds") ; and

WHEREAS, the Prior Bonds were issued and delivered to the original purchaser thereof on July 31, 2002, and the proceeds of sale were utilized to assist the City of El Cerrito (the "City") in the financing of capital facilities for a swim center of the City commonly referred to as the "Measure A Capital Improvement Project" (the "Project"), as authorized by the Marks-Roos Local Bond Pooling Act of 1985 (the "Act"); and

WHEREAS, by separate resolution adopted by its Governing Board (the "Authority Resolution"), the Authority has authorized the issuance of its El Cerrito Public Financing Authority 2012 Lease Revenue Refunding Bonds (the "Bonds") in a principal amount not to exceed $2,516,500 to provide funds needed to implement the refunding of the remaining outstanding Prior Bonds (the "Refunding Program") and, for said purpose, has approved the form and substance of a Site Lease (the "Site Lease"), between the Authority and the City, a Facility Lease (the "Facility Lease"), between the City and the Authority, a Trust Agreement (the "Trust Agreement"), between the Authority and a bank to be determined, as Trustee, and a Refunding Escrow Agreement (the "Refunding Escrow Agreement"), between the Authority and J.P. Morgan Trust Company, National Association, as Escrow Agent; and

WHEREAS, the Authority has received a proposal, dated August 10, 2012 (the "Proposal"), from JPMorgan Chase Bank, NA (the "Bank"), a copy of which proposal is attached to the Authority Resolution as Exhibit A thereto, to purchase the Bonds by private placement, subject to certain conditions, and the Authority has authorized the sale of the Bonds to the Bank on terms and conditions substantially the same as those set forth in the Proposal; and

WHEREAS, among the conditions of the Proposal is that the Bonds be designated as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Internal Revenue Code of 1986 (the "Code"), and this City Council of the City (this "City Council") concurs in the finding set forth in the Authority Resolution that neither the City nor any subordinate entity of the City, including but not limited to the Authority, expects or intends to provide for the issuance of more than $10,000,000 aggregate principal amount of tax-exempt obligations during calendar year 2012; and

WHEREAS, the Bonds will be secured by a first pledge, lien and claim upon the proceeds of the special tax which was approved as Measure A at an election held in the City on March 7, 2000 (the "Special Tax Revenues"), and this City Council, by this resolution, wishes to expressly authorize such first pledge, lien and claim on the Special Tax Revenues to secure the payment of the principal of and the interest on the Bonds; and

WHEREAS, the Authority has determined that all things necessary to make the Bonds, when executed on behalf of the Authority and authenticated by the Trustee, as provided in the Trust Agreement, the valid, binding and legal obligations of the Authority according to the import thereof and hereof have been done and performed; and

WHEREAS, in furtherance of implementing the Refunding Program, there has been filed with the City Clerk for consideration and approval by this City Council forms of the following:

(a) the Site Lease, under the terms of which the City leases to the Authority for a nominal consideration the real property on which the Project has been constructed (the "Site");

(b) the Facility Lease, under the terms of which the Authority leases back to the City the Site, as improved by the Project (together, the "Leased Property"), and the City agrees to make certain rental payments (the "Base Rental Payments" and the "Additional Payments") for the use and enjoyment of the Leased Property;

(c) the Trust Agreement, under the terms of which the Bonds are to be issued and the Revenues (as said term is defined in the Trust Agreement) are to be administered to pay the principal of and interest on the Bonds; and

(d) the Refunding Escrow Agreement, providing for the redemption of the remaining outstanding Prior Bonds on the date to be selected for such redemption.

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

Section 1. The foregoing recitals are true and correct, and this City Council so finds and determines.

Section 2. This City Council hereby finds and determines that the implementation of the Refunding Program, including issuance by the Authority of the Bonds and sale thereof to the Bank, as provided by the Authority Resolution, and the resulting redemption of the Prior Bonds will result in significant public benefits, including demonstrable savings in effective interest rate, bond underwriting and bond issuance costs.

Section 3. This City Council hereby approves of the issuance of the Bonds by the Authority and the sale thereof to the Bank, as more fully provided by the Authority Resolution.

Section 4. The forms of the Site Lease and Facility Lease, submitted to this meeting and on file with the City Clerk, are hereby approved, subject to such changes as the City Manager or designee shall approve, such approval to be conclusively established by the execution thereof on behalf of the City. The City Manager is authorized and directed to execute the Site Lease and the Facility Lease and each of them on behalf of the City.

Section 5. The forms of Trust Agreement and Refunding Escrow Agreement, submitted to this meeting and on file with the City Clerk, are hereby approved, with such changes as the Authority shall approve prior to execution thereof.

Section 6. This City Council hereby expressly authorizes the Authority to provide a first pledge, lien and claim on the Special Tax Proceeds to secure the payment of the principal of and the interest on the Bonds and hereby covenants that, for as long as any of the Bonds remain outstanding and subject to the limitation on the maximum amount of the annual Measure A special tax which may be levied on any taxable parcel within the City, the City will annually, in each Fiscal Year, provide for the levy of the Measure A special tax in an aggregate amount which, when combined with the unencumbered balance of in the Measure A Parcel Tax Fund (as said term is defined in the Facility Lease) at the commencement of such Fiscal Year, shall be equal to not less than one hundred ten percent (110%) of the amount of the City's Base Rental Payments (as said term is defined in the Facility Lease) payable pursuant to the Facility Lease during such Fiscal Year.

Section 7. All actions heretofore taken by the officers and agents of the City are hereby approved, confirmed and ratified. Notwithstanding any provision of this resolution authorizing the City Manager to take any action or execute any document to the contrary, in the absence of the City Manager or in lieu of the City Manager, the person designated in writing by the City Manager, may take such action or execute such document with like effect as fully as though named in this resolution instead of the City Manager.

Section 8. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution and to implement the refunding program. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

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

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

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

____
Cheryl Morse, City Clerk

APPROVED:

____
William Jones, III, Mayor

Agenda Item No.7(C)
Attachment 2

RESOLUTION 2012-XX

RESOLUTION OF THE GOVERNING BOARD OF THE EL CERRITO PUBLIC FINANCING AUTHORITY AUTHORIZING THE ISSUANCE AND SALE BY PRIVATE PLACEMENT TO JPMORGAN CHASE BANK, NA, OF NOT TO EXCEED $2,516,500 PRINCIPAL AMOUNT OF 2012 LEASE REVENUE REFUNDING BONDS; DESIGNATING THE BONDS AS QUALIFIED TAX-EXEMPT OBLIGATIONS PURSUANT TO SECTION 265(b) OF THE INTERNAL REVENUE CODE OF 1986; APPROVING THE FORM AND SUBSTANCE OF A SITE LEASE, A FACILITY LEASE, A TRUST AGREEMENT AND A REFUNDING ESCROW AGREEMENT AND AUTHORIZING THE MAKING OF MODIFICATIONS THERETO AND THE EXECUTION AND DELIVERY THEREOF AS MODIFIED; AND AUTHORIZING RELATED ACTIONS NECESSARY TO IMPLEMENT THE PROPOSED REFUNDING PROGRAM

WHEREAS, the El Cerrito Public Financing Authority is a joint exercise of powers entity duly organized and existing under and by virtue of the laws of the State of California (the "Authority"); and

WHEREAS, the City of El Cerrito is a municipal corporation organized and existing under the Constitution and laws of the State of California (the "City"); and

WHEREAS, the Authority is empowered under the provisions of the Marks-Roos Local Bond Pooling Act of 1985, being Article 4, Chapter 5, Division 7, Title 1 of the California Government Code (the "Law"), to issue its bonds for the purpose of refunding bonds previously issued by the Authority; and

WHEREAS, pursuant to its resolution adopted on June 17, 2002, the Authority authorized the issuance of its 2002 Lease Revenue Bonds (Measure A Capital Improvement Project) (the "Prior Bonds"); and

WHEREAS, the Prior Bonds were delivered to the original purchaser thereof on July 31, 2002, and the proceeds of sale were utilized in accordance with the Law to assist the City in the financing of capital facilities for a swim center of the City commonly referred to as the "Measure A Capital Improvement Project" (the "Project"); and

WHEREAS, the Authority has determined to issue its El Cerrito Public Financing Authority 2012 Lease Revenue Refunding Bonds (the "Bonds") for the purpose of implementing a program to refund the remaining outstanding Prior Bonds (the "Refunding Program"); and

WHEREAS, the Bonds will be secured by a first pledge, lien and claim upon certain revenues (the "Revenues"), together with a first pledge, lien and claim upon the proceeds of the special tax which was approved as Measure A at an election held in the City on March 7, 2000, to consider said measure (the "Special Tax Revenues"); and

WHEREAS, the Authority has determined that, in order to implement the Refunding Program, including payment of the redemption price of the Prior Bonds on the date to be selected for such redemption (after taking into consideration funds on hand with respect to the Prior Bonds), establishment of a reserve fund for the Bonds and payment of the costs of the Refunding Program, including the costs of issuance of the Bonds, the Authority needs to authorize the issuance and sale of Bonds in the aggregate principal amount of not to exceed Two Million Five Hundred Sixteen Thousand Five Hundred Dollars ($2,516,500); and

WHEREAS, the Authority has determined that all things necessary to make the Bonds, when executed on behalf of the Authority, authenticated by the Trustee, and delivered to JPMorgan Chase Bank, NA (the "Bank"), the valid, binding and legal obligations of the Authority according to the import thereof and hereof have been done and performed; and

WHEREAS, in furtherance of implementing the above-described Refunding Program, Meyers, Nave, Riback, Silver & Wilson, as bond counsel to the Authority for the Refunding Program ("Bond Counsel"), has prepared and submitted to the Authority Secretary for consideration and approval by this Board forms of the following:

(a) a Site Lease (the "Site Lease"), between the City and the Authority, under the terms of which the City leases to the Authority for a nominal consideration the real property on which the Project has been constructed (the "Site");

(b) a Facility Lease (the "Facility Lease"), between the Authority and the City, under the terms of which the Authority leases back to the City the Site, as improved by the Project (together, the "Leased Property"), and the City agrees to make certain rental payments (the "Base Rental Payments" and the "Additional Payments") for the use and enjoyment of the Leased Property;

(c) a Trust Agreement (the "Trust Agreement"), between the Authority and a bank to be determined, as trustee (the "Trustee"), under the terms of which the Bonds are to be issued and the Revenues (as said term is defined in the Trust Agreement) are to be administered to pay the principal of and interest on the Bonds; and

(d) a Refunding Escrow Agreement (the "Refunding Escrow Agreement"), between the Authority and J.P. Morgan Trust Company, National Association, as Escrow Agent (the "Escrow Agent"), for the purpose of providing for the redemption of the remaining outstanding Prior Bonds on the date to be selected for such redemption; and

WHEREAS, being fully advised in the matter of the proposed Refunding Program, this Board wishes to proceed with implementation of the Refunding Program, provided that certain prescribed conditions set forth herein are satisfied; and

WHEREAS, as required by the Law, the City has by separate resolution determined that the issuance of the Bonds by the Authority will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation and bond issuance costs; and

WHEREAS, the Authority has received a proposal from the Bank, dated August 10, 2012 (the "Proposal"), to purchase by private placement $2,516,500 principal amount of 2012 Lease Revenue Refunding Bonds, subject to certain prescribed conditions; and

WHEREAS, this Board hereby finds and determines that the proposed sale of the Bonds in accordance with and upon terms and conditions which are substantially the same as those specified in the Proposal will result in significant public benefits, including demonstrable savings in effective interest rate, bond preparation and bond issuance costs; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the issuance, sale and delivery of the Bonds and the consummation of the Refunding Program authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Authority is now duly authorized and empowered, pursuant to each and every requirement of law, to authorize the execution and delivery of certain documents in order to further implement the Refunding Program in the manner and upon the terms herein provided; and

WHEREAS, this Board wishes by this resolution to authorize the issuance, sale and delivery of the Bonds by private placement to the Bank on terms and conditions substantially the same as those specified in the Proposal, a copy of which is attached to this resolution as Exhibit A and by this reference incorporated herein;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the El Cerrito Public Financing Authority as follows:

Section 1. The foregoing recitals are true and correct, and this Board so finds and determines.

Section 2. Pursuant to the Law, this Board hereby authorizes the issuance of the Bonds in the aggregate principal amount of not to exceed Two Million Five Hundred Sixteen Thousand Five Hundred Dollars ($2,516,500.00). The term of the Bonds, which shall be issued as a single, fully-registered term bond with annual mandatory partial sinking fund redemptions of the principal amount thereof, shall not extend beyond September 1, 2020, which is the last maturity of the Prior Bonds.

Section 3. The Bonds shall be sold and delivered to the Bank on terms and conditions substantially the same as those specified by the Proposal, as modified by the Bank with the approval of the Executive Director of the Authority (the "Executive Director") prior to the execution thereof (the "Final Proposal"); provided that any modifications of the Proposal in arriving at the Final Proposal shall not substantially change the terms and conditions of the Proposal, as set forth in Exhibit A hereto; and provided further that the purchase price shall be equal to not less than one hundred percent (100%) of the principal amount of the Bonds and the interest rate specified in the Final Proposal shall not exceed the interest rate in the Proposal by more than 50 basis points.

Subject to the approval of the Final Proposal by the Executive Director, the Executive Director is hereby authorized and directed to execute the Final Proposal on behalf of the

Authority; provided that the Executive Director shall not be obligated to approve any proposed modifications of the Proposal requested by the Bank which the Executive Director, in the Executive Director's sole discretion, deems not to be in the best interest of the Authority, and in the event that the Executive Director and the Bank are unable to agree on modifications to the Proposal to establish the Final Proposal, the Authority shall have no obligation to issue and deliver the Bonds.

Section 4. The form and substance of the Site Lease, the Facility Lease, the Trust Agreement and the Refunding Escrow Agreement are hereby approved. The Executive Director or designee thereof (all references hereafter in this resolution to "Executive Director" shall be deemed to include reference to any designee of the Executive Director) is hereby authorized and directed, for and in the name and on behalf of the Authority, to execute and deliver the Site Lease, the Facility Lease, the Trust Agreement and the Refunding Escrow Agreement in substantially said form, with such changes therein as the Executive Director, following consultation with Bond Counsel, may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. In satisfaction of one of the conditions of the Proposal, this Board hereby designates the Bonds and all of them as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986. In furtherance of such designation, this Board finds and determines and hereby declares that it has no expectation or intention of issuing additional tax-exempt obligations during calendar year 2012 in a principal amount, which when combined with the principal amount of the Bonds, would result in issuance of tax-exempt obligations during calendar year 2012 in an aggregate principal amount in excess of $10,000,000.

Section 6. The officers of the Authority are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this resolution. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 7. This resolution shall take effect immediately upon its passage.

I CERTIFY that at the regular meeting on August 21, 2012, the Governing Board of the El Cerrito Public Financing Authority passed this resolution by the following vote:

AYES:	BOARDMEMBERS
NOES:	BOARDMEMBERS
ABSENT:	BOARDMEMBERS
ABSTAIN:	BOARDMEMBERS

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

Cheryl Morse
Secretary, El Cerrito Public Financing Authority

APPROVED:

William C. Jones, III
Chair of the El Cerrito
Public Financing Authority Board

CHASE

August 10th, 2012

Mary Dodge
Administrative Services Director/City Treasurer
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA, 94530

RE: Private Placement for $2,516,500 Lease Revenue Refunding Bonds, Series 2012 for The City of El Cerrito (El Cerrito, California)through the El Cerrito Public Financing Authority

JPMorgan Chase Bank, NA ("Bank") is pleased to submit this proposal for tax-exempt financing to the City of El Cerrito (the "City" or "Issuer"). This proposal is presented in the form of a non-binding "Term Sheet", subject to final credit approval, negotiation and acceptance of all terms, conditions and documentation for the transaction. The letter does NOT signify a commitment by Bank to extend credit or purchase the Bonds.

TYPE OF FINANCING: Bank Qualified tax-exempt Lease Revenue Refunding Bonds (the "Bonds") to be issued by the El Cerrito Public Financing Authority and privately placed with Bank pursuant to the provisions of federal state and local statutes. Bank will require a single term instrument with mandatory sinking fund maturities, and without DTC registration. Bank intends to hold the Bonds to final maturity. Bank will not require either a Standard & Poor's rating for the bonds, or the purchase of bond insurance for repayment.

FORM OF BONDS: Bank will require a single term bond with sinking fund payments equivalent to the maturity schedule.

BANK QUALIFIED: The Bonds will be designated as "bank qualified" tax-exempt obligations under the Code Section 265(b).

LEGAL OPINION: Purchase of the Bonds will be subject to the opinion of Meyers, Nave, Riback, Silver & Wilson, Bond Counsel, to the effect that under existing laws and assuming continuous compliance by the Borrower with certain covenants designed to meet the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), interest on the Bonds will be excluded from gross income of the owners for Federal income tax purposes and is also exempt from California personal income taxes. Purchase of the Bonds will also be subject to a satisfactory opinion of Issuer's Counsel or Bond Counsel that the Issuer's obligations under the bond documents are legal, valid, binding and enforceable against the Issuer.

USE OF PROCEEDS:	Approximately $2,516,500 to provide for a refunding of the City's outstanding Swim Center Lease Revenue Bonds, Series 2002, in addition to the cost of issuance of the Bonds.
PRINCIPAL AMOUNT:	$2,516,500
FINANCING TERM:	Eight and a quarter (8) years or 96 months
INTEREST RATE:	The interest rate will be fixed immediately prior to closing, based upon an index of the 7-year Treasury Constant Maturity Rate as most recently published by the Federal Reserve Board in the Federal Reserve Statistical Release H.15 (519) (the "Index") plus 0.89% (the "Margin") over the Index. However, prior to acceptance, the interest rate may increase if the Bank's cost of funds increases. Bank's cost of funds may increase due to a number of factors including, but not limited to, changes in market conditions. Interest will be calculated on a 30/360 basis. To illustrate, if the financing closed on the date of this Term Sheet, the interest rate would be fixed 1.90% based upon the Index for August 6th, 2012.
REPAYMENT TERMS:	Eight(8) unequal annual payments of principal on Sept 1st of each year, commencing Sept 1st, 2013; seventeen (17) semi-annual payments of accrued interest on each March 1st and Sept 1st(each a "Payment Date") commencing March 1st, 2013, with a final maturity of Sept 1st, 2020.
OPTIONAL REDEMPTION:	The Bonds are not subject to optional redemption, in whole or in part, on any date prior to September 1, 2017. Thereafter, redemption at City's option may be made on any payment date, at the price of par plus accrued interest, with thirty (30) days written notice to Bank via US mail.
SECURITY:	Revenue pledge of the Measure A Parcel Tax Special Revenue Fund, a Non-Major Governmental Special Revenue Fund, without limitation to such fund by the City, which is a stand alone fund created specifically to receive revenues from the special parcel tax assessment on taxable real property located with in City. The City covenants to assess parcel taxes on an annual basis equal to 110% of the rental requirement (including any unencumbered monies remaining in the Fund; General Fund may be used, at the City's discretion and to the extent permissible and legally available, to the extent Measure A Parcel Tax revenues are not sufficient to pay debt service; and Rental Interruption Insurance equal to 24 months of rental obligations.

ADDITIONAL PROVISIONS:	No other bonds secured by Measure A Parcel Tax revenues may be issued without written consent of Bank. Bank consent will not be unreasonably withheld, especially where the System is operating profitably, and is in compliance with all of its financial performance covenants. Fifty percent (50%) of the existing Debt Service Reserve for the currently outstanding Swim Center Lease Revenue Bonds will be released at the closing of this transaction, with the balance remaining in the Debt Service Reserve Fund until September 1, 2019, at which time it will be released into a restricted swim pool fund at the City.
FINANCIAL REPORTING:	The City will be required to provide Bank with audited annual financial statements, free of significant deficiencies or material weakness, and prepared by an independent Certified Public Accountant, within 270 days of the close of its fiscal year. Additionally, the City will provide Bank with a copy of its annual budget, as adopted or amended, within 30 days of adoption or amendment. The City will also ensure the Bank receives a record of total tax delinquencies and receipts, as provided in the CAFR, on an annual basis. Other reporting, such as Bank may require from time to time, could include copies of any long-term capital improvement plans.
DOCUMENTATION:	Documentation shall be prepared by Issuer's counsel, Meyers, Nave, Riback, Silver & Wilson which firm represents Issuer at Issuer's expense. This Term Sheet is subject to approval of the documentation by the Bank and its independent Bank counsel, Squire Sanders, in the Bank's sole discretion, including but not limited to the form of bond resolution and form of bond.
BANK COUNSEL FEES:	Independent Bank counsel fees and costs not expected to exceed $10,000, to be paid by Issuer regardless of whether a closing occurs.
WAIVER OF IMMUNITY:	Documentation will provide that Issuer expressly waives and agrees not to claim any such sovereign immunity in any suits or judicial proceedings in connection with the provision of Bank products and services.
EXPIRATION:	This Term Sheet must be accepted on or before August 22nd, 2012 and funded on or before Oct 31st, 2012. If acceptance or funding has not occurred by the respective dates, the Bank may, at its option and in its sole discretion, terminate the Term Sheet and/or the Interest Rate may be adjusted.

MATERIAL CHANGE:

Any change (whether material or not) in the amount to be financed or a material change in the financial condition or prospects of the Issuer may constitute a re-pricing event and Bank may, at its option and in its sole discretion, terminate this Term Sheet and/or the Interest Rate may be adjusted.

DISPUTE RESOLUTION:

As a material inducement for Lender making entering in to this transaction, the Bond documentation shall contain a Dispute Resolution Provision concerning the resolution of any controversies or claims between or among any guarantor, Lender, Borrower or any other parties to the transaction, whether arising in contract, tort or by statute. Except to the extent expressly provided, any Dispute shall, upon the mutual agreement of the parties, acting in their sole and absolute discretion, be resolved by binding arbitration in accordance with the Federal Arbitration Act (Title 9, U.S. Code) (the "Federal Arbitration Act"). The Federal Arbitration Act will apply even though the Governing Law Section provides that the transaction is governed by the laws of the State. To the extent any Disputes are not arbitrated, the Disputes shall be resolved in court by a judge without a jury, except any Disputes which are brought in California state court shall be determined by judicial reference. Any Dispute which is not arbitrated and which is brought in California state court will be resolved by a general reference to a referee (or a panel of referees) as provided in California Code of Civil Procedure ("CCP") Section 638. The referee (or presiding referee of the panel) shall be a retired Judge or Justice. The referee (or panel of referees) shall be selected by mutual written agreement of the parties.

We appreciate your interest in us and look forward to your favorable response. Should you have any questions regarding this Term Sheet, please contact me at (510)420-0757 or via email at laura.j.jones@chase.com.

Sincerely,

JPMORGAN CHASE BANK, NA

By:________________
Laura Jones
Vice President

ACCEPTED BY: The City of El Cerrito

By: ____________________________________

Name: ____________________________________

Title: ____________________________________

Date: ____________________________________

Agenda Item No. 7(C)
Attachment 4

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(2002 Lease Revenue Bonds)

Sources and Uses of Funds (Proposed Pricing as of 8/5/12)

Notes: (Private Placement, BQ, New Project Fund, 9/25/12 Settlement / Prior Issue Call)

Sources of Funds		
	Loan Amount	2,516,500.00
	Plus: Accrued Interest	-
	Less: (OID) Plus: OIP	-
	Less: Underwriter's Discount (1)	-
	Net Proceeds at Closing	2,516,500.00
	Prior Issue Reserve Fund	370,665.00
	Other Source of Funds	-
	Total Prior Issue Funds	370,665.00
	Total Sources of Funds	**2,887,165.00**
Uses of Funds		
	Cost to Payoff Prior Bonds	2,437,063.67
	Beginning Escrow Cash Balance	-
	Reserve Fund (2)	185,332.50
	Surety Bond Premium (3)	-
	Bond Insurance Premium (4)	-
	Project Fund	196,518.83
	Costs of Issuance (5)	68,250.00
	Accrued Interest	-
	Total Uses of Funds	**2,887,165.00**
	Adjustment	**-**

Assumptions

(1) Not Applicable
(2) 7.36% of the Par Amount of Bonds
(3) Not Applicable
(4) Not Applicable
(5) See Attached Schedule

Run Date	**August 10, 2012**
Run Time	**8:09 AM**

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(2002 Lease Revenue Bonds)
Costs of Issuance

Bond Counsel	21,750.00
Financial Advisor	21,750.00
Investor Counsel	10,000.00
Trustee	3,000.00
Verification Agent	1,500.00
Title Insurance	2,500.00
Miscellaneous	7,750.00
Rounding Adjustment	-
Total	**68,250.00**

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(2002 Lease Revenue Bonds)

Summary Statistics

Arbitrage Yield	1.90013 %
TIC	1.90013 %
"All-In" TIC	2.58112 %
Average Coupon	1.90000 %
Net Interest Cost (NIC)	1.90000 %
Average Life	4.291 Years

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(2002 Lease Revenue Bonds)

Gross Debt Service Schedule and Savings Calculation (NPV Basis)

Date	Principal	Rate	Interest	Periodic Debt Service	Fiscal Debt Service	Prior Issue Periodic Debt Service	Prior Issue Fiscal Debt Service	Fiscal (Savings) / Cost	1.90013 Present Value
9/25/2012									
3/1/2013			20,719.18	20,719.18	20,719.18	52,977.50	52,977.50	(32,258.32)	(31,995.04)
9/1/2013	313,400	1.900	23,906.75	337,306.75		312,977.50			23,903.59
3/1/2014			20,929.45	20,929.45	358,236.20	47,777.50	360,755.00	(2,518.80)	(26,130.07)
9/1/2014	323,800	1.900	20,929.45	344,729.45		322,777.50			21,163.83
3/1/2015			17,853.35	17,853.35	362,582.80	42,277.50	365,055.00	(2,472.20)	(23,325.66)
9/1/2015	328,500	1.900	17,853.35	346,353.35		327,277.50			18,046.45
3/1/2016			14,732.60	14,732.60	361,085.95	36,292.50	363,570.00	(2,484.05)	(20,204.50)
9/1/2016	332,400	1.900	14,732.60	347,132.60		331,292.50			14,704.58
3/1/2017			11,574.80	11,574.80	358,707.40	29,950.00	361,242.50	(2,535.10)	(16,897.41)
9/1/2017	340,700	1.900	11,574.80	352,274.80		339,950.00			11,226.94
3/1/2018			8,338.15	8,338.15	360,612.95	23,130.00	363,080.00	(2,467.05)	(13,347.42)
9/1/2018	343,100	1.900	8,338.15	351,438.15		343,130.00			7,426.30
3/1/2019			5,078.70	5,078.70	356,516.85	15,930.00	359,060.00	(2,543.15)	(9,608.23)
9/1/2019	349,800	1.900	5,078.70	354,878.70		350,930.00			3,463.45
3/1/2020			1,755.60	1,755.60	356,634.30	8,225.00	359,155.00	(2,520.70)	(5,620.99)
9/1/2020	184,800	1.900	1,755.60	186,555.60		358,225.00			(147,752.52)
3/1/2021					186,555.60		358,225.00	(171,669.40)	
Totals	**2,516,500**		**205,151.23**	**2,721,651.23**	**2,721,651.23**	**2,943,120.00**	**2,943,120.00**	**(221,468.77)**	**(194,946.70)**
						Plus: Prior Issue Reserve Fund		**370,665.00**	**370,665.00**
						Plus: Prior Issue Other Funds		**-**	**-**
						Less: New Issue Reserve Fund		**(185,332.50)**	**(185,332.50)**
						Less: New Issue Project Fund		**(196,518.83)**	**(196,518.83)**
							Net Total	**(232,655.10)**	**(206,133.03)**
								Savings % New	**8.19%**
								Savings % Prior	**8.48%**

El Cerrito Public Financing Authority, Californi
2012 Refunding Loan Agreemen
(2002 Lease Revenue Bonds)

Gross Debt Service Schedule and Calculation of Annual Debt Service Coverage Requiremer

Date	Principal	Rate	Interest	Periodic Debt Service	Fiscal Debt Service	1.10X Coverage Requirement
9/25/2012						
3/1/2013			20,719.18	20,719.18	20,719.18	
9/1/2013	313,400	1.900	23,906.75	337,306.75		
3/1/2014			20,929.45	20,929.45	358,236.20	394,059.82
9/1/2014	323,800	1.900	20,929.45	344,729.45		
3/1/2015			17,853.35	17,853.35	362,582.80	398,841.08
9/1/2015	328,500	1.900	17,853.35	346,353.35		
3/1/2016			14,732.60	14,732.60	361,085.95	397,194.55
9/1/2016	332,400	1.900	14,732.60	347,132.60		
3/1/2017			11,574.80	11,574.80	358,707.40	394,578.14
9/1/2017	340,700	1.900	11,574.80	352,274.80		
3/1/2018			8,338.15	8,338.15	360,612.95	396,674.25
9/1/2018	343,100	1.900	8,338.15	351,438.15		
3/1/2019			5,078.70	5,078.70	356,516.85	392,168.54
9/1/2019	349,800	1.900	5,078.70	354,878.70		
3/1/2020			1,755.60	1,755.60	356,634.30	392,297.73
9/1/2020	184,800	1.900	1,755.60	186,555.60		
3/1/2021					186,555.60	205,211.16
Totals	**2,516,500**		**205,151.23**	**2,721,651.23**	**2,721,651.23**	**2,971,025.26**

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(2002 Lease Revenue Bonds)
Net Debt Service Schedule and Savings Calculation (Cash Flow NPV Basis)

New Issue Reserve Fund	**185,332.50**		**Prior Issue Reserve Fund**	**370,665.00**	
Investment Rate	**1.34000**		**Investment Rate**	**1.34000**	

Date	**New Issue Periodic Debt Service**	**Less: RF Earnings And Corpus**	**New Issue Net Periodic Debt Service**	**New Issue Net Fiscal Debt Service**	**Prior Issue Periodic Debt Service**	**Less: RF Earnings And Corpus**	**Prior Issue Net Periodic Debt Service**	**Prior Issue Net Fiscal Debt Service**	**Fiscal (Savings) / Cost**	**1.90013 Present Value**
9/25/2012										
3/1/2013	20,719.18	(1,076.16)	19,643.02	19,643.02	52,977.50	(2,483.46)	50,494.04	50,494.04	(30,851.03)	(30,599.23)
9/1/2013	337,306.75	(1,241.73)	336,065.02		312,977.50	(2,483.46)	310,494.04			25,123.59
3/1/2014	20,929.45	(1,241.73)	19,687.72	355,752.74	47,777.50	(2,483.46)	45,294.04	355,788.09	(35.34)	(24,921.55)
9/1/2014	344,729.45	(1,241.73)	343,487.72		322,777.50	(2,483.46)	320,294.04			22,360.98
3/1/2015	17,853.35	(1,241.73)	16,611.62	360,099.34	42,277.50	(2,483.46)	39,794.04	360,088.09	11.26	(22,139.78)
9/1/2015	346,353.35	(1,241.73)	345,111.62		327,277.50	(2,483.46)	324,794.04			19,221.17
3/1/2016	14,732.60	(1,241.73)	13,490.87	358,602.49	36,292.50	(2,483.46)	33,809.04	358,603.09	(0.59)	(19,040.84)
9/1/2016	347,132.60	(1,241.73)	345,890.87		331,292.50	(2,483.46)	328,809.04			15,857.30
3/1/2017	11,574.80	(1,241.73)	10,333.07	356,223.94	29,950.00	(2,483.46)	27,466.54	356,275.59	(51.64)	(15,755.55)
9/1/2017	352,274.80	(1,241.73)	351,033.07		339,950.00	(2,483.46)	337,466.54			12,358.06
3/1/2018	8,338.15	(1,241.73)	7,096.42	358,129.49	23,130.00	(2,483.46)	20,646.54	358,113.09	16.41	(12,226.95)
9/1/2018	351,438.15	(1,241.73)	350,196.42		343,130.00	(2,483.46)	340,646.54			8,536.23
3/1/2019	5,078.70	(1,241.73)	3,836.97	354,033.39	15,930.00	(2,483.46)	13,446.54	354,093.09	(59.69)	(8,508.75)
9/1/2019	354,878.70	(1,241.73)	353,636.97		350,930.00	(11,505.60)	339,424.40			12,466.02
3/1/2020	1,755.60	(1,241.73)	513.87	354,150.84	8,225.00	(8,225.00)	-	339,424.40	14,726.44	446.48
9/1/2020	186,555.60	(186,574.23)	(18.63)		358,225.00	(358,225.00)	-			(16.03)
3/1/2021				(18.63)				-	(18.63)	
Totals	**2,721,651.23**	**(205,034.58)**	**2,516,616.65**	**2,516,616.65**	**2,943,120.00**	**(410,240.52)**	**2,532,879.48**	**2,532,879.48**	**(16,262.83)**	**(16,838.86)**
							Plus: Prior Issue Other Funds		**-**	**-**
							Less: New Issue Project Fund		**(196,518.83)**	**(196,518.83)**
								Net Total	**(212,781.66)**	**(213,357.69)**
									Savings % New	**8.48%**
									Savings % Prior	**8.78%**

El Cerrito Public Financing Authority, California
2012 Refunding Loan Agreement
(2002 Lease Revenue Bonds)

Prior Issue Debt Service Schedule and Redemption Provisions

Date	Principal	Rate	Interest	Periodic Debt Service	Fiscal Debt Service	9/25/2012 Called Bonds	0.00% Call Premium	Periodic Debt Service	Defeasance Debt Service
9/1/2012									
9/25/2012								7,063.67	2,437,063.67
3/1/2013			52,977.50	52,977.50	52,977.50				
9/1/2013	260,000	4.000	52,977.50	312,977.50		260,000	-		
3/1/2014			47,777.50	47,777.50	360,755.00				
9/1/2014	275,000	4.000	47,777.50	322,777.50		275,000	-		
3/1/2015			42,277.50	42,277.50	365,055.00				
9/1/2015	285,000	4.200	42,277.50	327,277.50		285,000	-		
3/1/2016			36,292.50	36,292.50	363,570.00				
9/1/2016	295,000	4.300	36,292.50	331,292.50		295,000	-		
3/1/2017			29,950.00	29,950.00	361,242.50				
9/1/2017	310,000	4.400	29,950.00	339,950.00		310,000	-		
3/1/2018			23,130.00	23,130.00	363,080.00				
9/1/2018	320,000	4.500	23,130.00	343,130.00		320,000	-		
3/1/2019			15,930.00	15,930.00	359,060.00				
9/1/2019	335,000	4.600	15,930.00	350,930.00		335,000	-		
3/1/2020			8,225.00	8,225.00	359,155.00				
9/1/2020	350,000	4.700	8,225.00	358,225.00		350,000	-		
3/1/2021					358,225.00				
Totals	**2,430,000**		**513,120.00**	**2,943,120.00**	**2,943,120.00**	**2,430,000**	**-**	**7,063.67**	**2,437,063.67**

AGENDA BILL

THE CITY OF EL CERRITO

Agenda Item No. 7(D)

Date: August 21, 2012

To: City Council of the City of El Cerrito acting as Successor Agency to the El Cerrito Redevelopment Agency

From: Lori Treviño, Economic Development Manager

Subject: Review and authorization to submit draft Recognized Obligations Payment Schedule III (January-June 2013)

ACTION REQUESTED

Adopt Successor Agency resolution reviewing and authorizing submittal of the draft Recognized Obligations Payment Schedule III covering the period January through June 2013.

BACKGROUND

ABx1 26 ("Dissolution Act") dissolved the El Cerrito Redevelopment Agency ("RDA") and established the Successor Agency to the El Cerrito Redevelopment 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.

Pursuant to the Dissolution Act, the Successor Agency must review and authorize submittal of a Recognized Obligation Schedule ("ROPS") for each six-month period, starting in January 2012. 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.

CHANGES TO THE ROPS PROCESS

Assembly Bill 1484 ("Trailer Bill") was recently enacted by the State, which made numerous changes to the Dissolution Act related to the consideration of enforceable obligations and ROPS.

ROPS Consideration Timeline

The Trailer Bill changed the timeline for consideration of the ROPS, starting with ROPS III for January-June 2013. The Successor Agency must submit ROPS III approved by the Oversight Board to DOF no later than September 4, 2012 (delayed from September 1 as required in the legislation due to the Labor Day holiday). DOF then has 5 business days to request review of the ROPS before it becomes effective.

If the DOF requests review, then it 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 5 business days of receiving a DOF 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 III, the notification date is December 18, 2012 for the January 3, 2013 disbursement.

ROPS Review

The Trailer Bill requires DOF to determine whether items on the ROPS are enforceable obligations, and the amounts and the funding source of the obligations. It authorizes DOF to eliminate or modify any item on a ROPS prior to providing approval. The Successor Agency may request additional review. The Successor Agency may approve amendments to a ROPS to reflect the resolution of a dispute between the DOF and the Successor Agency, but any changes approved by the Successor Agency will not affect a prior allocation from the RPTTF or create a liability for taxing entities with respect to a prior allocation.

The Trailer Bill authorizes the A-C to review a ROPS and object to any items that are not demonstrated to be enforceable obligations and/or the funding source proposed for any items. This review can occur before or after Oversight Board action on a ROPS. The A-C can object by submitting notice to DOF, the Successor Agency, and the Oversight Board 60 days prior to the applicable RPTTF distribution date.

Penalties

Failing to submit a ROPS by the deadlines in the Trailer Bill may subject the City to $10,000 per day penalty for each day the ROPS is delinquent. Failure to submit a ROPS within 10 days of a deadline may result in a twenty-five percent reduction in the administrative cost allowance for that ROPS period.

ROPS III

DOF has provided a new form for ROPS III, which includes a summary of funds available and total obligations for the period, an itemized listing of obligations, and a reconciliation of the First ROPS. The proposed ROPS III is Exhibit A to the attached resolution, reviewing and authorizing its submittal. Obligations included are as follows:

- Tax Allocation Bond Debt Service. Funds are due to the bond trustee by June 27, 2013 for payment on July 1, 2013.

- ERAF and SERAF Loans. No payment due during the ROPS period. Note that while the Trailer Bill clarified the enforceability of SERAF and ERAF loans, it also delayed their repayment until 2013-14.

- Accrued Vacation Liability. This item is being added to the ROPS, as it was not identified prior to preparation of previous ROPS.

- Valente Promissory Note. Payment is due March 5, 2013.

- Ohlone Gardens Loan Obligation. This obligation is under dispute with DOF as to its funding source and any unpaid amounts are due during the ROPS period.

- Eden Housing Loan Obligation. This obligation is under dispute with DOF as to its funding source and any unpaid amounts are due during the ROPS period.

- Cooperation Agreement with the El Cerrito Municipal Services Corporation. A payment is due during the ROPS, but remains under dispute by DOF.

- Administrative Allowance for FY 2012-13. Unpaid on ROPS II due to insufficient funds in RPTTF, the amount is listed for payment on ROPS III.

- Administrative Allowance for FY 2011-12. Unpaid on ROPS I due to insufficient funds in RPTTF, the amount is listed for payment on a future ROPS.

Given the amount of debt service due during the ROPS period and the unpaid portion of pass through payments for FY 2011-12 that will be withheld by the A-C from the next RPTTF distribution, there are insufficient funds for all obligations due during the ROPS period. The Dissolution Act does not require the A-C to notify the Successor Agency of the anticipated RPTTF distribution for ROPS III until October 1, 2012, so staff was unable to complete the summary of funds available on the ROPS form. Items on ROPS I and ROPS II that were approved but were unpaid, or remain in dispute are listed for funding on a future ROPS, once there are sufficient funds and/or disputes are resolved.

Once authorized, the ROPS III will be considered by the Oversight Board at a special meeting on Monday, August 27, 2012.

Anticipating that DOF may modify its ROPS III form, the Successor Agency Resolution includes a provision authorizing staff to amend the form administratively to account for such changes by DOF that occur after the Successor Agency's consideration.

OTHER TRAILER BILL ELEMENTS

There are numerous other elements of the Trailer Bill, which are summarized below, along with a discussion of the impact on El Cerrito.

Enforceable Obligations

In recognition of the timing issues in the Dissolution Act, the Trailer Bill granted the Successor Agency the authority to amend the Enforceable Obligation Payment Schedule ("EOPS") that had been adopted by the RDA prior to dissolution to ensure that enforceable obligations were met until a ROPS could be approved by the Oversight

Board and the DOF. It deleted the prohibition on making payments after May 1, 2012 without those approvals and certification by the A-C.

The Trailer Bill clarified that enforceable obligations include:

- Contracts for administration or operation of the Successor Agency
- SERAF and ERAF loans from the LMIHF
- New loans from the City (with Oversight Board approval) for administrative costs, enforceable obligations and project-related expenses.

Pass-Through Payments

The Trailer Bill requires the A-C to make payments to the taxing entities for FY 2011-12 pass-through payments that were not previously paid by reducing the amount paid to the Successor Agency for enforceable obligations from the RPTTF, subject to subordination to bond debt. In El Cerrito's case, the A-C paid a portion of the payments from the RPTTF distribution for the Second ROPS and subordinated a portion. Future distributions from the RPTTF to the Successor Agency will be reduced until the subordinated amount is paid in full.

Other sections of the Trailer Bill make significant changes to the Dissolution Act as it relates to the calculation and payment of pass-through payments to taxing entities by the A-C. The stated legislative intent is that the full amount of pass-through payments be made from the RPTTF without reduction to account sufficient funds for enforceable obligations. Questions remain about the constitutionality of these pass-through payment amounts.

True Up Payment

The Trailer Bill contains procedures for distributing any residual amounts of funds in the RPTTF that would have been available if the Dissolution Act had gone into effect when originally intended and not modified by the Supreme Court. The intent appears to be to retroactively undo the Supreme Court stay and attempt expeditiously to collect funds from Successor Agencies.

Pursuant to this provision of the Trailer Bill, the A-C demanded $1.75 million ("True Up Payment") from the Successor Agency on July 9, 2012 to be paid by July 12, 2012. Failure to remit the payment would result in penalties against the Successor Agency and the City, with RPTTF Distributions to be withheld by the A-C and Sale and Use Tax revenue to be withheld from the City by the Board of Equalization ("BOE"). The Successor Agency filed a lawsuit on July 13, 2012 against the A-C, DOF, and BOE disputing the True Up Payment, penalties, and withholding of revenues.

Review Procedures

The Trailer Bill deletes the requirement that the First ROPS be certified by the A-C before it can take effect, but rather states it takes effect once approved by the Oversight Board and the DOF. The certification was to follow the completion of an agreed-upon procedures audit ("AUP") by the A-C. The AUP will still be completed, but the deadline is moved to October 1, 2012.

Additionally, the Successor Agency is required to hire a licensed accountant, to be approved by the A-C, to review the dissolution of the RDA and establishment of the Successor Agency, including disposition of real property and use of RDA funds. The process includes simultaneous consideration of the Review by the Oversight Board, the County administrative officer, the A-C, and the DOF. Review of the LMIHF is to be completed by October 1, 2012 and all other RDA funds by December 15, 2012. The intent of the review is to determine if any funds or assets should be returned to the A-C for distribution to taxing entities. There are similar penalties for noncompliance as with the True Up Payment. Should the Successor Agency comply with any required return of funds and assets, the result of the review is to be a Finding of Completion by the DOF that would allow the Successor Agency to retain RDA assets for redevelopment purposes.

It is staff's understanding the Government Accounting and Audit Committee (GAAC) has advised CPA accounting firms not to engage this review as it doesn't follow professional accounting standards, but are working with DOF and the State Controller's Office (SCO) on procedures that will meet accounting standards. Procedures are not expected to be available until the end of August, making completion of the Housing portion of the review by October 1 challenging.

Of particular concern are provisions of the Trailer Bill that appear to exclude from the definition of enforceable obligations certain items that were considered enforceable under the Dissolution Act, thereby retroactively disallowing payments made by the RDA prior to dissolution, even though such payments were valid at the time they were made.

<u>Affordable Housing and Housing Successor</u>
The Trailer Bill significantly modifies and clarifies treatment of affordable housing assets and obligations under the Dissolution Act. In particular, the definition of a Housing Asset is clarified to include real property purchased for affordable housing, encumbered funds, receivables, and amounts that were owed to the Low and Moderate Income Housing Fund ("LMIHF") from the RDA for funds borrowed to pay the Supplemental Educational Revenue Augmentation Fund ("SERAF") in prior years. It provides a process for the Oversight Board to review and determine (subject to DOF review) the disposition of mixed-use assets. It also proscribes a process for DOF review of the transfer of Housing Assets from the RDA to the City as Housing Successor to be completed by September 1, 2012, and requires the establishment by the Housing Successor of a Low and Moderate Income Housing Asset Fund.

The establishment of this fund and DOF's review of the transfer of Housing Assets from the RDA to the Housing Successor are underway and staff will provide updates to the City Council of the results of that review in October.

There remain numerous unresolved issues related to affordable housing, including the role of Housing Successors, funding of their administrative costs, and continuation of redevelopment housing production requirements. These issues will require additional clean-up legislation.

Successor Agency Legal Status

The Trailer Bill attempts to clarify the legal status of the Successor Agency, but there remains some ambiguity. It states that the Successor Agency and the City are separate legal entities, but does not address the relationship between them.

Specific clarifications include:

- The City is not responsible for the former RDA's liabilities, as they automatically transferred to the Successor Agency upon RDA dissolution.
- The Successor Agency can only participate in redevelopment activities to the extent it is completing work on enforceable obligations.
- The Successor Agency is subject to the Brown Act.
- The City may not reverse its election to serve as the Successor Agency.
- The Successor Agency is able to file for bankruptcy as a local public entity.
- Creditors of the Successor Agency, DOF and affected taxing entities have standing to file suit to compel a Successor Agency to adopt a ROPS or face penalties.
- The Successor Agency is required to cause an annual audit of its financial transactions and records.
- The Successor Agency is required to dispose of all assets and terminate its existence within one year of its final debt payment.

Successor Agency Activities

The Successor Agency is authorized to:

- Hold reserves when the next allocation from the RPTTF will be insufficient to pay bond debt obligations;
- Create enforceable obligations as needed to conduct its wind-down activities, such as hiring staff, consultants or legal counsel, or procuring insurance;
- Enter into contracts to comply with enforceable obligations that existed prior to June 28, 2011;
- Enter into a contract (with Oversight Board approval) with the City to fund shortfalls for Successor Agency administrative costs, enforceable obligations, or project-related expenses;
- List on its ROPS certain costs separate from its administrative cost allowance.

Oversight Board

The Trailer Bill made modifications to the Dissolution Act related to the Oversight Board. Those of significance include:

- No conflict of interest exists when Oversight Board members employed by the City vote to approve a contract as an enforceable obligation.
- The Oversight Board can direct the Successor Agency to provide legal or financial advice independent of Successor Agency Staff and is authorized to contract with the county or a private agency for administrative support.
- The Oversight Board may reduce the Successor Agency's administrative cost allowance below the previous statutory minimum of $250,000.
- On matters within its purview, the Oversight Board may supersede decisions of the Successor Agency or staff.

- Oversight Board members have the same immunities applicable to public entities and public employees when exercising its authorities under the Dissolution Act.
- The DOF may request review of an Oversight Board action within 5 days of receipt of notice of the action and then have 40 calendar days to approve or return the action for reconsideration. For actions related to real property and housing assets, DOF may extend the review period to 60 calendar days. (Note a different review period applies to DOF review of a ROPS.)

LEGAL CONSIDERATIONS

Review and authorization of ROPS III is consistent with the Dissolution Act and Trailer Bill.

Reviewed by:

Scott Hanin
City Manager

Attachments:

1. Successor Agency Resolution 2012-XX, reviewing and authorizing submittal of the draft Recognized Obligation Payment Schedule for January-June 2013

Agenda Item No. 7(D)
Attachment 1

SUCCESSOR AGENCY RESOLUTION 2012–XX

RESOLUTION OF THE GOVERNINHG BOARD OF THE SUCCESSOR AGENCY TO THE EL CERRITO REDEVELOPMENT AGENCY AUTHORIZING SUBMITTAL OF THE DRAFT RECOGNIZED OBLIGATION PAYMENT SCHEDULE III FOR JANUARY THROUGH JUNE 2013, 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 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 Successor Agency to the El Cerrito Redevelopment Agency (the "Successor Agency"), should it 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, pursuant to the Dissolution Act, the Successor Agency timely submitted Recognized Obligation Payment Schedules ("ROPS") for Periods I and II covering the period January through June 2012 and July through December 2012, respectively, which had been approved by the Oversight Board to the Successor Agency (the "Oversight Board"), to the California Department of Finance (the "DOF"); and paid DOF-approved ROPS items to the degree funds were available in the RORF or disbursed by the Auditor-Controller from the RPTTF; and

Agenda Item No. 7(D)
Attachment 1

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 ROPS III covering the period January through June 2013, to the DOF by September 1, 2012 (delayed administratively to September 4, 2012 due to the Labor Day holiday); and

WHEREAS, the Trailer Bill requires the Successor Agency to submit the ROPS III on a form provided by DOF, which was made available on August 1, 2012, but modified on August 13, 2012; and

WHEREAS, the City Council, acting in its role as Successor Agency, has reviewed the draft ROPS III that was prepared pursuant to the Dissolution Act, which is 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 III administratively to account for any additional changes made by DOF to the ROPS form that occur after the Successor Agency's consideration.

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

BE IT FURTHER RESOLVED that the City Council of the City of El Cerrito acting as Successor Agency to the El Cerrito Redevelopment Agency authorizes the submittal of the draft Recognized Obligation Payment Schedule III 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 August 21, 2012, the City Council of the City of El Cerrito as Successor Agency to the El Cerrito Redevelopment 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 and affix the corporate seal of the City of El Cerrito on August ___, 2012.

____
Cheryl Morse, City Clerk

APPROVED:

____
William C. Jones III, Mayor

Agenda Item No. 7(D)
Exhibit A

SUMMARY OF RECOGNIZED OBLIGATION PAYMENT SCHEDULE
Filed for the January 1, 2013 to June 30, 2013 Period
See Attached Page of Explanatory Notes for Lines B, C E and G

Name of Successor Agency: El Cerrito

		Total Outstanding Debt or Obligation
Outstanding Debt or Obligation		$ 135,500,435
Current Period Outstanding Debt or Obligation		**Six-Month Total**
A	Available Revenues Other Than Anticipated RPTTF Funding	-
B	Anticipated Enforceable Obligations Funded with RPTTF	2,929,899
C	Anticipated Administrative Allowance Funded with RPTTF	-
D	Total RPTTF Requested (B + C = D)	2,929,899
	Total Current Period Outstanding Debt or Obligation (A + B + C = E) *Should be the same amount as ROPS form six-month total*	$ 2,929,899
E	Enter Total Six-Month Anticipated RPTTF Funding *(Obtain from county auditor-controller)*	
F	Variance (E - D = F) *Maximum RPTTF Allowable should not exceed Total Anticipated RPTTF Funding*	$ (2,929,899)
Prior Period (January 1, 2012 through June 30, 2012) Estimated vs. Actual Payments (as required in HSC section 34186 (a))		
G	Enter Estimated Obligations Funded by RPTTF *(Should be the lesser of Finance's approved RPTTF amount including admin allowance or the actual amount distributed)*	-
H	Enter Actual Obligations Paid with RPTTF	-
I	Enter Actual Administrative Expenses Paid with RPTTF	-
J	Adjustment to Redevelopment Obligation Retirement Fund (G - (H + I) = J)	-
K	**Adjusted RPTTF** *(The total RPTTF requested shall be adjusted if actual obligations paid with RPTTF are less than the estimated obligation amount.)*	$ 2,929,899

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

Signature Date

Name of Successor Agency: El Cerrito
County: Contra Costa

Oversight Board Approval Date: ____________________

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS III)
January 1, 2013 through June 30, 2013
See Attached Page of Explanatory Notes

									Funding Source						
Item #	Project Name / Debt Obligation	Contract/ Agreement Execution Date	Contract/ Agreement Termination Date	Payee	Description/ Project Scope	Project Area	Total Outstanding Debt or Obligation as of 6/30/12	Total Due During Fiscal Year 2012-13	LMIHF	Bond Proceeds	Reserve Balance	Admin Allowance	RPTTF	Other	Six-Month Total
	Grand Total						135,500,435	6,416,147	-	-	-	-	2,929,899	-	2,929,899
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	4,191,180	1,040,930					487,125		487,125
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	875,840	427,764					211,013		211,013
3	Tax Allocation Bonds 2004 A	10/21/2004	7/1/2023	Union Bank	Tax-exempt TAB for Infrastructure Projs	City of El Cerrito	13,645,964	1,184,341					758,114		758,114
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	481,045	481,045					-		-
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	5,389,513	406,308					134,888		134,888
6	2009-10 SERAF Loan	2/16/2010	NA	City L&M Housing Fund	Funds advanced for SERAF payment	City of El Cerrito	995,741	-					-		-
7	2005-06 ERAF Loan	4/17/2006	NA	City L&M Housing Fund	Funds advanced for ERAF payment	City of El Cerrito	251,577	-					-		-
8	Accrued Vacation Liability	NA	NA	City of El Cerrito	Accrued Vacation Liability of RDA-funded employees	City of El Cerrito	19,392	19,392					19,392		19,392
9	Valente Promissory Note	3/5/2009	3/5/2024	George Valente	Loan for land acquistion	City of El Cerrito	3,170,371	288,215					288,215		288,215
10	Ohlone Gardens Loan Agreement	6/24/2009	NA	Ohlone Gardens LP	Undisbursed loan commitment	City of El Cerrito	471,152	471,152					471,152		471,152
11	Eden Housing Loan Agreement	5/17/2011	NA	Eden Housing	Undisbursed loan commitment	City of El Cerrito	310,000	310,000					310,000		310,000
12	Cooperation Agreement	3/7/2011	11/24/2024	El Cerrito MSC	Implementation of City of El Cerrito Redevelopment	City of El Cerrito	105,198,660	1,287,000					-		-
13	FY 2012-13 Administrative Allowance	Statutory	NA	City of El Cerrito	Administrative Allowance per AB1x26	City of El Cerrito	250,000	250,000					250,000		250,000
14	FY 2011-12 Administrative Allowance	ROPS I Unpaid	NA	City of El Cerrito	Administrative Allowance per AB1x26	City of El Cerrito	250,000	250,000					-		-

Name of Successor Agency: El Cerrito
County: Contra Costa

Pursuant to Health and Safety Code section 34186 (a)
PRIOR PERIOD ESTIMATED OBLIGATIONS vs. ACTUAL PAYMENTS
RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS I)
January 1, 2012 through June 30, 2012
See Attached Page of Explanatory Notes

Page/Form	Line	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
		Grand Total				$ 781,152	$ -	$ -	$ -	$ -	$ 29,704	$ -	$ -	$ 953,989	$ -	$ -	$ 674,284
ROPS 1	1	Tax Allocation Bonds 1997 A	Union Bank	Refunding of prior TAB for Redev Projs	City of El Cerrito												
ROPS 1	2	Tax Allocation Bonds 1998 B	Union Bank	Refunding of prior TAB for L&M Hsg Projs	City of El Cerrito												
ROPS 1	3	Tax Allocation Bonds 2004 A	Union Bank	Tax-exempt TAB for Infrastructure Projs	City of El Cerrito												
ROPS 1	4	Tax Allocation Bonds 2004 B Non-Hsg	Union Bank	Taxable TAB for Redev Projs	City of El Cerrito												
ROPS 1	5	Tax Allocation Bonds 2004 B Hsg	Union Bank	Taxable TAB for L&M Hsg Projs	City of El Cerrito												
ROPS 1	6	Valente Promissory Note	George Valente	Loan for land acquistion	City of El Cerrito						29,704			288,216	0		$ 258,511
ROPS 1	7	Cooperation Agreement	El Cerrito MSC	Impl. of City of El Cerrito Redev. Plan	City of El Cerrito												
ROPS 1	9	2009-10 SERAF Loan	City L&M Housing Fund	Funds advanced for SERAF payment	City of El Cerrito									331,914	0		331,914
ROPS 1	10	2005-06 ERAF Loan	City L&M Housing Fund	Funds advanced for ERAF payment	City of El Cerrito									83,859	0		83,859
ROPS 1	11	Ohlone Gardens Loan Agreement	Ohlone Gardens LP	Undisbursed loan commitment	City of El Cerrito	471,152	0										
ROPS 1	12	Eden Housing Loan Agreement	Eden Housing	Undisbursed loan commitment	City of El Cerrito	310,000	0										
ROPS 1	13	FY 2011-12 Administrative Allowance	City of El Cerrito	Administrative Allowance per AB1x26	City of El Cerrito								0	250,000	0		

Name of Successor Agency: El Cerrito
County: Contra Costa

RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS III) – NOTES
January 1, 2013 through June 30, 2013

Item #	Notes/Comments
	SUMMARY PAGE
B/C	The Successor Agency's Administrative Allowance of $250,000 is to be funded from RPTTF and is listed in the RPTTF column of the itemized ROPS. Therefore the allowance is included in Line B, not Line C. Also see note for ROPS III Line 13 below.
E	County Auditor Controller is unable to provide an estimate of anticipated RPTTF Funding prior to September 4, 2012.
G	Finance's approved RPTTF amount was $953,988 for ROPS I, but no RPTTF was distributed to the Successor Agency for ROPS I. ROPS I was funded with the portion of the Tax Increment received by the Redevelopment Agency in December, 2011 that was placed in the Successor Agency's Redevelopment Obligation Retirement Fund ("RORF") on February 1, 2012.
	ROPS III
	Amounts in the Total Outstanding Obligation column are as of 6/30/2012 and therefore include payments made on ROPS II during FY 2012-13. The only source of funds for ROPS III will be RPTTF distributed to the Successor Agency from the County Auditor-Controller.
8	This item is being added to ROPS III, as it was not identified prior to preparation of ROPS I and ROPS II.
10	DOF approved this item on ROPS I, but changed the funding source from RPTTF to LMIHF, which Successor is disputing, as there are no funds in the LMIHF, and no funds from the LMIHF were deposited into the RORF. This Item is being retained on this ROPS to be paid from RPTTF, pending resolution of the dispute over the funding source. See correspondence dated July 9, 2012 and July 12, 2012, and Petition for Writ of Mandate and Complaint for Declaratory Relief and Injunction, El Cerrito Successor Agency v Robert Campbell et al.
11	DOF approved this item on ROPS I, but changed the funding source from RPTTF to LMIHF, which Successor is disputing, as there are no funds in the LMIHF, and no funds from the LMIHF were deposited into the RORF. This Item is being retained on this ROPS to be paid from RPTTF, pending resolution of the dispute over the funding source. See correspondence dated July 9, 2012 and July 12, 2012, and Petition for Writ of Mandate and Complaint for Declaratory Relief and Injunction, El Cerrito Successor Agency v Robert Campbell et al.
12	The Successor Agency is disputing DOF's disapproval of this item on ROPS I and ROPS II. See correspondence from legal counsel Sky Woodruff, Meyers Nave dated 6/1/2012. This item is being retained on this ROPS to be paid from RPTTF, pending resolution of the dispute.
13	As the funding source of the Successor Agency's Admnistrative Allowance is RPTTF, the obligation is listed in the RPTTF column rather than the Administrative Allowance column, which appears redundant in this case. Administrative costs are being borne by the City of El Cerrito and will be reimbursed by the Successor Agency from deposits from the RPTTF to the RORF, rather than charging those costs directly to the RORF.
14	Although DOF approved this item on ROPS I, there were insufficient funds distributed from the RPTTF for ROPS I. Therefore the Item is being retained on the ROPS for future funding from RPTTF.
	PRIOR PERIOD PAYMENTS
	Funding in the Successor Agency's RORF for ROPS I included only two sources: FY2011-12 Tax Increment received by the Redevelopment Agency in December 2011 (uses listed in the Other column) and a small residual of prior years' tax increment and interest (uses listed in the Reserve Balance column.)
6	The Successor Agency listed and the DOF approved this item on ROPS I for funding with RPTTF. However, RORF funds used for the payment originated as Reserve Balance and FY2011-12 Tax Increment (listed as "Other").
9	The Successor Agency listed and the DOF approved this item on ROPS I for funding with RPTTF. However, RORF funds used for the payment originated as FY2011-12 Tax Increment (listed as "Other").
10	The Successor Agency listed and the DOF approved this item on ROPS I for funding with RPTTF. However, RORF funds used for the payment originated as FY2011-12 Tax Increment (listed as "Other").
11	The Successor Agency listed this item on ROPS I for funding with RPTTF. DOF approved the item for funding with LMIHF. However, there were no funds in the LMIHF. This Item is being retained on ROPS III to be paid from RPTTF, pending resolution of the dispute.
12	The Successor Agency listed this item on ROPS I for funding with RPTTF. DOF approved the item for funding with LMIHF. However, there were no funds in the LMIHF. This Item is being retained on ROPS III to be paid from RPTTF, pending resolution of the dispute.
13	The Successor Agency listed and the DOF approved this item on ROPS I for funding with RPTTF. However, there were insufficient funds to pay this ite and it is being retained on ROPS III to be paid from RPTTF.