



AGENDA

SPECIAL CITY COUNCIL MEETING

August 11, 2020 – 4:30 p.m.

Members:

Mayor Gregory B. Lyman

Mayor Pro Tem Paul Fadelli · Councilmember Janet Abelson
Councilmember Rochelle Pardue-Okimoto · Councilmember Gabriel Quinto

Join Via WebEx:

<https://elcerrito.webex.com/elcerrito/onstage/g.php?MTID=e2bff40274a0e7adaa22507ff7a016ddf>

Event Number: 146 528 6824

Event Password: Jfq2ZS

or

Dial In: 1-408-418-9388

Access Code: 146 528 6824

Pursuant to Executive Orders N-25-20 and N-29-20, Teleconference Restrictions of the Brown Act Have Been Suspended, as Well as the Requirement to Provide a Physical Location for Members of the Public to Participate in the Meeting.

Members of the public can watch or listen to City Council meetings as follows:

1. Cable T.V. Broadcast on KCRT Channel 28
2. Radio Broadcast on FM 88.1 Or 97.7
3. Livestream Online at www.el-cerrito.org/CouncilMeetingMaterials
4. Via WebEx using the meeting information listed above.

Public Comments may be submitted one of two ways, **and are limited to items on the special meeting agenda only:**

1. Via WebEx using the “[Raise Hand](#)” feature to request to speak. Each period of public comment will be announced.

****Please note** - If a member of the public can join via phone **only**, a request to speak may be submitted via email to cityclerk@ci.el-cerrito.ca.us. The request must contain in the subject line **Request to Speak – Agenda Item #** and must include a name and the full phone number that will be used to call in.

2. Via email to cityclerk@ci.elcerrito.ca.us. Email must contain in the subject line **public comments – agenda item #**.

To ensure that the City Council receives your written comments prior to taking action, they must be received by **1:30 p.m. the day of the meeting**. All written comments received by this deadline will be provided to the City Council and posted online in advance of the meeting.

Written comments received after the deadline will be provided to the City Council and included with supplemental materials after the meeting. **No written comments will be read into the record.**

4:30 P.M. ROLL CALL - CONVENE SPECIAL CITY COUNCIL MEETING

1. TELECONFERENCE AND PUBLIC COMMENT INSTRUCTIONS

2. ADOPTION OF THE CONSENT CALENDAR

A. Agreement with Mark 43 Inc. to provide Computer Aided Dispatch and Records Management Software.

Action Proposed: Adopt a resolution authorizing the City Manager to make payment to Mark 43, Inc. to provide computer aided dispatch and records management software for an amount not to exceed \$50,000, for the time period of July 25, 2020 through July 24, 2021.

Contact: Paul Keith, Chief of Police, El Cerrito Police Department

3. POLICY MATTERS

A. Fiscal Response Plan

Action Proposed: Discuss the City's fiscal response to the COVID recession and lack of reserves, including the budget reduction target and potential strategies, and to direct staff to implement the recommended strategies within the upcoming amendments to the City's budget.

Contact: Karen Pinkos, City Manager, City Management

4. ADJOURN SPECIAL CITY COUNCIL MEETING

The next regularly scheduled City Council meeting is Tuesday, August 18, 2020 at 7:00 via teleconference.

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.

- 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: 510-215-4305, email cityclerk@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 BILL

Agenda Item No. 2.A.

Date: August 11, 2020
To: El Cerrito City Council
From: Paul Keith, Chief of Police, El Cerrito Police Department
Subject: Agreement with Mark 43 Inc. to provide Computer Aided Dispatch and Records Management Software.

ACTION PROPOSED

Adopt a resolution authorizing the City Manager to make payment to Mark 43, Inc. to provide computer aided dispatch and records management software for an amount not to exceed \$50,000, for the time period of July 25, 2020 through July 24, 2021.

BACKGROUND/ANALYSIS

On June 20, 2017, the El Cerrito City Council authorized the City Manager to enter into an agreement with Mark 43 Inc. to provide computer aided dispatch and records management software services to the El Cerrito Police Department. On July 25, 2017, Mark 43 Inc. began providing these services to the El Cerrito Police Department.

The Police Department uses Mark 43 Inc. computer aided dispatch software to direct officers to calls, access records while in the field, and track officer locations. The department uses records management software to create and store official police reports. These software products are also used by the City of Richmond to dispatch El Cerrito Police units.

The Mark 43 Inc. software products are cloud based systems which do not require City owned servers to store data or run the applications. The products are intended to be paperless applications, allowing officers to complete reports in the field or from any computer or internet connected device. The software products allow the Police Department to electronically submit cases to the District Attorney's Office for review.

Staff have been using Mark 43 Inc. computer aided dispatch and records management software products daily since the products were implemented in 2017. Staff has found the software to be efficient, accessible and reliable. Approving the attached resolution will allow Police operations to continue without disruption.

STRATEGIC PLAN CONSIDERATIONS

Approving the attached resolution will help the City in achieving goals related to ensuring the public's health and safety. The use of Mark 43, Inc. records management and computer aided dispatch software helps officers respond to calls in a timely manner and reduces redundancies in data entry and records management.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

This agreement is in an amount not to exceed \$50,000. Funding for this item is included in the FY 2020-21 budget.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approved as to form the attached resolution and service agreement.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Karen Pinkos".

Karen Pinkos, City Manager

Attachments:

1. Resolution
2. Agreement

RESOLUTION NO. 2020-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO MAKE PAYMENT TO MARK 43, INC. TO PROVIDE COMPUTER AIDED POLICE DISPATCH AND RECORDS MANAGEMENT SOFTWARE FOR AN AMOUNT NOT TO EXCEED \$50,000.

WHEREAS, the City of El Cerrito entered into an agreement with Mark 43 Inc. for the provision of computer aided dispatch and records management software, beginning on July 25, 2017; and

WHEREAS, the agreement renewed on July 25, 2020; and

WHEREAS, Mark 43, Inc. has demonstrated that its product meets the operational requirements of the El Cerrito Police Department for computer aided dispatch and records management software; and

WHEREAS, the El Cerrito Police Department has a need for reliable and proven dispatch and records management software.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to make payment to Mark 43, Inc. to provide computer aided dispatch and records management software for an amount not to exceed \$50,000, for the time period of July 25, 2020 through July 24, 2021.

I CERTIFY that at a special meeting on August 11, 2020 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on August 11, 2020.

Holly Charl  ty, City Clerk

APPROVED:

Gregory B. Lyman, Mayor

SOFTWARE LICENSE AND SERVICES

This Software License and Services Agreement (this "**Agreement**") is effective as of July 25, 2017 (the "**Effective Date**") by and between Mark43, Inc. ("**Mark43**"), with a place of business at 28 E. 28th 12th Floor, New York, NY 10016, and El Cerrito Police Department ("**Subscriber**"), with a place of business at 10900 San Pablo Ave, El Cerrito, CA 94530.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS.

- 1.1 **Defined Terms.** Defined terms have the meanings set forth in this Article 1 (Definitions) and elsewhere in this Agreement when capitalized, and may be read in singular, plural or an alternative tense as the context requires.
- 1.2 **"Affiliate"** means, with respect to any entity, any other entity who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise.
- 1.3 **"Applicable Law"** means, with respect to any party, any federal, state or local statute, law, ordinance, rule, administrative interpretation, regulation, order, writ, injunction, directive, judgment, decree or other requirement of any international, federal, state or local court, administrative agency or commission or other governmental or regulatory authority or instrumentality, domestic or foreign, applicable to such party or any of its properties, assets or business operations.
- 1.4 **"Applications"** means the Records Management System, Computer-Aided Dispatch and Evidence Management Applications, as described in Schedule A.
- 1.5 **"Authorized User"** means an Affiliate, employee or independent contractor of Subscriber (solely to the extent such contractor is providing services to Subscriber), who has been authorized by Subscriber to use the SaaS Services.
- 1.6 **"Documentation"** means the user guides and user manuals for the SaaS Services that Mark43 provides to Subscriber.
- 1.7 **"Integration Control Document"** means the agreement, if applicable, governing any integrations with Third Party Applications.
- 1.8 **"Intellectual Property Rights"** means all intellectual and industrial property rights, whether now existing or existing in the future, including without limitation, (i) all patent rights, including any rights in pending patent applications and any related rights; (ii) all copyrights and other related rights throughout the world in works of authorship, including all registrations and applications therefor; (iii) all trademarks, service marks, trade dress or other proprietary trade designations, including all registrations and applications therefor (iv) all rights throughout the world to proprietary know-how, trade secrets and other confidential information, whether arising by law or pursuant to any contractual obligation of non-disclosure; and (v) all other rights covering industrial or intellectual property recognized in any jurisdiction.
- 1.9 **"Professional Services"** means the evaluation, consultation, implementation, customization, configuration and other services offered by Mark43 in connection with the SaaS Services.
- 1.10 **"SaaS Services"** means the Applications, Software, and related software-as-a-service, hosting, maintenance and/or support services made available by Mark43 for remote access and use by Subscriber, including any Documentation thereto.
- 1.11 **"Services"** means the services provided or required to be provided by or through Mark43, including without limitation, SaaS Services and Professional Services.
- 1.12 **"Software"** means the object code version of Mark43's computer software and all Updates made available by Mark43 to Subscriber under this Agreement.
- 1.13 **"Statement of Work"** means a detailed plan of work to be agreed by the Parties in conjunction with this Agreement.

- 1.14 "Subscriber Data" means all data, information, content and other materials stored or transmitted by Subscriber and any Authorized User through the SaaS Services (i) in their user accounts; and (ii) on any Third Party Application, excluding any Third Party Data and any Mark43 Data.
- 1.15 "Term" means the Initial Term and any Renewal Term.
- 1.16 "Third Party Application" means a third-party service controlled or managed by a Third Party Provider, and approved by Mark43, to which Subscriber and any Authorized User facilitates Mark43's access to, and use, of the SaaS Services, via an application programming interface or other means.
- 1.17 "Third Party Components" means any components of the SaaS Service from time to time that are provided by third parties (e.g., Google Maps).
- 1.18 "Third Party Data" means any data owned by a third party that Subscriber accesses via the SaaS Service.
- 1.19 "Third Party Provider" means third parties, including other vendors, state agencies and local agencies, that control products and/or databases with which Mark43 SaaS Services are to be interfaced.
- 1.20 "Updates" means any and all new releases, new versions, patches and other updates for the SaaS Services that Mark43 makes generally available without additional charge to its other subscribers of the SaaS Services.
- 1.21 "Vendors" means third parties with whom Mark43 contracts to provide components of the SaaS Services, and includes without limitation, Amazon Web Services (for platform hosting) and Google (for Google Maps).
- 1.22 "Website" means any Internet website through which Mark43 provides the SaaS Services under this Agreement.

2. SERVICES.

- 2.1 **SaaS Services.** During the Term, Mark43 hereby grants a non-exclusive, non-transferable, non-sublicensable license to Subscriber and its Authorized Users to access and use the SaaS Services through the Website for Subscriber's internal purposes and in accordance with the terms and conditions of this Agreement. Mark43 will be responsible for hosting the Website, and Subscriber and its Authorized Users will be responsible for obtaining internet connections and other third party software and services necessary for it to access the Website through the Internet as set forth in Schedule C, "Technical Requirements." Subscriber will be responsible to Mark43 for compliance with the restrictions on use and other terms and conditions of this Agreement by any of its Authorized Users.
- 2.2 **Professional Services.** Mark43 offers Professional Services in connection with the SaaS Services as further described in Schedule A. To the extent any Professional Services involve the development of any customization or configuration to the SaaS Services, all Intellectual Property Rights to such customization or configuration will be solely owned by Mark43 and will be deemed to be included in the definition of SaaS Services and licensed to Subscriber on the terms set forth herein.
- 2.3 **Access to Documentation.** Mark43 will provide Subscriber via the Website or other means with access to the Documentation, as may be updated from time to time. Subscriber may print copies of, use, and permit its Authorized Users to use, the Documentation solely in connection with the use of the SaaS Services.
- 2.4 **Support Services.** Mark43 will provide a telephone-based help desk through which it will respond to inquiries about the SaaS Services from Subscriber via telephone from 7 AM to 7 PM (Eastern Time), Mondays through Fridays (excluding U.S. Federal holidays). Mark43 also provides a 24/7 email based help desk for the SaaS Services as set forth in Schedule A.
- 2.5 **Restrictions on Use.** Subscriber and its Authorized Users will not (and will not permit any third party to): (i) share Subscriber's or any Authorized User's login credentials; (ii) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code, underlying ideas, algorithms, file formats, or interface protocols of the SaaS Services or of any files contained in or generated by the SaaS Services; (iii) copy, modify, adapt or translate the SaaS Services or the Third Party Data, or otherwise make any use, resell, distribute or sublicense the SaaS Services or the Third Party Data other than in connection with this Agreement; (iv) make the SaaS Services

available on a "service bureau" basis or allow any third parties to use the SaaS Services; (v) disclose the SaaS Services or any of its components to third parties; (vi) remove or modify any proprietary marking or restrictive legends placed on the SaaS Services or the Third Party Data; (vii) use the SaaS Services or the Third Party Data in violation of any Applicable Law; (viii) create or augment any mapping-related dataset including a mapping or navigation dataset, business listings database, mailing list, or telemarketing list) for use in an implementation that is not connected to the Services; (ix) use the SaaS Services or the Third Party Data in violation of any Applicable Law; (x) introduce into the Services any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature; (xi) use the Services to post advertising or listings; (xii) use the Services to defame, abuse, harass, stalk, or threaten others; (xiii) permit access or use of the Services by any individual outside the United States; (xiv) hide or obscure any Authorized User's location; (xv) permit access or use of the Services, for any activities other than to enhance Subscriber's own services, where reliance solely on, or failure to use, the Services could lead to death, personal injury, or property damages. Subscriber and its Authorized Users will not access the SaaS Services if in direct competition with Mark 43, and will not allow access to the SaaS Services by any party who is in direct competition with Mark43, except with Mark43's prior written consent. Subscriber shall comply with additional restrictions on use of the Services in Additional Terms, as defined in Section 2.10 below.

- 2.6 Security Obligations.** Subscriber agrees it and its Authorized Users shall securely manage their respective password(s) for access to the SaaS Service. Subscriber agrees it shall notify Mark43 promptly in the event it becomes aware of any unauthorized access or use of the SaaS Service, or of any of its or its Authorized Users passwords or accounts. Unless expressly stated otherwise in this Agreement, a single username or password may not be used by more than one (1) Authorized User. [In addition, Authorized Users may log into the SaaS Service from only one location at any given time – concurrent usage (or sign in) under a single username is prohibited.] Subscriber is responsible for all activities conducted within User accounts in use of the SaaS Service. Subscriber shall comply with all applicable local, state, federal and regional or other laws and regulations applicable in connection with use of the SaaS Service, including all those related to data privacy and the transmission of technical or personal data. Subscriber agrees to (a) provide true, accurate, current and complete registration data for each account it creates via the SaaS Service, and (b) maintain and promptly update the registration data to keep it true, accurate, current and complete.
- 2.7 Title.** As between Mark43 and Subscriber, Mark43 retains title to and ownership of the SaaS Services, including all copyrights and other Intellectual Property Rights relating thereto. Mark43's licensors retain title to and ownership of the Third Party Data and the Third Party Components, including all copyrights and other intellectual property rights relating thereto. Subscriber will have no rights with respect to the SaaS Services, the Third Party Data or the Third Party Components other than those expressly granted under this Agreement. Any suggestions for changes or improvements to Services that Subscriber provides to Mark43, whether solicited by Mark43 or not, shall be owned by Mark43 and Subscriber hereby irrevocably assigns, and shall assign, to Mark43 all right, title, and interest in and to such suggestions. Mark43 shall have no obligation to incorporate such suggestion into its products or Services.
- 2.8 Subscriber Data.** As between Mark43 and Subscriber, Subscriber owns and shall retain all right, title, and interest, including, without limitation, all Intellectual Property Rights, in and to the Subscriber Data. Subscriber shall have the sole responsibility for the accuracy, quality, and legality of the Subscriber Data, including obtaining all rights and consents necessary to share the Subscriber Data with Mark43 as set forth in this Agreement. Notwithstanding anything to the contrary contained herein, Subscriber hereby grants to Mark43 an irrevocable, worldwide, royalty free, non-exclusive, transferable, sublicensable license to use the Subscriber Data to: provide the SaaS Services to Subscriber and other Mark43 subscribers; analyze the Subscriber Data in anonymized and/or aggregate form in order to operate, maintain, manage, and improve the SaaS Services, create new products and services, and share and/or license this aggregate data to Affiliates, agents, business partners, and other third parties; for Mark43's internal purposes to improve the Applications, Software, and related services, and any other uses disclosed in or related to performance under the Agreement or any statement of work.
- 2.9 Third Party Applications.** If Subscriber installs or enables a Third Party Application for use with the SaaS Services, Subscriber grants (and will cause the applicable third party to grant) Mark43 permission to access Subscriber Data stored on that Third Party Application as required for the interoperation of that Third Party Application with the SaaS Services. In no event will Mark43 be responsible for any Third Party Application, or for any failure of a Third Party Application to properly interoperate with the SaaS Services. If Mark43 receives information that a Third Party Application

may violate any Applicable Laws or Third Party rights, Subscriber will, promptly upon receiving notice of the foregoing from Mark43, disable any connection between such Third Party Application and the SaaS Services to resolve the potential violation (and if Subscriber fails to promptly disable such connection, Mark43 shall have the right to do so). In addition, in the event that Subscriber fails to properly obtain the grant of rights to Mark43 to access and use Third-Party Data as required for the interoperation of that Third-Party Application, Subscriber shall defend, indemnify, and hold harmless Mark43 from any and all claims based on Mark43's use of such Third-Party Application.

2.10 Third Party Components.

(a) **Use of Third-Party Components.** Mark43 may use Vendors to subcontract the performance of its duties and obligations hereunder and to provide certain functions of the Services, including without limitation, hosting and data analysis. Certain Vendor policies and terms and conditions of service shall apply to the Services. Such terms, or URL locator addresses for such terms, will be provided on Schedule D or in writing from time to time, "Additional Terms." If any of the Vendors and/or licensors of the Third-Party Components require Mark43 to flow down any Additional Terms Subscriber, Subscriber's use of such Third-Party Components, as incorporated into the SaaS Service, shall be subject to such Additional Terms. In the event of any inconsistency or conflict between the Additional Terms and the terms of this Agreement, such Additional Terms shall govern with respect to Subscriber's use of the applicable Third Party Component.

(b) **DISCLAIMER REGARDING THIRD PARTY COMPONENTS.** MARK43, NOT BEING THE PROVIDER OR MANUFACTURER OF THE THIRD PARTY COMPONENTS, NOR THE PROVIDERS' OR MANUFACTURERS' AGENT, MAKES NO EXPRESS OR IMPLIED WARRANTY OF ANY KIND WHATSOEVER WITH RESPECT TO THE THIRD PARTY COMPONENTS AND DISCLAIMS ANY SUCH WARRANTIES THAT MIGHT OTHERWISE EXIST.

2.11 Third Party Data. Subscriber shall access and use the Third Party Data in accordance with the terms and conditions of the agreement between the Subscriber and the provider of such Third Party Data. MARK43, NOT BEING THE PROVIDER OR MANUFACTURER OF THE THIRD PARTY DATA, NOR THE PROVIDERS' OR MANUFACTURERS' AGENT, MAKES NO EXPRESS OR IMPLIED WARRANTY OF ANY KIND WHATSOEVER WITH RESPECT TO THE THIRD PARTY DATA AND DISCLAIMS ANY SUCH WARRANTIES THAT MIGHT OTHERWISE EXIST.

2.12 Agreements with Third Party Providers. Subscriber, and not Mark43, is solely responsible for establishing any required agreement(s) and/or statement(s) of work with Third Party Providers in connection with the interfaces, and for paying all fees, costs and expenses of Third Party Providers.

2.13 Changes to Services. Mark43 may make changes and Updates to its Services, provided that it does not materially derogate the overall quality of the Services. Mark43 does not guarantee that the Services are or will remain compatible with any particular third party software or equipment, and may, upon written notice, terminate its support for, any software or equipment of Subscriber that Mark43 determines are incompatible with the operation of the Services.

3. FEES AND PAYMENT TERMS.

3.1 Fees for Mark43 Services. Subscriber will pay Mark43 fees as stated on Schedule A (the "Fees") attached hereto in accordance with the payment schedule set forth on Schedule A. All payments of Fees are non-refundable. All amounts stated in this Agreement or on any invoice are in U.S. dollars, and all payments will be made in U.S. dollars. Overdue payments will accrue interest at the lesser of one and one-half percent (1.5%) per month or the maximum allowable interest under Applicable Law, from due date until paid. Subscriber will pay any sales, use or other tax related to the license and services provided hereunder, exclusive of income taxes and payroll taxes relating to Mark43's employees. Subscriber agrees that its use of and payment for Services constitutes its inspection and acceptance of such Service.

3.2 Third-Party Data and Third-Party Components. Additional fees may apply to the use of certain Third-Party Data and Third-Party Components, which if provided by Mark43, such fee may be included within the Fees. Mark43 may pass through any increase in such fees for Third Party Components or Third Party Data, relating to any existing Services, by giving Subscriber thirty (30) days' advance notice.

3.3 Taxes. Subscriber will be responsible, as required under applicable law, for identifying and paying all taxes, including sales, use, excise, and other governmental fees, duties, and charges (and any

penalties, interest, and other additions thereto) that are imposed on Subscriber or Mark43 with respect to the transactions and payments under this Agreement (excluding taxes based on Mark43's income or employment) ("Indirect Taxes"). All Fees are exclusive of Indirect Taxes. If Subscriber is exempt from paying Indirect Taxes, it shall provide to Mark43 exemption certificates, or a direct payment permit certificate, or such information to Mark43 as reasonably required and requested to determine whether Mark43 is obligated to collect Indirect Taxes from Subscriber. If any such taxes are required to be withheld on any payment, Subscriber will pay such additional amounts as are necessary so that the net amount received by Mark43 is equal to the amount then due and payable under this Agreement.

4. TERM AND TERMINATION.

4.1 Term.

(a) Initial Term. The initial term of this Agreement begins on the Effective Date and will continue for the period set forth on Schedule A, unless and until terminated in accordance with Section 4.2 (the "Initial Term").

(i) Renewal Terms. Upon expiration of the Initial Term or any Renewal Term, this Agreement will automatically renew for successive periods as set forth on Schedule A (each, a "Renewal Term") at the rates set forth on Schedule A, unless either party provides the other with written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current term.

4.2 Temporary Suspension and Termination.

(i) Either party may terminate this Agreement upon written notice to the other party, if the other party reaches a material term of this Agreement and such breach remains uncured for thirty (30) days after the other party's receipt of such notice.

(ii) If Mark43 reasonably determines that Subscriber's use of the Services either: (i) fails to comply with the Restrictions on Use in Section 2.5; (ii) poses a security risk to the Services or any third party, (iii) creates or is likely to create an adverse impact on Mark43's systems, the Services, or the systems or content of any other subscriber; or (iv) subjects Mark43 or its Affiliates to possible liability, then Mark43 may immediately upon notice temporarily suspend Subscriber's and any Authorized User's right to access any portion or all of the Services, pending remedial action by Subscriber, or after a period of 30 days, terminate the Services.

4.3 Effect of Termination. In the event of any termination or expiration of this Agreement,

(i) Subscriber will pay Mark43 all amounts payable hereunder as of the effective date of termination or expiration;

(b) all rights and licenses granted hereunder to Subscriber (as well as all rights granted to any Authorized Users of Subscriber) will immediately cease, including but not limited to all use of the SaaS Services; and

(c) Mark43 will provide records to Subscriber in accordance with its transition assistance services ("Transition Assistance") as set forth in Schedule B.

(i) Subscriber will, upon written request of Mark43, either return to Mark43 or provide Mark43 with written certification of the destruction of, all documents, computer files and other materials containing any Confidential Information of Mark43 that are in Subscriber's possession or control.

4.4 Survival. The following provisions will survive any termination or expiration of this Agreement: Section 2.7 ("Subscriber Data"), Section 2.9 ("Third Party Components"), Section 2.10 ("Third Party Data"), Section 4.3 ("Effect of Termination"), Section 5 ("Confidentiality"), Section 6.2 ("Disclaimer"), Section 7 ("Limitation of Liability"), Section 8 ("Indemnification"), Section 9 ("Miscellaneous Provisions"), Schedule B ("Transition Assistance") and this Section 4.4 ("Survival").

5. CONFIDENTIALITY.

5.1 **Definition of Confidential Information.** For the purposes of this Agreement, "Confidential Information" means: (a) with respect to Mark43, the SaaS Services, and any and all source code relating thereto, as well as Documentation and non-public information or material regarding Mark43's legal or business affairs, financing, customers, properties or data, and (b) with respect to Subscriber, any non-public information or material regarding Subscriber's legal or business affairs, financing, customers, properties or data. Notwithstanding any of the foregoing, Confidential Information does not include information which: (i) is or becomes public knowledge without any

action by, or involvement of, the party to which the Confidential Information is disclosed (the "Receiving Party"); (ii) is documented as being known to the Receiving Party prior to its disclosure by the other party (the "Disclosing Party"); (iii) is independently developed by the Receiving Party without reference or access to the Confidential Information of the Disclosing Party and is so documented; or (iv) is obtained by the Receiving Party without restrictions on use or disclosure from a third person who did not receive it, directly or indirectly, from the disclosing party.

- 5.2 Use and Disclosure of Confidential Information.** The Receiving Party will, with respect to any Confidential Information disclosed by the Disclosing Party before or after the Effective Date: (i) use such Confidential Information only in connection with the Receiving Party's performance of this Agreement; (ii) subject to Section 5.4 below, restrict disclosure of such Confidential Information within the Receiving Party's organization to only those of the Receiving Party's employees and independent contractors who have a need to know such Confidential Information in connection with the Receiving Party's performance of this Agreement and (iii) except as provided herein, not disclose such Confidential Information to any third party unless authorized in writing by the Disclosing Party to do so.
- 5.3 Protection of Confidential Information.** The Receiving Party will protect the confidentiality of any Confidential Information disclosed by the Disclosing Party using at least the degree of care that it uses to protect its own confidential information (but no less than a reasonable degree of care).
- 5.4 Employee and Independent Contractor Compliance.** The Receiving Party will, prior to providing any employee or independent contractor access to any Confidential Information of the Disclosing Party, inform such employee or independent contractor of the confidential nature of such Confidential Information and require such employee or independent contractor to comply with the Receiving Party's obligations hereunder with respect to such Confidential Information.
- 5.5 Required Disclosures.** If a party is requested to disclose any of the other party's Confidential Information pursuant to any judicial or governmental order, that party will not disclose the Confidential Information without first giving the other party written notice of the request and sufficient opportunity to contest the order, to the extent such notice and opportunity to contest may be lawfully given. If one party is nonetheless legally compelled to disclose Confidential Information, such party may, without liability hereunder, disclose to such tribunal only that portion of the Confidential Information which such counsel advises it is legally required to be disclosed, provided that such party shall use its best efforts to preserve the confidentiality of the Confidential Information, including, without limitation, by cooperating with the other party to obtain an appropriate protective order or other reliable assurance that confidential treatment will be afforded the Confidential Information by such tribunal. Without limiting the foregoing, Subscriber shall notify Mark43 of any requests for records relating to Mark43 (including, without limitation, user guides or Documentation, or documents submitted by Mark43 in response to the RFP) within 24 hours of receipt of the request and provide Mark43 with at least twenty-one (21) days' notice before disclosing any such records. Without limiting the foregoing, Subscriber further agrees to indemnify and hold harmless Mark43, its Affiliates, and each of their officers, directors, managers, shareholders, members and employees from all claims, liabilities, costs and expenses (including without limitation, reasonable attorneys' fees and expert and consulting fees), incurred or expended by Mark43 in connection with a request for the disclosure of Subscriber Data.
- 5.6 Information Collected Through SaaS Services.** Subscriber is solely responsible for compliance with applicable laws related to the manner in which Subscriber chooses to use the Services, including Subscriber's transfer and processing of Subscriber Data. Subscriber understands and agrees that when it uses certain features of the SaaS Services, certain information and data may be collected from Authorized Users, including monitoring and recording activity, and tracking physical location, which may include personal identifying information. Subscriber agrees that Mark43 may use such information to (i) provide more effective Services, (ii) to develop and test its Services, (iii) to aggregate such information and combine it with that of other Users, and (iv) to use anonymous aggregate data to improve the Services or for marketing, research or other business purposes. Provision of Services may involve the disclosure of such information to Vendors or Affiliates on the condition that they agree to treat such information in a manner substantially in accordance with this Agreement. Subscriber may revoke its consent to Mark43's collecting and using such data at any time by written notice to Mark43; provided, however, that Subscriber agrees that such revocation of consent may impair or render impossible the Subscriber's use of the SaaS Services.

6. REPRESENTATIONS AND WARRANTIES.

- 6.1 Power and Authority.** Each party represents and warrants that it has the full right, power and authority to enter into this Agreement and to discharge its obligations hereunder and that the person signing this Agreement on behalf of the party has the authority to bind that party. Subscriber represents and warrants that it has obtained, and shall have, all necessary approvals, consents, and authorizations necessary for procurement under this Agreement and that its obligations under this Agreement do not, and shall not, exceed any budget authority limitations, during the Term of this Agreement. Subscriber further represents that it has not received federal funding in connection with procurement under this Agreement.
- 6.2 No Other Warranties.** Use of the SaaS Services is not intended to be a substitute for the professional judgment of dispatchers, law enforcement officers, or first responders. The SaaS Services do not provide legal advice. Subscriber shall be responsible for all its own actions or failure to act in connection with the SaaS Services. Mark43 cannot guarantee that every error in the SaaS Services or problem raised by Subscriber will be resolved. THE SERVICES, THE THIRD PARTY COMPONENTS, AND THE THIRD PARTY DATA ARE PROVIDED "AS IS." MARK43 ASSUMES NO RESPONSIBILITY OR RISK FOR SUBSCRIBER'S USE OR MISUSE OF, OR FAILURE TO USE, THE INFORMATION PROVIDED THROUGH THE SAAS SERVICES. MARK43 MAKES NO WARRANTY THAT THE SERVICES WILL BE COMPLIANT WITH ANY REQUIREMENTS OF CJIS (CRIMINAL JUSTICE INFORMATION SERVICES) OR CLETS (CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM) OR ANY EQUIVALENT. DUE TO THE NATURE OF SOFTWARE AND THE INTERNET, MARK43 CANNOT GUARANTEE THAT EVERY ERROR IN THE SAAS SERVICES OR PROBLEM RAISED BY SUBSCRIBER WILL BE RESOLVED. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 6 NEITHER PARTY MAKES ANY WARRANTY IN CONNECTION WITH THE SERVICES, THE THIRD PARTY COMPONENTS, THE THIRD PARTY DATA OR THIS AGREEMENT AND HEREBY DISCLAIMS ANY AND ALL IMPLIED OR STATUTORY WARRANTIES, INCLUDING ALL IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, ERROR-FREE OR UNINTERRUPTED OPERATION OR THAT THE SERVICES, THIRD-PARTY COMPONENTS AND THIRD-PARTY DATA ARE UP TO DATE, ACCURATE OR COMPLETE, SECURE FROM LOSS OR DAMAGE, OR FREE OF HARMFUL COMPONENTS, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. To the extent that a party may not as a matter of Applicable Law disclaim any implied warranty, the scope and duration of such warranty will be the minimum permitted under such law.

7. LIMITATION OF LIABILITY.

- 7.1 Liability Exclusion.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR FOR ANY OTHER DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OR USE, OR FAILURE OF, OF THE SERVICES, THE THIRD PARTY COMPONENTS OR THE THIRD PARTY DATA PROVIDED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, PERSONAL INJURY, DEATH, DAMAGE TO PROPERTY, ENVIRONMENTAL DAMAGE, LOSS OF PROFITS, REVENUES, ANTICIPATED SAVINGS, CUSTOMERS, OPPORTUNITIES, DAMAGE TO PRIVACY, REPUTATION OR GOODWILL OR UNAVAILABILITY OF THE SERVICES, REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.
- 7.2 Limitation of Damages.** MARK43'S MAXIMUM LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER, REGARDLESS OF THE CAUSE OF ACTION (WHETHER IN CONTRACT, TORT, BREACH OF WARRANTY OR OTHERWISE), WILL NOT EXCEED THE AGGREGATE AMOUNT OF THE FEES PAID AND PAYABLE TO MARK43 BY SUBSCRIBER DURING THE SIX (6) MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM ARISES. MARK43 SHALL HAVE NO LIABILITY ARISING OUT OF OR RELATING TO THE THIRD-PARTY COMPONENTS OR THE THIRD-PARTY DATA.
- 7.3 Exceptions.** NOTWITHSTANDING THE FOREGOING, THE EXCLUSIONS AND LIMITATIONS OF LIABILITY SET FORTH IN SECTION 7.1 AND SECTION 7.2 SHALL NOT APPLY TO DAMAGES ARISING FROM EITHER PARTY'S INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT OR EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

8. INDEMNIFICATION.

8.1 Indemnification by Mark43. Mark43 will defend, indemnify and hold harmless Subscriber and its Authorized Users, and each of their officers, directors, managers, shareholders, members and employees from any and all claims, liabilities, costs and expenses (including reasonable attorney's fees and expert and consulting fees) in connection with any third party claim arising after the Effective Date that the use of the SaaS Services (excluding any open source software) in accordance with this Agreement infringes or misappropriates the United States intellectual property rights of third party; provided, however, that the foregoing obligations shall be subject to Subscriber (a) promptly notifying Mark43 of the claim, (b) providing Mark43 with reasonable cooperation in the defense of the claim when Subscriber becomes aware and (c) providing Mark43 with sole control over the defense and negotiations for a settlement or compromise; provided, however, that Mark43 shall not enter into any such settlement without Subscriber's prior written consent, which consent will not be unreasonably withheld, and that Subscriber shall be permitted to participate in the defense of any such claim, at its own expense, with counsel of its choosing. Notwithstanding the foregoing, Mark43 shall have no obligation with respect to a third party claim to the extent the third party claim arises from: (s) claims arising out of acts or omissions of Subscriber or its users, employees or contractors; (t) claims brought by Subscriber or its Affiliates or Authorized Users; (u) claims arising from the use of old versions software after receipt of modified or updated versions of software; (v) claims arising from the use of Third Party Applications, Third Party Components or Third Party Data; (x) use of the SaaS Services in combination with modules, apparatus, hardware, software, or services not authorized by Mark43 or specified in the Documentation for use with the SaaS Services; (y) use of the SaaS Services in a manner that is not in accordance with this Agreement or the Documentation; (z) the alteration or modification of the SaaS Services by a party other than Mark43, unless such alterations and modifications were authorized by Mark43 or specified in the Documentation for use with the SaaS Services.

8.2 Indemnification by Subscriber. Subscriber will defend, indemnify and hold harmless Mark43 and its Affiliates, and each of their officers, directors, managers, shareholders, members and employees from any and all claims, liabilities, costs and expenses (including reasonable attorney's fees and expert and consulting fees) in connection with (I) any third party claim arising from or relating to (i) any allegation that any data, product specifications, information or materials provided by Subscriber hereunder, including, without limitation, the Subscriber Data and Third Party Applications, when used in connection with the SaaS Services: (a) infringes or misappropriates any Intellectual Property Rights of a third party, or (b) violates any Applicable Laws; (ii) the actual or alleged violation of Applicable Law by Subscriber, any Authorized User, or any Affiliate, employee, agent or independent contractor of Subscriber; or (iii) Subscriber's breach of this Agreement; provided, however, that the foregoing obligations shall be subject to Mark43 (x) promptly notifying Subscriber of the claim, (y) providing Subscriber with reasonable cooperation in the defense of the claim and (z) providing Subscriber with sole control over the defense and negotiations for a settlement or compromise; provided, however, that Subscriber shall not enter into any such settlement without Mark43's prior written consent, which consent will not be unreasonably withheld, and that Mark43 shall be permitted to participate in the defense of any such claim, at its own expense, with counsel of its choosing; (II) disabling a connection to a Third Party Application at Subscriber's request; (III) Subscriber's actions or failure to act, resulting in any third-party claim for personal injury or death, damage to personal property or reputation, environmental damage, interference with contract or employment, or violation of privacy; (IV) any request pursuant to a judicial or governmental order or other similar process, including but not limited to a subpoena or FOIA request or discovery request, seeking the disclosure of any Subscriber Data. For the avoidance of doubt, and without limiting the foregoing, Subscriber hereby acknowledges that Mark43 shall have no implicit or explicit obligation to challenge, oppose or defend against any request described in Clause (IV) of this subsection unless and until Subscriber reaffirms that it will honor its indemnification obligations as provided herein.

9. MISCELLANEOUS.

9.1 Notices. Unless otherwise specified herein, all notices and other communications between the parties required or permitted by this Agreement or by Applicable Law, will be deemed properly given, if given by (i) personal service, (ii) registered or certified mail, postage prepaid, return receipt requested, or (iii) nationally recognized private courier service, to the respective addresses of the parties set forth below or such other addresses as the respective parties may designate by like notice from time to time. Notices so given will be effective upon (a) receipt by the party to which notice is given; or (b) on the fifth (5th) business day following mailing, whichever occurs first:

If to Mark43:

Mark43, Inc.
28 E. 28th Street
12th Floor
New York, NY 10016
Attn: David Jochim

If to Subscriber:

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530
Attn: Paul Keith

Copy to:

Mark43, Inc.
28 E. 28th Street
12th Floor
New York, NY 10016
Attn: General Counsel

Copy to:

City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530
Attn: City Attorney

- 9.2 **Assignment.** Neither party may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior, written consent of the other party; provided, however, that a party may, without the consent of the other party, assign or otherwise transfer this Agreement to any of its Affiliates or to an entity with or into which it is merged or consolidated or to which it sells its stock or other equity interests or all or substantially all of its assets. Any assignment or other transfer in violation of this section will be null and void. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.
- 9.3 **[Reserved]**
- 9.4 **Force Majeure.** Except with respect to failure to pay any amount due under this Agreement, nonperformance of either party will be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts that are not caused by or within the control of the nonperforming party, orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing party.
- 9.5 **No Waiver.** The failure of either party to enforce at any time for any period any provision hereof will not be construed to be a waiver of such provision or of the right of such party thereafter to enforce each such provision, nor shall any single or partial exercise of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver of any rights is to be charged against any party unless such waiver is in writing signed by an authorized representative of the party so charged.
- 9.6 **Amendment.** No modification, change or amendment to this Agreement shall be effective unless in writing signed by Subscriber and Mark43. No term included in any invoice, estimate, confirmation, acceptance, purchase order or any other similar document in connection with this Agreement will be effective unless expressly stated otherwise in a separate writing signed by Subscriber and Mark43.
- 9.7 **Relationship of the Parties.** The relationship of the parties established by this Agreement is that of independent contractors and nothing contained herein will be construed to (a) give any party any right or authority to create or assume any obligation of any kind on behalf of any other party or (b) constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking.
- 9.8 **Severability.** Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction will, to the extent the economic benefits conferred thereby to the parties remain substantially unimpaired, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions or affecting the validity or enforceability of any of such terms or provisions in any other jurisdiction.
- 9.9 **Headings.** The titles and headings contained in this Agreement are for reference purposes only and shall not in any manner limit the construction or interpretation of this Agreement.
- 9.10 **Counterparts.** This Agreement may be executed, including by electronic signature, in two or more counterparts, each of which shall be an original and all such counterparts together shall constitute

one and the same instrument. Electronically executed or electronically transmitted (including via facsimile transmission) signatures have the full force and effect of original signatures.

- 9.11 Cumulative Remedies.** All remedies for breach of this Agreement are cumulative, and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 9.12 Export Compliance.** In connection with this Agreement, each party will comply with all applicable import, re-import, export, and re-export control laws and regulations, including the Export Administration Regulations, the International Traffic in Arms Regulations, and country-specific economic sanctions programs implemented by the Office of Foreign Assets Control.
- 9.13 Compliance with Laws.** Each party shall comply with all Applicable Laws relating or pertaining to the use of the Services. Subscriber shall ensure that its use of all Subscriber Data complies with all Applicable Laws relating to the privacy of third parties or the protection of their personal data promulgated by any governmental, municipal, or legal authority having jurisdiction over Subscriber or the End User Data covered by this Agreement. "Applicable Laws" means all applicable provisions of all (x) constitutions, treaties, statutes, laws (including the common law), rules, directives, regulations, ordinances, codes or orders of any governmental authority and (y) orders, decisions, injunctions, judgments, awards and decrees and consents of or agreements with any such entity. Each party shall comply with local anti-bribery laws as well as the U.S. Foreign Corrupt Practices Act, as well as any other applicable laws and regulations. In connection with its performance under the Agreement, neither party shall directly or indirectly: (A) offer, pay, promise to pay, or authorize the payment of any money, gift or other thing of value to any person who is an official, agent, employee, or representative of any government or instrumentality thereof or to any candidate for political or political party office, or to any other person while knowing or having reason to believe that all or any portion of such money, gift or thing of value will be offered, given, or promised, directly or indirectly, to any such official, agent, employee, or representative of any government or political party, political party official or candidate; (B) offer, promise or give any person working for, or engaged by, the other party a financial or other advantage to (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; or (C) request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement. Each party represents and warrants that it shall be responsible for compliance with this provision by all third parties engaged by it to perform services related to this Agreement and shall require that such third parties agree to comply with all legal requirements required of such party under this Agreement.
- 9.14 Entire Agreement.** This Agreement supersedes all previous understandings, agreements and representations between the parties, written or oral and constitutes the entire agreement and understanding between the parties with respect to the subject matter thereof and incorporates all representations, warranties, covenants, commitments and understandings on which they have relied in entering into this Agreement, and, except as provided for herein, neither party makes any covenant or other commitment concerning its future action nor does either party make any promises, representations, conditions, provisions or terms related thereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

MARK43, INC.

By: 
Title: VP of Finance
Date: 7/21/17

EL CERRITO POLICE DEPARTMENT

By: 
Title: City Manager
Date: 7/20/17

[Updated 7/19/17]

SCHEDULE A
Services Schedule

1. **Services.** The Services covered by this Agreement consists of the following:

a. **Professional Services:**

County Message Switch (CLETS queries from within CAD and RMS)
Cop Logic
Contra Costa ARIES
Crime Reports
Zoll Tablet PCR
First Watch
Crime Mapping
Zoll FireRMS
Priority Dispatch ProQA
Mobile PD
Tri-Tech AMR
Rip-N-Run Interface or similar feature
Zetron Ringdown
Cogent Livescan
Temporary interface from New World CAD to Mark43 RMS
Provision of two servers to be installed at El Cerrito Police Department
Data conversion from one existing database to Mark43 RMS

b. **SaaS Services:**

- i. The Applications to be provided are described as follows:

Records Management System

Field Contact & Offense Reporting
Incident Reporting
Arrest & Booking
DUI Arrest
Automatic UCR & NIBRS coding
Exported PDF Forms
Custom Units, Teams and User Roles
Configurable Report Approval Chains
Dynamic Master Entity Profiles
Image, Video, and Audio file uploads
Permission-based Read/Write Privileges
User Specific Reports Dashboard
Advanced Search
Rich Text Formatting
Auto-Validation of Fields, Locations and People
Configurable Fields
Smart Duplicate Data Entry Logic and Prevention
Configure all mandated NCIC Masks for Mark43 RMS

Computer Aided Dispatch

Call Taking and Dispatching
Event Management
Call Processing
Automatic Vehicle Location Mapping (Integration)
Unit Management and Monitoring
Call Management
Silent Dispatch
Command Line Functionality
FireCAD Run Card and Dispatch Capabilities

Mark43 Evidence

Immutable Chain of Custody
Master Item Profile

Chain of Custody Validations and Guardrails
 Digitally capture signatures and photo ID's
 Batch Label Printing
 Support for Zebra Printing
 Storage Location Setup and Customization
 Mobile Application (barcode scanning)
 Automated disposition approval process with customizable retention periods

Mark43 Case Management

The Mark43 RMS case management module interfaces directly with reports written in the RMS and enables pulling of data from multiple disparate incidents into one investigation.

- ii. Upon completion of the Professional Services, Mark43 will provide Subscriber with the SaaS Services for the Fees set forth in Section 4 below (the "**Regular Usage Period**"). The parties anticipate that the Regular Usage Period will commence on or about **September 15, 2017**.
2. **Initial Term**. The Initial Term is two (2) years commencing on the Effective Date.
3. **Renewal Terms**. Any Renewal Terms shall be for a period of 1 year.
4. **Fees**. The Fee for the Initial Term is \$46,170.00 per year.
 Mark43 Pricing is based on the number of sworn officers employed directly or indirectly by Subscriber at the time the Order Form is signed. In the event that Subscriber increases its number of employed sworn officers during the Term by more than 10 percent (10%), then the annual fee shall increase by \$1000 per sworn officer in excess of 45.
 Mark43 will notify Subscriber of any changes to the Fees for a Renewal Term at least forty-five (45) days prior to the start of the Renewal Term.
5. **Payment Schedule**. Subscriber will pay the Fees on the following schedule:
 - a. **Initial Term: \$46,170.00 per year**. The annual fee for the first full year of the Regular Usage Period is due in full in advance on the first day of the Regular Usage Period, and for subsequent years the annual fee is due in full on the anniversary of such date.
 - b. **Renewal Term: Fees for any Renewal Term will be paid on the first day of the Renewal Term.**
6. **Support Services**. As part of the SaaS Services, subject to Section 2.4, Mark43 shall establish, sufficiently staff and maintain the organization and processes necessary to provide telephone and/or email based technical support, troubleshooting, error identification, isolation and remediation, and other assistance directly to Subscriber and its Authorized Users to support Subscriber's use, deployment and validation of the SaaS Services on a 24x7 basis, and after normal business hours and on holidays, as necessary to support Mark43's obligations under this Agreement. The contact information for Mark43's technical support organization is Support@mark43.com and Mark43 will notify Subscriber in writing of any changes no less than 5 days in advance. Mark43 shall provide Subscriber with online access to its known-problem database and any other resource containing information that will aid in problem and error resolution and correction, as well as any other technical resources made electronically available to any of Mark43's other customers. The Mark43 account manager or primary point of contact for Subscriber with respect to this Agreement will be Matt Neal (matt.neal@mark43.com).
7. **Service Levels**. Mark43 shall provide the Applications in accordance with the following services levels.
 - a. **Service Levels for the Records Management System and Evidence Management Applications (hereinafter, "RMS").**
 - i. **RMS Availability**. During any calendar month of a Regular Usage Period, the RMS shall be available to users no less than 99.9% of the time on a 24x7 basis, excluding scheduled maintenance of the RMS ("**RMS Scheduled Downtime**"); provided, however, that Mark43 is not responsible for any downtime of the RMS caused by Third Party Data services (e.g. Department of Motor Vehicles license plate database), or Third Party Components, and such Third Party downtime will not count against the service levels promised herein; provided, further, that Mark43 shall be responsible for any downtime of RMS caused by Integrated Third Party Software (as defined below) solely to the extent specified in Section 7I below ("**Service Levels for Integrated Third Party Software**"). Mark43 shall provide Subscriber with prompt notification as soon as it becomes aware of any actual or potential unscheduled downtime (defined below) of the RMS, as well as continual periodic updates during the unscheduled

downtime regarding Mark43's progress in remedying the unavailability and the estimated time at which the RMS shall be available.

- ii. **RMS Service Credits.** In the event that Mark43 fails to make the RMS available at least 99.9% of the time in any given month during the Regular Usage Period due to RMS Unavailability (as defined below), Mark43 will credit the Subscriber's account for the unavailable RMS as follows:

RMS Availability (Monthly)	Credit Percentage
Above 99.9%	0%
99.8 – 99.0%	10%
98.9 – 98.0%	20%
Below 97.9%	30%

"RMS Unavailability" is defined as the percentage of minutes per month in which the RMS is completely and generally unavailable for Subscriber's use (but not the use of any one Authorized User), provided that RMS Unavailability does not include any unavailability attributable to: (a) RMS Scheduled Downtime for maintenance (whether by Mark43, by a vendor, or by Subscriber); (b) acts or omissions of Subscriber or any Subscriber user of the RMS; (c) server downtime related to connectivity issues resulting from Third Party-managed VPN access to hosted server or Subscriber internal network problems; (d) defects or bugs in the Applications or Software caused by Subscriber, any Authorized User, or any Affiliate, employee, agent or independent contractor of Subscriber; or (e) any other cause(s) beyond Mark43's reasonable control, including but not limited to those caused by Third Party Data services (e.g. Department of Motor Vehicles license plate database), Third Party Components, overall internet congestion or a force majeure. Subscriber will be responsible for immediately notifying Mark43 of all Third Party-managed VPN access and internal or external (e.g. internet service provider) network problems that arise.

"Credit Percentage" means the applicable percentage of the portion of the Fees attributable to Services in the calendar month in which the RMS Unavailability occurs. For example, if Subscriber has paid Mark43 \$1,000 for one year of a Regular Usage Period, and the RMS Availability falls to 99.5% during any calendar month in that year, then Mark43 will owe Subscriber a 10% credit on that month's portion of the Fee, or: $\$1,000/12 = \83.33 per month, and $10\% \text{ of } \$83.33 = \8.33 . In this example, Mark43 would owe Subscriber \$8.33 in credit for the month in which RMS Availability fell to 99.5%.

In order to receive this credit, Subscriber must notify Mark43 in writing within fifteen (15) days following the end of the month the RMS Unavailability occurred. All claims are subject to review and verification by Mark43 prior to any credits being granted. Mark43 will acknowledge credit requests within fifteen (15) business days of receipt and will inform Subscriber whether such claim request is approved or denied. The issuance of RMS Service Credit by Mark43 hereunder is Subscriber's sole and exclusive remedy for any failure by Mark43 to satisfy the service levels set forth in this Section 7(a).

b. **Service Levels for the Computer Aided Dispatch Application (CAD).**

- i. **CAD Availability.** During any calendar month of a Regular Usage Period, CAD shall be available to Subscriber no less than 99.95% of the time on a 24x7 basis, excluding scheduled maintenance of CAD ("CAD Scheduled Downtime"); provided, however, that Mark43 shall not be responsible for downtime of CAD under this section caused by Third Party Data services (e.g. Department of Motor Vehicles license plate database), or Third Party Components, and such Third Party downtime will not count against the service levels promised herein. Any CAD Scheduled Downtime shall be scheduled on minimal traffic days whenever possible. The parties agree that the total amount of CAD Scheduled Downtime shall not exceed 60 minutes during any 30-day period. Mark43 shall provide Subscriber with immediate telephone notification to the point of contact set forth in the Agreement as soon as it becomes aware of any actual or potential unavailability of CAD other than CAD Scheduled Downtime ("CAD Unscheduled Downtime"), as well as continual periodic updates during the CAD Unscheduled Downtime regarding Mark43's progress in remedying the unavailability and the estimated time at which the CAD shall be available.
- ii. **Error Response and Resolution.** When reporting a failure of the CAD to Mark43 (a "CAD Error"), Subscriber shall identify the CAD Error as a Severity Level 1, 2, or 3 (each defined below) based on Subscriber's initial evaluation. If Mark43 becomes aware of a Severity Level 1 or 2 CAD Error, Mark43 shall promptly, but in no event to exceed the Initial Response timeframe in the chart set forth below, notify Subscriber, and such notice shall identify the CAD Error as a Severity Level 1 or 2 CAD Error based on Mark43's initial evaluation. Mark43 and Subscriber shall cooperate in good faith to jointly

determine whether a CAD Error is a Severity Level 1, 2, or 3 CAD Error; provided, however, that in the event that Mark43 and Subscriber cannot come to such joint determination despite such good faith cooperation, Mark43's determination shall control. Subscriber may report to Mark43 any Severity Level 1 or 2 CAD Error 24 hours per day, 7 days per week, and any Severity Level 3 CAD Error during Mark43's normal business hours. Upon notification by Subscriber of a CAD Error, Mark43 shall commence and diligently pursue correction of such CAD Error, at all times employing at least the level of effort ("Level of Effort") designated in the chart set forth below and in all instances providing an Initial Response, temporary resolution or fix (a "Work Around") and a permanent fix (a "Permanent Correction") to Subscriber within the timeframes in the chart set forth below, as measured from the earlier of the time that Subscriber notifies Mark43 or Mark43 first becomes aware of a CAD Error. Mark43 shall provide Subscriber with updates to the status of Mark43's efforts (the "Status Updates") by telephone, email or such other means as may be reasonably designated by Subscriber from time to time, no less frequently than the timeframes identified in the chart set forth below. For the avoidance of doubt, a CAD Error does not include, and Mark43 will not be responsible for, any feature or functionality of the CAD that is not set forth in Section 1(b)(i)(2) of this Schedule A or in a project plan created for Subscriber by Mark43.

1. **"Severity Level 1 CAD Error"** means any CAD Error that, for fifty percent (50%) or more of Subscriber's dispatchers, renders the CAD or any material portion thereof inoperative, or materially impairs use of the CAD in a production environment. Examples of Severity Level 1 CAD Errors include, without limitation, situations in which the CAD are inoperable and causing dispatchers to experience a total loss of service, continuous or frequent instabilities, a loss of connectivity or inability to communicate as intended, or there is an inability to process transactions, the creation of a hazard or emergency, or the inability to use a primary feature or function of the CAD.
2. **"Severity Level 2 CAD Error"** means any CAD Error that, for fifty percent (50%) or more of Subscriber's dispatchers, substantially impairs use of one or more features or functions of the CAD, which constitute less than a material portion thereof, in a production environment, or any CAD Error occurring in a testing or other non-production environment that, if occurring in a production environment, would constitute a Severity Level 1 CAD Error. Examples of Severity Level 2 CAD Errors include, without limitation, situations in which a CAD Error is causing intermittent impact to dispatchers, loss of redundancy, loss of routine administrative or diagnostic capability, or inability to use a secondary feature or function of the CAD.
3. **"Severity Level 3 CAD Error"** means any CAD Error that, for fifty percent (50%) or more of Subscriber's dispatchers, has a minimal impact on the performance or operation of the CAD. Examples of Severity Level 3 CAD Errors include, without limitation, a CAD Error having only a minimal impact on dispatchers and CAD Errors seen in a test or other non-production environment that, if deployed in a production environment, would not constitute a Severity Level 1 CAD Error.

Severity Level	Level of Effort	Initial Response	Work Around	Permanent Correction	Status Updates
1	Continuous best efforts, 24 hours per day, 7 days per week	Immediate, but in no event to exceed 30 minutes	6 hours	3 calendar days	Every 3 hours prior to a Work Around and every calendar day thereafter
2	Commercially reasonable efforts, 24 hours per day, 7 days per week	1 hour	24 hours	5 calendar days	Every 6 hours prior to a Work Around and every calendar day thereafter
3	Commercially reasonable efforts, during normal business hours	1 Business Day	10 Business Days	20 Business Days	Every 2 Business Days prior to a Work Around and every 5 Business Days thereafter

CAD Service Credits. Mark43's failure to meet the CAD services levels set forth in Section 7(b) during any calendar month of a Regular Usage Period entitles Subscriber to Fee credits (the "CAD Service Credit(s)") calculated as set forth below. Any CAD Service Credits owed to Subscriber hereunder shall offset against any subsequent Fees owed by Subscriber and shall be Subscriber's sole and exclusive remedy with respect to Mark43's failure to provide the CAD. If Mark43 fails to meet the CAD service levels set forth in this

Section 7(b) in any applicable calendar month during the Regular Usage Period, then Mark43 shall credit Subscriber five percent (5%) of the portion of the Fees attributable to CAD Services in the calendar month in which such CAD service level failure occurs. The applicable CAD Service Credits will be applied to the next invoice. Only one CAD Service Credit for failure to meet the applicable service level shall be granted for each Service in a calendar month of the Regular Usage Period.

- c. **Service Levels for Integrated Third Party Software.** Notwithstanding anything else to the contrary contained herein, Mark43 shall be responsible for any downtime of or related to the Applications or Integrated Third Party Software (as defined below) that is caused by Integrated Third Party Software solely to the extent specified in this Section 7(c). Credit Percentages Service Credits referenced elsewhere in this Contract shall not apply to downtime caused by Integrated Third Party Software or the integrations or connections to Integrated Third Party Software.
 - i. **Availability of Third Party Applications.** The Statement of Work will outline specific Third Party Application integrations (the "Integrated Third Party Software") to be performed by Mark43 during the Professional Services Period, and the Subscriber's and Mark43's respective rights regarding acceptance of those Services. During the Regular Usage Period, the Integrated Third Party Software shall be operational no less than 99.9% of the time on a 24x7 basis, excluding any scheduled maintenance of the Integrated Third Party Software (whether scheduled by Mark43 or by the third party provider, the "Integration Scheduled Downtime"); provided, however, that Mark43 shall not be responsible for downtime caused by upgrades or updates to Integrated Third Party Software of which Mark43 does not receive the requisite advance notice, and such downtime will not count against the service levels promised herein. Mark43 agrees that it shall schedule any Integration Scheduled Downtime on minimal traffic days whenever possible. The Parties further agree that Mark43 shall not schedule in excess of 90 minutes of Integration Scheduled Downtime in during any 30-day period. Mark43 shall provide Subscriber with immediate telephone notification to the point of contact set forth in the Contract as soon as it becomes aware of any actual or potential unavailability of an Integration other than Integration Scheduled Downtime ("Integration Unscheduled Downtime"), as well as continual periodic updates during the Integration Unscheduled Downtime regarding Mark43's progress in remedying the unavailability and the estimated time at which the Integration shall be available.
 - ii. **Responsibilities for Planned Updates.** Subscriber shall provide Mark43 with prompt notice, and in no case fewer than forty-five (45) days' advance notice, of any update by the Third Party provider of Integrated Third Party Software. Mark43 shall undertake commercially reasonable efforts to patch, repair or update the Software in order to integrate it with the updated Integrated Third Party Software.
 - iii. **Responsibilities for Planned Upgrades.** Subscriber shall provide Mark43 with prompt notice, and in no case fewer than ninety (90) days' advance notice, of any planned upgrade by the Third Party provider of Integrated Third Party Software. Mark43 shall evaluate the time and resources required to patch, repair or update the Software in order to integrate it with the upgraded Integrated Third Party Software. The Parties shall engage in good faith negotiations to agree on the terms (including, without limitation, schedule and price) on which Mark43 would develop a patch, repair, update or Upgrade to integrate the Software with the Integrated Third Party Software.

SCHEDULE B
Transition Assistance

Upon termination of the Agreement for any reason, and subject to all Fees due being paid in full, Mark43 will create searchable PDFs of each record (each, a "**Record**") and provide them to the Subscriber for download. Subscriber may request, and Mark43 will consider, other formats in which to create the Records, but the final format of all Records will be determined in Mark43's sole discretion. Records can be uploaded to Subscriber's new records management system by the Subscriber or its new vendor.

1. Preparation

- a. The Subscriber will provide the desired cutoff date of the SaaS Services (the "**Cutoff Date**"), at which time all existing user accounts will be terminated.
- b. Mark43 will provide one (1) account for the Subscriber to access a web-based storage platform to retrieve Subscriber documents and Records (the "**Transition Account**"). The Transition Account will be available to Subscriber for thirty (30) days prior to the Cutoff Date.

2. Content

- a. Each Report in the RMS will be recreated as a searchable PDF (or other mutually agreed to format as described above) using the standard the RMS format then in use.
- b. All archive files will be accessible via the internet on the Cutoff Date.

3. Support

- a. Mark43 will maintain Subscriber Data in the RMS for up to 2 years following the Cutoff Date.
- b. Mark43 will maintain Subscriber PDF archives for up to 2 years following the Cutoff Date.
- c. Mark43 will resolve any issues it deems to be the result of errors in the RMS platform or export process for a period of six (6) months after the Cutoff Date.
- d. At Subscriber's written request, no less than 2 years after the Cutoff Date, Mark43 will delete Subscriber Data from all Mark43 online systems (e.g. primary database, replica databases, search databases, application caches, etc.) other than database backups, audit logs and server system logs.
- e. Within 6 months from the date of deletion of Subscriber Data from all Mark43 online systems, all Subscriber Data will be erased from database backups.
- f. Notwithstanding the foregoing, Mark43 reserves the right to retain Subscriber Data on audit logs and server system logs and in support tickets, support requests and direct communications with Mark43.

Transition Assistance as outlined in this Schedule B is included in the Fees charged to Subscriber for the Services. Fees are due and payable up to the Cutoff Date. In the event that any Fees have not been paid as required in this Agreement, Mark43 may retain all Records and decline to provide the support outlined in Section 3 of Schedule B above until such Fees are paid in full.

SCHEDULE C

Technical Requirements

Workstation Requirements

	CAD Dispatch Workstation	RMS Dispatch Workstation
Operating Systems Supported	Windows 7 and higher	Windows 7 and higher
Processor	Quad-core Intel processor	Single, quad-core Intel processor
Memory	4 GB	4 GB
Network Card Speed	2 Mbps	2 Mbps
Screen Resolutions Supported	1920x1080	1024x768
Hard Disk Space Required	256GB SSD Disk Drive	80GB
Monitor	Dual 24 inch, flat panel, monitors	Dual 24 inch, flat panel, monitors
Additional Applications Software and Versions	Mark43 systems do not require any 3rd party software or plugins.	Mark43 systems do not require any 3rd party software or plugins.
Graphics Card Recommended	2, 512 MB NVIDIA Quadro NVS 310, 4MON	2, 512 MB NVIDIA Quadro NVS 310, 4MON

	CAD Non-Dispatch Workstation	RMS Non-Dispatch Workstation
Operating Systems Supported	Windows 7 and higher	Windows 7 and higher
Processor	Single, quad-core Intel processor	Single, quad-core Intel processor
Memory	4GB	4GB
Network Card Speed	1 Mbps or above internet connection. Lower speeds are possible but will result in degraded service.	1 Mbps or above internet connection. Lower speeds are possible but will result in degraded service.
Screen Resolutions Supported	1920x1080	1024x768
Hard Disk Space Required	256GB SSD Disk Drive	80GB
Monitor	24 inch, flat panel, monitors	24 inch, flat panel, monitors
Additional Applications Software and Versions	Mark43 systems do not require any 3rd party software or plugins.	Mark43 systems do not require any 3rd party software or plugins.
Graphics Card Recommended	2, 512 MB NVIDIA Quadro NVS 310, 4MON	2, 512 MB NVIDIA Quadro NVS 310, 4MON

	CAD Non-Dispatch Mobile Laptop	RMS Non-Dispatch Mobile Laptop
Operating Systems Supported	Windows 7 and higher	Windows 7 and higher
Processor	Single, quad-core Intel processor	Single, quad-core Intel processor

[Updated 7/19/17]

Memory	4GB	4GB
Network Card Speed	1 Mbps or above internet connection. Lower speeds are possible but will result in degraded service.	1 Mbps or above internet connection. Lower speeds are possible but will result in degraded service.
Screen Resolutions Supported	1024x768	1024x768
Hard Disk Space Required	80GB	80GB
Monitor	13"	13"
Additional Applications Software and Versions	Mark43 systems do not require any 3rd party software or plugins.	Mark43 systems do not require any 3rd party software or plugins.

Browser Requirements

Since the Mark43 platform is web-based, it can be accessed from any web browser. Mark43 requires using a modern web browser to access the system. IE 9+, Edge, Safari (latest), Firefox (latest), Chrome (latest) are all supported. However, we recommend Chrome as it updates to the latest version automatically and is proven high performance. As far as devices that work with Mark43, we are hardware agnostic as long as a modern browser is supported. Deployed departments have used Panasonic Toughbooks as well as Getac tablets.

Interface Server Requirements

If 3rd party integrations are required, an interface server may be installed on site. The requirements of this server are:

	Requirements
Sever Purpose	Servers only required for interfacing with 3rd party applications. Mark43 systems are cloud based and require no server hardware on-premise.
Operating System	RHEL 7, CentOS 7
Processor speed & quantity	3.1 Ghz
Cores per processor	2
Memory	8GB
Network Card Speed	2 Mbps
Network Card Quantity	1 NIC (2 NICs at 1 GBPS or greater preferred)
Screen Resolution	1024x768
Hard Disk Space Required	250GB
Hard Disk Space Drive Configuration	500GB

[Updated 7/19/17]

Networking/Firewall:

Inbound	Outbound	VPN	User Accounts
SSH over client VPN	All	Mark43 needs ability to SSH to the interface server over our client VPN	Admin user accounts for personnel with client VPN access.

Internet Connectivity Requirements

Mark43's software-as-a-service platform is accessed via web browser and requires Subscriber to connect via an active internet connection.

In office, Mark43 requires a 1 GB internet connection along with a backup internet service provider line for redundancy purposes. In the field, Mark43 recommends a 4G LTE connection for best performance.

[Updated 7/19/17]



AGENDA BILL

Agenda Item No. 3.A.

Date: August 11, 2020
To: El Cerrito City Council
From: Karen Pinkos, City Manager, City Management
Subject: Fiscal Response Plan

ACTION PROPOSED

Discuss the City's fiscal response to the COVID recession and lack of reserves, including the budget reduction target and potential strategies, and to direct staff to implement the recommended strategies within the upcoming amendments to the City's budget.

BACKGROUND/ANALYSIS

The City is facing budget challenges that have been made worse by the current COVID-19 public health crisis. The City Council has been monitoring the City's financial position for the past several months. Staff has already identified approximately \$4 million in reductions, including cuts in expenses, a freeze on hiring, all employees deferring cost-of-living increases, implementing furloughs, and other actions to decrease costs. However, because the City's budget issues have been structural in nature, this means that the proposed reductions will not be enough to build back the City's General Fund Reserve, especially if the current recession due to the COVID-19 crisis worsens or becomes a prolonged recession lasting several years. The revised forecast indicates that the City needs to implement \$1.5 million in additional ongoing budget solutions in order to address the fiscal gap, restore reserves to appropriate levels, and bring fiscal sustainability to the City's General Fund. To that end, the City Council and the Department Directors have been working with Management Partners, our Strategic Plan consultants, to consider additional actions that will impact City services in order to further reduce expenses.

At the City Council meeting of May 19, 2020, the Council discussed a framework and criteria for various services that the City provides, in order to implement a priority-based budgeting model and develop a Fiscal Response Plan. On June 9, 2020, City Council held a study session to discuss Management Partners' recommendations for programs and services that could be reduced based on strategic priorities and department head input. The City Council reviewed an array of options for reducing programs and services in light of the City's financial position, with the goal of ensuring that the City remains financially sustainable going forward. The City Council was provided a report on Citywide compensation and heard public comment on the budget at the City Council meeting on July 21, 2020. On August 1, 2020, the City held a Community Town Hall meeting on the budget, where the budget actions to date were reviewed and members of the public were able to ask questions and provide additional feedback.

Based on discussion and feedback from the City Council, City staff, and the public, Management Partners has analyzed and refined the recommendations for the Fiscal Response Plan. This Plan provides the fiscal impact necessary to achieve fiscal sustainability. It takes into consideration that the City's finances will continue to be impacted due to the ongoing uncertainty of the COVID-19 crisis, and that projections for revenues and expenses are unfortunately still unsettled as the crisis continues. Should the City Council agree with the recommendations, staff will implement the Fiscal Response Plan within the upcoming amendments to the City budget.

STRATEGIC PLAN CONSIDERATIONS

This section is not applicable to this agenda item.

ENVIRONMENTAL CONSIDERATIONS

This section is not applicable to this agenda item.

FINANCIAL CONSIDERATIONS

This section is not applicable to this agenda item.

LEGAL CONSIDERATIONS

This section is not applicable to this agenda item.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Alexandra Orologas".

Alexandra Orologas , Assistant City Manager

Attachments:

1. Presentation



THE CITY OF
EL CERRITO

Study Session

August 11, 2020

Nancy Hetrick
Steve Toler

City of El Cerrito

Fiscal Response Plan Update



Management
Partners

1

Today's Objectives

Get agreement on the fiscal problem and timing of rebuilding reserves

Determine strategies to include in the fiscal response plan

Review next steps

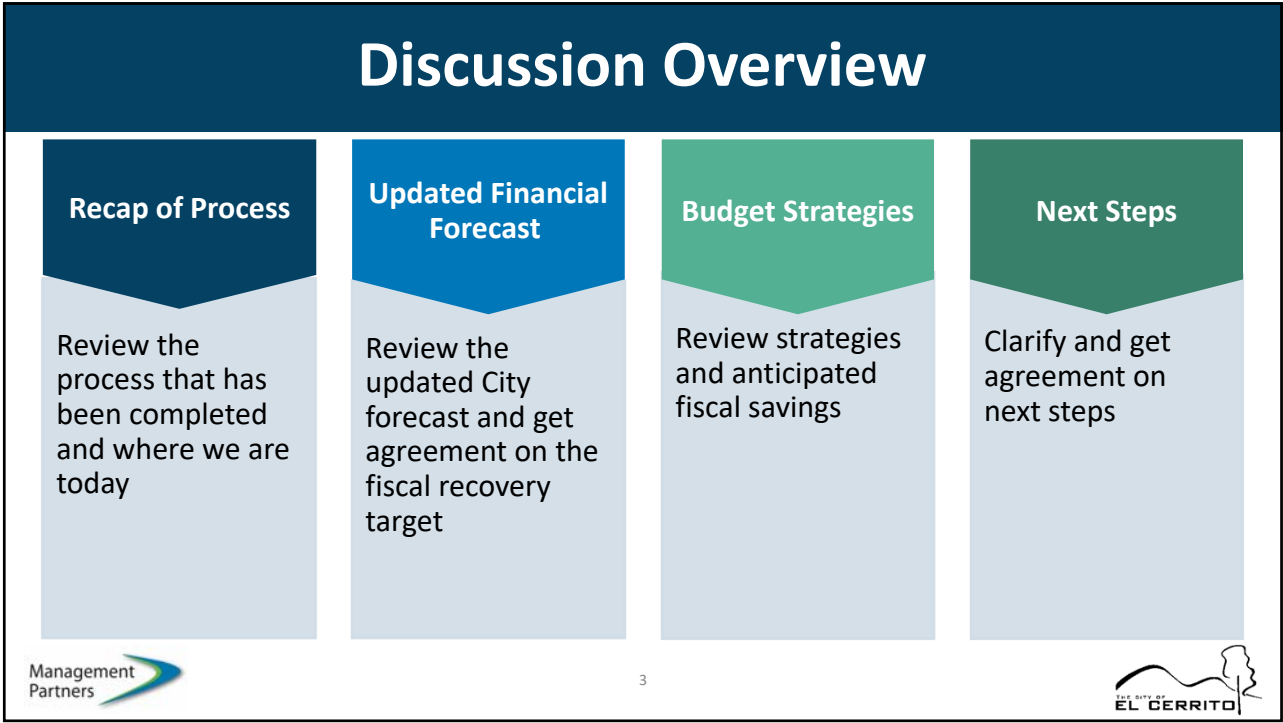


Management
Partners

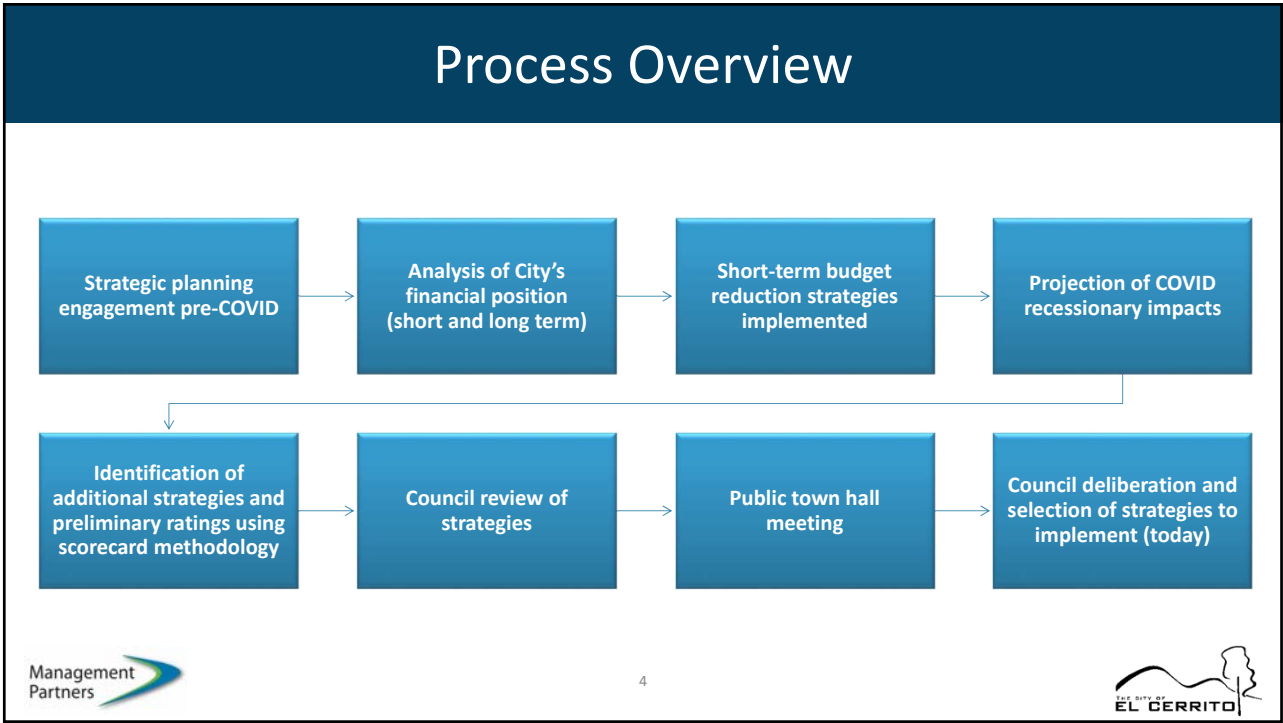


THE CITY OF
EL CERRITO

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Scope and Approach to Our Analysis

This analysis included

- Determining City’s General Fund fiscal gap
 - Pre-COVID-19 recession
 - Post-COVID-19 recession
- Identifying possible short- and mid-term budget strategies
- Evaluating strategies based on prioritization framework

This analysis did not include

- Citywide priority-based budget evaluation
- Organizational review
- Detailed feasibility analysis of each identified strategy



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Updated Financial Forecast



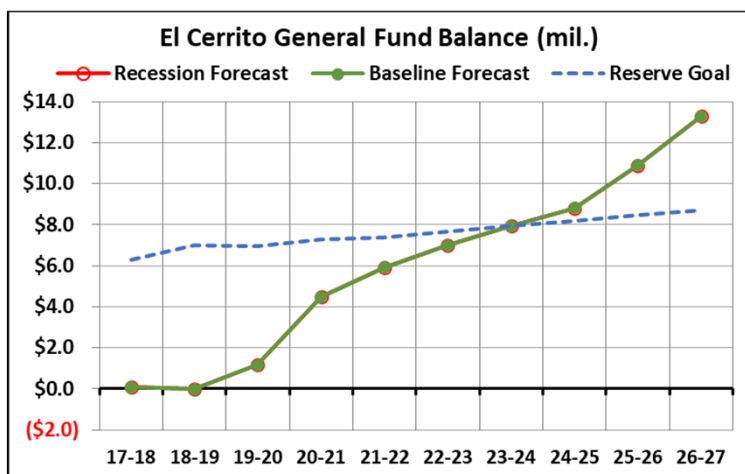
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City Budget Reductions Incorporated into Baseline Forecast

Cost Savings	Fiscal Impact of Budget Reductions
Ongoing cost savings (FY 2020-21 and beyond)	
Reductions identified by staff	\$1,632,000
Renegotiated Management and Confidential compensation and benefits plan	\$316,000
Elimination of cost of living adjustments from renegotiated memoranda of understanding with labor groups	\$750,000
Total ongoing cost savings	\$2,698,000
One-time savings (FY 2020-21 only)	
Furloughs totaling 13 days through December 31, 2020	\$659,000
Furloughs of managers for an additional 13 days through June 30, 2020	\$300,000
Total one-time savings	\$959,000

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Baseline Forecast Revised



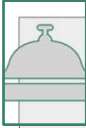
- Without a recession, the forecast indicated that the City had taken the actions necessary to address its fiscal challenges
- Reserves would be restored and stay above a prudent minimum reserve goal of two months (17%) of annual operating expenditures

8

Key Recessionary Forecast Assumptions



Decline in **sales tax** (up to 10)%



Decline in **transient occupancy tax** (up to 20)%, returning slowly over the next four years



Franchise fee revenues expected to remain stable



Decline in **development fees** (up to 20)%, returning slowly over the next four years



Decline in **property taxes** (up to 2%) in FY 2021-22, returning over a three-year period



Decline in **recreation fees** (up to 25%), returning slowly over next two years



Former RDA bond maturity and dissolution in FY 2025-26 will provide additional property tax revenues of \$1.1 million annually



No assumption for development activity not already under construction in San Pablo Avenue Corridor



One-time CARES Act federal aid of \$307,200 will be received in FY 2020-21



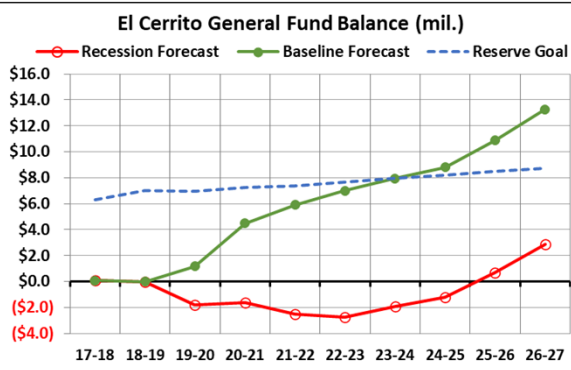
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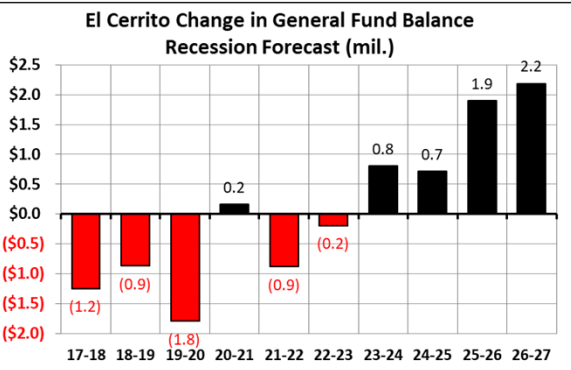
Recessionary Impacts

El Cerrito General Fund Balance (mil.)



Fiscal Year	Recession Forecast (mil.)	Baseline Forecast (mil.)	Reserve Goal (mil.)
17-18	0.0	0.0	6.5
18-19	0.0	0.0	6.8
19-20	-0.5	1.0	7.0
20-21	-1.0	2.5	7.2
21-22	-1.5	4.0	7.4
22-23	-1.8	5.5	7.6
23-24	-1.5	7.0	7.8
24-25	-1.0	8.5	8.0
25-26	-0.5	10.0	8.2
26-27	0.0	12.0	8.4

El Cerrito Change in General Fund Balance Recession Forecast (mil.)



Fiscal Year	Change (mil.)
17-18	(\$1.2)
18-19	(\$0.9)
19-20	(\$1.8)
20-21	0.2
21-22	(\$0.9)
22-23	(\$0.2)
23-24	0.8
24-25	0.7
25-26	1.9
26-27	2.2

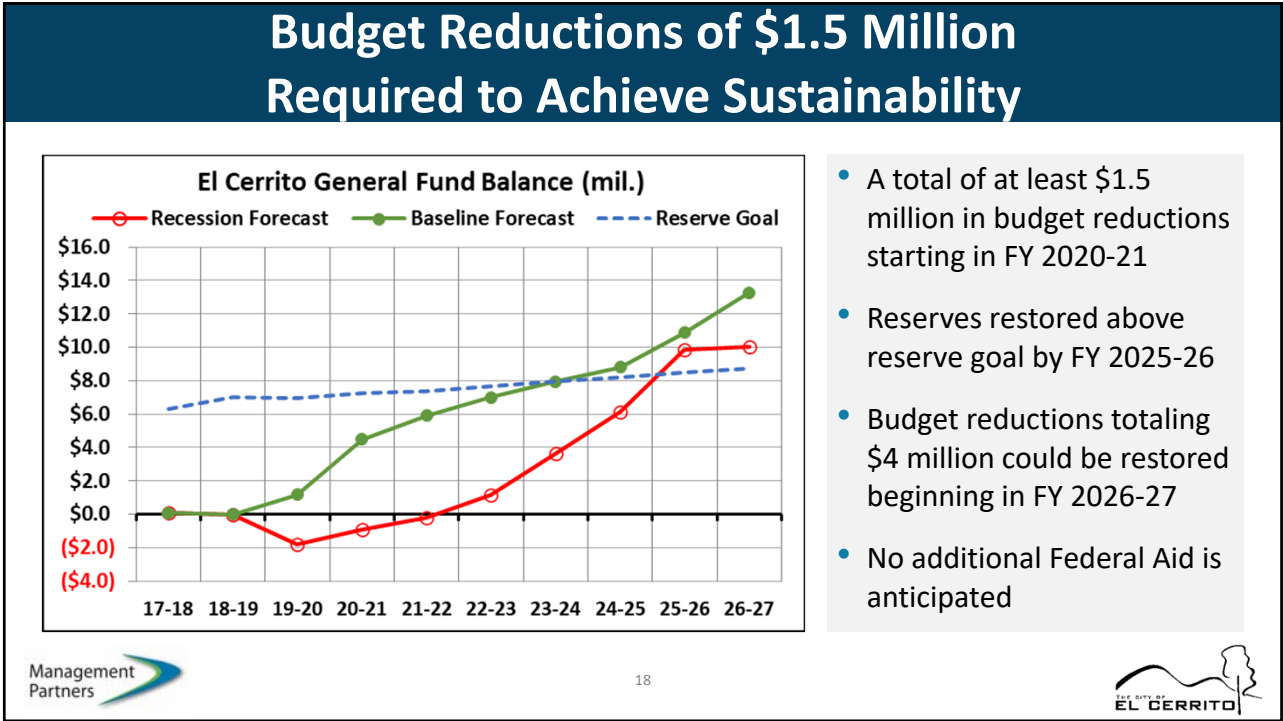
- Reserves would remain below zero through FY 2025-26 without additional corrective action
- City must restore General Fund reserves to minimum reserve goal within the next 3-4 years to achieve fiscal sustainability and maintain solvency



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Approach to Our Analysis

Identify possible short- and mid-term budget strategies

- Interviews
- Document review
- Strategies and best practices employed in other organizations

Evaluate identified strategies based on prioritization framework

- City strategic goals
- Program attributes (e.g., demand, cost recovery, universal applicability)

Address fiscal goals

- Short-term solvency
- Long-term sustainability

Management Partners

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Ongoing Considerations



Future depth of recessionary impacts



Shelter-in-place and other requirements that suspend programming



Potential for one-time federal or state aid



Retirements, turnover or other operational changes



Ability to increase cost recovery

←

Future Uncertainty

→

Management Partners

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Recommended General Fund Budget Strategies

Budget Strategy	Department	Estimated Fiscal Impact
Reduce City administration	City Administration	\$345,000
Change service delivery approach of finance functions	Finance	\$25,000
Restructure Fire management functions	Fire	\$210,000
Restructure police operations	Police	\$595,000
Reduce/shift funding for landscape maintenance costs	Public Works (Parks)	\$165,000
Reduce Recreation administrative functions	Recreation	\$166,000
Total budget strategies		\$1,506,000
Goal		\$1,500,000

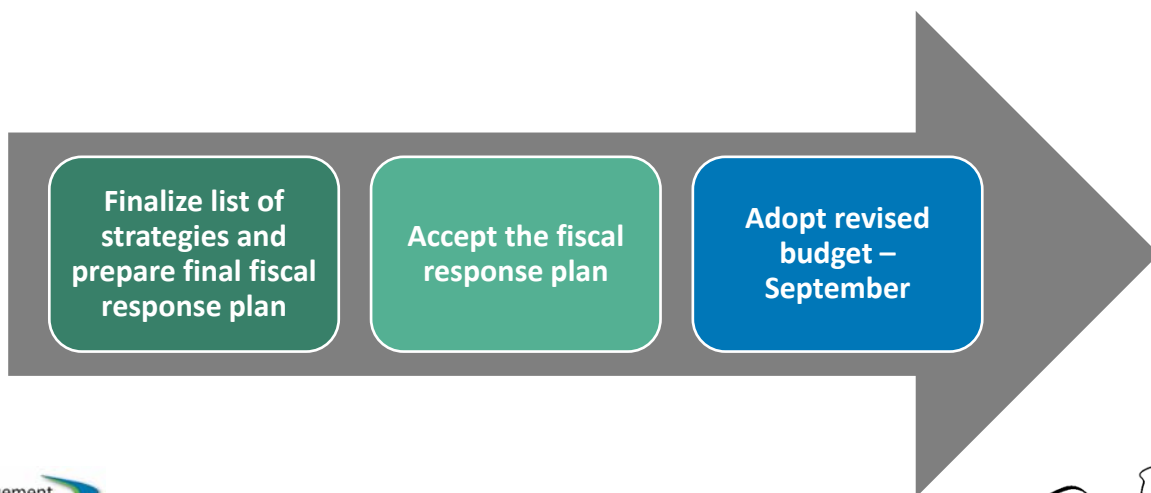


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Next Steps



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Thank you

Steve Toler, Partner
Nancy Hetrick, Vice President



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PUBLIC COMMENT INDEX
SPECIAL CITY COUNCIL MEETING
August 11, 2020 (Revised August 12, 2020)

The following Public Comments were **received by 1:30 p.m. 8/11/2020**, were provided directly to City Councilmembers in advance of the meeting, and were posted online as supplemental materials at www.el-cerrito.org/CouncilMeetingMaterials.

Agenda Item 2A - Agreement with Mark 43 Inc. to provide Computer Aided Dispatch and Records Management Software

1. Daniel Schulman

Agenda Item 3A - Fiscal Response Plan

1. Charlie Soldavini
2. Richard Bell
3. Yan Linhart
4. Landry Wildwind
5. Cathy Hanville
6. Justin Rodriguez
7. Sarah Klauer
8. John Stashik
9. Leslie D. Adams
10. Marlene Keller
11. Daniel Schulman
12. Tom Panas
13. Elli Matejka
14. Al Miller
15. Rhea Ewing
16. Sue Duncan
17. Mark Friedman (received after 1:30 p.m.)

From: [Dan Schulman](#)
To: [City Clerk](#)
Subject: Public Comments - Agenda Item #2A
Date: Tuesday, August 11, 2020 10:55:27 AM

Dear Councilmembers,

As you all know, there has been a lot of discussion related to policing both nationwide and in El Cerrito. One suggestion I have to aid in those discussions is to provide additional data and transparency to the public as well as city leaders and staff. The Mark43 software platform appears to have some robust data and reporting capabilities. I can't tell if any of those capabilities are included in the city's license agreement, but I would encourage the city to take advantage of any data, reporting, and analytics capabilities of the platform to increase transparency and help ensure that future discussions are based as much as possible on facts and data.

Thank you,
Daniel Schulman
El Cerrito

Sent from [Outlook](#)

From: [Charlie Soldavini](#)
To: [City Clerk](#)
Subject: Budget
Date: Saturday, August 8, 2020 4:48:27 PM

Has anyone discussed cutting city management salaries 15% to encourage others to follow?
The top has to start the savings.
Good luck!!

Sent from my iPhone

From: [Richard Bell](#)
To: [City Clerk](#)
Subject: Public Comment-Agenda item 3A
Date: Monday, August 10, 2020 10:49:32 AM

Mayor, Council-members, and Staff,

I would strongly encourage the Council to remove the vacant, salary savings positions from the El Cerrito Police Department budget. Holding those positions open and using that funding to help “correct” the budget is a temporary fix at best, and a disingenuous shell game at worst.

Thank you,
Richard Bell
El Cerrito

From: [Yan B Linhart](#)
To: [City Clerk](#)
Subject: City Budget
Date: Monday, August 10, 2020 4:13:34 PM

Hello,

I am a resident of El Cerrito - and a member of the Urban Forest Committee- and it has come to my attention that the city has serious budgetary challenges.

I would very much appreciate receiving a short explanation of the reasons for this problematic budgetary situation

Thank you

Yan Linhart



El Cerrito
94530

From: [Landry Wildwind](#)
To: [City Clerk](#)
Cc: [Sherry Drobner](#)
Subject: Request to speak, 8-11-20 special council meeting
Date: Monday, August 10, 2020 6:47:22 PM

Pursuant to instructions on the city's website regarding tomorrow's council meeting on budget, I am requesting an opportunity to speak.

I wish to speak to an item not on the agenda, accountability for police budget process; what response does the City have to the El Cerrito Progressives' petition on policing?

I also am requesting that the Chief answer a question:

The city of Piedmont, not identical to El Cerrito, but a prosperous small city next door to one with higher crime rates and suffering primarily from property crimes, is about 14 square miles in size, has about 11,000 population. Piedmont has 12 sworn officers. It seems that 39 sworn officers is excessive for a city of about 25,000 residents and a much smaller area. Please tell us what factors justify more than 3 times the number of officers in Piedmont for El Cerrito?

I also wish to speak to Item 3A, budget related changes to policing policies in El Cerrito; specifically, what savings would result from immediately moving traffic enforcement from uniformed, sworn officers to community service officers?

Thank you.

From: [Cathy Hanville](#)
To: [City Clerk](#)
Subject: Public comment agenda item 3A
Date: Tuesday, August 11, 2020 8:15:40 AM

I am glad to see the city continue to move forward with working on the budget. I am writing to request that the city work to improve their decision making to be both more data driven and more transparent.

The handout for this meeting had no specificity. What were the assumptions that lead to the 1.5 million dollar figure? What exactly are the cuts being proposed. For meeting times that aren't always accessible to residents many of us rely on the epackets to frame our comments. When the packets are filled with t fancy power points with no information that makes that task harder. Just get the specifics in the packets please.

In addition there is a slide (#7) stating city budget reductions incorporated into baseline forecast. One area mentioned is ongoing cost savings 2020-21 and beyond. There is a 750K line item that talks about eliminations of COLAS. The way I read the COLA reduction is that the unions gave those up for one year not on an indefinite basis. If that is true it seems to me that the ongoing cost savings is incorrect for future years. I hope you can get this clarified today.

I am also very concerned that the 1.5 million dollar estimate is low. That is why I am requesting that there be a monthly financial report given to the city council and published online. This should be an easily readable document summing up income and expenses and how they are tracing for the fiscal year. This way if the estimate of the 1.5 million is too low there can be quick action taken. It also increases transparency.

Finally, the issue of looking at our police department funding is both a budget issue and a moral issue. We have been trying to get hard data on what calls the police respond to which is apparently not really tracked very well. But based on the police blotter it seems to me that a different mode would be more cost effective and better for the community. I understand you are already looking at the Cahoots model. That is great. Since Chief Keith has already stated that his officers are not responding to many calls already perhaps we can look at the staffing that is needed now. I see days on the blotter with no calls. We could start accruing some cost savings now with less armed staff and use it later for medical and social work staff.

Thank you
Cathy Hanville
El Cerrito

From: [JUSTIN RODRIGUEZ](#)
To: [City Clerk](#)
Subject: Public Comment for Meeting 8/11
Date: Tuesday, August 11, 2020 9:39:13 AM

I wanted to give my comment on the necessity of police accountability, reform, and defunding, not "also" in El Cerrito, but especially in El Cerrito. Responding to items not on the agenda:

1.
We call for an independent Audit of the ECPD
2.
We call for public safety re-imagined with community dialogue & solutions
3.
We call for our petition to be reviewed and commented on the record [Petition](#)

Again, please read the petition and how many signatures we have gathered from community members. As for responding to items on the agenda, we think tangible, easy actions the city council can take to take resources away from the police department for the benefit of other public resources and safety. Comments related to cutting police budget:

1. Permanently remove all vacant positions from budget
2. Future cut positions based on reduction of responses to non-emergency calls.
3. Turn traffic enforcement over to non-police, city workers. We don't need armed officers giving tickets.

Thank you,
Justin

--

Justin Rodriguez
University of California, Los Angeles
Class of 2022
Economics B.A., Chicana/o Studies minor

[REDACTED]

Pronouns: He/Him/His

From: [Sarah Klauer](#)
To: [City Clerk](#)
Subject: Public Comment Not on the Agenda
Date: Tuesday, August 11, 2020 10:09:46 AM

Hi Holly:

I'd like to submit a comment for today's special city council meeting:

As the Council has heard from residents over the past city council meeting and the budget meeting, the need for police accountability and transparency is urgent and we have an opportunity to act now to reimagine public safety in El Cerrito. Initial steps could include the demands outlined in the petition read at the last City Council meeting, including signing up for the California Police Scorecard, making police misconduct records accessible to the public, and creating a civilian oversight board. Thank you for your consideration.

Thanks!

Sarah

Sarah Klauer, [REDACTED]

[Portfolio](#)

From: [John Stashik](#)
To: [City Clerk](#)
Subject: Public Comments -- Agenda Item 3
Date: Tuesday, August 11, 2020 10:13:56 AM

City Council:

Having followed our city's budget meltdown since it became apparent many months ago I urge the City Council is stay focused on fixing the problem. There will be some difficult decisions to make reducing expenditures but that comes with the job. Get that done and the City's financial picture improves considerably over the next few years.

Listen to what Management Partners suggests. The City hired smart people so follow their advice. A reserve fund will again be built up. When that is accomplished it'll be up to future Council members not to spend it!

Every City department has had a budget reduction. Non public safety employees are working short weeks. City cuts have been thoughtfully planned and shared.

Do not become distracted by people with various agendas such as "defunding" police. The ECPD has made significant cuts to their budget already and additional cuts could impact service. Public safety is of primary importance to most residents of El Cerrito. Good police and fire protection is one key reason we choose to live here.

Being a cop can be a dangerous job. The pay must be enough make it worthwhile for someone to risk their life. Employee morale is very important too. Continual bashing of police by some members of the public does nothing for morale. We have a great department here in El Cerrito. Keep it that way and show appreciation for the difficult job our public safety folks do every day.

Pay attention to Management Partners and their presentation. Return in a week for yet another meeting and decisions. Don't get distracted by people with other agendas. Focus on the mission of fiscal sustainability. It'll happen.

John C. Stashik
El Cerrito

From: [leslie dibenedetto](#)
To: [City Clerk](#)
Subject: 8/11 City Council Meeting - On the Agenda, Police Budget
Date: Tuesday, August 11, 2020 10:27:26 AM

10 August 2020

Dear City Council Members and Manager Pinkos,

I am writing to continue the push for re-imagining public safety for those that live, visit and are educated in El Cerrito. As you know, the spotlight is on all of us to do our part and make change.

With that, and our current budget dilemma, I urge you to make significant cuts to ECPD and save programs that enhance and improve the quality of our lives such as providing childcare, senior services, outdoor spaces and activities, and focus on lowering our carbon footprint.

Regarding public safety in El Cerrito, please make a priority the following:

<!--[if !supportLists]-->1. <!--[endif]-->Permanently remove the vacant positions in the ECPD

<!--[if !supportLists]-->2. <!--[endif]-->Explain the proposed reduction in the ECPD budget in detail – How will this impact the community and the goals of re-imagining public safety? (The consultant recommendation is vague. Details are needed.)

<!--[if !supportLists]-->3. <!--[endif]-->Police Oversight and accountability – Call for a Citizen Commission with real oversight abilities

<!--[if !supportLists]-->4. <!--[endif]-->Provide details on police activity such as statistics on content of calls, responses, crimes, complaints against officers/department. Make transparent and accessible.

Thank you for your time.

Leslie D Adams

From: [MARLENE KELLER](#)
To: [City Clerk](#)
Subject: Public Comment for today's August 11 Council meeting
Date: Tuesday, August 11, 2020 11:31:41 AM

Mayor Lyman and Council members,

While I support Public Safety and appreciate what they have done to protect the city of El Cerrito, I urge you to be fiscally responsible in the following ways:

1. Ensure that city management provides you with the current fiscal year status of General Fund revenue and expenses each month;
2. Insist that city management does not estimate any General Fund or other revenue source greater than the amount received in the prior fiscal year;
3. Reduce all FTE to what is affordable. This means it is pointless to talk about keeping El Cerrito salaries/benefits and pensions at comparable levels to similarly-sized cities;
4. Bargain more prudently over labor contracts. It is essential to have a moratorium on COLAs until the city has a \$6M General Fund reserve;
5. Eliminate Public Safety overtime (the one exception is FD OT that is reimbursed for mutual aid);
6. Direct the city manager to create General Fund reserves of \$6M as soon as possible.
7. Phase out the use of TRAN borrowing within 2 years. This borrowing has disguised the city's insolvency.
8. Do not embark on any new services expense that is better done by others (e.g. the county).
9. Substitute independent contractors for jobs currently performed by FTE in order to save on benefits and avoid pensions.

Sincerely,
Marlene Keller, El Cerrito resident

From: [Dan Schulman](#)
To: [City Clerk](#)
Subject: Public Comments - Agenda Item #3A
Date: Tuesday, August 11, 2020 11:48:59 AM

Dear Councilmembers,

I would like to thank city leadership for their continued work towards making the hard decisions needed to balance our budget, and for getting the public's input into the process.

I believe that the strategies listed on slide 15 of the Management Partners presentation are more aligned with my priorities and the priorities of many citizens who have commented and contacted the council over the past several months. That said, I understand that any strategies that involve cuts are painful.

I do have two concerns:

- Has the revenue forecast become more optimistic? It seems the list of cuts proposed is shorter than the list presented previously. While minimizing cuts to services is certainly appreciated, I hope that the revenue forecast behind the projections is not unrealistic.
- The recommended strategies shown in the presentation still lack detail. I hope that the council continues to ask questions in order to get the facts and details they need to make an informed decision.

Thank you,
Daniel Schulman
El Cerrito

Sent from [Outlook](#)

From: [Tom Panas](#)
To: [Greg Lyman](#); [Janet Abelson](#); [Rochelle Pardue-Okimoto](#); [Gabe Quinto](#); [Paul Fadelli](#)
Cc: [Karen Pinkos](#); [City Clerk](#)
Subject: Our Police and Fire Departments
Date: Tuesday, August 11, 2020 11:50:17 AM

August 11, 2020

Good morning Mayor Lyman, members of the Council, and City Staff. My name is Tom Panas and I live at [REDACTED]. I am writing you today on my own behalf, not as a Trustee of the West Contra Costa Unified School District.

As a resident of El Cerrito for 45 years, I have a lot of perspective on where our city has been and where it is now. So many wonderful and forward-looking things have happened in our City while I have lived here. I have the greatest respect and admiration for our police department and fire department. In the fire department we have had a long history of dedicated professionals and aggressive community outreach regarding many issues relating to fire safety. I also feel the department has done an excellent job cooperating with other local, regional, and in some cases levels above that, agencies. We are safer because of it. The same can be said about our EMT response.

I was thrilled when the City hired Sylvia Moir as the police chief and frankly, I never thought we would do better. I was very happy and very sad when she left to take a position where she could impact even more people. It didn't take long for me to rethink that "Could never do better" when I first met Police Chief Paul Keith and every encounter I have had with him since, even if it was about something where we were not aligned in our thinking, has not changed my thinking. He has done a terrific job extending the community policing model he experienced before he was chief. I feel that our police department does a great job fulfilling its mission while remaining sensitive, collaborative and community-based.

Every emergency or non-emergency experience I have had with fire and police here in El Cerrito has only led me to respect them more. While there are certainly things that could perhaps change, I fully support their work.

Thank you for your time and for the hard work that you do to serve our community.

Sincerely,

Tom Panas

From: [Elli Matejka](#)
To: [City Clerk](#)
Subject: Public comment not on agenda
Date: Tuesday, August 11, 2020 12:53:42 PM

Hello,

I'm Elli Matejka, resident of El Cerrito. I am writing to encourage our city council to save our services and defund the police department. I am demanding that portions of the ECPD budget be reallocated to the services that support our community, including Community Development, Human Resources, Public Works, Recreation, as well as our Library and Schools. Additionally, there are many direct actions the council needs to take to ensure effective public safety in El Cerrito. These include:

- Signing up for the California Police Scoreboard
- Permanently defunding vacant roles in ECPD
- Conducting an independent audit of ECPD conduct and non-emergency calls
- Re-direct non-violent calls to an unarmed, non-violent response teams
- Establish a civilian review board for all use of force reports
- Require City Council approval for ECPD to purchase any additional weapons
- Establish & publicize an easily accessible forum for civilians to submit, view, and discuss ECPD officer complaints
- Make police misconduct records public

Thank you,

Elli Matejka

From: [Al Miller](#)
To: [City Clerk](#)
Subject: Public Comment: Agenda Item 3.A
Date: Tuesday, August 11, 2020 12:59:29 PM

August 11, 2020

Public Comment: Agenda Item 3.A

Good afternoon, Mayor Lyman and City Council Members.

My name is Al Miller and I am a resident of El Cerrito.

I understand that some El Cerrito residents are requesting a "Defund the Police" action here in El Cerrito. While I believe that many police departments throughout our country have demonstrated by their performance records that such an action should be considered, I do not support such an action here in El Cerrito.

I do not believe that the El Cerrito Police Force's performance record indicates any need for a Defund the Police action. Chief Keith's regular reports on the ECPD's performance have shown that El Cerrito is being well served by the ECPD.

In a recent report Chief Keith indicated that an ECPD review of "Fix It" ticket issues showed a majority of them were being issued to low income individuals. He considered that not justifiable and changed the department policy on those tickets. This is but one example of his positive, "self-correcting" leadership style that leads to ongoing review and improvement actions.

While the current financial situation may require a reduction in the budget of all departments, I do not believe that the ECPD's demonstrated performance supports any need for any "Defund the Police" actions in El Cerrito.

I suggest that if any Councilmembers believe there is, the Council should discuss the subject, talk to Chief Keith about your concerns, and give direction to him to correct whatever problems the Council believes to exist.

In my opinion, any "Defund the Police" program in El Cerrito would send a "lack of confidence" message to our ECPD, be harmful to the departments' morale, and could very well adversely affect performance.

Al Miller

[REDACTED]

[REDACTED]

From: [Rhea Ewing](#)
To: [City Clerk](#)
Subject: Public Comment Not on the Agenda: Police Budget and reforms
Date: Tuesday, August 11, 2020 1:05:11 PM

Hello,

My name is Rhea Ewing and I live in El Cerrito. I understand our city in a budget crisis, on top of the crisis already posed by COVID-19. I urge the council to ensure that budget adjustments not only address the current deficit, but also set our community up for success in recovering from the pandemic once a vaccine is out. I have specific actions I would like to see:

1. Craft a budget that ensures that community-building services such as library services, senior services, and recreation. Public activities, gathering spaces, library events, and more all play a key role in community building. After the isolating and divisive events of the pandemic, we will need these services to recover.
2. Be willing to drastically cut the ECPD's budget. Consider how funds may be used to create a healthier community with less police contact, including contracting with nonprofits, regional and county services. El Cerrito spends more per resident on police than our neighboring cities but we do not see better results. The time to change this is now.
3. Conduct open and transparent conversations with the community about public safety, racism, and police where all stakeholders have a voice.
4. Conduct an independent audit of police conduct and non-emergency calls and find other non-police based solutions to these calls. We as a community have gotten conflicted information on what calls the ECPD does and does not do. I find this lack of clarity and transparency disturbing.
5. Permanently remove vacant positions from the ECPD. This would mean that future funds would be able to be more easily considered for other uses.
6. Publically address the petition for Police Oversight and Accountability at your next meeting, with an aim to take prompt action to address the petition's demands.

Thank you,
Rhea Ewing
they/them/theirs



From: [Sue Duncan](#)
To: [City Clerk](#)
Subject: Agenda Item 3A
Date: Tuesday, August 11, 2020 1:24:45 PM

Dear Council Members,

As the financial crisis deepens not only in EC but across the nation and as the virus continues to spread unchecked due to selfishness and idiocy, I fear that drastic measures will have to be taken.

I don't know what next steps the council and city are considering. Are pay cuts more than foregoing COLAs being considered?

Our family experienced one in 1991 while my husband was a high school teacher in WCCUSD, Due to then-Superintendent Walter Marks' shenanigans, all teachers and most employees were forced to take a 9% pay cut. This was difficult to live with, especially with 2 children, but we did survive. It took the district 7 years to restore the cuts and start raises above that.

This is a drastic move and maybe such a high percentage at this point is not needed but it is an option.

Please preserve Public Safety.

Sincerely,
Sue Duncan
El Cerrito

From: [Mark Friedman](#)
To: [City Clerk](#)
Subject: Comments for today's City Council meeting
Date: Tuesday, August 11, 2020 2:24:01 PM

Comments by Mark Friedman for August 11, 2020 City Council Meeting

Dear Mayor and Councilmembers,

I know that you have many very difficult decisions to make in order to balance the budget. Having sat in your chairs in better, but still challenging, budget times I know there are many factors you have to take into consideration.

Among the real concerns of El Cerritos are how much of the budget should go to public safety. There are important reasons to take a look at all government budget allocations for police and criminal justice. Throughout our nation the dramatic instances of abuse and violence against people of color is indicative of a deeply flawed system that cries out for change.

Given that I know many citizens want to see our city's police budget drastically reduced. Unfortunately, our city is not in a position where our lean operations can safely yield wholesale cuts. Also our police and fire leadership and personnel are among the most enlightened forces in the state. We have progressive leadership that fully embraces the importance of the Black Lives Matter movement and the push for racial and social equity. Our police and fire rank and file are dedicated public servants who do not deserve to be tainted with the stain of rogue and racist forces in other parts of our state and nation.

In making painful cuts to essential city services I trust the council to balance all the competing interests and do your best to fairly allocate the city's scarce resources and respect the hard work and dedication of all the city's employees.

■ Mark Friedman