



## AGENDA

**SPECIAL CITY COUNCIL MEETING**  
**Tuesday, March 17, 2015 – 6:30 p.m.**  
**Hillside Conference Room**

**REGULAR CITY COUNCIL MEETING**  
**Tuesday, March 17, 2015 – 7:00 p.m.**  
**City Council Chambers**

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

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman  
Councilmember Jan Bridges

Councilmember Janet Abelson  
Councilmember Gabriel Quinto

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

**CONVENE SPECIAL CITY COUNCIL MEETING**  
**ORAL COMMUNICATIONS FROM THE PUBLIC**

*All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person and to items listed on this special meeting agenda only.*

**COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS**

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

**ADJOURN SPECIAL CITY COUNCIL MEETING**

**ROLL CALL**

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

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

**2. COUNCIL / STAFF COMMUNICATIONS** (*Reports of Closed Session, commission appointments and informational reports on matters of general interest which are announced by the City Council & City Staff.*)

**Government Finance Officers Association Distinguished Budget Presentation Award / Certificate of Recognition for Budget Preparation**

The Distinguished Budget Presentation Award is the highest award in governmental budgeting and is presented to governmental units whose budgets are judged to adhere to program standards.

**3. ORAL COMMUNICATIONS FROM THE PUBLIC**

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

**4. PRESENTATION**

**A. Crime Prevention Committee Workplan** – *Presentation by Catherine Krueger, Crime Prevention Committee Chair.*

Receive a presentation regarding the Crime Prevention Committee’s accomplishments, goals and workplan.

**B. Environmental Quality Committee Workplan** – *Presentation by Mark Miner, Environmental Quality Committee Chair.*

Receive a presentation regarding the Crime Prevention Committee’s accomplishments, goals and workplan.

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

**A. Minutes for Approval**

Approve the February 14, 2015 Special City Council and February 17, 2015 Regular City Council meeting minutes.

**B. Prescription Drug Abuse Awareness Month Proclamation**

Approve a proclamation recognizing March 2015 as Prescription Drug Abuse Awareness Month as enacted by state law in April 2013, and encouraging all residents to actively participate in prevention programs and activities and safely store and dispose of their medications on a continual basis. The City Council encourages all community members to pledge, “Spread the Word...One Pill Can Kill.”

**C. March is American Red Cross Month Proclamation**

Approve a proclamation proclaiming March 2015 as American Red Cross Month in the City of El Cerrito and encouraging all residents to support this organization and its noble humanitarian mission.

**D. Annual Parcel Assessment for NPDES Program and Drainage Maintenance**

Adopt a resolution establishing the annual parcel assessment for the National Pollutant Discharge Elimination System (NPDES) and Drainage Maintenance Program at the current rate of \$38.00 per Equivalent Runoff Unit (ERU), and authorizing the Contra Costa County Flood Control & Water Conservation District to adopt Stormwater Utility Area levies based on said amount.

**E. Priority Development Area Planning Grant – Cooperative Funding Agreement PDA.8.EC**

Adopt a resolution authorizing the City Manager to execute a Cooperative Funding Agreement PDA.8.EC between the Contra Costa Transportation Authority (CCTA) and the City of El Cerrito to fund the Priority Development Area (PDA) planning grant to develop the El Cerrito San Pablo Avenue PDA Implementation Plan.

**F. West Coast Code Consultants Contract Amendment**

Adopt a resolution authorizing the City Manager to amend the professional services agreement between the City of El Cerrito and West Coast Code Consultants in an amount not to exceed \$25,000 bringing the total contract to an amount not to exceed \$50,000 and to extend the term of the agreement through June 30, 2015.

**G. Environmental Quality Committee Appointment**

Approve an Environmental Quality Committee recommendation to appoint Rebecca Milliken, Tracie Mackie and Paloma Pavel to the Environmental Quality Committee, effective April 14, 2015.

**H. Committee on Aging Appointment**

Approve a Committee on Aging recommendation to appoint Steve Lipson to the Committee on Aging, effective March 17, 2015.

**I. Quarterly Investment Report for Period Ending September 30, 2014**

Receive and file the City's Quarterly Investment Report for the period ending September 30, 2014.

**6. PUBLIC HEARING – None**

**7. POLICY MATTERS**

**A. Amend Professional Services Agreement with Trust for Public Land to Waive or Reduce the Professional Services Fee**

Adopt a resolution amending the Professional Services Agreement with Trust for Public Land for service provided in conjunction with the acquisition of the Madera Hillside Natural Area Property (APN 505-142-014, -012 and -013). Due to information available at the time the agenda bill went to print, there are two resolutions attached with the following two separate options: 1) One resolution waives the \$100,000 professional services fee authorized by Resolution No. 2013–39; 2) The second resolution authorizes the City Manager to enter into an agreement to share 50% of the net proceeds of any future sale of a private lot (APN 505-421-029), up to \$100,000.

**B. Property Assessed Clean Energy Financing Program (PACE)**

Staff requests the following actions: 1) Adopt a resolution authorizing the City of El Cerrito to become a member of the California Statewide Communities Development Authority Joint

Powers Authority (CSCDA), subject to the execution of an amended and restated joint exercise of powers agreement with the CSCDA; 2) Adopt a resolution authorizing the City to join the CaliforniaFIRST Property Assessed Clean Energy (PACE) Program, provided through the CSCDA Joint Powers Authority, subject to the execution of an agreement for the CaliforniaFIRST program to indemnify the City; 3) Adopt a resolution authorizing the City to join the Open PACE Program, provided through the CSCDA Joint Powers Authority; 4) Adopt a resolution authorizing the City to become a member of the Western Riverside Council of Governments Joint Powers Authority (WRCOG) and participate in the California HERO program, subject to the execution of an agreement for the California HERO Program to indemnify the City; and 5) Adopt a resolution authorizing the City to become a member of the California Enterprise and Development Authority Joint Powers Authority (CEDA) and participate in the Figtree PACE program. *Exempt from CEQA.*

### C. Mid Year Budget Update

Staff requests the following: 1) Receive an update on year-end results for Fiscal Year 2013-14 that ended on June 30, 2014; 2) Receive an update on city revenues and expenditures for the first seven months of the fiscal year through January 2015; and 3) Adopt a resolution authorizing adjustments to the Fiscal Year 2014-2015 budget.

### 8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

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

### 9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regular City Council meeting is Tuesday, April 7, 2015 at 7:00 p.m. at City Hall, 10890 San Pablo Avenue, El Cerrito, California. The City Council has also scheduled a special Strategic Planning Work Session on Saturday, March 28, 2015 at 9:00 a.m. in the City Council Chambers.

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

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



Date: March 17, 2015  
To: Honorable Mayor and Members of the City Council  
From: Cheryl Morse, City Clerk  
Subject: Commission Interviews

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### **JANUARY 6 INTERVIEW SCHEDULE**

Candidates listed below are scheduled for an interview this evening:

6:30 p.m.                   Orlandus Waters [WCCUSD 1<sup>st</sup> choice, FAB 2<sup>nd</sup>, EDC 3<sup>rd</sup>]  
6:40 p.m.                   Margo Parisi [HRC 1<sup>st</sup> choice, Planning 2<sup>nd</sup>, EQC 3<sup>rd</sup>]

### **BACKGROUND**

Staff began publicizing Board, Commission and Committee vacancies in mid-September 2014 and posted the Annual Maddy Act Notice in mid-October. Although the City conducts a continuous recruitment, the deadline for submitting applications for the first round of interviews was set at December 8. The City Council convened special meetings on January 6 and February 14. At the conclusion of the February 14 meeting a total of 15 commissioners had been appointed. At this time, the following positions remain open: 1) One vacancy exists on the Human Relations Commission (HRC); 2) one vacancy on the Contra Costa Transportation Authority Citizens Advisory Committee (CCTACAC); and 3) One alternate and one upcoming vacancy on the West Contra Costa Unified School District Citizen's Bond Oversight Committee (BOC). Margo Parisi, scheduled for interview this evening, has listed the HRC as her first choice. The vacant position on HRC has an unexpired term that ends on March 1, 2018. No applications have been received for the CCTACAC.

For the WCCUSD BOC, the term of sitting Committee Member, Orlandus Waters, will expire on April 12, 2015. Additionally, an alternate position on this same Committee remains vacant. Mr. Waters is interested in re-appointment and is scheduled for interview this evening. Bond Oversight Committee terms are two years with a maximum of two consecutive terms. No other applications have been received.

#### Attachments:

1. Candidate Applications
2. Interview questions for consideration
3. HRC Roster



**March 17, 2015  
Special City Council Meeting**

**Commission Applicant Interviews  
Attachment 1 – Candidate Applications  
Attachment 3 – HRC Roster**

Hardcopies are available for review at:

Office of the City Clerk  
10890 San Pablo Avenue  
El Cerrito, CA  
(510) 215-4305

and

The El Cerrito Library  
6510 Stockton Avenue  
El Cerrito, CA

**City of El Cerrito**  
**BOARD/COMMISSION INTERVIEW QUESTIONS**

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1. Will you give us a quick summary of why you chose to apply or how you selected the \_\_\_\_\_ commission/board?
2. Briefly outline what in your professional background, work experience, education, or volunteer work would be relevant to the commission/board and highlight any special or unique qualifications or qualities you feel would contribute to the commission?
3. Are you aware of any issues that this commission addressed recently? Have you attended any commission or council meetings?
4. Do you have any thoughts or ideas on how this commission might contribute to the quality of life in El Cerrito?
5. In the few minutes remaining do you have any questions for us?





Government Finance Officers Association  
203 North LaSalle Street, Suite 2700  
Chicago, Illinois 60601-1210  
312.977.9700 fax: 312.977.4806

January 26, 2015

**PRESS RELEASE**

For Further Information Contact  
Stephen J. Gauthier (312) 977-9700

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Chicago--The Government Finance Officers Association of the United States and Canada (GFOA) is pleased to announce that **City of El Cerrito, California** has received the GFOA's Distinguished Budget Presentation Award for its budget.

The award represents a significant achievement by the entity. It reflects the commitment of the governing body and staff to meeting the highest principles of governmental budgeting. In order to receive the budget award, the entity had to satisfy nationally recognized guidelines for effective budget presentation. These guidelines are designed to assess how well an entity's budget serves as:

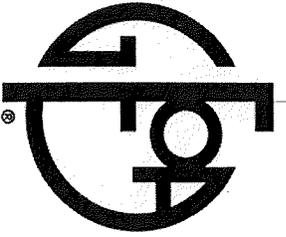
- a policy document
- a financial plan
- an operations guide
- a communications device

Budget documents must be rated "proficient" in all four categories, and the fourteen mandatory criteria within those categories, to receive the award.

When a Distinguished Budget Presentation Award is granted to an entity, a Certificate of Recognition for Budget Presentation is also presented to the individual or department designated as being primarily responsible for its having achieved the award. This has been presented to **Finance Department**

For budgets beginning in 2013, 1,424 participants received the Award. Award recipients have pioneered efforts to improve the quality of budgeting and provide an excellent example for other governments throughout North America.

The Government Finance Officers Association is a major professional association servicing the needs of more than 18,000 appointed and elected local, state, and provincial-level government officials and other finance practitioners. It provides top quality publications, training programs, services, and products designed to enhance the skills and performance of those responsible for government finance policy and management. The association is headquartered in Chicago, Illinois, with offices in Washington D.C. The GFOA's Distinguished Budget Presentation Awards Program is the only national awards program in governmental budgeting.



The Government Finance Officers Association  
of the United States and Canada

presents this

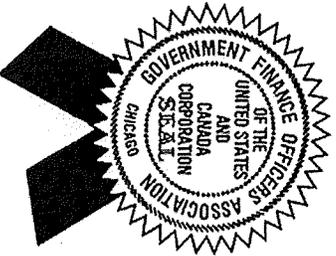
CERTIFICATE OF RECOGNITION FOR BUDGET PREPARATION  
to

Finance Department  
City of El Cerrito, California

*The Certificate of Recognition for Budget Preparation is presented by the Government Finance Officers Association to those individuals who have been instrumental in their government unit achieving a Distinguished Budget Presentation Award. The Distinguished Budget Presentation Award, which is the highest award in governmental budgeting, is presented to those government units whose budgets are judged to adhere to program standards.*

Executive Director

Date January 26, 2015





GOVERNMENT FINANCE OFFICERS ASSOCIATION

*Distinguished  
Budget Presentation  
Award*

PRESENTED TO

**City of El Cerrito  
California**

For the Fiscal Year Beginning

**July 1, 2014**

*Jeffrey R. Emswiler*

Executive Director



# Crime Prevention Committee

*Fiscal Year 2014-2015 Work Plan  
and  
2013-2014 Accomplishments*

# Crime Prevention Committee Members

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- ❖ Catherine Krueger, Chair
- ❖ Marty Takimoto, Vice Chair
- ❖ Nicholas Arzio
- ❖ Eugene Go
- ❖ Linda Jolivet
- ❖ Bruce Yow
- ❖ Lt. Robert De La Campa, ECPD Liaison
- ❖ Corporal J.T. Wahrlich, ECPD Liaison

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# Committee History and Mission

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City Resolution 2001-105 abolished the El Cerrito Citizens Committee on Crime Prevention and created the Crime Prevention Committee.

The charges for the Crime Prevention Committee have remained generally the same over the years:

- ❖ develop and promote crime prevention programs
- ❖ promote cooperation with local law enforcement
- ❖ promote awareness of methods to prevent crime
- ❖ advise the City Council regarding crime prevention programs.

# 2014-15 Work Plan - Crime Prevention

Goal/Objective	Proposed Activities	Priority Ranking	Timeline
<b>Increase Number of Neighborhood Watch groups in El Cerrito</b>	<p>1. <i>Expand promotion of Neighborhood Watch Program at Crime Prevention events including:</i></p> <ul style="list-style-type: none"> <li>• Tri-City Safety Day</li> <li>• National Night Out</li> <li>• El Cerrito 4th of July Celebration</li> <li>• Neighborhood meetings to create a NW group.</li> <li>• City of EC publications, on-line resources, and social media site.</li> </ul>	1	On-going
	<p>2. <i>Improve communications with existing Neighborhood Watch leaders to share information and develop networks.</i></p>		On-going

# 2014-15 Work Plan - Crime Prevention

Goal/Objective	Proposed Activities	Priority Ranking	Timeline
<b>Update and revise crime prevention and safety information associated with the Neighborhood Watch Program</b>	<ol style="list-style-type: none"> <li>1. Inventory current crime prevention and safety information, print and electronic.</li> <li>2. Determine information needs of community based on survey results.</li> <li>3. Develop communication strategy for updating existing crime prevention and safety information.</li> </ol>	<b>2</b>	<b>On-going</b>
<b>Update and revise publications and information for Crime Prevention Committee recruitment.</b>	Create postcard for recruitment of new Committee members.	<b>2a</b>	Draft completed. Final approval from City needed.

# 2014-15 Work Plan - Crime Prevention

Goal/Objective	Proposed Activities	Priority Ranking	Timeline
<b>Gather data and conduct needs assessment surveys to:</b> <ul style="list-style-type: none"><li>• <b>increase participation in National Night Out</b></li><li>• <b>increase the number of Neighborhood Watch groups</b></li><li>• <b>determine crime prevention information needs and interests in El Cerrito.</b></li></ul>	Create, distribute, and collect survey information from National Night Out past participants and organizers; existing Neighborhood Watch leaders; and a sampling of general residents of El Cerrito.	<b>3</b>	On-going

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# 2013-14 Crime Prevention Events

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- Tri-City Safety Day
- National Night Out
- El Cerrito 4th of July Celebration
- Trinity Church Neighborhood Meetings to create a Neighborhood Watch group.
- City of El Cerrito Emergency Preparation Drill
- BART Commuter Safety Awareness Days
- On-line Data Safety and Theft Prevention Workshop

# Environmental Quality Committee

Annual Work Plan – 2015  
Presentation to City Council  
March 17, 2015



Photos by Dave Weinstein and  
Mark Miner

- ◉ Committee of up to 15 citizens
  - Currently 9 sitting on the Committee
- ◉ Meet 2<sup>nd</sup> Tuesday, 7 PM, City Hall
- ◉ Mission:
  - To educate, inspire, and activate ourselves and our community to sustainably thrive

# Role of the EQC

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- To serve in an advisory capacity to City Council, staff and other committees with regard to environmental quality issues in El Cerrito
- To recommend programs and policies to the City Council
- Foster public awareness, education and interest in the City's environmental quality efforts

# EQC Goals

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1. Promote **environmental action**
2. Involve **learners of all ages**
3. Work with residents and businesses to be more environmentally **sustainable**
4. **Champion** the City's environmental efforts
5. Support GHG **emissions reductions**
6. Support protection and creation of **open green space**
7. Support sustainable **water** systems

# EQC Accomplishments

- Green Teams –
  - Semi-Monthly Volunteer Events
  - Litter Removal & Habitat Restoration





# We Our Volunteers





# Green Teams for Urban Greening

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- Green Teams will be key to achieving Urban Greening Plan (in development)

## Objectives:

- Improved Trails and Paths
- Greener Gateways
- Strengthened Ohlone Greenway
- Enhanced / Expanded Parks
- Etc.

## ○ Critical to the success of community events



The City of El Cerrito  
Environmental Quality Committee Presents:

### Symphony of the Soil

**Saturday, June 28**  
**10:00 am to 12:00 pm**  
Rialto Cinemas Cerrito  
10070 San Pablo Avenue, El Cerrito

Join the City of El Cerrito's Environmental Quality Committee for a **FREE SHOWING** of the this artistic film that explores the complexity and mystery of soil. Filmed on four continents and sharing the voices of some of the world's most highly esteemed soil scientists, farmers, and activists, this film portrays soil as a protagonist of our planetary story.

In a skillful mix of art and science, soil is revealed to be a living organism, the foundation of life on earth. The film inspires the understanding that treating the soil right can help solve some of our most pressing environmental problems including climate change, dead zones, water scarcity and world hunger.

The film will be followed by a discussion with the film maker Deborah Koons Garcia.



For more information  
call 510-215-4361 or visit  
[www.el-cerrito.org/newgreen](http://www.el-cerrito.org/newgreen)

Cerrito Creek Clean Up This Saturday Inbox x

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 El Cerrito Environment [via\\_icontactmail3.com](mailto:via_icontactmail3.com) Feb 27 (9 days ago) ☆

to me ▾

Saturday, Feb. 28, Cerrito Creek Clean Up, 10 a.m. to 12:30 p.m.

Friends of Five Creeks, Albany Hill Stewards and El Cerrito's Green Teams will remove invasive plants and trash and even plant a few natives, as well as remove ivy and cape ivy uphill. Meet at El Cerrito's Creekside Park, south end of Santa Clara Ave. Wear long pants, long sleeves, and closed-toed shoes with good traction. Tools, gloves, water, snacks, and good company provided. Saturday, Feb. 28, 10 a.m. to 12:30 p.m.

This message was sent to [markeminer@gmail.com](mailto:markeminer@gmail.com) from:  
El Cerrito Environment | [green@ci.el-cerrito.ca.us](mailto:green@ci.el-cerrito.ca.us) | City of El Cerrito | 7007 Moeser Lane | El Cerrito, CA 94530-2392

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# EQC Accomplishments

## ○ Eco-Film Series

- Environmentally Themed Films and Talks



Alan Snintow – Producer/  
Director of *Thirst*



Helena Norberg-Hodge –  
Researcher/ Writer ,  
*The Economics of Happiness*



*Workshop after  
New Metropolis*



*Symphony of the Soil* and film maker Deborah Koons -Garcia

# Global Perspective – Local Action



*Chasing Ice*



Discussing what it means for us



Will Travis, former ED of SF Bay Conservation and Development Commission (BCDC) explains the local impacts of sea level rise

# EQC Accomplishments

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## ○ Environmental Policies and Programs

- Supported policy development and hosted public forums for
  - Animal Ordinance – 2012
  - Climate Action Plan – 2013
  - Single-Use Plastic Bag and EPS Foam Take Out Container Bans – 2013
  - Fundraise to Purchase Madera Open Space - 2014
  - Community Choice Aggregation – 2015

# 2015 Work Plan

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- **Green Team and Volunteer Events**
  - Semi-Monthly Events
  - Earth Day
  - Volunteer Recognition Party - October
- **Eco-Film Series**
  - The Future of Energy – April TBD
- **Climate Action Implementation**
  - Outreach on Deep Green Enrollment in MCE

# 2015 Work Plan

- Fundraise for Hillside Natural Area
  - 2<sup>nd</sup> Annual Hillside Festival – May 17
  - Music for Madera Festival – Sept. 20
- Trash Mitigation Strategies
  - Beyond Volunteer Clean-Ups
  - Trash Can Assessment
- Pollinator Safe Community
  - Resolution to become a Pollinator Safe Community



# 2015 Work Plan

## ○ Education Events

- Grey Water
- Environmental Workshops
  - Healthy Gardens
  - Energy Efficiency
  - Solar Energy
  - Water Conservation



# 2015 Work Plan

## Support Plan & Policy Adoption

- Property Assessed Clean Energy (PACE) Financing
- Urban Greening Plan
- Active Transportation Plan



# EQC Calendar of Events

2015 EQC Calendar		
<p><b><u>January</u></b>            Green Team Clean Up</p>	<p><b><u>February</u></b>            Green Team Clean Up – Feb 28</p>	<p><b><u>March</u></b>            Green Team Clean Up – Mar 15</p>
<p><b><u>April</u></b>            Earth Day Celebration (4/18)            Eco-Film Event</p>	<p><b><u>May</u></b>            Green Team Clean Up – May 16            Hillside Natural Area Festival (5/17)</p>	<p><b><u>June</u></b></p>
<p><b><u>July</u></b>            El Cerrito 4<sup>th</sup> of July Festival            Green Team Clean Up – Jul 12</p>	<p><b><u>August</u></b></p>	<p><b><u>September</u></b>            Coastal Cleanup Day – Green Team            – Sept 12            Music For Madera</p>
<p><b><u>October</u></b>            We Love Our Volunteers            Recognition Party</p>	<p><b><u>November</u></b>            Green Team Clean Up – Nov 8</p>	<p><b><u>December</u></b></p>



# EL CERRITO CITY COUNCIL

## MINUTES

**SPECIAL CITY COUNCIL MEETING**  
**Saturday, February 14, 2015 – 8:30 a.m.**  
**Hillside Conference Room**

*This meeting was not be televised*

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

Mark Friedman – Mayor

Councilmember Janet Abelson  
Councilmember Jan Bridges

Mayor Pro Tem Greg Lyman  
Councilmember Gabriel Quinto

### **ROLL CALL**

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

**8:30 a.m.**

### **CONVENE SPECIAL CITY COUNCIL MEETING**

Mayor Friedman convened the Special City Council meeting at 8:30 a.m.

**ORAL COMMUNICATIONS FROM THE PUBLIC** – No speakers.

### **COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS**

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

**Action:** The City Council by mutual consensus, made the following appointments:

Paul Fadelli is appointed to the Arts & Culture Commission for a term beginning on February 17, 2015 and ending on March 1, 2016.

Jia Ma is appointed to the Citizens Street Oversight Committee for a term beginning on March 1, 2015 and ending on March 1, 2019.

Marlene Keller is appointed to the Citizens Street Oversight Committee for a term beginning on March 1, 2015 and ending on March 1, 2019.

Michael Fischer is appointed to the Civil Service Commission for a term beginning on March 1, 2015 and ending on March 1, 2019.

Judy Heyenga is appointed to the Civil Service Commission for a term beginning on March 1, 2015 and ending March 1, 2019.

Bruce Yow is appointed to the Civil Service Commission for a term beginning on February 17, 2015 and ending March 1, 2018.

Judy Heyenga is appointed to the Human Relations Commission for a term beginning on February 17, 2015 and ending on March 1, 2019.

Rochelle Pardue-Okimoto is appointed to the Human Relations Commission for a term beginning on March 1, 2015 and ending March 1, 2019.

Lydia Hughes is appointed to the Human Relations Commission for a term beginning on March 1, 2015 and ending March 1, 2019.

Ben Chuaqui is appointed to the Parks and Recreation Commission for a term beginning on March 1, 2015 and ending on March 1, 2019.

Robin Mitchell is re-appointed to the Parks and Recreation Commission for a term beginning on March 1, 2015 and ending March 1, 2019.

Andrea Lucas is re-appointed to the Planning Commission for a term beginning on March 1, 2015 and ending March 1, 2017.

Kevin Colin is appointed to the Planning Commission for a term beginning on March 1, 2015 and ending March 1, 2019.

**ADJOURNED SPECIAL CITY COUNCIL MEETING** at 11:38 a.m.

**SUPPLEMENTAL REPORTS AND COMMUNICATIONS**

1. Revised appointment list template – *Submitted by Cheryl Morse, City Clerk*

# EL CERRITO CITY COUNCIL

## MINUTES

**REGULAR CITY COUNCIL MEETING**  
**Tuesday, February 17, 2015 – 7:00 p.m.**  
**City Council Chambers**

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

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman  
Councilmember Jan Bridges

Councilmember Janet Abelson  
Councilmember Gabriel Quinto

### ROLL CALL

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

7:00 p.m.

### CONVENE REGULAR CITY COUNCIL MEETING

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

- 1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE** was led by Councilmember Jan Bridges.
- 2. COUNCIL / STAFF COMMUNICATIONS** – None.
- 3. ORAL COMMUNICATIONS FROM THE PUBLIC**

Jen Komaromi, El Cerrito, stated that she is a local business owner and is also a parent at Fairmont Elementary School. Ms. Komaromi expressed concerns with postponement of the rebuilding of Fairmont Elementary School. Ms. Komaromi asked the City Council to support making the Fairmont School rebuild a priority. The existing facility is sixty years old and is in disrepair.

### 4. PRESENTATION

#### **Richmond Elks Recognition of Officer Chi Lee**

Approve a proclamation commending Officer Chi Lee on the occasion of his recognition by the Richmond Elks Lodge No. 1251 on Police Officer Appreciation Night.

**Action:** Moved, seconded (Abelson/Bridges) and carried unanimously to approve the proclamation. Proclamation presented to Officer Chi Lee.

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

Moved, seconded (Bridges /Abelson) and carried unanimously to approve Consent Calendar Item Nos. 5A through 5F in one motion as indicated below including a revised Exhibit B to the resolution included in Agenda Item 5(E) Board of Equalization contracts.

CITY COUNCIL ITEMS

**A. Minutes for Approval**

Approve the February 3, 2015 regular City Council meeting minutes.

**Action:** Approved minutes.

**B. Agreement with City of Berkeley for Year-Round Automatic Aid**

Adopt a resolution authorizing the City Manager to execute an updated Memorandum of Understanding with the City of Berkeley for the exchange of fire and emergency response on a year-round basis.

**Action:** Adopted Resolution No. 2015–09.

**C. East Bay Corridor Initiative Memorandum of Understanding**

Adopt a resolution approving entering into a Memorandum of Understanding to participate in the East Bay Corridor Initiative.

**Action:** Adopted Resolution No. 2015-10.

**D. Joint Application with Eden Housing for State Proposition 1C Infill Infrastructure Grant Funds for the San Pablo Avenue Senior Housing Development**

Adopt a resolution amending Resolution No. 2014-76 to authorize a Proposition 1C Infill Infrastructure Grant application for the San Pablo Avenue Senior Housing Development located at 10848-10860 San Pablo Avenue for a grant in an amount not to exceed \$1,399,547.

**Action:** Adopted Resolution No. 2015-11.

**E. Board of Equalization Contracts for City of El Cerrito Measure R**

Adopt a resolution authorizing the City Manager to execute a “Preparatory Agreement” and an “Administrative Agreement” with the California State Board of Equalization to administer and collect the twelve-year one-cent transactions and use tax approved by the voters in the November 4, 2014 General Election and to appropriate up to \$175,000 for the preparatory costs incurred by the Board necessary to administer the City’s transactions and use tax.

**Action:** Adopted Resolution No. 2015-12.

CITY COUNCIL ACTING AS SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY

**F. Draft Recognized Obligations Payment Schedule 15-16A and the Redevelopment Successor Agency’s Fiscal Year 2015-16 Administrative Budget**

Adopt a El Cerrito Redevelopment Successor Agency resolution reviewing and authorizing submittal of the draft Recognized Obligations Payment Schedule 15-16A covering the period July to December 2015 and the Successor Agency’s Fiscal Year 2015-16 administrative budget.

**Action:** Adopted Successor Agency Resolution No. 2015–01.

**6. PUBLIC HEARINGS – None**

## 7. POLICY MATTERS

### A. Appointment of Marin Clean Energy Board of Directors

Adopt a resolution appointing a delegate and one alternate to the Marin Clean Energy (MCE) Board of Directors. *Exempt from CEQA.*

**Presenter:** Maria Sanders, Interim Manager of Environmental Services and Public Works Operations.

**Action:** Mayor Friedman appointed Mayor Pro Tem Lyman as Director and Councilmember Quinto as Alternate Director to the Marin Clean Energy Board. Moved, seconded (Lyman/Bridges) and carried unanimously to adopt Resolution No. 2015-13 confirming the appointment.

### B. Massage Establishment Moratorium

Staff recommends that the City Council adopt a moratorium on the establishment or relocation of massage establishments to provide time to study and plan an approach to massage regulation following the Governor's approval of Assembly Bill 1147. The moratorium will prohibit the issuance of all City permits to new and existing massage establishments except for renewals and for emergency repairs and associated permits. The moratorium will be effective immediately for forty-five days upon adoption, unless extended by the City Council through a future public hearing and action.

**Presenter:** Sky Woodruff, City Attorney.

**Action:** Moved, seconded (Abelson/Quinto) and carried unanimously to adopt Urgency Ordinance No. 2015-03.

## 8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

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

Mayor Pro Tem Lyman reported that the West County Integrated Waste Management Authority (IWMA) met on February 12, 2015 and discussed compensation for a new executive director. The IWMA Board set the salary range at \$115,000 to \$150,000. The Board also discussed future agenda items. The reserve fund will be discussed on March 19. The recycling reserve fund is a significant amount of money that was generated from the sales of recyclables over the last fifteen years. The fund is between \$2.5 to \$5 million.

Mayor Friedman reported that he, City Manager Hanin and Mayor Pro Tem Lyman participated in a discussion with the Interim IWMA/RecycleMore Director recently. Mayor Friedman also reported that El Cerrito hosted the Contra Costa Mayors Conference on February 5 at the Mira Vista Country Club and thanked City Clerk Cheryl Morse and city staff for making it a wonderful event. The presentation featured a representative from Kaiser Permanente who spoke about the Affordable Care Act and Covered California. It was an interesting discussion.

## 9. ADJOURNED REGULAR CITY COUNCIL MEETING at 7:27 p.m.

### SUPPLEMENTAL REPORTS AND COMMUNICATIONS

#### Item No. 5(E) Board of Equalization Contracts for City of El Cerrito Measure R

1. Revised BOE Agreement, Exhibit B Admin Contract – *Submitted by Sky Woodruff, El Cerrito.*

***EL CERRITO CITY COUNCIL PROCLAMATION  
March 2015 is Prescription Drug Abuse Awareness Month***

WHEREAS, drug overdose was the leading cause of injury death in 2012 and among those 25 to 64 years old caused more deaths than motor vehicle traffic accidents and in 2013 drug overdoses in the United States caused 42,982 unintentional deaths and 22,767 of those were from prescription drugs and in 2011, an estimated 22.5 million Americans aged 12 or older used an illicit drug or abused a prescription drug in the past month; and

WHEREAS, in 2011, 1.4 million emergency department visits were related to misuse or abuse of pharmaceuticals; and

WHEREAS, non-medical use of prescription painkillers costs health insurers up to \$72.5 billion annually in direct health-care costs; and

WHEREAS, overdose deaths involving opioid pain relievers now exceed more deaths than heroin and cocaine combined and as many as 70% of people who abuse prescription drugs get them from a relative or friend instead of a doctor; and

WHEREAS, during the nine National Prescription Drug Take Back Days, a total of 4.8 million pounds (2,411 tons) of medication has been removed by the Drug Enforcement Agency and its state, local, tribal law-enforcement and community partners from circulation and potential diversion; and

WHEREAS, the National Coalition Against Prescription Drug Abuse, *RxSafe Contra Costa*, and the City of El Cerrito in cooperation with the law enforcement, community based organizations, alcohol and other drug service providers and civic and business leaders engage our residents in demonstrating their commitment to prevention campaigns and education aimed at raising awareness about the abuse/misuse of prescription drugs, promoting prescription drug safe storing and disposal and using medications only as prescribed; and

WHEREAS, families, schools, businesses, faith-based communities, law enforcement, medical professionals, county and local governments, health care practitioners and pharmacists of the City of El Cerrito and the general public are encouraged to demonstrate their commitment to the prevention of prescription medication abuse.

NOW, THEREFORE, the City Council of the City of El Cerrito does hereby recognize March, 2015 as Prescription Drug Abuse Awareness Month as enacted by state law in April, 2013, and encourages all residents to actively participate in prevention programs and activities and safely store and dispose of their medications on a continual basis. The City Council encourages all community members to pledge, "Spread the Word...One Pill Can Kill."

Dated: March 17, 2015

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Mark Friedman, Mayor

## ***EL CERRITO CITY COUNCIL PROCLAMATION***

### ***Proclaiming March 2015 as American Red Cross Month***

WHEREAS, American Red Cross Month is a special time to recognize and thank our Everyday Heroes – those who reach out to help people in need; and

WHEREAS, American Red Cross heroes help disaster victims recover. They give blood to help a hospital patient. They brighten the day of an injured service member. They step forward to help someone having a heart attack; and

WHEREAS, the City Council wishes to remember our heroes here in the City of El Cerrito who help people in need. They work tirelessly to assist their neighbors when they need a helping hand; and

WHEREAS, across the country and around the world, the American Red Cross responds to disasters. When injured service members have ended up in a hospital far from home, the American Red Cross offered comfort. When a hospital patient needed blood, American Red Cross blood donors helped them. When a lifeguard jumped in to save a drowning child or someone stepped up to help a heart attack victim, the American Red Cross was there; and

WHEREAS, the City Council dedicates the month of March to all those who support the American Red Cross mission to prevent and alleviate human suffering in the face of emergencies. Our community depends on the American Red Cross, which relies on donations of time, money and blood to fulfill its humanitarian mission.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby proclaim March 2015 as American Red Cross Month in the City of El Cerrito and encourages all residents to support this organization and its noble humanitarian mission.

Dated: March 17, 2015

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Mark Friedman, Mayor



## AGENDA BILL

### Agenda Item No. 5(D)

Date: March 17, 2015

To: El Cerrito City Council

From: Stephen Prée, Environmental Programs Manager / City Arborist  
Maria Sanders, Interim Division Manager, Operations + Environmental Services  
Yvetteh Ortiz, Public Works Director / City Engineer

Subject: Annual Parcel Assessment for the National Pollutant Discharge Elimination System (NPDES) Program and Drainage Maintenance

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### **ACTION REQUESTED**

Adopt a resolution establishing the annual parcel assessment for the National Pollutant Discharge Elimination System (NPDES) and Drainage Maintenance Program at the current rate of \$38.00 per Equivalent Runoff Unit (ERU), and authorizing the Contra Costa County Flood Control & Water Conservation District to adopt Stormwater Utility Area levies based on said amount.

### **BACKGROUND**

Under the 1987 amendments to the Federal Water Pollution Control Act (Clean Water Act), all jurisdictions in the United States are responsible for ensuring compliance with the National Pollutant Discharge Elimination System (NPDES) program. The San Francisco Regional Water Quality Control Board (RWQCB) through a Municipal Regional Stormwater NPDES Permit (MRP) administers this NPDES program in the Bay Area. In Contra Costa County, the Contra Costa Clean Water Program (CWP) coordinates compliance and collaborates on programmatic components of the MRP. The CWP is comprised of the Contra Costa County, its 19 incorporated cities and towns, and the County Flood Control and Water Conservation District. Working with the member jurisdictions, the CWP provides services designed to protect water quality by keeping trash and other pollutants from entering drainage systems that ultimately make their way into local creeks, reservoirs, lakes, and the Bay.

### **Municipal Regional Permit**

The cities and municipalities that make up the CWP are currently permitted under a MRP that was adopted by the RWQCB on October 14, 2009 (the MRP also includes Alameda, Santa Clara, and San Mateo counties). One of the goals of the MRP, as stated by the RWQCB, was to consolidate all Bay Area municipal permits into one consistent permit that is regional in scope. This includes more definitive NPDES Permit language and requirements such as: mandating specific stormwater management actions and levels of implementation, requiring certain reporting and effectiveness evaluation

## **Agenda Item No. 5(D)**

processes; implementing and enhancing actions to control 303(d) listed pollutants, pollutants of concern (POCs), Total Maximum Daily Load (TMDL) limits; and requiring more complete and comprehensive stormwater monitoring.

The MRP also places significant regulatory and reporting emphasis in the areas of New Development/Redevelopment project infrastructure, as well as Trash Load reduction and monitoring. Each of the various requirements is stepped-up annually during the term of the Permit. A draft of the new, more rigorous MRP has recently been released for comment. It is anticipated to be effective January 1, 2016.

In 2012, to keep up with the increased compliance costs, the CWP attempted to raise new funds through a property-owner mail-in ballot election. Although the countywide initiative failed, support in El Cerrito was 54 percent. Just recently, in February 2015, Assembly Bill No. 1362, introduced by Assembly Member Rich Gordan, would define “stormwater” for purposes of the Proposition 218 Omnibus Implementation Act (hereafter the “Act”) and could lead to a process to fund stormwater services. City staff will bring this item to City Council for consideration later this year.

### **DISCUSSION**

The CWP is funded through the countywide Stormwater Utility Area (SUA) assessment, which is levied in each of the participating CWP agencies. The assessment funds individual member activities, as well as countywide efforts. Specific assessments are calculated through determining Equivalent Runoff Units (ERUs). An ERU is a value that reflects the amount of impervious (paved) surface of a given parcel. Impervious surfaces result in stormwater runoff to the storm drain system, which potentially carry pollutants to the Bay and into the ground water. Parcels that contain large areas of paved surfaces are assigned a greater number of ERUs. Residential lots in El Cerrito between 5,000 to 20,000 square feet are assigned one ERU. Industrial or commercial parcels with paved parking or other impervious surfaces are assigned two or more ERUs depending on their size.

In 1993, when the County SUA was established, El Cerrito’s assessment was \$14 per ERU. The City’s current rate of \$38.00 per ERU was approved by Council in Fiscal Year (FY) 2004-2005, an increase from the previous rate of \$30.00 (in FY 2003-2004). Per the County Ordinance adopting the SUA (93-47, attached), \$38 is the maximum rate that can be assessed in El Cerrito.

The current \$38.00 El Cerrito rate generates approximately \$398,000 for clean water compliance annually. The total amount generated countywide for the Clean Water Program in FY 2014-2015 was slightly more than \$14 million. About 80 percent of these revenues are transferred to the local jurisdiction from which they originated. Remaining revenues fund the CWP, which assists local jurisdictions to comply with the NPDES permit by providing guidance and staff training and by implementing some public outreach and water-quality monitoring that can be done more cost-effectively at the countywide level. The CWP also pays dues, on behalf of the local jurisdictions, to the Bay Area Stormwater Management Agencies Association, to the San Francisco Bay

## Agenda Item No. 5(D)

Regional Monitoring Program for Trace Substances, and to the California Stormwater Quality Association. These groups provide monitoring and research activities that are mandated under the NPDES permit, and provide representation, guidance and staff training at the regional and state levels.

Each year the per parcel rate for the SUA must be re-established by the County Board of Supervisors, which acts as the governing body for the Flood Control and Water Conservation District and, thus, the Clean Water Program. Each local jurisdiction must first adopt a resolution designating the appropriate assessment for its jurisdiction and then forward that instructing resolution to the Clean Water Program. The resolution must be adopted by the City no later than April 15 in order for the County to have sufficient time to place the assessment on the property tax roles for FY 2015-2016.

### **El Cerrito's Clean Water Program**

El Cerrito's Clean Water Program includes meeting multiple NPDES Permit provisions through activities that can be grouped into five general areas. Below is a brief description of each program area. Specific annual accomplishments are detailed in an Annual Report prepared each summer for submittal to the RWQCB. The activities are coordinated and carried out primarily by the Public Works Department, with assistance from the Building Division, Code Enforcement, and the Fire Department as needed.

- 1) New Development and Construction Control Activities prevent pollutants from entering storm drains during new development, construction activities, and for the life of each project. Measures to achieve this include integrating and inspecting temporary and permanent stormwater pollution prevention measures during construction of public and private projects. Permanent stormwater pollution prevention measures, such as bioswales, are commonly referred to as "C.3" provisions.
- 2) Public Education and Industrial Outreach Activities (PEIO) educate residents, businesses, and school-age children about the causes and effects of stormwater pollution, the difference between the sanitary sewer and the storm drain system, and the effect on our local watersheds. The City aims to encourage these audiences to participate in ongoing creek protection and restoration efforts and to adopt less-polluting practices.
- 3) Municipal Maintenance Performance Activities include optimizing pollutant removal during routine maintenance activities such as street sweeping and storm drain facility maintenance, and using Best Management Practices to prevent or minimize discharges to storm drains and watercourses from the maintenance of roads, parks, and other publicly owned facilities.
- 4) Industrial and Commercial Inspection Activities aim to reduce or eliminate discharges to the storm drain system from industrial and commercial facilities. On November 19, 2013, the City Council adopted Resolution No. 2013-61 which designated the West County Wastewater District to perform the City's commercial and industrial inspections, via a contract coordinated by the Clean Water Program.

## **Agenda Item No. 5(D)**

This program inspects 40 El Cerrito businesses annually for compliance with best management practices for stormwater pollution prevention.

- 5) Illicit Discharge Control Activities prevents pollution from entering storm drains and creeks. Public Works maintenance staff conducts regular inspections of all open creek segments, trash racks, and headwalls on public property as part of routine procedure.

### **STRATEGIC PLAN CONSIDERATIONS**

Maintaining existing funding for the City's Clean Water Program activities fulfills Strategic Plan Goal E to "Ensure the public health and safety." These activities are mandated by both Federal and State regulations. Non-compliance with the Municipal Regional NPDES Permit exposes jurisdictions to penalties, fines, and other enforcement actions. In addition, maintaining funding for these activities fulfills Goal F to "Foster environmental sustainability citywide," as discussed below.

### **ENVIRONMENTAL CONSIDERATIONS**

Implementation of the Clean Water Program protects the health and sustainability of the City's waterways and ecology. Continued funding of the ERU rate at the maximum allowable level will help to fund current NPDES activities, including managing the City's clean water program, municipal maintenance activities, as well as CWP activities such as water quality monitoring and illicit discharge detection and elimination.

### **FINANCIAL CONSIDERATIONS**

Staff is proposing adoption of the maximum rate of \$38.00 per ERU for FY 2015-2016, which would generate approximately \$398,000, of which approximately 80 percent will be returned to the City. Following adoption by the City Council, the Contra Costa County Board of Supervisors will adopt the annual property assessments for the FY 2015-2016 tax rolls.

Existing expenses in the NPDES Fund (202) exceed revenues. In FY 2014-2015, the Storm Drain Fund (205) has made a one-time loan of \$57,000 to the NPDES Fund for eligible expenses related to storm drain maintenance. The NPDES Fund is anticipated to pay back the full amount in the following two fiscal years. Additional funding sources will need to be identified starting in FY2015-2016 in order to meet regulatory requirements for Clean Water Program activities.

### **LEGAL CONSIDERATIONS**

The proposed actions are consistent with established processes for City adoption of the annual ERU rate; no legal concerns have been identified.

**Reviewed by:**



**Scott Hanin**  
**City Manager**

**Attachments:**

- 1) Resolution establishing the City's ERU rate for FY 2015-16
- 2) Contra Costa County Chief Engineers Report on Formation of Stormwater Utility Areas and Adoption of Annual Assessments, June 22 1993

**RESOLUTION 2015-XX**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ESTABLISHING THE RATE AND ADOPTING AN ANNUAL PARCEL ASSESSMENT FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PROGRAM AND DRAINAGE MAINTENANCE**

WHEREAS, under the Federal Water Pollution Control Act, prescribed discharges of stormwater require a permit from the appropriate California Regional Water Quality Board under the National Pollutant Discharge Elimination System (NPDES) program; and

WHEREAS, the City of El Cerrito did apply for, and did receive, a NPDES permit which requires the implementation of selected Best Management Practices to minimize or eliminate pollutants from entering stormwater; and

WHEREAS, it is the intent of the City of El Cerrito to utilize funds received from its Stormwater Utility Area (SUA) for implementation of the NPDES program and drainage maintenance activities; and

WHEREAS, at the request of the City of El Cerrito, the Contra Costa County Flood Control & Water Conservation District (DISTRICT) has completed the process for formation of a SUA, including the adoption of the Stormwater Utility Assessment Drainage Ordinance No. 93-47; and

WHEREAS, the SUA and Program Group Costs Payment Agreement between the City of El Cerrito and the DISTRICT requires that the City of El Cerrito annually, by April 15th, determine the rate to be assessed to a single Equivalent Runoff Unit (ERU) for the forthcoming fiscal year.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito does determine that the rate to be assigned to a single ERU for fiscal year 2015-2016 shall be set at \$38.00.

BE IT FURTHER RESOLVED that the City Council of the City of El Cerrito does hereby request the DISTRICT to adopt SUA levies based on said amount.

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

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

**Agenda Item No. 5(D)**

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

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor

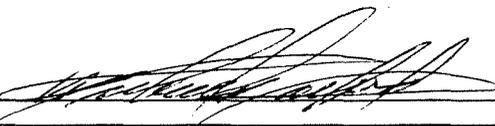
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**TO:** BOARD OF SUPERVISORS, AS THE GOVERNING BODY OF CONTRA COSTA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT  
**FROM:** J. MICHAEL WALFORD, CHIEF ENGINEER  
**DATE:** June 22, 1993  
**SUBJECT:** CHIEF ENGINEER'S REPORT ON FORMATION OF STORMWATER UTILITY AREAS AND ADOPTION OF ANNUAL ASSESSMENTS

SPECIFIC REQUEST(S) OR RECOMMENDATION(S) & BACKGROUND AND JUSTIFICATION

**I. Recommended Action:**

1. ACCEPT Chief Engineer's report on the tabulation of the protests against the proposed Stormwater Utility Assessments;
2. FIND that the number of protests received for each Stormwater Utility Area represent less than fifty (50) percent of the area;
3. DETERMINE the formation of the Stormwater Utility Areas is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) Article 5, CEQA Guidelines. DIRECT the Community Development Director to file a notice of Exemption.
4. APPROVE the resolutions establishing the seventeen (17) Stormwater Utility Areas; and
5. ADOPT the Ordinance establishing Stormwater Utility Assessments in the seventeen (17) Stormwater Utility Areas with the stipulation that the Equivalent Runoff Unit (ERU) rate for the unincorporated County area shall be \$16.20 for Fiscal Year 1993-94 (a ten percent reduction from the proposed rate of \$18/ERU.)

Continued on Attachment:  X  SIGNATURE: 

RECOMMENDATION OF COUNTY ADMINISTRATOR  
  RECOMMENDATION OF BOARD COMMITTEE  
  APPROVE   OTHER

SIGNATURE(S):

ACTION OF BOARD ON  JUN 22 1993  APPROVED AS RECOMMENDED  X  OTHER

VOTE OF SUPERVISORS  
 X  UNANIMOUS (ABSENT  )  
AYES:   NOES:    
ABSENT:   ABSTAIN:

MFK:lv:fp:sj  
c:NPDES\22.t6

Orig. Div: Public Works (FC)  
Contact: Milton Kubicek, 313-2203  
cc: County Administrator  
County Auditor  
County Counsel  
PW - Flood Control

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED:  JUN 22 1993   
PHIL BATCHELOR, Clerk of the Board of Supervisors and County Administrator

By  Barbara Sidari , Deputy

**II. Financial Impact:**

The proposed Stormwater Utility Assessments will raise approximately \$8,052,900 to fund the National Pollutant Discharge Elimination System (NPDES) permit activities including drainage system maintenance for the following cities and unincorporated Contra Costa County areas:

Antioch	El Cerrito	Moraga	Pleasant Hill
Clayton	Hercules	Orinda	San Pablo
Concord	Lafayette	Pinole	San Ramon
Danville	Martinez	Pittsburg	Walnut Creek

**III. Reasons for Recommendations and Background:**

Contra Costa County, its incorporated cities and the Contra Costa County Flood Control and Water Conservation District decided approximately two years ago to collectively apply for a Joint Municipal National Pollutant Discharge Elimination System (NPDES) Permit. This is federally mandated through the Clean Water Act which was amended in 1987 to specifically address stormwater pollution. There are three parts to the Permit. The Part I Application representing reconnaissance level activities by each municipality was submitted to the San Francisco Bay and Central Valley Regional Water Quality Control Boards on May 18, 1992. The Part II Application represented the development of each municipality's Stormwater Management Plan which was submitted to the Regional Boards on May 17, 1993. The Stormwater Management Plan seeks to reduce or radically eliminate pollutants from entering or reaching the storm sewer system. The third phase of the process is the actual promulgation of the Permit.

The Permit is for five years (1993 to 1998) requiring each municipality to implement their approved Stormwater Management Plan. The Regional Boards have indicated the need for a "restricted" funding source to finance implementation costs. Therefore, Contra Costa County proposed legislation providing a financing option for municipalities to use through the Contra Costa County Flood Control and Water Conservation District. The bill, AB 2768 (Campbell), was passed by the legislature and signed by Governor Pete Wilson on August 30, 1992. The legislation specifically allows a municipality to request formation of a Stormwater Utility Area within their incorporated boundaries and establish an assessment to pay for implementation costs.

The Board of Supervisors, acting as the Contra Costa County Flood Control and Water Conservation District, provided public notice to all affected property owners before considering the establishment of the Stormwater Utility Areas and assessments. The Board of Supervisors acting on behalf of Contra Costa County has also taken specific actions establishing the Stormwater Utility Area and assessment for the unincorporated portion of the County. Should there be a fifty percent (50%) protest against the Stormwater Utility Areas formations and assessments, the Board of Supervisors would have to abandon this form of financing. Due to the inability to create any new assessments for the 1993-94 Fiscal Year, the likely alternative funding source would be the General Fund.

Public notices were sent to approximately 238,234 parcel owners. State legislation (SB1977 - Bergeson) requires at least 45 day notice to parcel owners before the governing board considers any new or increased assessments. This requirement was met and informed parcel owners of two public hearings which were held on June 10 and 15, 1993. Approximately 28,170 recorded protests have been received. This represents approximately 11.8% of the total number of parcel owners who received public notices. The recorded protest includes those legally acceptable and those that appear acceptable but presently are questionable. The reason this figure is used is to provide a "worse case" scenario to the Board of Supervisors regarding the amount of protests per stormwater utility area. A copy of all written protests are retained in the office of the Contra Costa County Clerk of the Board located at 651 Pine Street, Martinez, California. A majority protest by the owners of more than 50% in area of the territories to be included in the stormwater utility area would cause the assessment to be abandoned for that particular area. This has not occurred. The following two charts highlight the total "assessable" and "total" area per stormwater utility area:

Formation of Stormwater Utility Areas  
and Adoption of Annual Assessments  
June 22, 1993  
Page -3-

Tax Rate Area	Area Protested	Total Assessable Area	Percentage*
01 City of Antioch	806	5,542	14.5
02 City of Concord	1,278	8,235	15.5
03 City of El Cerrito	150	1,801	8.3
04 City of Hercules	165	1,380	12.0
05 City of Martinez	703	3,392	20.7
06 City of Pinole	191	1,570	12.2
07 City of Pittsburg	775	3,964	19.5
09 City of Walnut Creek	785	5,979	13.1
11 City of San Pablo	194	1,408	13.8
12 City of Pleasant Hill	419	2,830	14.8
13 City of Clayton	138	1,307	10.5
14 City of Lafayette	587	4,833	12.1
15 Town of Moraga	599	2,386	25.1
16 Town of Danville	501	4,548	11.0
17 City of San Ramon	577	3,677	15.7
18 City of Orinda	361	3,440	10.5
50 Unincorporated County	5,358	31,050	17.2

Tax Rate Area	Area Protested	Total Area	Percentage*
01 City of Antioch	806	18,000	4.4
02 City of Concord	1,278	14,954	8.5
03 City of El Cerrito	150	2,706	5.5
04 City of Hercules	165	4,115	4.0
05 City of Martinez	703	7,196	9.7
06 City of Pinole	191	3,105	6.1
07 City of Pittsburg	775	10,221	7.5
09 City of Walnut Creek	785	14,511	5.4
11 City of San Pablo	194	1,711	11.3
12 City of Pleasant Hill	419	3,708	11.3
13 City of Clayton	138	3,185	4.3
14 City of Lafayette	587	9,583	6.1
15 Town of Moraga	599	9,579	6.2
16 Town of Danville	501	11,037	4.5
17 City of San Ramon	577	9,351	6.1
18 City of Orinda	361	10,521	3.4
50 Unincorporated County	5,358	417,315	1.2

The "total assessable area" provides the worse case scenario for determining if a majority protest exists. Based on these amounts, a majority protest does not exist for any stormwater utility area.

The process used to record protests included a specific database based on the 1992 equalized tax roll indicating parcel ownership, address, notification address, acreage, land use, proposed assessment, etc. Two "hotlines" were established so the general public could have immediate access to information. During the ten weeks between mailing of the public notices and the June 15th public hearing, approximately 500 telephone call were received. Two trained operators were able to handle the majority of the problems. Questions that were encountered were based primarily on the accuracy of the Land Information and the Public Works Automated Mapping Systems. These included problems dealing with parcel ownership, acreage of the parcel and the appropriate land use. Should the Board of Supervisors approve the Stormwater Utility Areas and Assessments than field inspection activities would immediately commence. All known problems will be reviewed and corrections made prior to the promulgation of the assessments for the 1993-94 Fiscal Year. Specific problems pertaining to reclamation districts, the Oakley-Knightsen area and St. Mary's College will be resolved prior to this promulgation.

#### IV. Consequences of Negative Action:

The Environmental Protection Agency promulgated the National Pollutant Discharge Elimination Discharge System (NPDES) Permit Application Regulations for stormwater discharges on November 16, 1990 (40 CFR Parts 122, 123 and 124). Contra Costa County and the City of Concord were specifically identified in the Federal Register as needing a Municipal NPDES Permit. The legislation also permitted the State of California to make a finding if stormwater discharge was a "... significant contributor of pollutants to the waters of the United States" then these municipalities would also need to obtain a Municipal NPDES Permit. Such a finding was made requiring all municipalities within the San Francisco Bay Regional Water Quality Control Board's jurisdiction in Contra Costa County to obtain Municipal NPDES Permits.

All affected municipalities excluding the City of Richmond have opted to utilize the financing method contained in Assembly Bill 2768 (Campbell). This means each municipality is specifically requesting the formation of a Stormwater Utility Area within their incorporated boundaries, have established an assessment for Fiscal Year 1993-94 and set a maximum rate of assessment. Should the Board of Supervisors acting as the Contra Costa County Flood Control and Water Conservation District fail to proceed with this assessment, then it would create immediate financial chaos. All participating municipalities are expecting the Board of Supervisors to approve the formation of Stormwater Utility Areas and assessments if a majority protest does not materialize. If the AB 2768 financing mechanism is not implemented, then municipalities would need to resort to general revenue financing. This would further exasperate the financial dilemma all municipalities are facing with cut-backs from the State to local governments.

**AN ORDINANCE OF THE CONTRA COSTA COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT  
IMPOSING STORM WATER UTILITY ASSESSMENTS FOR  
STORMWATER UTILITY AREAS:**

**1-(Antioch), 2-(Clayton), 3-(Concord), 4-(Danville), 5-(El Cerrito),  
6-(Hercules), 7-(Lafayette), 8-(Martinez), 9-(Moraga), 10-(Orinda),  
11-(Pinole), 12-(Pittsburg), 13-(Pleasant Hill), 14-(San Pablo),  
15-(San Ramon), 16-(Walnut Creek), and 17-(Unincorporated County)**

The Board of Supervisors of Contra Costa County, acting as the governing board of the Contra Costa County Flood Control and Water Conservation District, ordains as follows:

**ARTICLE I**

Section 1. Title.

This Ordinance shall be known as the "Stormwater Utility Assessment Ordinance" of the Contra Costa County Flood Control and Water Conservation District.

Section 2. Purpose.

The United States Environmental Protection Agency (the "EPA") has, consistent with Section 402 of the Federal Clean Water Act, as amended, promulgated the National Pollutant Discharge Elimination System Regulations (the "NPDES Regulations") pursuant to which the EPA, through the appropriate California Regional Water Quality Control Board (the "CRWQCB"), has required the Contra Costa County Flood Control and Water Conservation District (the "District") and other affected public entities to secure a National Pollutant Discharge Elimination System Stormwater Permit (the "NPDES Permit") and to develop, implement and manage identified programs dealing with stormwater runoff. The parcels of land within the respective watersheds within the District's jurisdiction for which a NPDES Permit is required will benefit from these programs. Further, the local drainage facilities falling under the NPDES program requires routine maintenance if they are to continue to serve the developed areas for which they were installed. Collectively, these two activities, NPDES and general drainage maintenance, represent the city's and County's stormwater management Programs. The Board of Supervisors of the District has determined, pursuant to the Contra Costa County Flood Control and Water Conservation Act (the "District Act"), which is Chapter 63, Section 12.8, as amended, of the California Water Code Appendix, to form certain Stormwater Utility Areas in which the

District will annually levy assessments to pay the cost of these programs required by the NPDES Permit. The Board of Supervisors of the District, consistent with Sections 11 and 12.8 of the District Act and Section 54954.6 of the Government Code, held noticed public hearings at which time all testimony, oral and written, was considered. At the conclusion of the public hearings, the Board of Supervisors of the District adopted resolutions forming the Stormwater Utility Areas. The provisions of this Ordinance confirming the formation of the Stormwater Utility Areas and providing for the annual levy of a Utility Assessment are consistent with the District Act and the reports prepared by the Chief Engineer of the District and accepted by the Board of Supervisors of the District.

The Board of Supervisors of the District finds that the Utility Assessment to be annually levied shall be based on the proportional amount of impervious surface on each lot or Parcel within the Stormwater Utility Area. Revenues derived from the Utility Assessments shall be applied exclusively to pay the District's administrative costs in collecting the assessments and the respective city or County stormwater management Program costs for the Stormwater Utility Area in which they are collected.

## ARTICLE II

### DEFINITIONS

Unless otherwise specifically provided or required by the context, certain terms or expressions used herein have the meanings set forth below:

- a. "Board of Supervisors" means the Board of Supervisors of the Contra Costa County Flood Control and Water Conservation District.
- b. "Chief Engineer" means the Chief Engineer of the Contra Costa County Flood Control and Water Conservation District.
- c. "County" means the County of Contra Costa, State of California.
- d. "CRWQCB" means the California Regional Water Quality Control Board for the region in which the Stormwater Utility Area has been formed.
- e. "District" means the Contra Costa County Flood Control and Water Conservation District.
- f. "District Act" means the Contra Costa County Flood Control and Water Conservation District Act, which is codified in West's California Water Code Appendix, Chapter 63, as amended from time to time.

- g. "EPA" means the United States Environmental Protection Agency, which pursuant to the Clean Water Act of 1972, as amended by the Water Quality Act of 1987, has jurisdiction to establish the National Pollutant Discharge Elimination System (NPDES) and promulgate regulations pursuant thereto.
- h. "NPDES Permit" means the permit, issued by the CRWQCB, dealing with stormwater runoff in association with the National Pollutant Discharge Elimination System (NPDES) and the regulations promulgated by the EPA.
- i. "NPDES Regulations" means the final regulations dated November 16, 1990, and any subsequent amendments thereto promulgated by the EPA governing the National Pollutant Discharge Elimination System (NPDES).
- j. "Ordinance" means this Ordinance No. 93-47 of the Contra Costa County Flood Control and Water Conservation District.
- k. "Parcel" means a parcel of property identified by Assessor parcel number as shown on the equalized tax rolls of the County of Contra Costa, State of California.
- l. "Program" means all the activities required under or in connection with the NPDES Permit, including without limitation drainage system maintenance and Program administration.
- m. "Stormwater Utility Area" means a benefit assessment area formed pursuant to Section 12.8 of the District Act by the Board of Supervisors and identified in Article III of this Ordinance.
- n. "Utility Assessment" means the annual assessment to be levied on each Parcel within a Stormwater Utility Area pursuant to Article V of this Ordinance.

### ARTICLE III

#### FORMATION OF STORMWATER UTILITY AREAS

##### Section 1. Formation of Stormwater Utility Areas.

Pursuant to Sections 11 and 12.8 of the District Act and Section 54954.6 of the Government Code, the Board of Supervisors noticed public hearings to consider the establishment of individual Stormwater Utility Areas for each of the 16 cities and the unincorporated County area to fund Program costs. At the conclusion of the hearings, the Board of Supervisors adopted Resolutions Nos. 93/352, 93/353, 93/354, 93/355, 93/356, 93/357, 93/358, 93/359, 93/360, 93/361, 93/362, 93/363, 93/364, 93/365, 93/366, 93/367, and 93/368, which formed, respectively, Stormwater Utility Areas 1-(Antioch), 2-

(Clayton), 3-(Concord), 4-(Danville), 5-(El Cerrito), 6-(Hercules), 7-(Lafayette), 8-(Martinez), 9-(Moraga), 10-(Orinda), 11-(Pinole), 12-(Pittsburg), 13-(Pleasant Hill), 14-(San Pablo), 15-(San Ramon), 16-(Walnut Creek), and 17-(Unincorporated County). The legal boundary of each Stormwater Utility Area shall be congruent with the legal boundary of the associated city or County entity as of July 1st of each year in which a Utility Assessment is levied.

Section 2. Additional Stormwater Utility Areas.

The District may form additional Stormwater Utility Areas, if requested by resolution of the governing board of the area to be formed. To form an additional Stormwater Utility Area, the District shall comply with provisions of the District Act then governing the formation of a Stormwater Utility Area.

ARTICLE IV

REPORT OF CHIEF ENGINEER; HEARING THEREON;  
CONFIRMATION OF UTILITY ASSESSMENT BY THE  
BOARD OF SUPERVISORS

Section 1. Report.

The Chief Engineer shall cause to be prepared annually a written report indicating, for each Stormwater Utility Area, the Utility Assessment to be levied, as requested by the city or County governing board having jurisdiction over the area defined by the Stormwater Utility Area and shall file the report with the Clerk of the Board of Supervisors.

Section 2. Content of the Report.

The report shall contain the District's estimate of its administrative costs and the Program costs for the respective city or County agency for each of the Stormwater Utility Areas for the ensuing fiscal year. Said estimate of costs shall be apportioned to each Parcel on the basis of proportionate impervious surface assignable to each Parcel to be assessed. Only Parcels not otherwise exempted by this Ordinance or the NPDES Regulations shall have a Utility Assessment levied on them. The report shall identify all Parcels by Assessor parcel number on which a Utility Assessment is to be levied and the amount of the assessment.

Section 3. Resolution Accepting Report and Noticing Public Hearing.

Upon the report being filed with the Clerk of the Board of Supervisors, the Board of Supervisors is, by resolution, to accept, if appropriate, the report and to set a date, time

and place for a hearing on said report. Notice of the hearing date shall be given as required by applicable law.

Section 4. Hearing.

The Board of Supervisors shall hear the matter on the date and at the time specified in the notice, or as continued for good cause. At the hearing, the Board of Supervisors shall hear and consider all testimony, oral and written, presented, including all written protests. At the conclusion of the hearing, the Board of Supervisors may revise, change, reduce or modify any Utility Assessment and shall determine an appropriate rate for each Stormwater Utility Area identified in the report. Thereafter, by resolution, it shall confirm the assessments. Such confirming resolutions shall be adopted no later than August 10 of each fiscal year in which the Utility Assessment is to be levied and collected.

Section 5. Enrollment.

The District shall provide certified copies of the confirming resolutions and the roll of confirmed Utility Assessments, in an acceptable format, to the Auditor-Controller of the County on or before August 10 of each fiscal year.

## ARTICLE V

### LEVY OF UTILITY ASSESSMENT

Section 1. Determination of the Amount to Be Assessed.

The District shall estimate, for the fiscal year in which the Utility Assessment is to be levied, the total number of Equivalent Runoff Units and the administrative costs for each Stormwater Utility Area. The administrative costs shall be combined with the costs of implementing the city or County Program for the various Stormwater Utility Areas. This total cost is to be apportioned among the Parcels within each respective Stormwater Utility Area in direct proportion to the number of Equivalent Runoff Units assigned to each Parcel. The Utility Assessment levied and collected within each Stormwater Utility Area may only be applied toward the costs incurred for Program costs for the Stormwater Utility Area. If, at the conclusion of any fiscal year, there remains in the account for a Stormwater Utility Area unexpended funds, the remaining balance shall be applied toward the estimated costs for the next fiscal year. Utility Assessments levied and collected pursuant to this Ordinance may not be applied toward any other costs or expenses of the District or the city or County receiving funds from the Stormwater Utility Area nor may they be applied to the costs of a Stormwater Utility Area other than the Stormwater Utility Area for which they were levied and collected.

Section 2. Determination of Equivalent Runoff Unit and Amount of Utility Assessment to Be Levied.

a. Equivalent Runoff Unit. The Chief Engineer has submitted a report entitled "Report on Stormwater Utility Assessment" and dated March 1993. The report establishes standard impervious surface amounts for various land uses and Parcel sizes and establishes Equivalent Runoff Units (ERUs) for each type of land use. The report and the standard amounts specified therein are adopted by the Board and are incorporated herein by reference. The standard against which all property is to be measured shall be a single-family residential Parcel of 8,900 square feet in size to which a standard of 3,300 square feet of impervious surface is ascribed and shall be called a Equivalent Runoff Unit (ERU). All other land uses shall be compared to this standard and the number of Equivalent Runoff Units assigned to the Parcel shall be in direct proportion to 3,300 square feet of impervious surface (SFIS). The number of Equivalent Runoff Units per Parcel for each of the classes listed in subsection (b) below are as follows:

Group A	1.0 ERU/unit	Group G	7 ERU/acre
Group B	.7 ERU/unit	Group H	9 ERU/acre
Group C	1.7 ERU/unit	Group I	10 ERU/acre
Group D	.2 ERU/acre	Group J	12 ERU/acre
Group E	1.5 ERU/acre	Group K	1 ERU/3,300 SFIS
Group F	4.5 ERU/acre	Group L	Exempt

b. Classification of Parcels. All Parcels shall be assigned to one of the following classifications based on land use:

- Group A: Single family residential on a Parcel having an area between 5,000 square feet and 20,000 square feet.
- Group B: Single family residential on a Parcel having an area less than 5,000 square feet and all multiple family residential Parcels.
- Group C: Single family residential on a Parcel having an area greater than 20,000 square feet.
- Group D: Golf courses and cemeteries.
- Group E: Miscellaneous improvements creating less than 25 percent impervious surfaces by Parcel area.
- Group F: Miscellaneous improvements creating between 25 percent and 50 percent impervious surfaces by Parcel area.

- Group G: Community centers, churches, schools and cultural facilities.
- Group H: Office buildings, medical-dental offices, financial buildings, research and development offices, miscellaneous industrial improvements, convalescent hospitals and rest homes, mortuaries, fraternal and service organization buildings, retirement housing complex.
- Group I: Hotels, motels, and mobile home parks.
- Group J: Mini warehouses, industrial parks, light industrial parks, heavy industry, utility properties (corporation yards), bowling alleys, theaters, restaurants, car lots, hospitals, convenience markets, supermarkets, shopping centers, drive-in restaurants, parking facilities, service stations and car washes.
- Group K: Boat marinas, partially developed properties.
- Group L: Vacant land, agricultural land, and government-owned properties used for public purposes.

- c. Exempted Land Uses. All land uses expressly exempted by the NPDES Regulations will be exempted from the levy of a Utility Assessment pursuant to this Ordinance. Those land uses exempted are:
- (1) Agricultural uses, including dairies, poultry, livestock, groves, orchards, row crops, field crops, vines or dry farming.
  - (2) Vacant, undeveloped Parcels.
  - (3) Publicly-owned Parcels which are Parcels owned by a federal, state or local public entity or agency and used for public purposes.
- d. Determination of Equivalent Runoff Units Per Parcel. Once a Parcel is classified and its acreage or number of units is determined, the appropriate standard Equivalent Runoff Unit amount for the classification will be multiplied by the acreage or the number of units to determine the total Equivalent Runoff Units for the Parcel.
- e. Determination of Utility Assessment to Be Levied Per Equivalent Runoff Unit. The aggregate number of Equivalent Runoff Units within a Stormwater Utility Area will be divided into the estimated Program costs for the Stormwater Utility Area to determine the amount of Utility Assessment to be levied per Equivalent Runoff Unit. The Utility Assessment to be levied on a Parcel is determined by the number of Equivalent Runoff Units ascribed to the Parcel and the assessment value of each unit.

f. Maximum Utility Assessment to Be Levied Per Equivalent Runoff Unit. The Board hereby adopts the following maximum amounts of annual Utility Assessment per Equivalent Runoff Unit that can be levied without further individual Parcel owner notification for each of the following Stormwater Utility Areas:

1-(Antioch)	\$25.00	10-(Orinda)	\$35.00
2-(Clayton)	\$29.00	11-(Pinole)	\$35.00
3-(Concord)	\$35.00	12-(Pittsburg)	\$30.00
4-(Danville)	\$30.00	13-(Pleasant Hill)	\$30.00
5-(El Cerrito)	\$38.00	14-(San Pablo)	\$45.00
6-(Hercules)	\$35.00	15-(San Ramon)	\$35.00
7-(Lafayette)	\$35.00	16-(Walnut Creek)	\$35.00
8-(Martinez)	\$30.00	17-(Unincorporated County)	\$30.00
9-(Moraga)	\$35.00		

g. Utility Assessment to Be Levied for Fiscal Year 1993-94. The Utility Assessment to be levied per Parcel in Fiscal Year 1993-94 in the various Stormwater Utility Areas shall be based on the assigned dollar amount for a single Equivalent Runoff Unit as indicated below:

1-(Antioch)	\$20.00	10-(Orinda)	\$23.00
2-(Clayton)	\$23.00	11-(Pinole)	\$29.40
3-(Concord)	\$26.00	12-(Pittsburg)	\$24.00
4-(Danville)	\$22.00	13-(Pleasant Hill)	\$25.00
5-(El Cerrito)	\$14.00	14-(San Pablo)	\$33.00
6-(Hercules)	\$26.00	15-(San Ramon)	\$23.00
7-(Lafayette)	\$15.00	16-(Walnut Creek)	\$27.50
8-(Martinez)	\$20.00	17-(Unincorporated County)	\$16.20
9-(Moraga)	\$25.00		

## ARTICLE VI

### COLLECTION OF UTILITY ASSESSMENT

#### Section 1. Collection by Treasurer/Tax Collector.

The confirmed Utility Assessment for each Parcel shall appear as a separate item on the tax bill issued by the Treasurer/Tax Collector of the County. The Utility Assessment shall be levied and collected at the same time and in the same manner as the general ad valorem property taxes and shall be subject to the same penalties and the same procedures for sale in case of delinquency. If, for the first year the Utility Assessment is levied, the property on which the Utility Assessment is levied has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for

value has been created and attached thereon, prior to the date on which the first installment of ad valorem property taxes would become delinquent, the Utility Assessment shall not result in a lien against the real property but shall be transferred to the unsecured roll.

Section 2. Applicable Law.

All laws applicable to the levy, collection and enforcement of ad valorem property taxes shall be applicable to Utility Assessments, except as otherwise provided herein.

Section 3. Validity of Utility Assessment Not Affected by Time Limits.

Failure to meet the time limits set forth in this Ordinance for whatever reason shall not invalidate any Utility Assessment levied hereunder.

ARTICLE VII

CORRECTION OR CHANGE TO THE TAX ROLL

Section 1. Initiation of the Correction or Change.

A correction or change to the tax roll with respect to a Utility Assessment may be made by the Chief Engineer, either on his/her own initiative, or on application by a property owner (the "Assessee").

Section 2. Initiation by Flood Control Engineer.

The Chief Engineer may initiate a correction or change to the tax roll at any time within two (2) years of the date of the resolution or ordinance of the Board of Supervisors confirming Utility Assessments placed upon the tax roll.

Section 3. Initiation by the Assessee.

The Assessee may initiate a correction or change to the tax roll by filing a written application with the Chief Engineer within sixty (60) days following his/her receipt of the tax bill reflecting the Utility Assessment. The application shall contain or include the following information, together with such additional information deemed relevant by the Assessee or requested by the Chief Engineer:

- a. Assessor parcel number.
- b. Gross acreage.
- c. Use of property as of the preceding March 1.
- d. Copy of the tax bill containing the benefit assessment.

*← lien date*

e. Basis for requested correction or change.

Section 4. Categories of Corrections or Changes.

Upon approval of the Chief Engineer, corrections or changes shall be made with respect to:

- a. Ownership of a Parcel;
- b. Address of an owner of a Parcel;
- c. Subdivision of an existing Parcel;
- d. Land use category of all or part of a Parcel;
- e. Computation of the area of a Parcel;
- f. Erroneous computation of the Utility Assessment.

Corrections to the tax roll shall not be valid unless and until approved by the Board of Supervisors. All corrections or changes must be reported by the Chief Engineer to the Auditor-Controller of the County, who shall (1) refund the amount of the assessment overcharge by check without amendment of the bill if the amount of overcharge is less than one hundred dollars, or (2) prepare an amended billing to correct the overcharge, as the case may be. The Chief Engineer shall give written notice to the Assessee of the action taken on the application.

If the Assessee disagrees with the Chief Engineer's determination, he/she may file an appeal with the Stormwater Utility Assessment Appeal Board within thirty (30) days after receipt of the written notice. The appeal shall be initiated by a written letter submitted to the Stormwater Utility Assessment Appeal Board, c/o the Chief Engineer for refund of all or part of the Stormwater Utility Assessment. The Stormwater Utility Assessment Appeal Board shall contain at least three members and shall be appointed by the Board of Supervisors.

If the Assessee disagrees with the Stormwater Utility Assessment Appeal Board's determination, he/she may file an appeal with the Board of Supervisors within thirty (30) days after receipt of the written notice. The appeal shall be initiated by a written application filed with the Clerk of the Board of Supervisors for refund of all or part of the Utility Assessment. The application shall include payment of a one hundred dollar appeal fee which shall be returned if the Assessee's appeal is upheld by the Board. The decision of the Board of Supervisors shall be final and shall complete the administrative process. Any further action by the Assessee for recovery of any part of the Utility Assessment shall be by complaint for refund filed in the Superior Court.

ARTICLE VIII

EFFECTIVE DATE OF ORDINANCE

This Ordinance shall become effective thirty (30) days after passage, and within fifteen (15) days of passage, shall be published once with the names of the Supervisors voting for and against it in the Contra Costa Times, a newspaper of general circulation published in this County.

PASSED and ADOPTED on June 22, 1993 by the following vote:

AYES: Supervisors Powers, Smith, Bishop, McPeak and Torlakson  
NOES: None  
ABSENT: None  
ABSTAIN: None

Attest: Phil Batchelor, Clerk of the Board  
of Supervisors and County Administrator

By: Barbara Sidasi  
Deputy

Tom Torlakson  
Board Chair



## AGENDA BILL

### Agenda Item No. 5(E)

Date: March 17, 20  
To: El Cerrito City Council  
From: Melanie Mintz, Interim Community Development Director  
Hilde Myall, Housing Program Manager  
Subject: Priority Development Area Planning Grant – Cooperative Funding Agreement  
PDA.8.EC

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#### **ACTION REQUESTED**

Adopt a resolution authorizing the City Manager to execute a Cooperative Funding Agreement PDA.8.EC between the Contra Costa Transportation Authority (CCTA) and the City of El Cerrito to fund the Priority Development Area (PDA) planning grant to develop the *El Cerrito San Pablo Avenue PDA Implementation Plan*.

#### **BACKGROUND**

The Metropolitan Transportation Commission (MTC) gave the Congestion Management Agencies, including the Contra Costa Transportation Authority, the responsibility for carrying out part of the Priority Development Area (PDA) Planning Grant Program. MTC allocated \$2.745 million to CCTA for PDA planning grants in Contra Costa. To implement the program, the CCTA released a request for qualifications in March 2014 for on-call consultant teams to support the planning grants and a call for projects in June 2014 for the planning grants themselves. The City of El Cerrito submitted a grant proposal for \$317,000 for a scope of work to develop the San Pablo Avenue PDA Implementation Plan.

Building off of the adopted San Pablo Avenue Specific Plan (SPASP) and Complete Streets Plan - and related plans such as the upcoming San Pablo Avenue Multimodal CIP, the El Cerrito Active Transportation Plan and Urban Greening Plan – the proposed Implementation Plan will result in further analyses and identification of targeted strategies to advance development of the City's Priority Development Area and San Pablo Avenue Specific Plan. A summary of the Scope of Work is provided as Exhibit A to the Coop Agreement.

In September 2014, the CCTA approved El Cerrito's PDA Planning Grant proposal, along with nine other planning grant proposals, and began working with El Cerrito staff to select the consultant team and refine the scope of work for the Implementation Plan. The total grant amount awarded is \$317,000.

#### **ANALYSIS**

Similar to other funding agreements between the City and CCTA, the CCTA has proposed entering into a Cooperative Funding Agreement for the PDA Planning Grant funds (Coop Agreement). The Coop Agreement establishes the roles and process for grant funding and performance of the scope of work. The CCTA will be responsible for administering the PDA grant funding and the contract with the consultant team selected to perform the Implementation

Plan. El Cerrito staff will be responsible for managing and directing the substantive work of the consultants. The City will also be responsible for providing a portion of the 11.47 percent local match, which will be provided through staff costs expended in working on the planning activity. The term of the Coop Agreement will be 36 months from the effective date.

**FINANCIAL CONSIDERATIONS**

Recipients of these funds must comply with the requirements of the federal aid process including the requirement to provide at least 11.47 percent of the full cost of the planning activity funded (the “local match”). The required local match for the \$317,000 grant amount is \$36,400. Most of this will be provided through staff costs associated with the project; a portion of this will be offset by CCTA staff time.

Staff costs associated with managing grant activities are already included in the FY 2014-15 and FY 2015-16 budgets in the Community Development Department and no new funds are required.

**LEGAL CONSIDERATIONS**

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

**Reviewed by:**



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**Scott Hanin**  
**City Manager**

**Attachments:**

1. Accompanying Resolution
2. Cooperative Funding Agreement PDA.8.EC

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE MAYOR TO EXECUTE THE COOPERATIVE FUNDING AGREEMENT PDA.8.EC BETWEEN THE CONTRA COSTA TRANSPORTATION AUTHORITY AND THE CITY OF EL CERRITO TO FUND THE PRIORITY DEVELOPMENT AREA (PDA) PLANNING GRANT TO DEVELOP THE EL CERRITO SAN PABLO AVENUE PDA IMPLEMENTATION PLAN

WHEREAS, the Metropolitan Transportation Commission (MTC) is the designated Metropolitan Planning Organization (MPO) for the nine-county San Francisco Bay Area region and is required to prepare and endorse a Transportation Improvement Program (TIP) which includes federal funds; and

WHEREAS, the Contra Costa Transportation Authority (CCTA), which serves as the Congestion Management Agency for Contra Costa County, has assumed responsibility for certain planning and programming activities, work tasks and products that support MTC's Overall Work Program, including the administration of the Priority Development Area (PDA) Planning Grant Program in Contra Costa County; and

WHEREAS, MTC authorized \$2.745 million in regional federal funds to CCTA through the PDA Planning Grant Program to provide grants to local jurisdictions to support planning in their PDAs consistent with MTC Resolution 4035. Recipients of these funds must comply with the requirements of the federal aid process including the requirement to provide at least 11.47 percent of the full cost of the planning activity funded (local match); and

WHEREAS, the CCTA will be responsible for administering the grant funding and the contracts with the consultant teams providing planning support services related to the PDA Planning Grant Program, and local jurisdictions will be responsible for overseeing the planning projects and providing at least the 11.47 percent local match, all or a portion of which may be provided through El Cerrito and CCTA staff costs expended working on the planning activity; and

WHEREAS, the CCTA has approved the City of El Cerrito San Pablo Avenue Implementation Plan proposal as one of ten planning projects to be funded through PDA Planning Grant Program in an anticipated grant amount of \$317,500; and

WHEREAS, matching funds will be provided through staff costs included in the FY 2014-15 and FY 2015-16 budgets in the Community Development Department - and no new funds are required; and

WHEREAS, the City of El Cerrito and the CCTA desire to work together to develop the San Pablo Avenue Implementation Plan and, further, desire to enter to a Cooperative Funding Agreement for the PDA Planning Grant funds.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the Mayor of the City of El Cerrito to execute Cooperative Agreement PDA.8.EC between the Contra Costa Transportation Authority (CCTA), City of El Cerrito, (any other cities) to accept disbursement of \$317,500 in PDA Planning Grant Program funds from the CCTA to the selected consultant team to perform the scope of work on the San Pablo Avenue Implementation Plan.

**Agenda Item No. 5(E)**  
**Attachment 1**

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

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

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

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor

**Cooperative Funding Agreement PDA.8.EC  
between  
Contra Costa Transportation Authority and  
the City of El Cerrito**

This COOPERATIVE FUNDING AGREEMENT (this "AGREEMENT") is effective this 18th day of March 2014 (the "EFFECTIVE DATE") between CONTRA COSTA TRANSPORTATION AUTHORITY, a local transportation authority ("AUTHORITY") and the CITY OF EL CERRITO, a municipal corporation of the State of California ("SPONSOR"), each separately, a "PARTY".

**RECITALS**

**THE PARTIES ENTER THIS AGREEMENT** on the basis of the following facts, understandings and intentions:

- A. The Metropolitan Transportation Commission (MTC) is the designated Metropolitan Planning Organization (MPO) for the nine-county San Francisco Bay Area region and is required to prepare and endorse a Transportation Improvement Program (TIP) which includes federal funds.
- B. MTC is the designated recipient for federal funding administered by the Federal Highway Administration (FHWA) assigned to the Metropolitan Planning Organization (MPO)/Regional Transportation Planning Agency (RTPA) of the San Francisco Bay Area for the programming of projects (regional federal funds).
- C. MTC Resolution 4035 adopted July 23, 2014 establishes the "Project Selection Policies and Programming" for projects to be funded with Cycle 2 Program regional federal funds and includes funding for the PDA Planning Grant Program designed to support planning for Priority Development Areas (PDAs) that will help provide

Cooperative Agreement No. PDA.8.EC between  
Contra Costa Transportation Authority and the City of El Cerrito

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housing, jobs and intensified land use, promote alternative modes of travel to the single occupancy vehicle, and manage parking demand.

D. AUTHORITY, which serves as the Congestion Management Agency for Contra Costa County, has assumed responsibility for certain planning and programming activities, work tasks and products that support MTC's Overall Work Program, including the administration of the PDA Planning Grant Program in Contra Costa County.

E. MTC authorized \$2.745 million in regional federal funds to AUTHORITY through the PDA Planning Grant Program to provide grants to local jurisdictions to support planning in their PDAs consistent with MTC Resolution 4035. Recipients of these funds must comply with the requirements of the federal aid process including the requirement to provide at least 11.47 percent of the full cost of the planning activity funded (the "local match").

F. In the process for implementing the PDA Planning Grant Program in Contra Costa County adopted by the AUTHORITY in December 2013, the AUTHORITY will be responsible for administering the grant funding and the contracts with the consultant teams providing planning support services, and local jurisdictions will be responsible for overseeing the planning projects and providing at least the 11.47 percent local match, all or a portion of which may be provided through the staff costs expended working on the planning activity.

G. In September 2014, AUTHORITY approved a list of five consultant teams to provide planning support services and ten planning projects to be funded through the PDA Planning Grant Program, including the El Cerrito San Pablo Ave PDA Implementation Plan, the "PROJECT".

H. SPONSOR and AUTHORITY desire to work together to develop the PROJECT.

## Section I

### SPONSOR AGREES:

- A. To manage and direct the substantive work of the consultants assigned to the PROJECT including, but not limited to, providing necessary data and materials, reviewing and overseeing the revision of work products, and supporting public outreach efforts.
- B. To provide AUTHORITY and MTC with copies of reports and other documents developed as part of the PROJECT scope. These reports and documents shall carry the following notation on the front cover of title page:

“The preparation of this report has been financed through a grant from the U.S. Department of Transportation and the Federal Highway Administration. Content of this report does not necessarily reflect the official views or policy of the U.S. Department of Transportation.”

MTC, AUTHORITY, and any federal agency providing funding under the terms of this AGREEMENT shall have the right to reproduce, publish or otherwise use, or authorize others to use the information developed from this PROJECT.

- C. To provide the required local match for the PDA Planning Grant Program funds in either staff time or direct reimbursement to the AUTHORITY. AUTHORITY will offset a portion of this required local match using AUTHORITY staff time.
- D. To document staff time and costs expended on the PROJECT in a form consistent with Exhibit B, or any revisions to Exhibit B needed to make it consistent with the Caltrans Local Assistance Procedures Manual, and submit to CCTA within 20 days of the end of each quarter during which the PROJECT is ongoing. In addition, SPONSOR agrees to provide AUTHORITY with monthly or quarterly progress reports and financial information as may be reasonably requested by AUTHORITY or MTC.

E. SPONSOR acknowledges that the AUTHORITY may redirect funding for the PROJECT in the event that the PROJECT is delayed or fails to be completed. SPONSOR shall use its best efforts to notify AUTHORITY in writing in the event that it encounters difficulty that is expected to delay the timely performance of the PROJECT, and AUTHORITY agrees to cooperate with SPONSOR to work out a mutually satisfactory course of action with SPONSOR.

F. **RECORDS AND AUDITS:**

1. **RECORDS:** SPONSOR shall maintain full and adequate books, records, accounts, and any and all work products, materials, and other data relevant to its performance under this AGREEMENT for a minimum of three (3) years following completion or termination of PROJECT and, if any litigation, claim, negotiation, audit, or other action has been started prior to the end of such three (3) years, then until the completion of the action and any resolution of all issues which arise from it, or the end of the three (3) year period, whichever is later. SPONSOR shall maintain books and accounts in accordance with generally accepted accounting principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. For the purpose of determining compliance with Title 21, California Code of Regulations, Section 2500 *et seq.*, when applicable, and other matters in connection with the performance of SPONSOR'S contracts with third parties pursuant to Government Code Section 8546.7, SPONSOR and its contractors and subcontractors shall each maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts and make the same available at their respective offices at all reasonable times during the contract period and for three (3) years from the date of final payment by AUTHORITY hereunder. AUTHORITY, MTC, the California State Auditor, the federal Department of Transportation (DOT), Federal Highway Administration (FHWA), Comptroller General of the United States or federal auditors shall have access to any books, records, and documents that are pertinent to this AGREEMENT or the PROJECT for audits, examinations, excerpts, and transactions and copies thereof shall be furnished by SPONSOR if requested.

2. **AUDITS:** SPONSOR will provide thorough and complete accounting for all funds expended in the performance of this work to the degree necessary to permit regular examination by AUTHORITY, MTC, the California State Auditor, the Comptroller General of the United States or federal auditors and consistent with 49 Code of Federal Regulations, Part 18. SPONSOR shall permit authorized representatives of DOT, the Comptroller General of the United States, FHWA, MTC and AUTHORITY to inspect and audit all data and records relating to SPONSOR's performance under this AGREEMENT, including data and records pertaining to subcontracts. All accounting records, data, and supporting documentation will remain available for review and audit for a period of not less than three years after submission by MTC of the final expenditure report for federal contracts providing funds under this AGREEMENT. SPONSOR shall be responsible for meeting audit requirements of the "Single Audit Act of 1984" as implemented by OMB Circular A-133 and any revision or supplement thereto. SPONSOR shall annually submit to AUTHORITY and MTC one copy of its audit completed in accordance with the above-described single audit requirements within 30 days after completion of the audit, but no later than one year after the end of the audit period. If SPONSOR fails to comply with the above audit requirement, AUTHORITY is not required to provide any PDA Planning Grant funds under this AGREEMENT until such audit has been submitted.

## **Section II**

### **AUTHORITY AGREES:**

- A. To obtain authorization from Caltrans and FHWA to use the \$2.745 million in regional federal funds for the PDA Planning Grant Program in Contra Costa.
- B. To provide consultant planning support services for the PROJECT consistent with the scope of work and milestone schedule in Exhibit A.
- C. To offset a portion of the required local match using AUTHORITY staff time.

- D. To assist SPONSOR in delivering the project.
- E. To submit invoices for work on the PROJECT conducted by the consultant team and SPONSOR consistent with the requirements of Caltrans and FHWA.
- F. To provide forty-eight hours advance written notice of any audit to be conducted relating to this AGREEMENT.
- G. To comply with the requirements of the AGREEMENT as applicable to the AUTHORITY.

### **Section III**

**THE PARTIES MUTUALLY AGREE:**

- A. **TERM:** The Termination Date for this AGREEMENT shall be 36 months from the date this AGREEMENT is executed unless terminated at such other time by the written consent of all the parties hereto. Termination Date may be modified only if mutually agreed to in writing by both SPONSOR and AUTHORITY.
- B. **ADDITIONAL ACTS AND DOCUMENTS:** Each party agrees to do all such things and take all such actions and to make, execute, and deliver such other documents and instruments as shall be reasonably requested to carry out the provisions, intent, and purpose of the AGREEMENT.
- C. **AMENDMENT:** This AGREEMENT may not be changed, modified, or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this AGREEMENT shall be void and of no effect.
- D. **ASSIGNMENT:** SPONSOR may not assign, transfer, hypothecate, or pledge this AGREEMENT to any other party.

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Contra Costa Transportation Authority and the City of El Cerrito

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E. **INDEMNITY:** It is mutually understood and agreed, relative to the reciprocal indemnification of AUTHORITY and SPONSOR:

1. SPONSOR shall indemnify, defend, and hold harmless AUTHORITY and AUTHORITY's Board, representatives, agents, officers and employees from and against all claims, injury, suits, demands, liability, losses, damages and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of SPONSOR, its officers, employees or agents, or subcontractors or any of them by reason of anything done or omitted to be done by SPONSOR under or in connection with any work, authority or jurisdiction delegated to SPONSOR under this AGREEMENT. It is also understood and agreed that, pursuant to Government Code Section 895.4, SPONSOR shall fully indemnify and hold AUTHORITY harmless from any liability imposed for injury and damages (as defined by Government Code Section 810.8) or environmental obligations or duties occurring by reason of anything done or omitted to be done or imposed by obligation of law or assumed by SPONSOR under this AGREEMENT or in connection with any work, authority, or jurisdiction delegated to SPONSOR under this AGREEMENT.
  
2. AUTHORITY shall indemnify, defend, and hold harmless SPONSOR and SPONSOR's council, representatives, agents, officers and employees from and against all claims, injury, suits, demands, liability, losses, damages and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of AUTHORITY, its officers, employees or agents, or subcontractors or any of them by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction delegated to AUTHORITY under this AGREEMENT. It is also understood and agreed that, pursuant to Government Code Section 895.4, AUTHORITY shall fully indemnify and hold SPONSOR harmless from any liability imposed for injury and damages (as defined by Government Code Section 810.8) or environmental obligations or duties occurring by reason of anything done or omitted to be done or imposed by obligation of law or assumed by AUTHORITY under this AGREEMENT or in

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connection with any work, authority, or jurisdiction delegated to AUTHORITY under this AGREEMENT.

F. **COMPLIANCE WITH LAWS:** AUTHORITY and SPONSOR shall comply with all applicable federal and State laws and regulations regarding the work performed and the reimbursements and funds requested or used under this AGREEMENT.

G. **NOTICES:** Any notice which may be required under this AGREEMENT shall be in writing, shall be effective when received, and shall be given by personal service or by certified or registered mail, return receipt requested, to the addresses set forth below, or to such addresses which may be specified in writing by the parties hereto.

SPONSOR:

Hilde Myall  
Housing Program Manager  
10890 San Pablo Avenue  
El Cerrito, CA 94530

AUTHORITY:

Brad Beck  
Senior Transportation Planner  
2999 Oak Road, Suite 100  
Walnut Creek CA 94597

H. **TERMINATION OR CANCELLATION:**

1. By written mutual consent of both parties, this AGREEMENT may be terminated at any time.
2. Either party may terminate this AGREEMENT at any time for cause pursuant to a power created by the AGREEMENT or by law, otherwise than for breach, by giving written notice of termination to the other party which shall

specify both the cause and the effective date of termination. Notice of termination under this provision shall be given at least ninety (90) days before the effective date of such termination. Payment shall be made by the AUTHORITY for all services rendered by SPONSOR to the PROJECT pursuant to this AGREEMENT up to the time of termination, subject to any expenditure limits applicable to this AGREEMENT.

3. This AGREEMENT may be canceled by a PARTY for breach of any obligation, covenant, or condition hereof by the other PARTY, upon written notice to the breaching PARTY. With respect to any breach that is reasonably capable of being cured, the breaching PARTY shall have 30 days from the date of the notice to initiate steps to cure. If the breaching PARTY diligently pursues cure, such PARTY shall be allowed a reasonable time to cure, not to exceed thirty (30) days from the date of the initial notice, unless a further extension is granted by the non-breaching PARTY. On cancellation, the non-breaching PARTY retains the same rights as a PARTY exercising its right to terminate under the provisions of this Section, except that the canceling PARTY also retains any remedy for breach of the whole contract or any unperformed balance.

I. **ENTIRE AGREEMENT:** This AGREEMENT is the entire AGREEMENT among AUTHORITY and SPONSOR relating to the subject matter of this AGREEMENT. AUTHORITY and SPONSOR acknowledge they have not relied upon any promise, representation or warranty not expressly set forth in this AGREEMENT in executing this AGREEMENT.

J. **SEVERABILITY:** Should any part of this AGREEMENT be determined to be unenforceable, invalid, or beyond the AUTHORITY of SPONSOR to enter into or carry out, such determination shall not affect the validity of the remainder of this AGREEMENT which shall continue in full force and effect, provided that the remainder of this AGREEMENT can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

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K. **WAIVER:** No waiver by a PARTY of any default or breach of any covenant by the other PARTY shall be implied from any omission to take action on account of such default if such default persists or is repeated and no express waiver shall affect any default other than the default specified in such waiver and then such waiver shall be operative only for the time and to the extent stated in such waiver. Waivers of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. No waiver of any provision under this AGREEMENT shall be effective unless in writing and signed by the waiving PARTY.

L. **CONTROLLING LAW AND VENUE:** This AGREEMENT and all matters relating to it shall be governed by the laws of the State of California and venue shall be in Contra Costa County.

M. **AUTHORITY:** All PARTIES executing this AGREEMENT represent and warrant that they are authorized to do so.

N. **COUNTERPARTS:** This AGREEMENT may be executed in counterparts.

O. **LIMITATIONS:** All obligations of AUTHORITY under the terms of this AGREEMENT are expressly subject to the AUTHORITY'S continued authorization to receive and expend federal funds as the Congestion Management Agency for Contra Costa County. If for any reason the AUTHORITY'S right to receive and expend such federal funds is terminated or suspended in whole or part, the AUTHORITY shall promptly notify SPONSORS, and the PARTIES shall consult on a course of action. If, after twenty five (25) working days, a course of action is not agreed upon by the parties, this AGREEMENT shall be deemed terminated by mutual or joint consent; provided, that any obligation to fund from the date of the notice shall be expressly limited by and subject to (i) the lawful ability of the AUTHORITY to expend sales tax proceeds for the purposes of this AGREEMENT; and (ii) the availability, taking into consideration all the obligations of the AUTHORITY under all outstanding contracts, agreement to other obligations of the AUTHORITY, of funds for such purposes.

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P. **EXHIBITS:** EXHIBITS A through C are hereby incorporated by reference and made a part of this AGREEMENT. The exhibits are as follows: EXHIBIT A: Scope of Work; EXHIBIT B: Invoicing Procedure; EXHIBIT C: AUTHORITY boardletter approving PDA Planning Grant.

**AUTHORITY**

**SPONSOR**

BY: \_\_\_\_\_  
Julie K. Pierce  
Chair

BY: \_\_\_\_\_  
Mark Friedman  
Mayor

ATTEST:

ATTEST:

BY: \_\_\_\_\_  
Randell H. Iwasaki  
Executive Director

BY: \_\_\_\_\_  
Cheryl Morse  
City Clerk

APPROVED as to legal form:

APPROVED as to legal form:

BY: \_\_\_\_\_  
Malathy Subramanian  
Authority Counsel

BY: \_\_\_\_\_  
Sky Woodruff  
City Attorney

## Exhibit A

### Scope of Work

This summary work scope describes the work to be performed by the consultants for the San Pablo PDA Implementation Plan. It will be used as a framework for a more detailed work scope to be negotiated between the City, CCTA and the consultants.

The purpose of the San Pablo Avenue Specific Plan is to articulate a vision for the future of San Pablo Avenue, identify improvements, and adopt context-sensitive regulations that can be applied along its length and to adjacent areas. The Plan's key principles are to deepen a sense of place and community identity, attract private investment, strengthen partnerships, enhance the public realm, promote the everyday use of transit, walking, and biking, and foster environmental sustainability. The Implementation Plan will assess the gaps in the plan and identify what is needed to have the plan become a working set of policies and strategies.

#### 1. Project Kickoff

**Purpose:** Refine the scope and schedule, and identify important background data and contacts. It is anticipated that as part of this task the consultants would:

- Participate in a coordination teleconference.
- Participate in a Kickoff Meeting to review and discuss project objectives.
- Along with staff, they would participate in a site tour and documentation the information gained.
- Refine scope and schedule.
- They would create a background data request of the city
- They would work with staff on stakeholder identification.

**Task 1 Key Deliverables:** Project Scope, Kickoff Meeting, Summary Notes,  
Background Data Request

## **2A. Background and Analysis: Existing Policy Assessment**

Purpose: Assess the existing planning, regulatory, and policy background to understand where there are gaps in order to further define subsequent tasks and deliverables. Tasks are expected to include:

- Base map preparation and Specific Plan Maps interpretation
- Review of relevant policy and regulatory background documents
- Assess the existing implementation framework and perform a gap analysis
  - Planning and Regulatory Analysis (General Plan, Specific Plan, Zoning Ordinance)
  - Policy Analysis: Housing, Parking, Open Space
  - Existing CIP/Infrastructure and Policy Analysis
- Compile a Policy Framework Assessment/Gap Analysis Memo
- Staff meeting to discuss draft memo

**Task 2A Key Deliverables:** Draft Policy Framework Assessment/Gap Analysis Memo that reviews the SPASP and identifies any gaps in housing, parking, open space and infrastructure needs or strategies; summary meeting notes.

## **2B. Background and Analysis: Mixed Use/Housing Infill “Readiness”**

Purpose: Complete the bulk of the market analysis work in order to communicate the “readiness” of certain sites within the PDA, and the PDA as a whole, and provide direction on how infrastructure, parking, affordable housing, and other issues identified in Task 2a gaps factor into this “readiness.”

- *Analysis of past economic studies* in the PDA
- *Market Analysis:* current local and regional market conditions, demand and supply of commercial and residential in the PDA and regionally, marketability of the corridor, forecast for urban growth, and identification of market prototypes.
- *Constraints/Opportunities* assessment
- *Selection of Opportunity Sites* through stakeholder engagement and considering landowner interest.
- *Infrastructure Capacity Assessment* (Telecommunications and Sanitary System)
- *Parking Supply and Demand Assessment*, and an evaluation of parking policies and programs throughout PDA.

- *Affordable Housing Assessment* including need, and practical strategies to support supply.
- *Compile Mixed Use/Housing “Readiness”* that identifies opportunities and constraints, alternatives analysis and financial feasibility Memo
- Staff meeting to discuss draft memo

**Task 2B Key Deliverables:** Draft Commercial, Office, Mixed Used and Residential Only “Readiness” Memos, and meeting summary notes

### **3. Site Testing, Revitalization and Implementation Strategies**

**Purpose:** Focus on the obstacles to development of key opportunity sites selected during Phase 2B

- Site testing for opportunity sites selected during Phase 2B
- Pro forma analysis of opportunity sites/market thresholds (constraints to development and gaps to overcome to “jumpstart” key sites)
- Regulatory performance analysis
- Compile Draft infill Strategy Memo
- Staff Meeting to discuss draft memo

**Task 3 Key Deliverables:** Draft Infill Strategy memo, meeting summary notes.

### **4. Financing and Implementation Plan**

**Purpose:** Complete the bulk of the financial work described in the grant application which included establishing a menu of financing sources that are appropriate for targeted public facilities and programs, evaluating the revenue-generating capacity from likely financing sources, prepare a nexus study, evaluate impact of the proposed fees on the financial feasibility of new development, and develop a financing plan.

In this work scope the consultants will complete:

- Cost analysis of existing and recommended public projects and programs
- Menu of financing sources and fiscal impact
- Nexus study
- Impact Fee Analysis and Phasing Recommendation

- Financing Plan
- Recommended changes to planning/regulatory framework
- Other implementation strategies (eg parking, affordable housing)
- Compile draft Implementation Strategy Memo
- Staff meeting to discuss draft memo

**Task 4 Key Deliverables:** Cost analysis of public projects and programs, a Nexus Study, an Impact Fee Analysis and a Draft Financing and Implementation Plan that describes how the implementation recommendations fit into the overall vision. Meeting summary notes.

#### **Phase 5: Project Implementation and Finalization**

**Purpose:** Focus on synthesis of the 4 memos into a PDA Implementation Plan.

- Compile memos into Draft PDA Implementation Plan
- Staff Meeting to discuss draft
- Prepare for joint PC/CC workshop to review/discuss recommendations
- Joint PC/CC workshop to review/discuss recommendations
- Finalize Implementation Strategy based on staff and public comments

**Task 5 Key Deliverables:** Draft PDA Implementation Plan, joint PC/CC meeting presentation, meeting summary notes

## **Exhibit B**

### **Invoicing Procedures**

#### PROCEDURE FOR INVOICES PREPARED BY SPONSOR FOR SUBMITTAL TO AUTHORITY:

- I. SPONSOR shall prepare and submit invoices to AUTHORITY on a quarterly basis (January-March, April-June, etc.) within 20 calendar days of the close of each quarter;
  
- II. Each invoice shall include
  - A. A cover letter signed by the SPONSOR's authorized representative that includes the following:
    1. The quarterly period for which the invoice applies
    2. A sequential billing number (1, 2, 3,...etc.)
    3. Reference to this AGREEMENT, including this Cooperative AGREEMENT number
    4. A summary of progress on the PROJECT during the period covered by the invoice
    5. A summary of costs incurred by SPONSOR staff and during the period covered by the invoice that SPONSOR will use for its required local match, and
    6. Cumulative local match provided to date
  
  - B. A table summarizing staff costs incurred that includes:

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1. Name and title of each staff person
  2. Total hours worked during the period covered
  3. Hourly rate, which is comprised of the base salary plus benefits for that employee
  4. Total cost for each employee during the period covered by this invoice
  5. Sum of costs for all employees during the period covered by this invoice
- C. A detailed listing of each day an employee worked on PROJECT during the period covered and the number of hours that employee worked on that day and the total number of hours that employee worked on PROJECT during the period covered
- D. SPONSOR may provide the information outlined in Items A, B and C in an alternative format with prior approval of AUTHORITY

**Planning Committee STAFF REPORT**

**Meeting Date:** September 3, 2014

<b>Subject</b>	<b>Approval of Recommended PDA Planning Grant Program</b>
<b>Summary of Issues</b>	MTC gave the Congestion Management Agencies, including the Authority, the responsibility for carrying out part of the Priority Development Area (PDA) Planning Grant Program. It allocated \$2.745 million to the Authority for PDA planning grants in Contra Costa. To implement the program, the Authority released a request for qualifications in March for on-call consultant teams to support the planning grants and a call for projects in June for the planning grants themselves. Working with review committees made up of local staff, Authority staff has developed a recommended list of consultant teams and planning grants.
<b>Recommendations</b>	Staff recommends approval of recommended PDA Planning Grants and list of on-call consultant teams.
<b>Financial Implications</b>	MTC allocated \$2.745 million in federal STP funds for PDA Planning Grants in Contra Costa. These funds will require a local match of \$357,000. This match can be provided through in-kind services.
<b>Options</b>	The Planning Committee could reject or revise the recommendations.
<b>Attachments (See PC packet dated 9/3/14)</b>	<ul style="list-style-type: none"> <li>A. Recommended Consultant Teams</li> <li>B. Summary of Recommended Planning Grants</li> <li>C. Schedule for PDA Planning Grants</li> </ul>
<b>Changes from Committee</b>	<i>None</i>

**Background**

As part of its Resolution 4035, MTC allocated \$2.745 million to the Authority to fund the PDA Planning Grant Program in Contra Costa. According to Resolution 2035, “[g]rants will be made to jurisdictions to provide support in planning for PDAs in areas such as providing housing, jobs, intensified land use, promoting alternative modes of travel to the single occupancy vehicle, and parking management.”

The Authority's Initial PDA Strategy included the criteria and process for implementing the program in Contra Costa. This process included the following steps:

1. Establish a list of consultant teams with the capacity to provide eligible planning services and enter into contracts with them.
2. Select projects to receive planning grants and enter into agreements with project sponsors to spell out responsibilities, including provision of local match.
3. Work with project sponsors to select consultant teams to prepare the planning studies and develop a detailed scope and schedule for each.
4. For each planning study approve task orders outlining the detailed scopes and schedules.
5. Working with project sponsors and consultants, support the development of the planning studies.

*Recommended List of Consultant Teams*

On March 7, 2014, the Authority released a Request for Qualifications (RFQ) No. 14-1 for consultant teams interested in preparing a variety of planning studies for local agencies that would support the development of Priority Development Areas, or PDAs, in Contra Costa.

The RFQ required that firms or teams responding have sufficient experience and comprehensive skills in:

- Transportation planning, design and analysis
- Land use and urban design
- Developer financing, residential and commercial market assessment, project implementation, and economic revitalization
- Environmental assessment, and
- Community outreach.

In response, the Authority received qualifications from 14 consultant teams:

- ARUP
- BMS Group
- Community Design & Architecture Inc.
- Dyett & Bhatia
- Kittelson & Associates
- MIG
- Opticos Design
- Perkins + Will
- Placeworks
- PMC
- Raimi + Associates
- Stantec
- TJKM Transportation
- Wallace Roberts & Todd (WRT)

The qualifications were reviewed by a committee made up of local staff familiar with land use and transportation planning, especially in PDAs or infill areas, and Authority staff. (The committee was made up of Leigha Schmidt, City of Pittsburg; Carol Johnson, City of Concord; Debbie Chamberlain, City of San Ramon; Yvetteh Ortiz, City of El Cerrito; and Brad Beck, Authority staff.) After reviewing the submitted qualifications, the committee selected six teams to interview. As a result of the interviews, the committee recommended the following five teams to provide consultant support for the PDA planning studies:

1. ARUP
2. Opticos Design
3. Perkins + Will
4. Raimi + Associates
5. Wallace Roberts & Todd (WRT)

The review committee recommended ARUP, Perkins + Will and WRT as the three firms that most clearly met the scoring criteria and would be able to provide the services most likely to be needed for the planning activities selected for funding. The review committee also agreed that both Raimi and Opticos had experience and skills that might also be useful for local agencies: Raimi has a focus on health and design that is an increasingly important concern in planning, while Opticos has the greatest experience in form-based codes which could also be useful to a local agency. A full list of the teams, including proposed subconsultants, is included in Attachment A.

#### *Recommended List of Planning Grants*

The Authority released a call for projects for the PDA Planning Grants on June 3, 2014. In response, the Authority received ten applications as shown in the following table. A summary of the proposed scopes of work for the proposed planning studies is included in Attachment B.

The \$2.716 million requested is \$29,000 less than the \$2.745 million available for the grants, which means that the Authority could fund all ten of the applications. Because there is sufficient funding available to approve all ten applications, the committee reviewed the applications only for their eligibility for the program. The committee, made up of local and Authority staff, agreed that nine of the applications were clearly eligible for the program funding. They did, however, have questions about the scope of the Sustainable Communities Strategy (SCS) by Strengthening Public Health Plan proposed by the City of San Pablo that they felt needed to be clarified before approving its request. The reviewers were unsure what the “branding” task involved and whether it was an eligible component of the program. Authority staff is working with the City of San Pablo to clarify the scope and project purpose.

<b>Project</b>	<b>Applicant</b>	<b>Request</b>	<b>Local Match Required*</b>
City of Oakley Downtown PDA Market Study	Oakley	\$100,000	\$13,000
San Pablo Avenue Complete Streets	Contra Costa County	\$300,000	\$39,000
PDA Market and Fiscal Analysis	Martinez	\$200,000	\$26,000
Moraga Center Specific Plan Implementation Strategy	Moraga	\$150,000	\$20,000
SCS by Strengthening Public Health Plan	San Pablo	\$149,000	\$20,000
Grant, Salvio, and Oak Street Corridor Plan	Concord	\$250,000	\$33,000
Downtown Congestion Study for Implementing Lafayette's PDA	Lafayette	\$450,000	\$59,000
El Cerrito San Pablo Ave PDA Implementation Plan	El Cerrito	\$317,000	\$42,000
San Ramon IRH Trail Bike/Ped Overcrossings Bollinger Canyon & Crow Canyon Rd – Environmental Clearance	San Ramon	\$150,000	\$20,000
North Downtown Specific Plan	Walnut Creek	\$650,000	\$85,000
<b>Totals</b>		<b>\$2,716,000</b>	<b>\$357,000</b>

\* To receive federal funds, sponsors must provide local match of 11.47 percent. This match can be provided through either staff time or direct financial contributions. The Authority will provide the majority of this match through the funding of the PDA Planning Grant contract managers and assume the remainder would be provided through local staff time.

*Procurement of Contract Planning Manager Consultant Support*

Due to the number of meetings and workload involved in overseeing and participating in ten planning studies, it was necessary to procure additional consultant support services to help implement the PDA Planning Grant Program. In March, the Authority approved agreements with two contract planning managers — Paul Fassinger of CTP Consulting and Paul Krupka of Krupka Consulting — to provide this support. The total cost for the two contracts is \$220,000, to be funded through Measure J Regional Planning (Org. OCP-18A).

The contract planning managers will be responsible for working with project sponsors to match the consultant teams to the planning studies; to develop the scopes of work and budgets for the studies; to assist with contract negotiation and preparation, to prepare memoranda of understanding (MOUs) and task orders for the studies; to facilitate the studies themselves; and to prepare the invoicing to Caltrans.

*Providing Local Match*

As noted above, to receive federal funds through the PDA Planning Grant program, sponsors must provide a local match of 11.47 percent of the total cost of the planning project. In practice, this means that the Authority will receive 88.53 percent back in federal funds of the

total amount invoiced. The \$2.745 million in federal STP funds allocated for the PDA Planning Grants program will require a local match of \$357,000.

In the Authority's agreement with FHWA, some or all of the local match can be provided through in-kind staff or consultant services funded with non-federal funds. The Authority also may apply the \$220,000 in Measure J funds for the contract planning managers overseeing implementation of the PDA Planning Grant program to provide part of the required match. Project sponsors may use their staff time — if properly documented and invoiced in a timely manner — to provide the remaining local match required.

#### *Assigning Consultant Resources and Developing Scopes of Work*

Once the Authority approves the list of consultant teams and planning grants, the Authority's PDA planning managers would work with project sponsors to select the "best fit" to assign consultant teams to planning studies. Authority staff would then work with the consultant teams to refine the consultant scopes of work and determine the final budgets for each study.

This process will likely be iterative, with considerable back and forth between the various parties involved. At present, the grant requests are \$29,000 below the total available in grant funding. The Authority intends to use these remaining funds as a contingency to allow for potential changes in scope or schedule.

Authority staff will begin the process of matching consultants and planning studies, setting budgets and scopes, and developing the consultant contracts and sponsor MOUs in September/October. We expect this process to take six to eight weeks with Authority approval of contracts and MOUs in December.

#### *TCC Review*

At its meeting on August 21, 2014, the TCC recommended approval of the proposed PDA planning grants and the proposed list of consultant teams. Committee members had a number of questions on the process for matching sponsor projects to consultant teams. One TCC member recommended that Authority staff send the qualifications for each team to the sponsors. Staff agrees that this would be an appropriate first step.

A representative from the Building Industries Association noted its opposition to using federal transportation funds for land use planning. Authority staff noted that MTC created the program as a key strategy in *Plan Bay Area* for encouraging development in PDAs and achieving required greenhouse gas emissions reduction goals.



## AGENDA BILL

### Agenda Item No. 5(F)

Date: March 17, 2015  
To: El Cerrito City Council  
From: Margaret Kavanaugh-Lynch, Development Service Manager  
Subject: Professional Services Agreement Amendment with West Coast Code Consultants

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#### **ACTION REQUESTED**

Adopt a resolution authorizing the City Manager to amend the Professional Services Agreement between the City of El Cerrito and West Coast Code Consultants in an amount not to exceed \$25,000 bringing the total contract to an amount not to exceed \$50,000 and to extend the term of the Agreement through June 30, 2015.

#### **BACKGROUND**

On December 11, 2014 the City of El Cerrito entered into a Professional Services Agreement with West Coast Code Consultants to provide temporary staffing assistance to the Building and Planning Division. This contract was necessitated by a vacancy in the Permit Tech III position. Pursuant to Administrative Policy/Procedure IIIA, (Procurement including Professional Services Contracts) contracts up to \$25,000 may be authorized by the City Manager. The same Policy/Procedure stipulates that purchases made from a single vendor (either individually or collectively within one fiscal year) over \$25,000 require City Council approval.

#### **ANALYSIS**

Due to recent resignations in the Building Division, the Human Resources Department has been actively moving forward with the recruitment process for two Permit Tech positions. The job openings were posted on January 22, 2015 and closed on February 12, 2015. Fifty-nine applicants applied for the open positions. It is anticipated that the interviews will be held the last week in March. The extension of this Professional Services Agreement is necessary to ensure the seamless continuation of temporary staff assignments until the recruitment process is complete. It is anticipated that the successful candidates would be available to join the city by the end of April. However, this contract amount extends the contract to the end of June, to cover any unforeseen circumstances regarding the recruitment process.

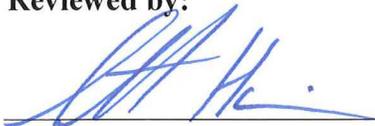
#### **FINANCIAL CONSIDERATIONS**

Funding for the \$25,000 amendment is available in the Fiscal Year 2014-15 Community Development Department's adopted budget through anticipated regular staff salary savings created by recent vacancies. No new appropriations are needed.

**LEGAL CONSIDERATIONS**

The City Attorney has reviewed the proposed action and there are no legal issues.

**Reviewed by:**



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**Scott Hanin, City Manager**

**Attachments:**

1. Resolution

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO AMEND THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF EL CERRITO AND WEST COAST CODE CONSULTANTS IN AN AMOUNT NOT TO EXCEED \$25,000 AND TO EXTEND THE TERM OF THE AGREEMENT TO JUNE 30, 2015

WHEREAS, on December 11, 2014 the City of El Cerrito entered into a professional services agreement with West Coast Code Consultants to provide temporary staffing assistance to the Building and Planning Division; and

WHEREAS, additional time is needed to complete an employee recruitment and selection process, and additional tasks will total not more than \$25,000; and

WHEREAS, funding for the proposed amendment is available in the FY 2014-15 Community Development Department's adopted budget through anticipated regular staff salary savings created by recent vacancies and no new appropriation of funds is required.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager to amend the professional services agreement with West Coast Code Consultants in an amount not to exceed \$25,000 bringing the total contract to an amount not to exceed \$50,000 and to extend the term of the Agreement through June 30, 2015.

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

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

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

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor



## AGENDA BILL

### Agenda Item No. 5(G)

Date: March 17, 2015

To: El Cerrito City Council

From: Maria Sanders, Interim Operations + Environmental Services Division  
Manager  
Yvetteh Ortiz, Public Works Director/City Engineer

Subject: Environmental Quality Committee Appointment

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#### **ACTION REQUESTED**

Approve an Environmental Quality Committee recommendation to appoint Rebecca Milliken, Tracie Mackie, and Paloma Pavel to the Environmental Quality Committee, effective April 14, 2015.

#### **DISCUSSION**

Applications to serve on the Environmental Quality Committee (EQC) were recently received from Rebecca Milliken, Trina Mackie, and Paloma Pavel. These applications were distributed to all Committee members in advance of a Special Ad Hoc Membership Subcommittee Meeting held on March 10, 2015. During the Special Meeting, four members of the Committee interviewed the three candidates and agreed that they should be considered for membership recommendation. During the Regular Committee Meeting on March 10, which immediately followed the Special Meeting, the Committee voted unanimously to recommend to the City Council that they be appointed to the Environmental Quality Committee.

Ms. Milliken is an environmental professional, who, along with her family, has volunteered during numerous Green Team events. Ms. Mackie is a public and environmental health professor with a strong understanding of the connection between the environment and human health. Ms. Pavel is also an environmental professional working on the intersection between environmental quality and social equity. She had previously served on the EQC from 2009 through 2014. Due to a lengthy leave of absence late in 2014, she was unable to serve; however, she is now able to serve on the EQC again. All applicants have attended three consecutive regular Committee meetings during the past few months. They have demonstrated through their applications, interviews, and participation in EQC-sponsored events that they are committed to environmental quality and the mission of the Committee.

If the Council approves this recommendation, the number of Committee members will increase to 12 out of a possible membership total of 15, as established by Resolution 2008-13.

## **STRATEGIC PLAN CONSIDERATIONS**

The work of the members on the EQC is instrumental in helping the city achieve Goal F of the El Cerrito Strategic Plan, which is to “Foster environmental sustainability citywide.” The EQC initiates and supports a variety of activities that advance all the strategies under Goal F:

- Be a leader in setting policies and providing innovative programs that promote environmental sustainability;
- Promote environmental education to facilitate behavioral changes;
- Implement policies to promote waste diversion;
- Encourage alternative modes of transportation; and
- Implement the Climate Action Plan.

**Reviewed by:**



**Scott Hanin, City Manager**

### **Attachments:**

1. Rebecca Milliken application
2. Tracie Mackie application
3. Paloma Pavel application



**March 17, 2015  
City Council Meeting**

**Agenda Item No. 5(G)  
Environmental Quality Committee Appointments  
Attachments 1 – 3 Candidate Applications**

Hardcopies are available for review at:

Office of the City Clerk  
10890 San Pablo Avenue  
El Cerrito, CA  
(510) 215-4305

and

The El Cerrito Library  
6510 Stockton Avenue  
El Cerrito, CA



## AGENDA BILL

Agenda Item No. 5(H)

**Date:** March 17, 2015  
**To:** El Cerrito City Council  
**From:** Janet Bilbas, Senior Services Supervisor  
**Subject:** Committee on Aging Membership Recommendation

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### **ACTION REQUESTED**

Approve the Committee on Aging recommendation to appoint Steve Lipson to the Committee on Aging, effective March 17, 2015.

### **BACKGROUND**

At the February 18, 2015 Committee on Aging, regular meeting the members voted unanimously to recommend to the City Council the appointment of Mr. Steve Lipson.

For the past 22 years Mr. Lipson has been living in El Cerrito. He is a self employed software developer. He has been involved in technologies for older adults. Mr. Lipson worked with the founder of "Senior Net" and co-authored 2 books for older adults "Computing for Seniors" and "Young @ Heart".

He is interested in helping older adults to access resources that can be beneficial to them. Mr. Lipson is also interested in advocating for resources for the older adult community.

**Reviewed by:**

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**Scott Hanin**  
**City Manager**

### **Attachment:**

1. Steve Lipson Application



**March 17, 2015  
City Council Meeting**

**Agenda Item No. 5(H)  
Committee on Aging Appointment  
Attachment 1 – Candidate Application**

Hardcopies are available for review at:

Office of the City Clerk  
10890 San Pablo Avenue  
El Cerrito, CA  
(510) 215-4305

and

The El Cerrito Library  
6510 Stockton Avenue  
El Cerrito, CA



## AGENDA BILL

Agenda Item No. 5(I)

**Date:** March 17, 2015  
**To:** El Cerrito City Council  
**From:** Lisa Malek-Zadeh, Finance Director/City Treasurer  
**Subject:** Quarterly Investment Report for Period Ending September 30, 2014

---

### **ACTION REQUESTED**

Receive and file the City's Quarterly Investment Report for the period ending September 30, 2014.

### **QUARTERLY INVESTMENT REPORT REVIEW**

The Quarterly Investment Report for July 2014-September 2014 shows that the City's investments had a par value of \$1,548,683 as of September 30, 2014. The decrease of \$135,255 from last quarter is due to the use of \$140,278 of Solar Project proceeds and the use of \$10 of Swim Center Debt interest earnings towards a debt service payment offset by \$5,033 in interest earnings. During the quarter, a debt service payment was made in the amount of \$344,896 for the Swim Center Bond Debt and \$1,340,000 of Federal National Mortgage Association (FNMA) investments were called early and converted to money market investments.

The City continues to have minimal investments that are not required for debt service reserves and to have limited, if any, interest earnings on restricted funds. Of the total amount invested, \$2,704 is invested in the pooled funds with the State Treasurer's Local Agency Investment Funds (LAIF) and \$1,545,979 is held in money market funds.

### **FINANCIAL CONSIDERATIONS**

The purpose of the City's Investment Policy is to provide guidelines for prudent investment of the City's idle funds and maximum efficiency of the City's cash management system. The ultimate goal is to enhance the City's economic condition while protecting the funds at all times. The City's investments comply with the "Authorized Investments" section of the Investment Policy.

**Reviewed by:**

**Scott Hanin**  
**City Manager**

Attachment:

1. City of El Cerrito Quarterly Investment Report For Period Ending September 30, 2014

# City of El Cerrito

Quarterly Investment Report  
For the Period Ending December 31, 2014

FUND	INVESTMENT TYPE	INVESTMENT	TRUSTEE/ BROKER	PAR VALUE	COST	INTEREST OR YIELD	MATURITY DATE	COST/ 100	*MARKET VALUE
Pooled Investments	Pooled Fund	LAIF	CA State Treasurer	\$2,706.06	\$2,706.06	0.24%	N/A	100.00	\$2,706.06
Solar Project Financing	Prime Money Market	Deutsche Bank Prime Money Market	Deutsche Bank	\$10,169.12	\$10,169.12	0.01%	N/A	100.00	\$10,169.12
Swim Center Fund	Blackrock Institutional Money Market	Union Bank/Blackrock Liquidity	Union Bank of CA	\$185,344.18	\$185,344.18	0.01%	N/A	100.00	\$185,344.18
City Hall Debt Fund	Blackrock Institutional Money Market	Union Bank/Blackrock Liquidity	Union Bank of CA	\$603,332.99	\$603,332.99	0.01%	N/A	100.00	\$603,332.99
Street Improvement Fund	Blackrock Institutional Money Market	Union Bank/Blackrock Liquidity	Union Bank of CA	\$743,492.77	\$743,492.77	0.01%	N/A	100.00	\$743,492.77
<b>TOTALS, as of December 31, 2014</b>				<b>\$1,545,045.12</b>	<b>\$1,545,045.12</b>				<b>\$1,545,045.12</b>

I certify that this report is in compliance with the City of El Cerrito Investment Policy and that there are adequate funds available to meet the next six months of estimated expenditures as required by the California Government Code 53646.

  
Lisa Malek-Zadeh, Finance Director/City Treasurer

**Agenda Item No. 5(I)  
Attachment**



## AGENDA BILL

### Agenda Item No. 7(A)

Date: March 17, 2015

To: El Cerrito City Council

From: Melanie Mintz, Interim Community Development Director  
Scott Hanin, City Manager

Subject: Amend Professional Services Agreement with Trust for Public Land to Waive or Reduce the Professional Services Fee

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#### **ACTIONS REQUESTED**

Adopt a resolution amending the Professional Services Agreement with Trust for Public Land for service provided in conjunction with the acquisition of the Madera Hillside Natural Area Property (APN 505-142-014, -012 and -013).

Due to information available at the time this Agenda Bill went to print, there are two resolutions attached with two separate options:

1. One resolution waives the \$100,000 Professional Services Fee authorized by Resolution No. 2013-39.
2. The second resolution authorizes the City Manager to enter into an Agreement to share 50% of the net proceeds of any future sale of a private lot (APN 505-421-029), up to \$100,000.

#### **BACKGROUND**

On July 16, 2013 City Council adopted Resolution No. 2013-39 authorizing the City Manager to enter into a Purchase and Sale Agreement with the Trust for Public Land (TPL) to purchase approximately 8.08-acres of Hillside Natural Area property and to enter into a Professional Services Agreement for acquisition-related and fundraising assistance. The Purchase and Sale Agreement specified that the City would purchase the property from TPL for \$475,000 by December 17, 2014. The Professional Services Agreement committed the City to paying up to \$100,000 for acquisition related services, including real estate related, grant solicitation and private fundraising assistance. The actual amount of the professional services fee would be based upon the success of the fundraising efforts. The Purchase and Sale Agreement was amended three times by the City Manager extending it through March 19, 2015.

Around the same time that TPL acquired the 8.08 acre Madera property for the purpose of re-conveyance to the City, TPL was also donated and assumed ownership of a 9,500 square foot residentially-zoned property (APN 505-421-029) adjacent to the Madera Hillside Natural Area property. According to TPL, one of the ways they fund their non-

## **Agenda Item No. 7(A)**

profit organization's activities nationwide is through acceptance of donations, including donations of land for non-conservation purposes. When land donations are received for purposes other than conservation, TPL evaluates them for their conservation value and, where low, measures how much additional conservation could be catalyzed through the sale of the property.

TPL conducted this form of analysis on the residential property and concluded that the amount of conservation funding that could be created through a sale of the property in today's market was much greater than the amount of additional conservation value that could be created through protection of the property itself. Key considerations included the following:

- Due to its steep slope, the property provides little usable land for the public.
- Due to the existing, adjacent public staircase, the property would not improve public access to the Hillside Natural Area.
- The property contains marginal natural resource value. Locally significant plants that exist onsite can be transplanted to the Hillside Natural Area.
- The property would only marginally increase the size of the Madera open space and the greater Hillside Natural Area (less than 0.01%).
- Development would be consistent with the underlying zoning, parcel size and neighboring land uses.
- The opportunity to preserve \$100,000 in City funds for other park and recreation needs in El Cerrito.

TPL and City staff has discussed the situation and are in agreement that if the property is to be sold, a portion of the sale proceeds should be reinvested in El Cerrito to contribute to local parks and recreation projects as this donation would likely not have occurred without the City's purchase of the main property.

Before Council this evening is two resolutions. There are two resolutions because at the time this Agenda Bill went to print, TPL was in contract with a buyer to purchase the single private lot, scheduled to close on March 12, 2015. The two resolutions reflect two separate scenarios: Scenario A is if the property successfully closes on March 12 and Scenario B is if the property does not close and continues to be marketed. In Scenario A, if the current sale contemplated by TPL is successful, TPL will waive the \$100,000 Professional Services Fee agreed to previously, as the proceeds from the sale would cover project costs. In Scenario B, if the current sale is not successful, TPL agrees that fifty percent (50%) of the net proceeds from a future sale, up to \$100,000, would be granted to the City. ("Net proceeds" is defined in the amended agreement as "sale price less closing costs and realtor commission.") The attached resolutions reflect these two scenarios.

## **DISCUSSION**

Funding for the purchase of the 8.08 Madera Hillside property was planned to come from three sources: 1) Outside grants; 2) Measure WW; and 3) Private Fundraising.

## Agenda Item No. 7(A)

TPL and City staff worked together to submit two grants: one to the Land and Water Conservation Fund (LWCF) for \$251,525 (Resolution 2014-01) which was successful and a second to the National Fish and Wildlife Foundation for \$80,000 which was not. In addition, TPL and community members who came together to form the Open Space Fund, conducted a very successful private fundraising campaign that raised \$103,409 from approximately 275 donors, including a large donation of \$25,000 directed to the purchase by TPL. With the \$100,000 Professional Services Fee, the total cost of the project would be \$575,000 necessitating an expenditure of \$220,066 of the \$587,469 remaining non-committed remaining Measure WW funds to close the transaction. If the Professional Services Fee is waived, as in Scenario A, the cost of the project to Measure WW would be \$120,066 leaving additional Measure WW funds available for other City parks and recreation priorities. If the Fee is not waived, but Scenario B comes to fruition, TPL will grant the City up to \$100,000 to use for future parks and recreation projects.

### FINANCIAL CONSIDERATIONS

No General Fund monies are involved in the Madera Hillside Natural Area acquisition. The funding for the project is provided by Measure WW, private donations and outside grants. A total of \$354,934 was raised from private donations and outside grants, leaving a balance of up to \$220,066 to be funded by Measure WW. The Measure WW balance is currently \$587,469. If TPL's current proposed sale of property is successful and the resolution amending the Professional Services Agreement is adopted, \$120,066 Measure WW funds would be required to complete the project. If the current sale is unsuccessful, the cost to Measure WW would be \$220,066. If TPL successfully sells the property in the future, it will grant the City fifty (50%) of the proceeds from the sale, up to \$100,000. Staff believes that this proposal is reasonable.

### LEGAL CONSIDERATIONS

The City attorney has reviewed the proposed Professional Services Agreement amendment.

#### Reviewed by:



Scott Hanin, City Manager

#### Attachments:

1. Resolution xx-xx (Scenario A)
2. Resolution xx-xx (Scenario B)

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL AMENDING THE PROFESSIONAL SERVICES AGREEMENT WITH TRUST FOR PUBLIC LAND TO WAIVE THE PROFESSIONAL SERVICES FEE

WHEREAS, Resolution No. 2013-39 authorized the City Manager to enter into a Purchase and Sale Agreement with the Trust for Public Land to purchase approximately 8.08 acres of Hillside Natural Area property; and

WHEREAS, Resolution No. 2013-39 also authorized the City Manager to enter into a Professional Services Agreement with the Trust for Public Land for acquisition-related and fundraising assistance; and

WHEREAS, the Purchase and Sale Agreement specified that the City would purchase the property for \$475,000 by December 17, 2014 and pay up to \$100,000 for professional services based upon the success of the fundraising efforts; and

WHEREAS, the Purchase and Sale Agreement was amended by the City Manager extending it through March 19, 2015; and

WHEREAS, Trust for Public Land also accepted a donation and assumed ownership of a 9,500 square foot residentially-zoned property adjacent to the Hillside Natural Area and has since marketed the property for sale; and

WHEREAS, the property (APN 505-421-029) has since successfully sold; and

WHEREAS, Trust for Public Land and the City concur that a portion of the proceeds from the sale of the parcel should benefit local parks and recreation projects.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby approves the First Amended Professional Services Agreement with the Trust for Public Land to waive the \$100,000 Professional Services Fee, as set forth in the attached Exhibit A.

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

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

**Agenda Item No. 7(A)**  
**Attachment 1**

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

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor

Exhibit A: First Amendment to Professional Services Agreement

FIRST AMENDMENT TO  
PROFESSIONAL SERVICES FEE AGREEMENT

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES FEE AGREEMENT (this "**Amendment**") is made and entered into as of the 18th day of March, 2015, by the **CITY OF EL CERRITO**, a California general law city ("**City**"), and **THE TRUST FOR PUBLIC LAND**, a California nonprofit public benefit corporation ("**TPL**"), with reference to the following recitals of fact:

RECITALS

A. City and TPL entered into that certain Professional Services Fee Agreement dated as of July 29, 2013 ("**Fee Agreement**"), pursuant to which City agreed to compensate TPL for its expertise in acquiring real property for public use, in connection with City's wish to acquire approximately 8.08 acres of real property located between Madera Circle, Potrero Avenue and Regency Court in the City of El Cerrito, California ("**Property**"). All capitalized terms not otherwise defined herein shall have the same meaning ascribed to them in the Fee Agreement.

B. As contemplated in the Fee Agreement, on August 30, 2013, TPL acquired the Property, with the intention of holding the Property for approximately 16 months, until the City was ready to purchase it from TPL. TPL also acquired a separate lot nearby ("**Private Lot**"), which the prior landowner donated to TPL concurrently with the sale of the Property to TPL. TPL marketed the Private Lot for sale separately.

C. TPL's holding of the Property, the Buy-and-Hold Period under the Fee Agreement, was to end on December 17, 2014, but various circumstances prevented the City from purchasing the Property from TPL by that date. Accordingly, the parties agreed to extend the Close of Escrow, as defined in that certain Purchase and Sale Agreement between TPL and the City, dated July 29, 2013 (as amended, the "**Purchase and Sale Agreement**").

D. With the sale of the Private Lot now completed by TPL, TPL and City wish to amend the Fee Agreement as described below.

NOW, THEREFORE, in consideration of the foregoing, and of the conditions, terms, covenants and agreements set forth herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree that the Fee Agreement is amended as follows:

AGREEMENT

1. Amended and Restated Section. Section 3 is amended and restated in its entirety as follows, upon execution of this Amendment:

"3. Professional Services Fee. Notwithstanding anything to the contrary contained herein, TPL hereby agrees to waive the Professional Services Fee which was to be paid to TPL upon Close of Escrow, and City concurs with such waiver."

2. Cancellation of Fee Agreement. Upon execution of this Amendment by both parties and delivery of the within signed Amendment to the other party (by email or fax), the Fee Agreement shall be null and void and neither party shall have any further obligations under the Fee Agreement, except those terms, if any, which specifically state that they are to survive such a cancellation.

3. Counterparts. This Amendment may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart. This Amendment may be executed and delivered to the other party by facsimile transmission or by pdf and a facsimile signature or a pdf received by email shall have the same legal effect as an original signature.

4. Entire Agreement. The Fee Agreement, as amended by this Amendment, constitutes the full and complete agreement and understanding between the parties hereto and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter contained in the Fee Agreement, as so amended, and no provision of the Fee Agreement, as so amended, may be modified, amended, waived or discharged, in whole or in part, except by a written instrument executed by all of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

**CITY**

**CITY OF EL CERRITO**, a California  
general law city

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**TPL**

**THE TRUST FOR PUBLIC LAND**,  
a California nonprofit public benefit  
corporation

By: \_\_\_\_\_  
Gilman Miller, Senior Counsel

Date: \_\_\_\_\_

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL AMENDING THE PROFESSIONAL SERVICES AGREEMENT WITH TRUST FOR PUBLIC LAND TO SHARE NET PROCEEDS FROM FUTURE SALE OF RESIDENTIAL PROPERTY

WHEREAS, Resolution No. 2013-39 authorized the City Manager to enter into a Purchase and Sale Agreement with the Trust for Public Land to purchase approximately 8.08 acres of Hillside Natural Area property; and

WHEREAS, Resolution No. 2013-39 also authorized the City Manager to enter into a Professional Services Agreement with the Trust for Public Land for acquisition-related and fundraising assistance; and

WHEREAS, the Purchase and Sale Agreement specified that the City would purchase the property for \$475,000 by December 17, 2014 and pay up to \$100,000 for professional services based upon the success of the fundraising efforts; and

WHEREAS, the Purchase and Sale Agreement was amended by the City Manager extending it through March 19, 2015; and

WHEREAS, Trust for Public Land also accepted a donation and assumed ownership of a 9,500 square foot residentially- zoned property adjacent to the Hillside Natural Area and has since marketed the property for sale; and

WHEREAS, Trust for Public Land and the City concur that a portion of the proceeds from any future sale of the parcel (APN 505-421-029) should benefit local parks and recreation projects; and

WHEREAS, Trust for Public Land agreed to grant the City fifty percent (50%) of the net proceeds from a future sale up to \$100,000; and

WHEREAS, the City will restrict the proceeds received from Trust for Public Land to parks and recreation projects.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby approves the First Amended Professional Services Agreement to reflect that the Trust for Public Land will grant the City fifty percent (50%) of net proceeds of any future sale of the private parcel up to \$100,000, as set forth in the attached Exhibit A.

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

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

**Agenda Item No. 7(A)**

**Attachment 2**

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

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor

Exhibit A: First Amendment to Professional Services Agreement

FIRST AMENDMENT TO  
PROFESSIONAL SERVICES FEE AGREEMENT

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES FEE AGREEMENT (this "**Amendment**") is made and entered into as of the 18th day of March, 2015, by the **CITY OF EL CERRITO**, a California general law city ("**City**"), and **THE TRUST FOR PUBLIC LAND**, a California nonprofit public benefit corporation ("**TPL**"), with reference to the following recitals of fact:

RECITALS

A. City and TPL entered into that certain Professional Services Fee Agreement dated as of July 29, 2013 ("**Fee Agreement**"), pursuant to which City agreed to compensate TPL for its expertise in acquiring real property for public use, in connection with City's wish to acquire approximately 8.08 acres of real property located between Madera Circle, Potrero Avenue and Regency Court in the City of El Cerrito, California ("**Property**"). All capitalized terms not otherwise defined herein shall have the same meaning ascribed to them in the Fee Agreement.

B. As contemplated in the Fee Agreement, on August 30, 2013, TPL acquired the Property, with the intention of holding the Property for approximately 16 months, until the City was ready to purchase it from TPL. TPL also acquired a separate lot nearby ("**Private Lot**"), which the prior landowner donated to TPL concurrently with the sale of the Property to TPL. TPL marketed the Private Lot for sale separately.

C. TPL's holding of the Property, the Buy-and-Hold Period under the Fee Agreement, was to end on December 17, 2014, but various circumstances prevented the City from purchasing the Property from TPL by that date. Accordingly, the parties agreed to extend the Close of Escrow, as defined in that certain Purchase and Sale Agreement between TPL and the City, dated July 29, 2013 (as amended, the "**Purchase and Sale Agreement**"). TPL's sale of the Private Lot was intended to occur on or before the extended Close of Escrow on the Property.

D. In spite of TPL's best efforts to market and sell the Private Lot concurrently, the sale of the Private Lot will not close by Close of Escrow on the Property, so the parties wish to amend the Fee Agreement as described below.

NOW, THEREFORE, in consideration of the foregoing, and of the conditions, terms, covenants and agreements set forth herein and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree that the Fee Agreement is amended as follows:

AGREEMENT

1. Amended and Restated Section. Section 3 is amended and restated in its entirety as follows, upon execution of this Amendment:

"3. Professional Services Fee. City shall pay to TPL a fee ("**Professional Services Fee**") as compensation for TPL's performance of the Services, as further described in

Exhibit A to this Fee Agreement, payable in one lump sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000) due on Close of Escrow when title to the Property is conveyed to the City, which is anticipated to occur on March 19, 2015.

After Close of Escrow on the Property, TPL shall continue to use good faith efforts to sell the Private Lot to a third party (the "**Private Lot Sale**"). Upon the occurrence of such a Private Lot Sale, TPL shall make a grant to the City of fifty percent (50%) of the Private Lot Sale's net sale proceeds (sale price less closing costs and realtor commission), up to a maximum grant to the City of One Hundred Thousand Dollars (\$100,000). This grant to the City shall be made within ten (10) business days of the Private Lot Sale."

2. Counterparts. This Amendment may be executed in several counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart. This Amendment may be executed and delivered to the other party by facsimile transmission or by pdf and a facsimile signature or a pdf received by email shall have the same legal effect as an original signature.

3. Entire Agreement. The Fee Agreement, as amended by this Amendment, constitutes the full and complete agreement and understanding between the parties hereto and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter contained in the Fee Agreement, as so amended, and no provision of the Fee Agreement, as so amended, may be modified, amended, waived or discharged, in whole or in part, except by a written instrument executed by all of the parties hereto.

4. Force and Effect. Except as modified by this Amendment, the terms and provisions of the Fee Agreement are hereby ratified and confirmed and are and shall remain in full force and effect. Should any inconsistency arise between this Amendment and the Fee Agreement as to the specific matters which are the subject of this Amendment, the terms and conditions of this Amendment shall control. This Amendment shall be construed to be a part of the Fee Agreement and shall be deemed incorporated in the Fee Agreement by this reference.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

**CITY**

**CITY OF EL CERRITO**, a California  
general law city

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**TPL**

**THE TRUST FOR PUBLIC LAND**,  
a California nonprofit public benefit  
corporation

By: \_\_\_\_\_

Gilman Miller, Senior Counsel



## AGENDA BILL

### Agenda Item No. 7(B)

Date: March 17, 2015

To: El Cerrito City Council

From: Melanie Mintz, Interim Community Development Director  
Emily Alter, Community Development Analyst/Consultant

Subject: Property Assessed Clean Energy Financing Program

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#### **ACTION REQUESTED**

- 1) Adopt a resolution authorizing the City of El Cerrito to become a member of the California Statewide Communities Development Authority Joint Powers Authority (CSCDA), subject to the execution of an amended and restated joint exercise of powers agreement with the CSCDA.
- 2) Adopt a resolution authorizing the City to Join the CaliforniaFIRST Property Assessed Clean Energy (PACE) Program, provided through the CSCDA Joint Powers Authority, subject to the execution of an agreement for the CaliforniaFIRST program to indemnify the City.
- 3) Adopt a resolution authorizing the City to join the Open PACE Program, provided through the CSCDA Joint Powers Authority.
- 4) Adopt a resolution authorizing the City to become a member of the Western Riverside Council of Governments Joint Powers Authority (WRCOG) and participate in the California HERO program, subject to the execution of an agreement for the California HERO Program to indemnify the City.
- 5) Adopt a resolution authorizing the City to become a member of the California Enterprise and Development Authority Joint Powers Authority (CEDA) and participate in the Figtree PACE program.

**BACKGROUND**

The City of El Cerrito’s Climate Action Plan (CAP), adopted May 2013, recommends that the City:

- Pursue commercial Property Assessed Clean Energy (PACE) financing in conjunction with other public entities; and
- Adopt residential PACE financing if it becomes available in California.

Over 250 cities and 50 percent of California’s population now have access to PACE programs, which establish special assessment districts to provide property owners with voluntary financing tools to finance energy and water efficiency projects, electric vehicle charging infrastructure and seismic improvements.

In 2008, the City of Berkeley established the first special financing district to help residents put solar on their roofs, but in 2010 the Federal Housing Financing Agency (FHFA) issued a directive to halt PACE financing because they believe it created more risks for Fannie Mae and Freddie Mac mortgages; the directive effectively stopped implementation of PACE programs, particularly in the residential market.

On September 23, 2013, Governor Brown sent a letter to the FHFA advising that California will establish a mechanism under the California Energy and Advanced Transportation Financing Authority (CAEATFA) to address the concerns raised by FHFA and protect the interest of Fannie Mae and Freddie Mac. The Governor proposed that the CAEATFA create a loan loss reserve for PACE programs to cover assessments in the case of any foreclosure or forced sale for unpaid taxes or special assessments. The full letter is attached (Attachment 1).

Since that time, a number of cities across the State have chosen to opt-in or reaffirm previous opt-in actions to CaliforniaFIRST, HERO, Figtree, Open PACE and/or other PACE programs, including the following Contra Costa County cities:

- Antioch
- Brentwood
- Concord
- Lafayette (reaffirmed)
- Martinez (reaffirmed)
- Oakley
- Pleasant Hill
- Richmond (reaffirmed)
- San Pablo
- San Ramon
- Walnut Creek (reaffirmed)

Collectively, PACE programs now operate in over 250 cities and 50 percent of the state’s population has access to PACE programs.

**Availability of PACE Programs**

Currently there are three Joint Powers Authorities (JPA) in California that operate PACE programs and make these programs available within their member agencies jurisdictions:

1. California Statewide Communities Development Authority (CSCDA) – CaliforniaFIRST Program and Open PACE Program
2. California Economic Development Authority (CEDA) – Figtree PACE Program
3. Western Riverside Council of Governments (WRCOG) – California HERO Program

Each of these programs is operated on the assessment district model pursuant to AB 811. Each has its own policy regarding the availability of the PACE program to residential property owners. All three programs are non-exclusive, meaning that the City can make all three available to property owners to encourage market competition.

Each JPA has retained the services of an administrator to market the programs, process the loan agreements with property owners and place the assessments on the property tax roll. These services are made available at no cost to the JPA or its member agencies as the administrative costs are rolled into the assessments that ultimately are paid for by the property owner who enters into the tax assessment to finance the energy/water efficiency improvements.

Because assessments to fund improvements to private properties under a PACE program are different from traditional assessments that finance public improvements, prior to processing loan agreements under a PACE program, the JPA or governmental entity sponsoring the PACE program obtains court validation of the program to be implemented in a particular jurisdiction.

1. *California Statewide Communities Development Authority – CaliforniaFIRST Program*

The California Statewide Communities Development Authority (CSCDA) is a state-wide JPA formed by the California State Association of Counties and the League of California Cities. CSCDA offers two PACE programs. CaliforniaFIRST, the first statewide PACE Program, is administered by Renewable Funding. The Open PACE Program is a new initiative intended to offer local governments a turn-key PACE program by providing multiple administrators under one program; based on the infancy of this program, City staff recommend opting into this program as just one of four PACE programs at this time. In the future, as additional administrators join the Open PACE program, the City will automatically have access to their services.

CaliforniaFIRST Commercial PACE

CaliforniaFIRST’s Commercial PACE offering uses an “open market” source of funding to finance the loans made to property owners. Under this model, the property owner may source financing either from private lenders with whom CaliforniaFIRST has established

## Agenda Item No. 7(B)

relationships, or from private lenders that the property owner identifies. CSCDA then issues a bond, secured by the assessment, to the private lender, the lender buys the bond, and then CSCDA disburses the bond sale proceeds to the property owner to implement the project. For commercial properties to participate, CSCDA requires affirmative acknowledgement by the mortgage lender of the “super first” lien position of the PACE assessment, in observance of prevailing mortgage contracts.

### CaliforniaFIRST Residential PACE

CSCDA suspended the launch of the CaliforniaFIRST residential program in 2010 due to the FHFA issues discussed above. With the Governor’s establishment of the PACE Loss Reserve Program in 2014, CSCDA gave the CaliforniaFIRST Residential program the green light to launch its operations, which CaliforniaFIRST did in August, 2014.

The CaliforniaFIRST Program is available to all residential properties and consent from residential lenders is not required. The CaliforniaFIRST residential loan application informs the loan applicant that the applicant should review the existing loan documents in order to determine whether entering into the CaliforniaFIRST loan would violate the existing loan.

Staff recommends adopting a resolution to become a member of the CSCDA and to opt-in to the CaliforniaFIRST program to provide water and energy efficiency projects and seismic improvements (Attachment 4). The Program Administrator has agreed to provide the City with and execute an indemnification and insurance agreement (Attachment 5) as described above.

### Open PACE

CSCDA Open PACE is a 100% voluntary program being offered to allow property owners in participating cities and counties to finance renewable energy, energy water efficiency improvements, seismic improvements and electric vehicle charging infrastructure through the issuance of bonds by CSCDA. The bonds are secured by a voluntary contractual assessment levied on the owner’s property collected annually with property taxes. The OpenPACE program provides multiple program administrators to increase market competition with minimal work for City Staff; this is a new PACE model and currently offers two PACE administrators: CaliforniaFIRST and Alliance NRG. In the future, CSCDA may introduce more administrators to the Open PACE Program; these administrators’ services will automatically be made available to El Cerrito property owners.

Staff recommends adopting a resolution to enable CSCDA Open PACE programs (Attachment 6) to be available to owners of residential and commercial property within El Cerrito to finance permanently fixed renewable energy, energy efficiency, water efficiency, and seismic strengthening improvements as well as electric vehicle charging infrastructure. CSCDA (and not the county or city) will be responsible for entering into voluntary contractual assessment agreements with participating property owners, levying the voluntary contractual assessments, issuing bonds to finance the Improvements and taking remedial actions in the event of delinquent assessment

## **Agenda Item No. 7(B)**

payments. The resolution expressly provides that the county or city will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies in assessment payments, or the issuance, sale or administration of any bonds issued in connection with CSCDA Open PACE.

### *2. Western Riverside Council of Governments – California HERO Program*

The Western Riverside Council of Governments (WRCOG) is a joint powers authority formed by various jurisdictions located in Western Riverside County.

In December 2010, WRCOG established its PACE program known as the HERO Program that was limited to its members in the Western Riverside region. In August 2012, WRCOG amended its joint powers agreement in order to make its PACE program available throughout the State and named this program California HERO.

#### California HERO Program

The California HERO Program is administered and provided funding by Renovate America, Inc. for residential properties and by Samas Capital for commercial properties. WRCOG then issues bonds secured by the assessments that are purchased by Renovate America, Inc. and Samas Capital respectively.

The California HERO Program is available to all residential properties and consent from residential lenders is not required. The California HERO residential loan application informs the loan applicant that the applicant should review existing loan documents in order to determine whether entering into the California HERO loan would violate the existing loan.

For commercial properties, acknowledgement of any existing lender for the property is required in order to obtain a California HERO loan.

In order to proceed with implementation of the California HERO in El Cerrito, the City Council will need to adopt a resolution authorizing the City to join WRCOG as an associate member and execute the associate membership agreement. Additionally, the City Council's resolution will authorize WRCOG to conduct contractual assessment proceedings and to levy the assessments within El Cerrito.

### *3. California Economic Development Authority – Figtree PACE Program*

The California Economic Development Authority is a joint powers authority formed by the cities of Lancaster, Selma and Eureka (CEDA). The City of El Cerrito is not currently a member of CEDA.

CEDA's PACE program is known as the Figtree PACE program and is administered by Figtree Energy Financing. CEDA acts as the issuer of the municipal bonds that finance Figtree PACE projects. CEDA issues limited obligation bonds, notes or other forms of indebtedness secured by the contractual assessments revenue to finance improvements in the district in which it operates. These bonds are pooled to include multiple projects

## Agenda Item No. 7(B)

before being sold to investors on the open market. CEDA has authorized up to \$500 million for the Figtree PACE program at this time.

### Figtree PACE Program

Figtree PACE Program is currently available for commercial, industrial, and multifamily properties. For commercial properties subject to a loan, the Figtree PACE Program requires lender consent. The Figtree PACE Program will be made available to residential properties in April of 2015.

In order to proceed with implementation of the Figtree PACE Program in El Cerrito, Staff recommends Council adopt a resolution to become a member of the CEDA JPA and authorizing CEDA to conduct contractual assessment proceedings and to levy assessments within El Cerrito. On July 16, 2013, CEDA obtained a judgment in a validation action for implementation of the Figtree PACE Program throughout the State of California.

### **ANALYSIS**

PACE Programs allow property owners to finance renewable energy, energy and water efficiency improvements, electric vehicle charging infrastructure and seismic improvements on their property.

The benefits to property owners of PACE programs include:

- **Eligibility:** In today's economic environment, alternatives for property owners to finance renewable energy/energy efficiency/water efficiency improvements, electric vehicle charging infrastructure or seismic improvements may not be available. As such, many property owners do not have financing options available that would provide funding for improvements that lower their utility bills. PACE Assessments prioritizes assessment of equity invested in the property when evaluating eligibility, as well as the property owner's credit history, to provide flexibility and increase eligibility.
- **Savings:** Energy prices continue to fluctuate. Installing energy efficient, water efficient and renewable energy improvements reduce utility bills.
- **100% Voluntary:** Property owners can choose to participate in the program at their own discretion. Improvements and properties must meet eligibility criteria in order to qualify for financing. Opting into multiple PACE programs provides additional flexibility for property owners.
- **Payment obligation stays with the property:** Under Chapter 29, a voluntary contractual assessment stays with the property upon transfer of ownership, addressing a major barrier to renewable energy and efficiency improvement uptake. Note: certain residential conforming mortgage providers will, however, require the assessment be paid off at the time the property is refinanced or sold. Most private

## Agenda Item No. 7(B)

loans are due on sale of the benefited property, which makes it difficult for property owners to match the life of the repayment obligation with the useful life of the financed improvements.

- **Prepayment option:** The property owner can choose to pay off the assessments at any time, subject to applicable prepayment penalties.
- **Lower Borrowing Costs:** Regional aggregation provided by PACE Programs may produce a lower borrowing cost in some cases. Offering multiple PACE Programs increases competition in the market place to keep prices low.
- **Customer oriented program:** Part of the success of the program is the prompt customer service. Committed funding partners provide funding promptly upon project completion, resulting in both property owner and contractor satisfaction.

The benefits to the City include:

- Increase local jobs.
- An increase in property values.
- An increase in sales, payroll and property tax revenue.
- As in conventional assessment financing, the City is not obligated to repay the bonds or to pay any delinquent assessments levied on the participating properties.
- All California HERO Program and assessment administration, bond issuance and bond administration functions are handled by the PACE Program administrators. Little, if any, City staff time is needed to participate.
- By leveraging the already successful PACE programs, the City can offer financing to property owners more quickly, easily and much less expensively than establishment of a new local Program.

### **STRATEGIC PLAN CONSIDERATIONS**

Provision of Property Assessed Clean Energy financing options to residents and business owners will help to fulfill El Cerrito Strategic Plan Goal F, “Foster environmental sustainability citywide.” The program will help to implement the City’s Climate Action Plan by facilitating “energy and water efficiency and greater adoption of clean energy”, an objective of Goal F. The program helps to address up-front costs associated with efficiency and renewable energy projects.

### **FINANCIAL CONSIDERATIONS**

There is no financial impact to the City. City staff time is not required to administer the program.

**LEGAL CONSIDERATIONS**

The City Attorney has reviewed the proposed action and there are no legal issues.

**Reviewed by:**

  
\_\_\_\_\_  
**Scott Hanin, City Manager**

**Attachments:**

1. Attachment 1: Brown Loan Loss Reserve Letter
2. Attachment 2: Resolution to Join CSCDA
3. Attachment 3: CSCDA JPA Agreement
4. Attachment 4: Resolution to Opt-in to CaliforniaFIRST PACE Program
5. Attachment 5: CaliforniaFIRST Indemnification and Insurance Agreement
6. Attachment 6: Resolution to Opt-In to Open PACE Program
7. Attachment 7: Resolution to Join WRCOG and Opt-in to HERO PACE Program
8. Attachment 8: WRCOG JPA Agreement and Insurance and Indemnification Agreement
9. Attachment 9: Resolution to Join CEDA and Opt-in to Figtree PACE Program
10. Attachment 10: CEDA JPA Agreement



OFFICE OF THE GOVERNOR

September 23, 2013

Edward DeMarco  
Acting Director  
Federal Housing Finance Agency  
1700 G Street, NW  
Washington, DC 20552-0003

Re: PACE Program in California; Resolution of Fannie Mae and Freddie Mac Issues

Dear Mr. DeMarco:

Last year, I asked President Obama to direct the Federal Housing Finance Agency to work with California to revive Property Assessed Clean Energy (PACE) programs, which provide home owners with funding for energy-efficiency retrofits. The Federal Housing Finance Agency prohibited Fannie Mae and Freddie Mac from purchasing mortgages subject to PACE liens in certain types of PACE programs.

California has devised a mechanism that will address the concerns raised by FHFA and protect the interest of Fannie Mae and Freddie Mac, which I describe below.

The California Alternative Energy and Advanced Transportation Financing Authority (Authority), an existing state agency chaired by the California State Treasurer (Division 16 [commencing with Section 26000] of the Public Resources Code), will create a reserve fund for PACE programs. Any PACE program that wishes to use the reserve fund will enter an agreement that requires the PACE program to make Fannie Mae and Freddie Mac whole, as follows:

1. In any foreclosure, for any losses to Fannie Mae and Freddie Mac resulting from the payment of any PACE assessment paid while in possession of the property, and
2. In any forced sale for unpaid taxes or special assessments, for any losses to Fannie Mae and Freddie Mac that result from PACE assessments being paid before the outstanding mortgage.

Edward DeMarco  
September 23, 2013  
Page 2

PACE programs that enroll in the Authority reserve fund will meet basic structural criteria, comply with underwriting criteria set by the Authority, and pay an annual premium based on the size of their portfolio. In the event of foreclosure, Fannie Mae and Freddie Mac will be able to claim from the PACE program any amounts paid to keep the PACE assessment current until the property is sold to a new buyer. If the property is sold for back taxes or special assessments, and the sale results in insufficient funds to satisfy the outstanding mortgage because of PACE lien priority payments, Fannie Mae and Freddie Mac will be able to recover that amount from the PACE program. In both instances, upon a showing that Fannie Mae and Freddie Mac have been paid by the PACE program, the Authority will reimburse the PACE program.

This process addresses the issues raised by the Federal Housing Finance Agency and ensures that Fannie Mae and Freddie Mac will not be adversely impacted by the PACE first lien. The next step in moving this approach to fruition will be for the Authority to issue draft regulations for public comment, setting forth the requirements for PACE programs to participate in the reserve account. We will provide you with notice of that process and invite your participation.

I look forward to moving ahead on a much larger scale with PACE in California.

Sincerely,

A handwritten signature in black ink, appearing to read "Edmund G. Brown Jr.", with a large, sweeping flourish at the end.

Edmund G. Brown Jr.

cc: Valerie Jarrett, Senior Advisor to the President, The White House  
Alfred Pollard, General Counsel, Federal Housing Finance Agency  
Bill Lockyer, Treasurer, State of California  
Members of the California Congressional Delegation

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF AN AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT RELATING TO THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY

WHEREAS, the City of El Cerrito, California (City), has expressed an interest in participating in the economic development financing programs (Programs) in conjunction with the parties to that certain Amended and Restated Joint Exercise of Powers Agreement Relating to the California Statewide Communities Development Authority, dated as of June 1, 1988 (Agreement); and

WHEREAS, there is now before the City Council the form of the Agreement; and

WHEREAS, the City proposes to participate in the Programs and desires that certain projects to be located within the City be financed pursuant to the Programs and it is in the public interest and for the public benefit that the City do so; and

WHEREAS, the Agreement has been filed with the City Clerk, and the members of the City Council of the City, with the assistance of its staff, have reviewed said document.

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

Section 1. The Agreement is hereby approved and the City Manager is hereby authorized and directed to execute said document, with such changes, insertions and omissions as may be approved by said City Council, and the City Clerk is hereby authorized and directed to affix the City's seal to said document and attest thereto.

Section 2. The Mayor of the City, the City Manager, the City Clerk and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

Section 3. The City Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to:

Kathleen Jacobe  
Orrick, Herrington & Sutcliffe LLP  
400 Capital Mall, Suite 3000  
Sacramento, California 95814

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

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

**Agenda Item No. 7(B)**  
**Attachment 2**

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on March 17, 2015.

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor

**AMENDED AND RESTATED  
JOINT EXERCISE OF POWERS AGREEMENT  
RELATING TO THE CALIFORNIA STATEWIDE COMMUNITIES  
DEVELOPMENT AUTHORITY**

THIS AGREEMENT, dated as of June 1, 1988, by and among the parties executing this Agreement (all such parties, except those which have withdrawn in accordance with Section 13 hereof, being herein referred to as the "Program Participants"):

**WITNESSETH**

**WHEREAS**, pursuant to Title 1, Division 7, Chapter 5 of the Government Code of the State of California (the "Joint Exercise of Powers Act"), two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

**WHEREAS**, each of the Program Participants is a "public agency" as that term is defined in Section 6500 of the Government Code of the State of California, and

**WHEREAS**, each of the Program Participants is empowered to promote economic development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, and the increase of the tax base, within its boundaries; and

**WHEREAS**, a public entity established pursuant to the Joint Exercise of Powers Act is empowered to issue industrial development bonds pursuant to the California Industrial Development Financing Act (Title 10 (commencing with Section 91500 of the Government Code of the State of California)) (the "Act") and to otherwise undertake financing programs under the Joint Exercise of Powers Act or other applicable provisions of law to promote economic development through the issuance of bonds, notes, or other evidences of indebtedness, or certificates of participation in leases or other agreements (all such instruments being herein collectively referred to as "Bonds"); and

**WHEREAS**, in order to promote economic development within the State of California, the County Supervisors Association of California ("CSAC"), together with the California Manufacturers Association, has established the Bonds for Industry program (the "Program").

**WHEREAS**, in furtherance of the Program, certain California counties (collectively, the "Initial Participants") have entered into that certain Joint Exercise of Powers Agreement dated as of November 18, 1987 (the "Initial Agreement"), pursuant to which the California Counties Industrial Development Authority has been established as a separate entity under the Joint Exercise of Powers Act for the purposes and with the powers specified in the Initial Agreement; and

**WHEREAS**, the League of California Cities ("LCC") has determined to join as a sponsor of the Program and to actively participate in the administration of the Authority; and

**WHEREAS**, the Initial Participants have determined to specifically authorize the Authority to issue Bonds pursuant to Article 2 of the Joint Exercise of Powers Act ("Article 2") and Article 4 of the Joint Exercise of Powers Act ("Article 4"), as well as may be authorized by the Act or other applicable law; and

**WHEREAS**, the Initial Participants desire to rename the California Counties Industrial Development Authority to better reflect the additional sponsorship of the Program; and

**WHEREAS**, each of the Initial Participants has determined that it is in the public interest of the citizens within its boundaries, and to the benefit of such Initial Participant and the area and persons served by such Initial Participant, to amend and restate in its entirety the Initial Agreement in order to implement the provisions set forth above; and

**WHEREAS**, it is the desire of the Program Participants to use a public entity established pursuant to the Joint Exercise of Powers Act to undertake projects within their respective jurisdictions that may be financed with Bonds issued pursuant to the Act, Article 2, Article 4, or other applicable provisions of law; and

**WHEREAS**, the projects undertaken will result in significant public benefits, including those public benefits set forth in Section 91502.1 of the Act, an increased level of economic activity, or an increased tax base, and will therefore serve and be of benefit to the inhabitants of the jurisdictions of the Program Participants;

**NOW, THEREFORE**, the Program Participants, for and in consideration of the mutual promises and agreements herein contained, do agree to restate and amend the Initial Agreement in its entirety to provide as follows:

**Section 1. Purpose.**

This Agreement is made pursuant to the provisions of the Joint Exercise of Powers Act, relating to the joint exercise of powers common to public agencies, in this case being the Program Participants. The Program Participants each possess the powers referred to in the recitals hereof. The purpose of this Agreement is to establish an agency for, and with the purpose of, issuing Bonds to finance projects within the territorial limits of the Program Participants pursuant to the Act, Article 2, Article 4, or other applicable provisions of law; provided, however that nothing in this Agreement shall be construed as a limitation on the rights of the Program Participants to pursue economic development outside of this Agreement, including the rights to issue Bonds through industrial development authorities under the Act, or as otherwise permitted by law.

Within the various jurisdictions of the Program Participants such purpose will be accomplished and said powers exercised in the manner hereinafter set forth.

**Section 2. Term.**

This Agreement shall become effective as of the date hereof and shall continue in full force and effect for a period of forty (40) years from the date hereof, or until such time as it is terminated in writing by all the Program Participants; provided, however, that this Agreement shall not terminate or be terminated until the date on which all Bonds or other indebtedness issued or caused to be issued by the Authority shall have been retired, or full provision shall have been made for their retirement, including interest until their retirement date.

**Section 3. Authority.**

**A. CREATION AND POWERS OF AUTHORITY.**

(1) Pursuant to the Joint Exercise of Powers Act, there is hereby created a public entity to be known as the "California Statewide Communities Development Authority" (the "Authority"), and said Authority shall be a public entity separate and apart from the Program Participants. Its debts, liabilities and obligations do not constitute debts, liabilities or obligations of any party to this Agreement.

**B. COMMISSION.**

The Authority shall be administered by a Commission (the "Commission") which shall consist of seven members, each

serving in his or her individual capacity as a member of the Commission. The Commission shall be the administering agency of this Agreement, and, as such, shall be vested with the powers set forth herein, and shall execute and administer this Agreement in accordance with the purposes and functions provided herein.

Four members of the Commission shall be appointed by the governing body of CSAC and three members of the Commission shall be appointed by the governing body of LCC. Initial members of the Commission shall serve a term ending June 1, 1991. Successors to such members shall be selected in the manner in which the respective initial member was selected and shall serve a term of three years. Any appointment to fill an unexpired term, however, shall be for such unexpired term. The term of office specified above shall be applicable unless the term of office of the respective member is terminated as hereinafter provided, and provided that the term of any member shall not expire until a successor thereto has been appointed as provided herein.

Each of CSAC and LCC may appoint an alternate member of the Commission for each member of the Commission which it appoints. Such alternate member may act as a member of the Commission in place of and during the absence or disability of such regularly appointed member. All references in this Agreement to any member of the Commission shall be deemed to refer to and include the applicable alternate member when so acting in place of a regularly appointed member.

Each member or alternate member of the Commission may be removed and replaced at any time by the governing body by which such member was appointed. Any individual, including any member of the governing body or staff of CSAC or LCC, shall be eligible to serve as a member or alternate member of the Commission.

Members and alternate members of the Commission shall not receive any compensation for serving as such but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a member or alternate member, if the Commission shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

#### C. OFFICERS; DUTIES; OFFICIAL BONDS.

The Commission shall elect a Chair, a Vice-Chair, and a Secretary of the Authority from among its members to serve for such term as shall be determined by the Commission. The Commission shall appoint one or more of its officers or

employees to serve as treasurer, auditor, and controller of the Authority (the "Treasurer") pursuant to Section 6505.6 of the Joint Exercise of Powers Act to serve for such term as shall be determined by the Commission.

Subject to the applicable provisions of any resolution, indenture or other instrument or proceeding authorizing or securing Bonds (each such resolution, indenture, instrument and proceeding being herein referred to as an "Indenture") providing for a trustee or other fiscal agent, the Treasurer is designated as the depository of the Authority to have custody of all money of the Authority, from whatever source derived.

The Treasurer of the Authority shall have the powers, duties and responsibilities specified in Section 6505.5 of the Joint Exercise of Powers Act.

The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond with the Secretary of the Authority in the amount specified by resolution of the Commission but in no event less than \$1,000. If and to the extent permitted by law, any such officer may satisfy this requirement by filing an official bond in at least said amount obtained in connection with another public office.

The Commission shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

The Commission shall have the power, by resolution, to the extent permitted by the Joint Exercise of Powers Act or any other applicable law, to delegate any of its functions to one or more of the members of the Commission or officers or agents of the Authority and to cause any of said members, officers or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Commission or the Authority.

#### D. MEETINGS OF THE COMMISSION.

##### (1) Regular Meetings.

The Commission shall provide for its regular meetings; provided, however, it shall hold at least one regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Commission and a copy of such resolution shall be filed with each party hereto.

(2) Special Meetings.

Special meetings of the Commission may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California.

(3) Ralph M. Brown Act.

All meetings of the Commission, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California).

(4) Minutes.

The Secretary of the Authority shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Commission and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Commission.

(5) Quorum.

A majority of the members of the Commission which includes at least one member appointed by the governing body of each of CSAC and LCC shall constitute a quorum for the transaction of business. No action may be taken by the Commission except upon the affirmative vote of a majority of the members of the Commission which includes at least one member appointed by the governing body of each of CSAC and LCC, except that less than a quorum may adjourn a meeting to another time and place.

E. RULES AND REGULATIONS.

The Authority may adopt, from time to time, by resolution of the Commission such rules and regulations for the conduct of its meetings and affairs as may be required.

**Section 4. Powers.**

The Authority shall have any and all powers relating to economic development authorized by law to each of the parties hereto and separately to the public entity herein created, including, without limitation, the promotion of opportunities for the creation and retention of employment, the stimulation of economic activity, and the increase of the tax base, within the jurisdictions of such parties. Such powers shall include the common powers specified in this

Agreement and may be exercised in the manner and according to the method provided in this Agreement. All such powers common to the parties are specified as powers of the Authority. The Authority is hereby authorized to do all acts necessary for the exercise of such powers, including, but not limited to, any or all of the following: to make and enter into contracts; to employ agents and employees; to acquire, construct, provide for maintenance and operation of, or maintain and operate, any buildings, works or improvements; to acquire, hold or dispose of property wherever located; to incur debts, liabilities or obligations; to receive gifts, contributions and donations of property, funds, services and other forms of assistance from persons, firms, corporations and any governmental entity; to sue and be sued in its own name; and generally to do any and all things necessary or convenient to the promotion of economic development, including without limitation the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, and the increase of the tax base, all as herein contemplated. Without limiting the generality of the foregoing, the Authority may issue or cause to be issued bonded and other indebtedness, and pledge any property or revenues as security to the extent permitted under the Joint Exercise of Powers Act, including Article 2 and Article 4, the Act or any other applicable provision of law.

The manner in which the Authority shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a California county could exercise such powers and perform such duties until a California general law city shall become a Program Participant, at which time it shall be subject to the restrictions upon the manner in which a California general law city could exercise such powers and perform such duties. The manner in which the Authority shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

**Section 5. Fiscal Year.**

For the purposes of this Agreement, the term "Fiscal Year" shall mean the fiscal year as established from time to time by the Authority, being, at the date of this Agreement, the period from July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of this Agreement to June 30, 1988.

**Section 6. Disposition of Assets.**

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 2 hereof, after payment of all expenses and liabilities of the Authority, all property of the Authority both real and personal shall automatically vest in the Program Participants and shall thereafter remain the sole property of the Program Participants; provided, however, that any surplus money on hand shall be returned in proportion to the contributions made by the Program Participants.

**Section 7. Bonds.**

The Authority shall issue Bonds for the purpose of exercising its powers and raising the funds necessary to carry out its purposes under this Agreement. Said Bonds may, at the discretion of Authority, be issued in series.

The services of bond counsel, financing consultants and other consultants and advisors working on the projects and/or their financing shall be used by the Authority. The fees and expenses of such counsel, consultants, advisors, and the expenses of CSAC, LCC, and the Commission shall be paid from the proceeds of the Bonds or any other unencumbered funds of the Authority available for such purpose.

**Section 9. Local Approval.**

A copy of the application for financing of a project shall be filed by the Authority with the Program Participant in whose jurisdiction the project is to be located. The Authority shall not issue Bonds with respect to any project unless the governing body of the Program Participant in whose jurisdiction the project is to be located, or its duly authorized designee, shall approve, conditionally or unconditionally, the project, including the issuance of Bonds therefor. Action to approve or disapprove a project shall be taken within 45 days of the filing with the Program Participant. Certification of approval or disapproval shall be made by the clerk of the governing body of the Program Participant, or by such other officer as may be designated by the applicable Program Participant, to the Authority.

**Section 8. Bonds Only Limited and Special Obligations of Authority.**

The Bonds, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Program Participant, CSAC, or LCC or pledge of the faith and credit of the Program Participants, CSAC, LCC, or the

Authority. The Bonds shall be only special obligations of the Authority, and the Authority shall under no circumstances be obligated to pay the Bonds or the respective project costs except from revenues and other funds pledged therefor. Neither the Program Participants, CSAC, LCC, nor the Authority shall be obligated to pay the principal of, premium, if any, or interest on the Bonds, or other costs incidental thereto, except from the revenues and funds pledged therefor, and neither the faith and credit nor the taxing power of the Program Participants nor the faith and credit of CSAC, LCC, or the Authority shall be pledged to the payment of the principal of, premium, if any, or interest on the Bonds nor shall the Program Participants, CSAC, LCC, or the Authority in any manner be obligated to make any appropriation for such payment.

No covenant or agreement contained in any Bond or Indenture shall be deemed to be a covenant or agreement of any member of the Commission, or any officer, agent or employee of the Authority in his individual capacity and neither the Commission of the Authority nor any officer thereof executing the Bonds shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds.

**Section 10. Accounts and Reports.**

All funds of the Authority shall be strictly accounted for. The Authority shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by each Program Participant.

The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Agency by a certified public accountant or public accountant in compliance with the provisions of Section 6505 of the Joint Exercise of Powers Act. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as public records with each Program Participant and also with the county auditor of each county in which a Program Participant is located. Such report shall be filed within 12 months of the end of the Fiscal Year or Years under examination.

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

In any Fiscal Year the Commission may, by resolution adopted by unanimous vote, replace the annual special audit with an audit covering a two-year period.

The Treasurer of the Authority, within 120 days after the close of each Fiscal Year, shall give a complete written report of all financial activities for such Fiscal Year to each of the Program Participants to the extent such activities are not covered by the reports of the trustees for the Bonds. The trustee appointed under each Indenture shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of said Indenture. Said trustee may be given such duties in said Indenture as may be desirable to carry out this Agreement.

**Section 11. Funds.**

Subject to the applicable provisions of each Indenture, which may provide for a trustee to receive, have custody of and disburse Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to the accounting procedures developed under Section 10 hereof, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions or purposes of this Agreement.

**Section 12. Notices.**

Notices and other communications hereunder to the Program Participants shall be sufficient if delivered to the clerk of the governing body of each Program Participant.

**Section 13. Withdrawal and Addition of Parties.**

A Program Participant may withdraw from this Agreement upon written notice to the Commission; provided, however, that no such withdrawal shall result in the dissolution of the Authority so long as any Bonds remain outstanding under an Indenture. Any such withdrawal shall be effective only upon receipt of the notice of withdrawal by the Commission which shall acknowledge receipt of such notice of withdrawal in writing and shall file such notice as an amendment to this Agreement effective upon such filing.

Qualifying public agencies may be added as parties to this Agreement and become Program Participants upon: (i) the filing by such public agency of an executed counterpart of this Agreement, together with a certified copy of the resolution of the governing body of such public agency approving this Agreement and the execution and delivery hereof; and (ii) adoption of a resolution of the Commission approving the addition of such public agency as a Program Participant. Upon satisfaction of such conditions, the Commission shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

**Section 14. Indemnification.**

To the full extent permitted by law, the Commission may authorize indemnification by the Authority of any person who is or was a member or alternate member of the Commission, or an officer, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a member or alternate member of the Commission, or an officer, employee or other agent of the Authority, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Authority and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Authority, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

**Section 15. Contributions and Advances.**

Contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Authority by the parties hereto for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution. Any such advance may be made subject to repayment, and in such case shall be repaid, in the manner agreed upon by the Authority and the party making such advance at the time of such advance.

**Section 16. Immunities.**

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, all pension, relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents or employees of Program Participants when performing their

respective functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged as members of the Commission or otherwise as an officer, agent or other representative of the Authority or while engaged in the performance of any of their functions or duties extraterritorially under the provisions of this Agreement.

**Section 17. Amendments.**

Except as provided in Section 13 above, this Agreement shall not be amended, modified, or altered except by a written instrument duly executed by each of the Program Participants.

**Section 18. Effectiveness.**

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each of the Program Participants at 9:00 a.m., California time, on the date that the Commission shall have received from each of the Initial Participants an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Initial Participant approving this Agreement and the execution and delivery hereof.

**Section 19. Partial Invalidity.**

If anyone or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

**Section 20. Successors.**

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no party may assign any right or obligation hereunder without the consent of the other parties.

**Section 21. Miscellaneous.**

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

This Agreement is made in the State of California, under the Constitution and laws of such state and is to be so construed.

This Agreement is the complete and exclusive statement of the agreement among the parties hereto, which supercedes and merges all prior proposals, understandings, and other agreements, including, without limitation, the Initial Agreement, whether oral, written, or implied in conduct, between and among the parties relating to the subject matter of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

**Program Participant:**

[SEAL]

\_\_\_\_\_

**By** \_\_\_\_\_

**Name:**

**Title:**

**ATTEST:**

**By** \_\_\_\_\_

**Name:**

**Title:**

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY OF EL CERRITO TO JOIN THE CALIFORNIAFIRST PROGRAM; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE INCORPORATED TERRITORY OF THE CITY; AND AUTHORIZING RELATED ACTIONS

WHEREAS, the California Statewide Communities Development Authority (California Communities) is a joint exercise of powers authority the members of which include numerous cities and counties in the State of California, including the City of El Cerrito (City); and

WHEREAS, California Communities has established the CaliforniaFIRST program and will provide financing for certain improvements authorized by Chapter 29 of Division 7 of the Streets & Highways Code (Chapter 29), including, but not limited to, renewable energy, energy efficiency and water efficiency improvements and seismic strengthening improvements (Improvements) through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code (Chapter 29) and the issuance of improvement bonds (Bonds) under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 and following) (1915 Act) upon the security of the unpaid contractual assessments; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provision only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow the owners of property (Participating Property Owners) within the incorporated territory of the City to participate in the CaliforniaFIRST Program and to allow California Communities to conduct assessment proceedings under Chapter 29 within the incorporated territory of the City and to issue Bonds under the 1915 Act to finance the improvements; and

WHEREAS, California Communities will conduct assessment proceedings under Chapter 29 and issue Bonds under the 1915 Act to finance improvements; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessments; or the issuance, sale or administration of the Bonds or any other bonds issues in connection with the CaliforniaFIRST Program.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that the City Council hereby finds and declares that properties in the City's incorporated area will benefit from the availability of the CaliforniaFIRST Program within the incorporated territory of the City and, pursuant thereto, the conduct of special assessment proceedings by California Communities pursuant to Chapter 29 and the issuance of Bonds under the 1915 Act.

BE IT FURTHER RESOLVED that in connection with the CaliforniaFIRST Program, the City hereby consents to the conduct of special assessment proceedings by California Communities pursuant to Chapter 29 on any property within its jurisdiction and the issuance of Bonds under the 1915 Act; provided, that:

**Agenda Item No. 7(B)**

**Attachment 4**

- 1) The Participating Property Owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and
- 2) The City will not be responsible for the conduct of any assessment proceedings; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of the Bonds or any other bonds issued in connection with the CaliforniaFIRST Program.
- 3) The issuance of Bonds will occur following receipt of a final judgment in a validation action filed by California Communities pursuant to Code of Civil Procedure Section 860 that the Bonds are legal obligations of California Communities.

BE IT FURTHER RESOLVED that pursuant to the requirements of Chapter 29, California Communities has prepared and will update from time to time the "Program Report" for the CaliforniaFIRST Program (Program Report), and California Communities will undertake assessment proceedings and the financing of improvements as set forth in the Program Report.

BE IT FURTHER RESOLVED that the appropriate officials and staff of the City are hereby authorized and directed to make applications for the CaliforniaFIRST Program available to all property owners who wish to finance improvements; provided, that California Communities shall be responsible for providing such applications and related materials at its own expense. The following staff persons, together with any other staff persons chosen by the City Manager from time to time, are hereby designated as the contact persons for California Communities in connection with the CaliforniaFIRST Program: Melanie Mintz, Community Development Director.

BE IT FURTHER RESOLVED that the appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such closing certificates, requisitions, indemnification and insurance agreements and related documents as are reasonably required by California Communities in accordance with the Program Report to implement the CaliforniaFIRST Program for Participating Property Owners.

BE IT FURTHER RESOLVED that the City Council hereby finds that adoption of this Resolution is not a "project" under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4)

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon its adoption and execution of the Indemnification and Insurance Agreement. The City Clerk is hereby authorized and directed to transmit a certified copy of this resolution to the Secretary of California Communities upon execution of the Indemnification and Insurance Agreement: Secretary of the Board, California Statewide Communities Development Authority, 1400 K Street, Sacramento, CA 95814.

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

**Agenda Item No. 7(B)**  
**Attachment 4**

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on March 17, 2015.

---

Cheryl Morse, City Clerk

APPROVED:

---

Mark Friedman, Mayor

**INDEMNIFICATION AND INSURANCE AGREEMENT  
BY AND BETWEEN  
CITY OF EL CERRITO  
AND  
RENEWABLE FUNDING, LLC**

This Indemnification and Insurance Agreement (the “Agreement”) is entered into by and between the City of El Cerrito a municipal corporation (“City”) and Renewable Funding, LLC, a California limited liability company (the “Administrator”), the administrator of the CaliforniaFIRST Program, which is a program of the California Statewide Communities Development Authority, a California joint exercise of powers authority (the “Authority”).

**RECITALS**

**WHEREAS**, the Authority is a joint exercise of powers authority whose members of which include the City in addition to other cities and counties in the State of California; and

**WHEREAS**, the Authority established the CaliforniaFIRST Program (“PACE Program”) to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements that are permanently affixed to real property through the levy of assessments voluntarily agreed to by the participating property owners pursuant to Chapter 29 of Division 7 of the Streets and Highways Code (“Chapter 29”) and the issuance of improvement bonds under the Improvement Bond Act of 1915 upon the security of the unpaid assessments; and

**WHEREAS**, the Authority has conducted or will conduct proceedings required by Chapter 29 with respect to the territory within the boundaries of the City; and

**WHEREAS**, on March 17<sup>th</sup>, 2015, the City Council of the City of El Cerrito adopted a resolution authorizing the City to join the PACE Program, authorizing the Authority to accept applications from eligible property owners, conduct assessment proceedings and levy assessments within the territory of the City and authorizing related actions; and

**WHEREAS**, the Authority is solely responsible for the formation, operation and administration of the PACE Program as well as the sale and issuance of any bonds in connection therewith, including the conduct of assessment proceedings, the levy and collection of assessments and any remedial action in the case of such assessment payments, and the offer, sale and administration of any bonds issued by the Authority on behalf of the PACE Program; and

**WHEREAS**, the Administrator is the administrator of the PACE Program and agrees to indemnify the City and provide insurance and add the City as an additional insured on its insurance policy or policies in connection with the operations of the PACE Program as set forth herein; and

NOW, THEREFORE, in consideration of the above premises and of the City's agreement to join the PACE Program, the parties agree as follows:

1. Agreement to Indemnify. The Administrator agrees to defend, indemnify and hold harmless the City, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, fines, penalties, judgments, demands and defense costs (including, without limitation, actual, direct, out-of-pocket costs and expenses and amounts paid in compromise or settlement and reasonable outside legal fees arising from litigation of every nature or liability of any kind or nature including civil, criminal, administrative or investigative) arising out of or in connection with the PACE Program except such loss or damage which was caused by the sole negligence or willful misconduct of the City. The Administrator will conduct all defenses at its sole cost and expense and the City shall reasonably approve selection of the Administrator's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies of the Administrator, its affiliates or any other parties are applicable thereto. The policy limits of any insurance of the Administrator, its affiliates or other parties are not a limitation upon the obligation of the Administrator including without limitation the amount of indemnification to be provided by the Administrator.

2. Insurance. The Administrator agrees that, at no cost or expense to the City, at all times during the operation of the PACE Program, to maintain the insurance coverage set forth in Exhibit A to this Agreement.
  
3. Amendment/Interpretation of this Agreement. . This Agreement, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. This Agreement shall not be interpreted for or against any party by reason of the fact that such party may have drafted this Agreement or any of its provisions.
  
4. Section Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.
  
5. Waiver. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the party against whom enforcement is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.
  
6. Severability and Governing Law. If any provision or portion thereof of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to contracts made and to be performed in California.

7. Notices. All notices, demands and other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed certified or registered mail and addressed as follows:

If to the Administrator

Renewable Funding, LLC  
500 12<sup>th</sup> Street, #300  
Oakland, CA 94607

If to the City:

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

8. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, which together shall constitute the same instrument.

9. Effective Date. This Agreement will be effective as of the date of the signature of City's representative as indicated below in the City's signature block.

IN WITNESS HEREOF, the parties hereto duly executed this Agreement as of the date below.

APPROVED AS TO FORM:

\_\_\_\_\_  
Sky Woodruff  
City Attorney

“City”

City of El Cerrito, a municipal corporation

By \_\_\_\_\_

Date: \_\_\_\_\_

“Administrator”

Renewable Funding, LLC

By \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

DRAFT

**EXHIBIT A**  
**INSURANCE**

**A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage (“occurrence”) Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the City’s Risk Manager.

**B. Minimum Limits of Insurance**

Administrator shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors & Omissions \$1,000,000 per occurrence/ aggregate limit.

### **C. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to, and approved by City's Risk Manager. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, employees, agents and contractors; or Administrator shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City's Risk Manager.

### **D. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
  - a. City of El Cerrito, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, Administrator; products and completed operations of Administrator; premises owned, leased or used by Administrator; and automobiles owned, leased, hired or borrowed by Administrator. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.
  - b. Administrator's insurance coverage shall be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by City, its officers, employees, agents or contractors shall be excess of Administrator's insurance and shall not contribute with it.
  - c. Any failure to comply with reporting provisions of the policies by Administrator shall not affect coverage provided City, its officers, employees, agents, or contractors.
  - d. Coverage shall state that Administrator's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, agents and contractors.
2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of City of El Cerrito, its officers, employees, agents and contractors.

### 3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

#### **E. Acceptability of Insurers**

Insurance is to be placed with insurers acceptable to City's Risk Manager.

#### **F. Verification of Coverage**

Administrator shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: [MMintz@ci.el-cerrito.ca.us](mailto:MMintz@ci.el-cerrito.ca.us), or mailed to the following postal address or any subsequent address as may be directed in writing by the Risk Manager:

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

#### **G. Subcontractors**

Administrator shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE TERRITORY OF THE CITY IN THE CSCDA OPEN PACE PROGRAMS; AUTHORIZING THE CALIFORNIA STATEWIDE COMMUNITY DEVELOPMENT AUTHORITY TO ACCEPT APPLICATIONS FROM PROPERTY OWNERS, CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY; AND AUTHORIZING RELATED ACTIONS.

WHEREAS, the California Statewide Communities Development Authority (Authority) is a joint exercise of powers authority, the members of which include numerous cities and counties in the State of California, including the City of El Cerrito (City); and

WHEREAS, the Authority is implementing Property Assessed Clean Energy (PACE) program, which it has designated CSCDA Open PACE, consisting of CSCDA Open PACE programs each administered by a separate program administrator (collectively with any successors, assigns, replacements or additions, the Programs), to allow the financing or refinancing of renewable energy, energy efficiency, water efficiency and seismic strengthening improvements, electric vehicle charging infrastructure and such other improvements, infrastructure or other work as may be authorized by law from time to time (collectively, the Improvements) through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code (Chapter 29) within counties and cities throughout the State of California that consent to the inclusion of properties within their respective territories in the Programs and the issuance of bonds from time to time; and

WHEREAS, the program administrators currently active in administering Programs are Alliance NRG and Renewable Funding LLC, and the Authority will notify the City in advance of any additions or changes; and

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner or owners of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow the owners of property (Participating Property Owners) within its territory to participate in the Programs and to allow the Authority to conduct assessment proceedings under Chapter 29 within its territory and to issue bonds to finance or refinance Improvements; and

WHEREAS, the territory within which assessments may be levied for the Programs shall include all of the territory within the City's official boundaries; and

WHEREAS, the Authority will conduct all assessment proceedings under Chapter 29 for the Programs and issue any bonds issued in connection with the Programs; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy of any assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the Programs.

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

Section 1. This City Council hereby finds and declares that properties in the territory of the City will benefit from the availability of the Programs within the territory of the City and, pursuant thereto, the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 and the issuance of bonds to finance or refinance Improvements.

Section 2. In connection with the Programs, the City hereby consents to the conduct of special assessment proceedings by the Authority pursuant to Chapter 29 on any property within the territory of the City and the issuance of bonds to finance or refinance Improvements; provided that

1. The Participating Property Owners, who shall be the legal owners of such property, execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and
2. The City will not be responsible for the conduct of any assessment proceedings; the levy of assessments; any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the Programs.

Section 3. The appropriate officials and staff of the City are hereby authorized and directed to make applications for the Programs available to all property owners who wish to finance or refinance Improvements; provided that the Authority shall be responsible for providing such applications and related materials at its own expense. The following staff persons, together with any other staff persons chosen by the City Manager of the City from time to time, are hereby designated as the contact persons for the Authority in connection with the Programs: Community Development Director.

Section 4. The appropriate officials and staff of the City are hereby authorized and directed to execute and deliver such certificates, requisitions, agreements and related documents as are reasonably required by the Authority to implement the Programs.

Section 5. The City Council hereby finds that adoption of this Resolution is not a “project” under the California Environmental Quality Act, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4).

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon passage and adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this Resolution to the Secretary of the Authority at: Secretary of the Board, California Statewide Communities Development Authority, 1400 K Street, Sacramento, CA 95814.

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

**Agenda Item No. 7(B)**  
**Attachment 6**

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on March 17, 2015.

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO, CALIFORNIA, CONSENTING TO THE INCLUSION OF PROPERTIES WITHIN THE CITY'S JURISDICTION IN THE CALIFORNIA HERO PROGRAM TO FINANCE DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES, ENERGY AND WATER EFFICIENCY IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND APPROVING THE AMENDMENT TO A CERTAIN JOINT POWERS AUTHORITY AGREEMENT RELATED THERETO

WHEREAS, the Western Riverside Council of Governments (Authority) is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the Act) and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the Authority JPA); and

WHEREAS, Authority intends to establish the California HERO Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure (Improvements) pursuant to Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highway Code (Chapter 29) within counties and cities throughout the State of California that elect to participate in such a program; and

WHEREAS, the City of El Cerrito (City) is committed to development of renewable energy sources and energy efficiency improvements, reduction of greenhouse gases, protection of our environment, and reversal of climate change; and

WHEREAS, in Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing improvements through a voluntary contractual assessment program; and

WHEREAS, installation of such Improvements by property owners within the jurisdictional boundaries of the counties and cities that are participating in the California HERO Program would promote the purposes cited above; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency and independence, and in doing so cooperate with the Authority in order to efficiently and economically assist property owners in the City in financing such improvements; and

WHEREAS, the Authority has authority to establish the California HERO Program, which will be such a voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally made and entered into April 1, 1991, as amended to date, and the Amendment to Joint Powers Agreement Adding the City of El Cerrito as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of Property Assessed Clean Energy (PACE) Program Services within the City (JPA Amendment), by and between Authority and the City, a copy of which is attached as Exhibit "A" hereto, to assist property owners within the incorporated area of the City in financing the cost of installing improvements; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy and collection of assessment or any required remedial action in the case of delinquencies in the

**Agenda Item No. 7(B)**

**Attachment 7**

payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

NOW THEREFORE, BE IT RESOLVED that this City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the California HERO Program to finance the installation of improvements.

BE IT FURTHER RESOLVED that this City Council consents to inclusion in the California HERO Program of all of the properties in the incorporated area within the City and to the Improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority of the purposes thereof.

BE IT FURTHER RESOLVED that the consent of this City Council constitutes assent to the assumption of jurisdiction by the Authority for all purposes of the California HERO Program and authorizes the Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent and be secured by such contractual assessments.

BE IT FURTHER RESOLVED that the City Council hereby approves the JPA Amendment and authorizes the execution thereof by appropriate City officials.

BE IT FURTHER RESOLVED that City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the California HERO Program within the City, and report back periodically to this City Council on the success of such program.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority Executive Committee: 4080 Lemon Street, 3<sup>rd</sup> Floor, MS 1032, Riverside, CA 92501-3609.

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on March 17, 2015.

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor

**AMENDMENT TO THE JOINT POWERS AGREEMENT  
ADDING CITY OF EL CERRITO AS  
AN ASSOCIATE MEMBER OF THE  
WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS  
TO PERMIT THE PROVISION OF PROPERTY ASSESSED CLEAN ENERGY (PACE)  
PROGRAM SERVICES WITH SUCH CITY**

This Amendment to the Joint Powers Agreement (“JPA Amendment”) is made and entered into on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by City of El Cerrito (“City”) and the Western Riverside Council of Governments (“Authority”) (collectively the “Parties”).

**RECITALS**

WHEREAS, Authority is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the “Joint Exercise of Powers Act”) and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the “Authority JPA”); and

WHEREAS, as of October 1, 2012, Authority had 18 member entities (the “Regular Members”).

WHEREAS, Chapter 29 of the Improvement Act of 1911, being Division 7 of the California Streets and Highways Code (“Chapter 29”) authorizes cities, counties, and cities and counties to establish voluntary contractual assessment programs, commonly referred to as a Property Assessed Clean Energy (“PACE”) program, to fund certain renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure (the “Improvements”) that are permanently fixed to residential, commercial, industrial, agricultural or other real property; and

WHEREAS, Authority intends to establish a PACE program to be known as the “California HERO Program” pursuant to Chapter 29 as now enacted or as such legislation may be amended hereafter, which will authorize the implementation of a PACE financing program for cities and county throughout the state; and

WHEREAS, City desires to allow owners of property within its jurisdiction to participate in the California HERO Program and to allow Authority to conduct proceedings under Chapter 29 to finance Improvements to be installed on such properties; and

WHEREAS, this JPA Amendment will permit City to become an Associate Member of Authority and to participate in California HERO Program for the purpose of facilitating the implementation of such program within the jurisdiction of City; and

WHEREAS, pursuant to the Joint Exercise of Powers Act, the Parties are approving this JPA Agreement to allow for the provision of PACE services, including the operation of a PACE financing program, within the incorporated territory of City; and

WHEREAS, the JPA Amendment sets forth the rights, obligations and duties of City and Authority with respect to the implementation of the California HERO Program within the incorporated territory of City.

**MUTUAL UNDERSTANDINGS**

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter stated, the Parties hereto agree as follows:

**A. JPA Amendment.**

1. The Authority JPA. City agrees to the terms and conditions of the Authority JPA, attached.

2. Associate Membership. By adoption of this JPA Amendment, City shall become an Associate Member of Authority on the terms and conditions set forth herein and the Authority JPA and consistent with the requirements of the Joint Exercise of Powers Act. The rights and obligations of City as an Associate Member are limited solely to those terms and conditions expressly set forth in this JPA Amendment for the purposes of implementing the California HERO Program within the incorporated territory of City. Except as expressly provided for by the this JPA Amendment, City shall not have any rights otherwise granted to Authority's Regular Members by the Authority JPA, including but not limited to the right to vote on matters before the Executive Committee or the General Assembly, the right to amend or vote on amendments to the Authority JPA, and the right to sit on committees or boards established under the Authority JPA or by action of the Executive Committee or the General Assembly, including, without limitation, the General Assembly and the Executive Committee. City shall not be considered a member for purposes of Section 9.1 of the Authority JPA.

3. Rights of Authority. This JPA Amendment shall not be interpreted as limiting or restricting the rights of Authority under the Authority JPA. Nothing in this JPA Amendment is intended to alter or modify Authority Transportation Uniform Mitigation Fee (TUMF) Program, the PACE Program administered by Authority within the jurisdictions of its Regular Members, or any other programs administered now or in the future by Authority, all as currently structured or subsequently amended.

**B. Implementation of California HERO Program within City Jurisdiction.**

1. Boundaries of the California HERO Program within City Jurisdiction. City shall determine and notify Authority of the boundaries of the incorporated territory within City's jurisdiction within which contractual assessments may be entered into under the California HERO Program (the "Program Boundaries"), which boundaries may include the entire incorporated territory of City or a lesser portion thereof.

2. Determination of Eligible Improvements. Authority shall determine the types of distributed generation renewable energy sources, energy efficiency or water conservation improvements, electric vehicle charging infrastructure or such other improvements as may be authorized pursuant to Chapter 29 (the "Eligible Improvements") that will be eligible to be financed under the California HERO Program.

3. Establishment of California HERO Program. Authority will undertake such proceedings pursuant to Chapter 29 as shall be legally necessary to enable Authority to make

contractual financing of Eligible Improvements available to eligible property owners within the Program Boundaries.

4. Financing the Installation of Eligible Improvements. Authority shall develop and implement a plan for the financing of the purchase and installation of the Eligible Improvements under the California HERO Program.

5. Ongoing Administration. Authority shall be responsible for the ongoing administration of the California HERO Program, including but not limited to producing education plans to raise public awareness of the California HERO Program, soliciting, reviewing and approving applications from residential and commercial property owners participating in the California HERO Program, establishing contracts for residential, commercial and other property owners participating in such program, establishing and collecting assessments due under the California HERO Program, adopting and implementing any rules or regulations for the California HERO Program, and providing reports as required by Chapter 29.

City will not be responsible for the conduct of any proceedings required to be taken under Chapter 29; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

6. Phased Implementation. The Parties recognize and agree that implementation of the California HERO Program as a whole can and may be phased as additional other cities and counties execute similar agreements. City entering into this JPA Amendment will obtain the benefits of and incur the obligations imposed by this JPA Amendment in its jurisdictional area, irrespective of whether cities or counties enter into similar agreements.

**C. Miscellaneous Provisions.**

1. Withdrawal. City or Authority may withdraw from this JPA Amendment upon six (6) months written notice to the other party; provided, however, there is no outstanding indebtedness of Authority within City. The provisions of Section 6.2 of the Authority JPA shall not apply to City under this JPA Amendment. City may withdraw approval for conduct of the HERO Program within the jurisdictional limits of City upon thirty (30) written notice to WRCOG without liability to the Authority or any affiliated entity. City withdrawal shall not affect the validity of any voluntary assessment contracts (a) entered prior to the date of such withdrawal or (b) entered into after the date of such withdrawal so long as the applications for such voluntary assessment contracts were submitted to and approved by WRCOG prior to the date of City's notice of withdrawal.

2. Agreement to Indemnify. The Administrator agrees to defend, indemnify and hold harmless the City, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, fines, penalties, judgments, demands and defense costs (including, without limitation, actual, direct, out-of-pocket costs and expenses and amounts paid in compromise or settlement and reasonable outside legal fees arising from litigation of every nature or liability of any kind or nature including civil, criminal, administrative or investigative) arising out of the acts, errors or omissions of the

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**Attachment 8**

Administrator and its officers, employees, agents and subcontractors in the operation of the PACE Program except such loss or damage which was caused by the sole negligence or willful misconduct on the part of the City, its officers, elected or appointed officials, employees, agents or volunteers. The Administrator will conduct all defenses at its sole cost and expense and the City shall reasonably approve selection of the Administrator's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies of the Administrator, its affiliates or any other parties are applicable thereto. The policy limits of any insurance of the Administrator, its affiliates or other parties are not a limitation upon the obligation of the Administrator including without limitation the amount of indemnification to be provided by the Administrator.

3. Insurance. The Administrator agrees that, at no cost or expense to the City, at all times during the operation of the PACE Program, to maintain the insurance coverage set forth in Attachment 1 to this Agreement.

4. Environmental Review. Authority shall be the lead agency under the California Environmental Quality Act for any environmental review that may be required in implementing or administering the California HERO Program under this JPA Amendment.

5. Cooperative Effort. City shall cooperate with Authority by providing information and other assistance in order for Authority to meet its obligations hereunder. City recognizes that one of its responsibilities related to the California HERO Program will include any permitting or inspection requirements as established by City.

6. Notice. Any and all communications and/or notices in connection with this JPA Amendment shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed as follows:

Authority:

Western Riverside Council of Governments  
4080 Lemon Street, 3rd Floor. MS1032  
Riverside, CA 92501-3609  
Attn: Executive Director

City:

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

7. Entire Agreement. This JPA Amendment, together with the Authority JPA, constitutes the entire agreement among the Parties pertaining to the subject matter hereof. This JPA Amendment supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation,

inducement, promise of agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

8. Successors and Assigns. This JPA Amendment and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this JPA Amendment with prior written approval of the other Party, which approval shall not be unreasonably withheld.

9. Attorney's Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, each Party to the litigation shall bear its own attorney's fees and costs.

10. Governing Law. This JPA Amendment shall be governed by and construed in accordance with the laws of the State of California, as applicable.

11. No Third Party Beneficiaries. This JPA Amendment shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this JPA Amendment to maintain a suit for personal injuries or property damages under the provisions of this JPA Amendment. The duties, obligations, and responsibilities of the Parties to this JPA Amendment with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

12. Severability. In the event one or more of the provisions contained in this JPA Amendment is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this JPA Amendment and the remaining parts of this JPA Amendment shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this JPA Amendment.

13. Headings. The paragraph headings used in this JPA Amendment are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

14. Amendment. This JPA Amendment may be modified or amended by the Parties at any time. Such modifications or amendments must be mutually agreed upon and executed in writing by both Parties. Verbal modifications or amendments to this JPA Amendment shall be of no effect.

15. Effective Date. This JPA Amendment shall become effective upon the execution thereof by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this JPA Amendment to be executed and attested by their officers thereunto duly authorized as of the date first above written.

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: \_\_\_\_\_  
Executive Committee Chair  
Western Riverside Council of Governments

Date: \_\_\_\_\_

CITY OF EL CERRITO

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

**ATTACHMENT 1**

**INSURANCE**

**A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage (“occurrence”) Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the City’s Risk Manager.

**B. Minimum Limits of Insurance**

Administrator shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors & Omissions \$1,000,000 per occurrence/ aggregate limit.

**C. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to, and approved by City's Risk Manager. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, employees, agents and contractors; or Administrator shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City's Risk Manager.

**D. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
  - a. City of El Cerrito, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, Administrator; products and completed operations of Administrator; premises owned, leased or used by Administrator; and automobiles owned, leased, hired or borrowed by Administrator. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.
  - b. Administrator's insurance coverage shall be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by City, its officers, employees, agents or contractors shall be excess of Administrator's insurance and shall not contribute with it.
  - c. Any failure to comply with reporting provisions of the policies by Administrator shall not affect coverage provided City, its officers, employees, agents, or contractors.
  - d. Coverage shall state that Administrator's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, agents and contractors.
2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of City of El Cerrito, its officers, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior

written notice has been given to City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

**E. Acceptability of Insurers**

Insurance is to be placed with insurers acceptable to City's Risk Manager.

**F. Verification of Coverage**

Administrator shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: mmintz@ci.el-cerrito.ca.us, and mailed to the following postal address or any subsequent address as may be directed in writing by the Risk Manager:

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

**G. Subcontractors**

Administrator shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO APPROVING, ASSOCIATE MEMBERSHIP BY THE CITY IN THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY; AUTHORIZING AND DIRECTING THE EXECUTION OF AN ASSOCIATE MEMBERSHIP AGREEMENT RELATING TO ASSOCIATE MEMBERSHIP OF THE CITY IN THE AUTHORITY; AUTHORIZING THE CITY TO JOIN THE FIGTREE PACE PROGRAM; AUTHORIZING THE CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY TO CONDUCT CONTRACTUAL ASSESSMENT PROCEEDINGS AND LEVY CONTRACTUAL ASSESSMENTS WITHIN THE TERRITORY OF THE CITY OF EL CERRITO; AND AUTHORIZING RELATED ACTIONS.

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

WHEREAS, the City, upon authorization of the City Council, may pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, commencing with Section 6500 (JPA Law) enter into a joint exercise of powers agreement with one or more other public agencies pursuant to which such contracting parties may jointly exercise any power common to them; and

WHEREAS, the City and other public agencies wish to jointly participate in economic development financing programs for the benefit of business and nonprofit entities within their jurisdictions offered by membership in the California Enterprise Development Authority (the Authority) pursuant to an associate membership agreement and Joint Exercise of Powers Agreement Relating to the California Enterprise Development Authority (Agreement); and

WHEREAS, under the JPA Law and the Agreement, the Authority is a public entity separate and apart from the parties to the Agreement and the debts, liabilities and obligations of the Authority will not be the debts, liabilities or obligations of the City or the other members of the Authority; and

WHEREAS, the form of Associate Membership Agreement (Associate Membership Agreement) between the City and the Authority is attached; and

WHEREAS, the City is willing to become an Associate Member of the Authority subject to the provisions of the Associate Membership Agreement; and

WHEREAS, the California Enterprise Development Authority (CEDA) is a joint exercise of powers authority, comprised of cities and counties in the State of California, including the City of El Cerrito (City); and

WHEREAS, CEDA has adopted the Figtree Property Assessed Clean Energy (PACE) and Job Creation Program (Program or Figtree PACE), to allow the financing of certain renewable energy, energy efficiency and water efficiency improvements (Improvements) through the levy of contractual assessments pursuant to Chapter 29 of Division 7 of the Streets & Highways Code (Chapter 29), and the issuance of improvement bonds or other evidences of indebtedness (Bonds) under the Improvement Bond Act of 1915 (Streets and Highways Code Sections 8500 et seq.) (1915 Act) upon the security of the unpaid contractual assessments; and

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**Attachment 9**

WHEREAS, Chapter 29 provides that assessments may be levied under its provisions only with the free and willing consent of the owner of each lot or parcel on which an assessment is levied at the time the assessment is levied; and

WHEREAS, the City desires to allow the owners of property (Participating Parcel) within its jurisdiction (Participating Property Owners) to participate in Figtree PACE, and to allow CEDA to conduct assessment proceedings under Chapter 29 and to issue Bonds under the 1915 Act to finance the Improvements; and

WHEREAS, CEDA will conduct assessment proceedings under Chapter 29 to establish an assessment district (District) and issue Bonds under the 1915 Act to finance Improvements; and

WHEREAS, there has been presented to this meeting a proposed form of Resolution of Intention to be adopted by CEDA in connection with such assessment proceedings (ROI), a copy of which is attached hereto as Exhibit A; and

WHEREAS, said ROI sets forth the territory within which assessments may be levied for Figtree PACE which territory shall be coterminous with the City's official boundaries of record at the time of adoption of the ROI (Boundaries); and

WHEREAS, pursuant to Chapter 29, the City authorizes CEDA to conduct assessment proceedings, levy assessments, pursue remedies in the event of delinquencies, and issue bonds or other forms of indebtedness to finance the Improvements in connection with Figtree PACE; and

WHEREAS, to protect the City in connection with operation of Figtree PACE program, Figtree Energy Financing, the program administrator, has agreed to defend and indemnify the City; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies, the issuance, sale or administration of the bonds or other indebtedness issued in connection with Figtree PACE.

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

Section 1. The City Council hereby specifically finds and declares that the actions authorized hereby constitute public affairs of the City. The City Council further finds that the statements, findings and determinations of the City set forth in the preamble above are true and correct.

Section 2. The Associate Membership Agreement presented to this meeting and on file with the City Clerk is hereby approved. The Mayor of the City, the City Manager, the City Clerk and other officials of the City are hereby authorized and directed, for and on behalf of the City, to execute and deliver the Associate Membership Agreement in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The officers and officials of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate, carry out, give effect to and comply with the terms and intent of this resolution and the Associate Membership Agreement. All such actions heretofore taken by such officers and officials are hereby confirmed, ratified and approved.

Section 4. Good Standing. The City is either a municipal corporation or other public body and a member of CEDA in good standing.

Section 5. Public Benefits. On the date hereof, the City Council hereby finds and determines that the Program and issuance of Bonds by CEDA in connection with Figtree PACE will provide significant public benefits, including without limitation, savings in effective interest rates, bond preparation, bond underwriting and bond issuance costs and reductions in effective user charges levied by water and electricity providers within the boundaries of the City.

Section 6. Appointment of CEDA. The City hereby appoints CEDA as its representative to (i) record the assessment against the Participating Parcels, (ii) administer the District in accordance with the Improvement Act of 1915 (Chapter 29 Part 1 of Division 10 of the California Streets and Highways Code (commencing with Section 8500 et seq.) (Law), (iii) prepare program guidelines for the operations of the Program, and (iv) proceed with any claims, proceedings or legal actions as shall be necessary to collect past due assessments on the properties within the District in accordance with the Law and Section 6509.6 of the California Government Code. The City is not and will not be deemed to be an agent of Figtree or CEDA as a result of this Resolution.

Section 7. Assessment Proceedings. In connection with Figtree PACE, the City hereby consents to the special assessment proceedings by CEDA pursuant to Chapter 29 on any property within the Boundaries and the issuance of Bonds under the 1915 Act, provided that:

1. Such proceedings are conducted pursuant to one or more Resolutions of Intention in substantially the form of the ROI;
2. The Participating Property Owners, who shall be the legal owners of such property, voluntarily execute a contract pursuant to Chapter 29 and comply with other applicable provisions of California law in order to accomplish the valid levy of assessments; and
3. The City will not be responsible for the conduct of any assessment proceedings, the levy of assessments, any required remedial action in the case of delinquencies in such assessment payments, or the issuance, sale or administration of the Bonds in connection with Figtree PACE.

Section 8. Program Report. The City Council hereby acknowledges that pursuant to the requirements of Chapter 29, CEDA has prepared and will update from time to time the “Program Report” for Figtree PACE (Program Report) and associated documents, and CEDA will undertake assessment proceedings and the financing of Improvements as set forth in the Program Report.

Section 9. Foreclosure. The City Council hereby acknowledges that the Law permits foreclosure in the event that there is a default in the payment of assessments due on a property. The City Council hereby designates CEDA as its representative to proceed with collection and foreclosure of the liens on the defaulting properties within the District, including accelerated foreclosure pursuant to the Program Report.

Section 10. Indemnification. The City Council acknowledges that Figtree has provided the City with an indemnification agreement, as shown in Exhibit B, for negligence or malfeasance of any type as a result of the acts or omissions of Figtree, its officers, employees, subcontractors and agents. The City Council hereby authorizes the appropriate officials and staff of the City to execute and deliver the Indemnification Agreement to Figtree.

Section 11. City Contact Designation. The appropriate officials and staff of the City are hereby authorized and directed to make applications for Figtree PACE available to all property owners who wish to finance Improvements. The following staff persons, together with any other staff designated by the City Manager from time to time, are hereby designated as the contact persons for CEDA in

**Agenda Item No. 7(B)**

**Attachment 9**

connection with Figtree Pace: Melanie Mintz, Community Development Director, (510) 215-4339, mmintz@ci.el-cerrito.ca.us

Section 12. CEQA. The City Council hereby finds that adoption of this Resolution is not a “project” under the California Environmental Quality Act (CEQA, because the Resolution does not involve any commitment to a specific project which may result in a potentially significant physical impact on the environment, as contemplated by Title 14, California Code of Regulations, Section 15378(b)(4)).

Section 13. Costs. Services related to the information and administration of the assessment district will be provided by CEDA at no cost to the City.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon passage and adoption. The City Clerk is hereby authorized and directed to transmit a certified copy of this Resolution to Figtree Energy Financing: 9915 Mira Mesa Boulevard, Suite 130, San Diego, CA 92131.

I CERTIFY that at a regular meeting on March 17, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

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

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on March 17, 2015.

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor

**ASSOCIATE MEMBERSHIP AGREEMENT**

**by and between the**

**CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY**

**and the**

**CITY OF EL CERRITO, CALIFORNIA**

THIS ASSOCIATE MEMBERSHIP AGREEMENT (this “Associate Membership Agreement”), dated as of March 17, 2015 by and between CALIFORNIA ENTERPRISE DEVELOPMENT AUTHORITY (the “Authority”) and the CITY OF EL CERRITO, CALIFORNIA, a municipal corporation, duly organized and existing under the laws of the State of California (the “City”);

**WITNESSETH:**

**WHEREAS**, the Cities of Selma, Lancaster and Eureka (individually, a “Member” and collectively, the “Members”), have entered into a Joint Powers Agreement, dated as of June 1, 2006 (the “Agreement”), establishing the Authority and prescribing its purposes and powers; and

**WHEREAS**, the Agreement designates the Executive Committee of the Board of Directors and the President of the California Association for Local Economic Development as the initial Board of Directors of the Authority; and

**WHEREAS**, the Authority has been formed for the purpose, among others, to assist for profit and nonprofit corporations and other entities to obtain financing for projects and purposes serving the public interest; and

**WHEREAS**, the Agreement permits any other local agency in the State of California to join the Authority as an associate member (an “Associate Member”); and

**WHEREAS**, the City desires to become an Associate Member of the Authority;

**WHEREAS**, City Council of the City has adopted a resolution approving the Associate Membership Agreement and the execution and delivery thereof;

**WHEREAS**, the Board of Directors of the Authority has determined that the City should become an Associate Member of the Authority;

**NOW, THEREFORE**, in consideration of the above premises and of the mutual promises herein contained, the Authority and the City do hereby agree as follows:

**Section 1. Associate Member Status.** The City is hereby made an Associate Member of the Authority for all purposes of the Agreement and the Bylaws of the Authority, the provisions of which are hereby incorporated herein by reference. From and after the date of execution and delivery of this Associate Membership Agreement by the City and the Authority, the City shall be and remain an Associate Member of the Authority.

**Section 2. Restrictions and Rights of Associate Members.** The City shall not have the right, as an Associate Member of the Authority, to vote on any action taken by the Board of Directors or by the Voting Members of the Authority. In addition, no officer, employee or representative of the City shall have any right to become an officer or director of the Authority by virtue of the City being an Associate Member of the Authority.

**Section 3. Effect of Prior Authority Actions.** The City hereby agrees to be subject to and bound by all actions previously taken by the Members and the Board of Directors of the Authority to the same extent as the Members of the Authority are subject to and bound by such actions.

**Section 4. No Obligations of Associate Members.** The debts, liabilities and obligations of the Authority shall not be the debts, liabilities and obligations of the City.

**Section 5. Execution of the Agreement.** Execution of this Associate Membership Agreement and the Agreement shall satisfy the requirements of the Agreement and Article XII of the Bylaws of the Authority for participation by the City in all programs and other undertakings of the Authority.

**IN WITNESS WHEREOF**, the parties hereto have caused this Associate Membership Agreement to be executed and attested by their proper officers thereunto duly authorized, on the day and year first set forth above.

**CALIFORNIA ENTERPRISE  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Gurbax Sahota, Chair  
Board of Directors

Attest:

\_\_\_\_\_  
Michelle Stephens, Asst. Secretary

**CITY OF EL CERRITO, CALIFORNIA**

By: \_\_\_\_\_  
  
Scott Hanin  
City Manager

Attest:

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Cheryl Morse  
City Clerk



## AGENDA BILL

### Agenda Item No. 7(C)

Date: March 17, 2015  
To: El Cerrito City Council  
From: Lisa Malek-Zadeh, Finance Director/City Treasurer  
Subject: Mid-Year Budget Update

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#### **ACTION REQUESTED**

1. Receive an update on year-end results for Fiscal Year (FY) 2013–14 that ended on June 30, 2014.
2. Receive an update on city revenues and expenditures for the first 7 months of the fiscal year through January 2015.
3. Adopt a Resolution authorizing adjustments to the FY 2014-15 budget related to already approved changes which occurred since the adoption of the FY 2014-2015 budget.

#### **BACKGROUND/ANALYSIS**

##### **Fiscal Year 2013-14 Year-End Results**

Consistent with prior years, the City's external auditors Maze and Associates began their review of the City's financials for FY 2013-14 in October. Completion of the audit and financial review will result in the FY 2013-14 Comprehensive Annual Financial Report (CAFR) and the Memorandum of Internal Controls and the Management Discussion & Analysis (MOIC). Both the CAFR and MOIC will be presented to Council in the spring.

At this time, staff does not anticipate any new findings, but some concerns raised by the auditors in prior years continue to be an issue, particularly with the increased vacancies in what was already a relatively lean staff. While some of the findings have been addressed, others continue to be the focus of staff's efforts to improve many of our processes through the increased use of technology and improved procedures. We will be discussing this more as part of the FY 2015-16 budget discussions.

Table 1, which appears on the next page of this report, summarizes the FY 2013-14 General Fund Budget. The summary includes a comparison of the changes in expenditures, revenues and the ending fund balance from the adopted budget, approved amendments and the year-end actuals.

**Table 1 - Fiscal Year 2013-14 Year-End Results General Fund Summary**

General Fund Summary	2013-14 Adopted	2013-14 Amended	2013-14 Projected	2013-14 Actual	Variance Amended to Actual
<b>Beginning Restricted Fund Balance</b>	\$0	\$1,059,976	\$1,059,976	\$1,059,976	\$0
<b>Beginning Unassigned Fund Balance</b>	\$2,909,552	\$1,281,566	\$1,281,566	\$1,281,566	\$0
<b>Total Revenues</b>	<b>\$28,479,079</b>	<b>\$28,809,734</b>	<b>\$29,054,141</b>	<b>\$28,799,596</b>	<b>(\$10,138)</b>
<b>Total Expenses</b>	<b>\$28,430,992</b>	<b>\$28,836,255</b>	<b>\$28,860,545</b>	<b>\$28,875,081</b>	<b>(\$38,826)</b>
Personnel	\$22,182,379	\$22,369,846	\$22,157,957	\$22,256,364	\$113,482
Non-Personnel	\$6,248,613	\$6,466,409	\$6,702,589	\$6,618,717	(\$152,308)
<b>Annual Balance/Shortfall</b>	<b>\$48,087</b>	<b>(\$26,521)</b>	<b>\$193,596</b>	<b>(\$75,484)</b>	
Transfer Out Grant	\$0	\$669,599	\$598,957	\$669,599	\$0
Transfer Out - Solar CIP	\$22,600	\$479,401	\$456,801	\$344,428	\$134,973
<b>Total Transfer out of Restricted Funds</b>	<b>\$22,600</b>	<b>\$1,149,000</b>	<b>\$1,055,758</b>	<b>\$1,014,027</b>	<b>\$134,973</b>
<b>Ending Fund Balance/Deficit</b>	<b>\$2,935,039</b>	<b>\$1,166,021</b>	<b>\$1,479,380</b>	<b>\$1,252,030</b>	
<b>Unassigned Ending Fund Balance/Deficit</b>	<b>\$2,935,039</b>	<b>\$1,166,021</b>	<b>\$1,479,380</b>	<b>\$1,252,030</b>	<b>\$86,009</b>
<b>Ending Unassigned Reserve Percent</b>	<b>10.3%</b>	<b>4.0%</b>	<b>5.1%</b>	<b>4.3%</b>	

During the presentation of the proposed budget and based on trends at the time, the General Fund was projected to end slightly better than the FY 2013-14 amended budget by about \$193,000. This would have increased the ending fund balance from the original estimate of approximately 4% to 5%.

After all revenues and expenditures have been accounted for, expenditures exceeded revenues by \$75,000 (.002%). Although there were savings in personnel expenditures, costs for professional services exceeded the projected budget. This is primarily due to the need to supplement staff vacancies with professional services which in some cases exceed the cost of a City staff person. Additionally, a transfer of \$479,000 to complete the solar panel capital project was not fully expended by year end. These remaining funds have now been fully spent, but due to the timing of the expenses will be reflected in the FY 2014-15 budget.

As discussed in previous budget updates, revenues haven't increased as quickly as they had in the past, but based on FY 2013-14 and the first few months of the current fiscal year, things seem to be steadying and the outlook looks promising. Excluding any one-time items, revenue has increased by approximately \$2 million since FY 2011-12. This includes increases in some taxes, reimbursement for services provided to agencies, such as Kensington and the school district, as well as fees charged for recreation programs. With the exception of a few variable and smaller dollar amount revenues, every other revenue stream came in at budget or exceeded projections in FY 2013-14.

The significant exception to this trend is the Utility Users Tax (UUT). For FY 2013-14, UUT revenue of \$467,000 was not realized as expected. As we have discussed in the past, changes in the utility industry, particularly in telecommunications, has led to a reduction in this revenue

area which has not rebounded as hoped. Based on the last few years, it appears that the UUT will once again not generate the revenues as anticipated; therefore, staff is reducing the revenue assumptions for the UUT in the current and future budget years until such time the trend changes. Staff review of the issue did not reveal any single cause but an overall change in services subject to the UUT as technologies change.

The ending FY 2013-14 General Fund balance was \$1,252,0500, excluding 1-time transfers, the balance equates to 4.3% of expenditures. It is important to note, that the overall budget performance for this fiscal year exceeded the adopted/amended budget but did not meet end of year projections. Going forward, we will be taking a more conservative approach to the projection of certain revenues.

**Fiscal Year 2014-15 Budget Update**

**General Fund Overview**

Table 2 provides an updated summary of the General Fund, including updated year end projections for the FY 2014-15 based on actual revenues and expenditures thru January 2015. Table 2 also contains a column for the FY 2014-15 Amended budget that encompasses the recommended amendments, discussed in more detail in the Appropriations Limits section of this report. The Amended budget reflects changes in revenue assumptions and necessary changes in expenditure authority since the budget was adopted in June.

The adopted budget assumed an ending fund balance of 5.4%. This assumed a starting fund balance that was approximately \$200,000 higher than where the prior year ended. Even with the approved amendments, the projected budget is expected to maintain the ending balance of 5.3% due to projected increases in various revenue streams.

**Table 2 - Fiscal Year 2014-15 General Fund Summary**

General Fund Summary	2013-14 Actual	2014-15 Adopted	2014-15 Amended	2014-15 Projected	2015-16 Adopted
<b>Beginning Restricted Fund Balance</b>	\$1,059,976				
<b>Beginning Unassigned Fund Balance</b>	\$1,281,566	\$1,479,380	\$1,270,466	\$1,270,466	\$1,568,773
<b>Total Revenues</b>	<b>\$28,799,596</b>	<b>\$29,341,458</b>	<b>\$29,591,988</b>	<b>\$29,748,005</b>	<b>\$30,304,024</b>
<b>Total Expenses</b>	<b>\$28,875,081</b>	<b>\$29,252,065</b>	<b>\$29,502,374</b>	<b>\$29,384,875</b>	<b>\$30,396,251</b>
Personnel	\$22,256,364	\$22,619,142	\$22,843,451	\$22,667,423	\$23,552,663
Non-Personnel	\$6,618,717	\$6,632,923	\$6,658,923	\$6,717,453	\$6,843,588
<b>Annual Balance/Shortfall</b>	<b>(\$75,484)</b>	<b>\$89,393</b>	<b>\$89,614</b>	<b>\$363,130</b>	<b>(\$92,227)</b>
Transfer Out Grant	\$669,599	\$0	\$0	\$0	\$0
Transfer Out - Solar CIP	\$344,428	\$0	\$74,838	\$74,838	\$0
<b>Total Transfer out of Restricted Funds</b>	<b>\$1,014,027</b>	<b>\$0</b>	<b>\$74,838</b>	<b>\$74,838</b>	<b>\$0</b>
<b>Ending Fund Balance/Deficit</b>	<b>\$1,252,030</b>	<b>\$1,568,773</b>	<b>\$1,285,242</b>	<b>\$1,558,758</b>	<b>\$1,476,546</b>
<b>Unassigned Ending Fund Balance/Deficit</b>	<b>\$1,252,030</b>	<b>\$1,568,773</b>	<b>\$1,285,242</b>	<b>\$1,558,758</b>	<b>\$1,476,546</b>
<b>Ending Unassigned Reserve Percent</b>	<b>4.3%</b>	<b>5.4%</b>	<b>4.4%</b>	<b>5.3%</b>	<b>4.9%</b>

**General Fund Revenues**

Table 3 provides an overview of projected revenues. Projected General Fund revenues are anticipated to increase by approximately \$406,000 above the amount included in the adopted budget.

**Table 3. Fiscal Year 2014-15 General Fund Revenues**

<b>General Fund Revenues</b>	<b>2013-14 Actual</b>	<b>2014-15 Adopted</b>	<b>2014-15 Amended</b>	<b>2014-15 Projected</b>	<b>2015-16 Adopted</b>
Property Taxes	\$6,190,958	\$6,577,256	\$6,702,996	\$6,783,638	\$6,778,620
Sales Taxes	\$5,107,513	\$4,605,000	\$4,972,250	\$4,972,250	\$4,893,960
Franchise Taxes	\$1,228,307	\$1,393,175	\$1,393,175	\$1,393,175	\$1,434,970
Business License Taxes	\$855,923	\$861,995	\$861,995	\$858,642	\$881,405
Utility Users Taxes	\$3,137,017	\$3,677,100	\$3,190,100	\$3,199,757	\$3,750,642
Other Taxes (TOT, Construction, Other)	\$130,556	\$134,124	\$134,124	\$134,124	\$141,000
<b>Total Taxes</b>	<b>\$16,650,274</b>	<b>\$17,248,650</b>	<b>\$17,254,640</b>	<b>\$17,341,586</b>	<b>\$17,880,597</b>
Licenses & Permits	\$539,567	\$531,000	\$531,000	\$531,000	\$593,000
Fines & Forfeitures	\$375,554	\$325,000	\$325,000	\$325,000	\$325,000
Use of Money & Property	\$289,660	\$344,900	\$344,900	\$344,975	\$353,840
Intergovernmental Revenues	\$5,036,793	\$5,183,962	\$5,428,502	\$5,487,477	\$5,266,191
Charges for services	\$4,956,927	\$4,585,442	\$4,585,442	\$4,585,547	\$4,774,935
Other Revenues	\$146,442	\$221,647	\$221,647	\$231,564	\$220,267
Other Financing Sources	\$0	\$0	\$0	\$0	\$0
Interfund Transfers In	\$804,379	\$900,857	\$900,857	\$900,857	\$890,194
<b>Total Other Revenues</b>	<b>\$12,149,323</b>	<b>\$12,092,808</b>	<b>\$12,337,348</b>	<b>\$12,406,419</b>	<b>\$12,423,427</b>
<b>Total Revenues</b>	<b>\$28,799,596</b>	<b>\$29,341,458</b>	<b>\$29,591,988</b>	<b>\$29,748,005</b>	<b>\$30,304,024</b>

**Tax Revenues + \$92,000**

Positive changes in Property Taxes (+\$200,000) based on actual receipts and the projected increase in Sales taxes (\$367,000) related to the recent approval of Measure R would generate an additional \$567,000 over what was originally budgeted. However, the anticipated reduction in the UUT of \$477,000 brings the overall increase in Taxes to just \$92,000. The City projects approximately 3 months of revenue in FY 2014-15 for the additional Measure R sales tax, but has not included a like increase in expenses as some of these new funds will be used to offset the reduction in UUT revenue.

**Intergovernmental Revenues +\$314,000**

The primary change in intergovernmental revenues is due to the reimbursement costs for Fire Department staff that are requested to provide mutual aid assistance throughout the state. Because there is no way to predict how much assistance will be needed throughout the year, the City assumes a small baseline amount in the budget. Based on the actual assistance provided and the costs reimbursed by the Office of Emergency Services (OES), the budget is amended to reflect this change in additional expenditures and revenue received to cover staff and a small portion of overhead costs.

**General Fund Expenditures**

Total General Fund expenditures are projected to be under budget by about \$117,000 for the current fiscal year. Projections are based on personnel and non-personnel costs incurred through the end of January in conjunction with information from prior year’s expenditure trends. These are summarized in Table 4.

**Table 4. Fiscal Year 2014-15 General Fund Expenditures**

General Fund Expenditures	2013-14 Actual	2014-15 Adopted	2014-15 Amended	2014-15 Projected	2015-16 Adopted
<b>Personnel</b>	<b>\$22,256,364</b>	<b>\$22,619,142</b>	<b>\$22,843,451</b>	<b>\$22,667,423</b>	<b>\$23,552,663</b>
Personnel	\$22,256,364	\$22,619,142	\$22,843,451	\$22,667,423	\$23,552,663
<b>Non-Personnel</b>					
Professional & Technical Services	\$3,127,586	\$2,995,725	\$2,995,725	\$3,169,275	\$3,071,295
Purchased Property/Other Services	\$1,561,814	\$1,669,201	\$1,695,201	\$1,587,870	\$1,742,303
Supplies	\$889,340	\$1,024,332	\$1,024,332	\$1,024,332	\$1,082,232
Financing Costs	\$1,039,976	\$943,665	\$943,665	\$935,976	\$947,758
<b>Total Non-Personnel (Before 1-Time)</b>	<b>\$6,618,717</b>	<b>\$6,632,923</b>	<b>\$6,658,923</b>	<b>\$6,717,453</b>	<b>\$6,843,588</b>
<b>1-Time</b>					
Transfers Out-Grants	\$669,599	\$0	\$0	\$0	\$0
Transfers Out-Solar CIP	\$344,428	\$0	\$74,838	\$74,838	\$0
<b>Total Transfer out of Restricted Funds</b>	<b>\$1,014,027</b>	<b>\$0</b>	<b>\$74,838</b>	<b>\$74,838</b>	<b>\$0</b>
<b>Total Non-Personnel</b>	<b>\$7,632,744</b>	<b>\$6,632,923</b>	<b>\$6,733,761</b>	<b>\$6,792,291</b>	<b>\$6,843,588</b>
<b>Total Expenditures</b>	<b>\$29,889,108</b>	<b>\$29,252,065</b>	<b>\$29,577,212</b>	<b>\$29,459,713</b>	<b>\$30,396,251</b>

**Personnel +\$176,000**

The City adopted a personnel budget of approximately \$22.6 million that included salary savings of close to \$1.5 million. As in prior years, the Fire department is often dispatched to emergency response throughout the state for Mutual Aid. Staff is proposing an increase of \$224,000 to reflect costs that are fully reimbursed by OES. With this change, the amended personnel budget is closer to \$22.8 million, but due to ongoing vacancies and some savings related to new labor agreements entered into early in the fiscal year, personnel costs are likely to be under budget by about \$176,000.

**Non-Personnel-\$58,000**

Non-personnel expenditures continue to track with original estimates with the exception of professional services. The City continues to experience a high level of vacancies, close to 10% Citywide, and this has increased the reliance on professional services in order to continue to provide services. In addition to the vacancies, there are several one-time projects and an increased need for legal services for numerous activities have increased expenses above those in prior years. Savings in personnel offset these overages, but the reliance on professional services is not the most cost effective method to provide services for the long term and will be reevaluated for next fiscal year.

**Special Revenue Funds**

Special revenue funds which support about \$12 million of the City's total adopted \$41 million budget are tracking in line with earlier projections. Year end actuals for FY 2013-14 and the first 7 month of FY 2104-15 are tracking as expected.

As discussed during budget development, the Landscape and Lighting Assessment District and NPDES funds are projecting deficits in FY 2015-16. One-time measures were implemented to bring the funds into balance in the FY 2014-15, but the City will need to address the long term structural deficits projected for next year and forward,

**FISCAL YEAR 2015-16 NEXT STEPS**

For the first time in several years, the City Council adopted a two-year budget for FY 2014-15 and FY 2015-16. The second year of the budget, FY 2015-16, was adopted based on the information known and available at that time. Several items affecting the City's budget have changed since the budget was adopted including the passage of Measure R and new labor agreements with the City's unions. Staff will not conduct a full blown budget development process for FY 2015-16, but will need to revisit several of the assumptions included in the original budget. Staff anticipates scheduling additional budget discussions in the new few months to discuss priorities and goals revisit assumptions and revise projections for next fiscal year.

**APPROPRIATIONS LIMITS**

Each year as part of the budget process, the City Council adopts a resolution that establishes spending limits by fund for the fiscal year. On June 17, 2014, the City Council adopted Resolution 2014-26 authorizing \$41,702,257 in total appropriations for fiscal year 2014-15. Changes to the spending limits occur throughout the year to account for unintended opportunities, unforeseen changes or if the City's financial position changes and additional spending authority is required to meet the needs of the City. These adjustments are typically the result of previously unanticipated events such as the acceptance of new grants, a reauthorization of prior year's unspent funds, accounting changes related to the City's financial reporting, receipt of new revenue and/or a response to emergencies or mutual aid.

**Table 5. Fiscal Year 2014-15 Changes to Appropriations Authority**

	<b>FY 2014-15 Adopted Appropriations</b>	<b>Encumbered Carryover</b>	<b>Adjustments</b>	<b>Total Proposed Amendments</b>	<b>FY 2014-15 Amended Appropriations</b>
General Fund	\$29,252,065	\$0	\$280,147	\$280,147	\$29,532,212
Gas Tax Fund	\$540,792	\$5,115	\$0	\$5,115	\$545,907
Nat'l Pollut Dis Elim Sys	\$390,934	\$0	\$0	\$0	\$390,934
Land & Light Assess Distr	\$901,542	\$0	\$0	\$0	\$901,542
Measure J-Return to Source	\$407,178	\$0	\$50,000	\$50,000	\$457,178
Measure J Storm Drain	\$556,710	\$40,184	\$30,000	\$70,184	\$626,894
Measure A Parcel Tax	\$686,436	\$0	\$0	\$0	\$686,436
Asset Seizure	\$0	\$0	\$0	\$0	\$0
Vehicle Abatement Fund	\$11,000	\$0	\$27,000	\$27,000	\$38,000
Park In Lieu	\$0	\$0	\$12,000	\$12,000	\$12,000
Public Art Fund	\$0	\$0	\$5,000	\$5,000	\$5,000
Street Improvement & Maint	\$1,929,454	\$112,286	\$31,224	\$143,510	\$2,072,964
Measure J-Paratransit Fund	\$127,316	\$1,056	\$0	\$1,056	\$128,372
Grants	\$173,498	\$77,985	\$0	\$77,985	\$251,483
C.O.P.S. Grant Fund	\$100,000	\$0	\$105,000	\$105,000	\$205,000
Municipal Services Corp	\$191,200	\$0	\$0	\$0	\$191,200
City Housing Trust Fund	\$0	\$2,860,000	\$0	\$2,860,000	\$2,860,000
City LMI Housing Fund	\$111,538	\$0	\$0	\$0	\$111,538
Capital Improvement Fund	\$2,188,601	\$829,379	\$16,520	\$845,899	\$3,034,500
Integrated Waste Mgmt	\$2,377,934	\$0	\$15,000	\$15,000	\$2,392,934
Vehicle/Equip Replacement	\$128,533	\$0	\$0	\$0	\$128,533
Pension Trust Sect 401-A	\$113,976	\$0	\$0	\$0	\$113,976
Successor Agency to RDA	\$0	\$0	\$0	\$0	\$0
Finance Authority Debt Sv	\$369,574	\$0	\$0	\$0	\$369,574
City Hall Bond D/S	\$597,768	\$0	\$0	\$0	\$597,768
Street Imp Bond D/S	\$737,408	\$0	\$0	\$0	\$737,408
	<b>\$41,893,457</b>	<b>\$3,926,005</b>	<b>\$571,891</b>	<b>\$4,497,896</b>	<b>\$46,391,353</b>

For FY 2014-15, staff is proposing amendments, which require a change in spending authority totaling \$4,497,896 across all funds as summarized in Table 5.

Encumbered Carryover of \$3,926,005 encompasses unspent funds from last fiscal year that need to be carried forward to complete work in the current fiscal year.

Adjustments totaling \$571,891 are new appropriations that Council has either approved through separate Council actions or as part of this report. These are summarized below.

- Appropriation of \$280,147 in the General Fund for OES reimbursed expenditures and remaining funds for solar panel capital project
- Appropriation of \$50,000 in the Measure J Return to Source Fund for the acceptance of one-time disbursement from the WCCTAC Board to be allocated based on the jurisdiction's share of WCCTAC
- Appropriation of \$30,000 in the Measure J Storm Drain Fund for infrastructure maintenance support
- Appropriation of \$27,000 in the Vehicle Abatement fund to purchase Mobile Data Computers and related equipment for the Police Department.

**Agenda Item No. 7(C)**

- Authorized appropriation of \$12,000 in the Park in Lieu Fund for the athletic field improvements as an amendment to the FY 2014-15 Budget.
- Appropriation of \$5,000 in the Public Art Fund for events at 4th of July
- Appropriate unspent project funds of \$31,224 in the Measure A Street Improvement to construct 2014 patch paving and miscellaneous repairs
- Authorization to appropriate \$105,000 in the C.O.P.S. grant funds to purchase Mobile Data Computers and related equipment for the Police Department
- Appropriate unspent project funds of \$16,520 in the Capital Improvement Fund to construct 2014 patch paving and miscellaneous repairs
- Appropriation of \$15,000 in the Integrated Waste Management fund for solid waste consulting service

**Reviewed by:**



**Scott Hanin**  
**City Manager**

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO  
AMENDING THE SPENDING AUTHORITY BY FUND FOR THE CITY OF EL  
CERRITO FOR FISCAL YEAR 2014-15

WHEREAS, on June 17, 2014 the City Council of the City of El Cerrito, by Resolution No. 2014-26, adopted the Fiscal Year 2014-15 Budget with spending limits across funds; and

WHEREAS, changes to the spending limits throughout the year may be necessary to account for unintended opportunities, unforeseen changes or if the City's financial position changes and additional spending authority is required to meet the needs of the City; and

WHEREAS, proposed changes to spending authority from tax proceeds are within the City's Fiscal Year 2014-15 Gann Appropriations Limit, as defined by California State Constitution Article XIII B.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby amends the spending authority by fund for Fiscal Year 2014-15 as follows:

101 General Fund	\$29,532,212
201 Gas Tax Fund	\$545,907
202 Nat'l Pollut Dis Elim Sys	\$390,934
203 Land & Light Assess Distr	\$901,542
204 Measure J-Return to Source	\$457,178
205 Measure J Storm Drain	\$626,894
206 Measure A Parcel Tax	\$686,436
208 Asset Seizure	\$0
209 Vehicle Abatement Fund	\$38,000
210 Park In Lieu	\$12,000
211 Street Improvement & Maint	\$2,072,964
213 Public Art Fund	\$5,000
214 Measure J-Paratransit Fund	\$128,372
221 Grants	\$251,483
222 C.O.P.S. Grant Fund	\$205,000
230 Municipal Services Corp	\$191,200
231 City Housing Trust Fund	\$2,860,000
232 City LMI Housing Fund	\$111,538
301 Capital Improvement Fund	\$3,034,500
501 Integrated Waste Mgmt	\$2,392,934
601 Vehicle/Equip Replacement	\$128,533
701 Pension Trust Sect 401-A	\$113,976
834 Finance Authority Debt Sv	\$369,574
835 City Hall Bond D/S	\$597,768
836 Street Imp Bond D/S	\$737,408
<b>Total</b>	<b>\$46,391,353</b>

**Agenda Item No. 7(C)**

**Attachment 1**

I CERTIFY that at a regular meeting on March 17, 2015, the City Council 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 March XX, 2015.

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Mark Friedman, Mayor