

# Oversight Board Meeting of the Successor Agency City of Foster City

## AGENDA

April 5, 2012; 1:00 p.m.

Location:

Council Chambers – Conference Room  
City of Foster City  
620 Foster City Blvd  
Foster City, CA

1. Welcome and Introductions
2. Public Comment
3. Overview and Applicability of Ralph M. Brown Act and Robert's Rules of Order
4. Oversight Board Responsibilities and the Provisions of ABx1 26
5. Future Meeting Dates
  - a. Before April 15, 2012 for purposes of adopting the Initial Recognized Obligation Payment Schedule
  - b. Before May 15, 2012 for purposes of adopting the Second Recognized Obligation Payment Schedule
  - c. Recurring Meetings (Monthly, Quarterly, Semi-Annually?)
6. Adoption by Resolution of By-Laws for the Oversight Board (ACTION)
7. Selection of Officers (ACTION)
  - a. Chair
  - b. Vice-Chair
8. Designation of Secretary Function on Behalf of Oversight Board (ACTION)
9. Designation of Point of Contact for Department of Finance (ACTION)
10. Resolution Authorizing the Filing of Statement of Organization with California Secretary of State and County Controller (ACTION)
11. Background of the Foster City Community Development Agency
  - a. Formation
  - b. Project Areas
  - c. Year-End Report for FY 2010-2011
  - d. Status as of Date of Dissolution (January 31, 2012)
    - i. Preliminary Financial Statements of the Redevelopment Obligation Retirement Fund
    - ii. Introduction of Recognized Obligation Payment Schedule
12. Consideration of Need for Legal Counsel to the Oversight Board
13. Board Member Statements and Requests
14. Adjournment

Any attendee requiring special accommodations should contact Steve Toler, Assistant City Manager, at 650-286-3214 or [SToler@fostercity.org](mailto:SToler@fostercity.org) at least 24 hours in advance of the meeting.

Note: Any writings or documents provided to a majority of the Oversight Board regarding any item on this agenda after the agenda packet was distributed will be made available for public inspection at the office of the Assistant City Manager located at Foster City City Hall, 610 Foster City Blvd., Foster City, during normal business hours and also made available in a marked binder at current and future meetings.

<b>Successor Agency to the Foster City Community Development Agency</b>								
<b>Oversight Board Roster</b>								
<b>Name</b>	<b>Appointed By</b>	<b>Title</b>	<b>Organization</b>	<b>Address 2</b>	<b>City</b>	<b>State</b>	<b>Zip</b>	<b>Email</b>
Linda Koelling	City of Foster City			860 Meridian Bay Lane	Foster City	CA	94404	<a href="mailto:lakkc@aol.com">lakkc@aol.com</a>
Rick Wykoff	Estero Municipal Improvement District			704 Ranger Circle	Foster City	CA	94404	<a href="mailto:richardwykoff@comcast.net">richardwykoff@comcast.net</a>
Mary McMillan	County - Staff	Deputy County Manager	County of San Mateo	400 County Center	Redwood City	CA	94063	<a href="mailto:mmcmillan@co.sanmateo.ca.us">mmcmillan@co.sanmateo.ca.us</a>
Dick Bennett	County - Public Member			601 Santa Catalina Ln	Foster City	CA	94404	<a href="mailto:dwbrda@gmail.com">dwbrda@gmail.com</a>
Jim Keller	California Chancellor of Community Colleges	Interim President	Cañada College	4200 Farm Hill Blvd., Bldg 8	Redwood City	CA	94061	<a href="mailto:kellerj@smccd.edu">kellerj@smccd.edu</a>
Elizabeth McManus	San Mateo County Office of Education	Deputy Superintendent	San Mateo Union High School District	650 North Delaware St.	San Mateo	CA	94401	<a href="mailto:emcmanus@smuhdsd.org">emcmanus@smuhdsd.org</a>
Tina Acree	City of Foster City - Recognized Employee Group	Business Agent	AFSCME Council 57, Local 829	1301 Shoreway Rd, Suite 155	Belmont	CA	94404	<a href="mailto:Tina.Acree@ca.afscme57.org">Tina.Acree@ca.afscme57.org</a>
<b>Staff:</b>								
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Curtis Banks	Successor Agency - Community Development Director	Community Development Director	City of Foster City	610 Foster City Blvd	Foster City	CA	94404	<a href="mailto:cbanks@fostercity.org">cbanks@fostercity.org</a>
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# INSTITUTE for LOCAL GOVERNMENT

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## The ABCs of Open Government Laws

The underlying philosophy of the open government laws is that public agency processes should be as transparent as possible. Such transparency is vital in promoting public trust in government. Conducting government openly and transparently is an opportunity to include the public in decision-making processes and demonstrate that the agency has nothing to hide.

This concept of governmental transparency is so important to the public that some 83 percent of voters supported adding it to California's constitution.

### **CALIFORNIA'S TRANSPARENCY LAWS REQUIRE PUBLIC OFFICIALS TO:**

- A.** Conduct the public's business in open and publicized meetings, except for the limited circumstances under which the law allows closed sessions.
- B.** Allow the public to participate in meetings.
- C.** Allow public inspection of documents and records generated by public agencies, except when non-disclosure is specifically authorized by law.

This pamphlet summarizes these three requirements for local officials in broad terms. For information about how these requirements apply in any given situation or more information about this area of the law in general, local officials are encouraged to consult with their agency attorneys.

The law also requires certain local officials to be transparent about their personal financial interests and relationships. For more information about these requirements, please see the Institute's bookmark entitled "Key Ethics Law Principles for Local Officials" and *A Local Official's Reference on Ethics Laws*. Both are available at [www.ilsg.org/trust](http://www.ilsg.org/trust).



**OPEN NEXT TWO FOLDS TO  
INSIDE PANELS TO CONTINUE**



# A. CONDUCTING THE PUBLIC'S BUSINESS IN PUBLIC

## GENERAL RULES

- ✓ Public agency decision-making bodies – which include many advisory committees – must conduct their business in an open and public meeting.
- ✓ A “meeting” is any situation involving a majority of a decision-making body in which agency business is transacted or discussed. In other words, a majority of the governing body cannot talk privately about an issue before the body no matter how the conversation occurs, whether by telephone or e-mail, or at a local coffee shop.
- ✓ These are legal minimums for local governmental transparency in decision-making; local agencies can provide for greater transparency.



## KEY THINGS TO KNOW

- **Committees and Advisory Bodies.** Advisory groups or committees formally created by the governing body are subject to the open meeting laws. Standing committees are subject to the open meeting laws if they have a continuing subject-matter jurisdiction or have a meeting schedule fixed by formal action of the governing body.
- **Serial Meetings.** A key thing to avoid is unintentionally creating a “serial” meeting—a series of communications that result in a majority of governing body members having conferred on an issue.

## EXAMPLE

If two members of a five-member governing body consult outside of a public meeting (which is not in and of itself violation) about an issue before the body and then one of those individuals consults with a third member on the same issue and shores what the first member is thinking, a majority of the body has consulted on the same issue. Note the communication does not need to be in person and can occur through a third party. For example, sending or forwarding e-mail can be sufficient to create a serial meeting, as can a staff member’s polling governing body members in a way that reveals the members’ positions to one another.

- **Posting and Following the Agenda.** In general, public officials may only discuss and act on items included on the posted agenda for a meeting. However, governing body members or staff may briefly respond to questions or statements during public comments that are unrelated to the agenda items. Officials can also make requests to staff to place a matter on the agenda for a subsequent meeting. Only under extraordinary circumstances can matters be added to the agenda.
- **Permissible Gatherings.** Not every gathering of governing body members outside a posted meeting violates the meeting laws. For example, an open meeting violation would not occur if a majority of the governing body attended the same educational conference or attended a meeting not organized by the local agency as long as agency business is not discussed during the gathering. Nor is attendance at a social or ceremonial event in and of itself a violation. The basic rule to keep in mind is a majority of the governing body members cannot gather *and* discuss agency business except at an open and properly noticed meeting.
- **Closed Sessions.** The open meeting laws include provisions for closed discussions under very limited circumstances (see “typical closed sessions issues” at right). However, the reasons for holding the closed session must be noted in the agenda and different disclosure requirements apply to different types of closed sessions.
- **Disclosure of Confidential Information Prohibited.** The decision to disclose confidential information received in closed session is one that is generally made by the body as a whole, not individual members. Among the remedies for unlawful disclosure is referral to the grand jury, which has authority to remove officials for corrupt or willful misconduct in office.

Because of the complexity of the open meeting laws, close consultation with an agency’s legal advisor is necessary to ensure that no missteps occur.

(See page 5 for information about consequences of non-compliance with these rules.)

**GOOD ETHICS IS GOOD POLITICS. NOW!**

The new local government transparency requirements will take effect on 1/1/10.

For more information, visit [www.ci.milwaukee.gov](http://www.ci.milwaukee.gov)





## TYPICAL CLOSED SESSION ISSUES

Local agency open meetings laws vary in terms of what kinds of closed sessions are allowed. The following list is illustrative. Consult with agency counsel concerning 1) whether a particular type of closed session is available to your agency, 2) under what circumstances, and 3) what disclosure requirements apply before and after the closed session.

**Personnel.** To consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee, or to hear complaints against an employee.

**Litigation.** To confer with or receive advice from an agency's legal counsel with respect to existing, threatened or potential litigation.

**Real Estate Negotiations.** To provide direction to the agency's negotiator on the price and terms under which the agency will purchase, sell, exchange or lease real property.

**Labor Negotiations.** To meet with the agency's labor negotiator regarding salaries and benefits and other matters within the scope of labor negotiations.

**Student Disciplinary Issues.** (For school districts and community college districts) To consider discipline of a student if a public hearing would result in disclosure of prohibited information, after notifying the student (or parents in the case of minor students) and if they do not request a public hearing.

**Grand Jury Proceedings.** To allow testimony in private before a grand jury (either individually or collectively).

**License Applicants with Criminal Records.** To allow an agency to determine whether a would-be licensee with a criminal record is sufficiently rehabilitated to obtain the license.

**Public Security.** To confer with designated law enforcement officials regarding threats to public facilities and services or the public's right to access those services and facilities.

**Multi-jurisdictional Law Enforcement Agency.** To discuss ongoing criminal investigations.

**Hospital Peer Review and Trade Secrets.** To discuss issues related to medical quality assurance or trade secrets.



## B. THE PUBLIC'S RIGHT TO PARTICIPATE IN MEETINGS

### GENERAL RULES

- ✓ **Democracy in Action.** The public has a right to address the governing body at any open meeting. An elected official's role is to both hear and evaluate these concerns.
- ✓ **The Public's Right to be Heard.** Generally, every agenda must provide an opportunity for the public to address the governing body on any item of interest to the public within the body's jurisdiction. If the issue of concern is one pending before the legislative body, the opportunity must be provided before or during the body's consideration of that issue.
- ✓ **Posting and Following the Agenda.** The open meeting laws require the public be informed of the time of and the issues to be addressed at each meeting. The agenda must be posted at least 72 hours in advance of a meeting and written in a way that informs people of what business will be discussed. Members of the public may request a copy of the agenda packet be mailed to them at the time the agenda is posted or upon distribution to the governing body. Many local agencies also post these materials on their websites. There are a few exceptions to the 72-hour requirement that relate to unexpected circumstances.



### KEY THINGS TO KNOW

- **Taping or Recording of Meetings Is Allowed.** Anyone attending a meeting may record it with an audio or video recorder unless the governing body makes a finding the noise, illumination, or obstruction of view will disrupt the meeting. Any tape or film made by the local agency becomes a public record that must be made available to the public for at least 30 days.
- **Sign-In Must Be Voluntary.** Members of the public cannot be required to register their name or fulfill any other condition for attendance or speaking at a meeting. If an attendance list is used, it must clearly state signing the list is voluntary.
- **Reasonable Time Limits May Be Imposed.** Local agencies may adopt reasonable regulations to ensure everyone has an opportunity to be heard in an orderly manner.

TURN TO REVERSE SIDE TO CONTINUE





CONTINUED FROM  
INSIDE PANELS

- **Dealing with Dissention.** The chair cannot stop speakers from expressing their opinions or their criticism of the governing body. If a group willfully interrupts a meeting and order cannot be restored, the room may be cleared. Members of the media must be allowed to remain and only matters on the agenda can be discussed.
- **Other Notice and Hearing Requirements.** Other state laws may provide additional, subject-specific notice and hearing requirements.

### CONSEQUENCES OF NON-COMPLIANCE

- **Nullification of Decision.** As a general matter, decisions that are not made according to the open meeting laws are voidable. After asking the agency to cure the violation, either the district attorney or any interested person may sue to have the action declared invalid. Costs and attorneys fees may be awarded to those who successfully challenge open meeting violations.
- **Criminal Sanctions.** Additionally, governing body members who intentionally violate the open meeting laws may be guilty of a misdemeanor. The penalty for a misdemeanor conviction is imprisonment in county jail for up to six months or a fine of up to \$1,000 or both.
- **Other Measures.** Either the district attorney or any interested person may sue to remedy past and prevent future violations of the open meeting laws. Another remedy, under certain circumstances, is for a court to order that all closed sessions be tape-recorded. Costs and attorneys fees also may be awarded.
- **Potential Civil Rights Violations.** Regulations of public participation beyond those allowed by applicable statutory and constitutional law can be a civil rights violation, which can include liability for attorneys fees.



## C. THE PUBLIC'S RIGHT TO ACCESS AGENCY RECORDS

### GENERAL RULE

- ✓ Public agencies must generally make their records available for inspection by the public.



### KEY THINGS TO KNOW

- **Agenda and Meeting Materials.** Copies of the agenda materials and other non-attorney-client documents distributed to the governing body must be available to the public. Any materials distributed by the local agency, its consultants, or decision-makers must be available for public inspection at the meeting. Materials prepared and distributed by some other person must be made available after the meeting.
- **Scope of Access.** The public has the right to see any materials that are created as part of the conduct of the people's business. These materials include any writing that was prepared, owned, used, or retained by a public agency. They include documents, computer data, e-mails, facsimiles, and photographs.
- **Presumption and Exceptions.** A document is presumed to be a public record unless an exception applies. There are a number of exceptions. For example, the "pending litigation" exemption exempts documents that are prepared in support of ongoing litigation (otherwise opposing counsel could obtain all documents containing the agency's legal strategy just by asking for them).

Despite these exceptions, the safe assumption is virtually all materials involved in one's service on the governing body – including e-mails – are public records subject to disclosure.

### CONSEQUENCES OF VIOLATION

Anyone can sue the agency to enforce his or her right to access public records subject to disclosure. If the agency loses or otherwise produces the records as the result of the lawsuit, it must pay costs and attorneys fees.



## What YOU need to know about the Ralph M. Brown Act...

This guide is prepared by the City Clerk's Department. The reader is directed to review the specific California Government Code (GC) sections for context of the law. The Foster City Municipal Code (FCMC) and Estero Municipal Improvement District Code (EMID) sections are also referenced and attached.

### *What is the Ralph M. Brown Act?*

The Ralph M. Brown Act, or Brown Act as it's usually referred to, is California's "sunshine" law for local government. It requires local government business to be conducted in open and public meetings. The Brown Act is based upon State policy the people must be informed so they can keep control over their government. In 1993, the legislature made sweeping changes to the Brown Act.

### **GC 54950. Declaration of intent; sovereignty**

In enacting this chapter [*the Ralph M. Brown Act*], the Legislature finds and declares that the public commissions, boards and councils and other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

#### **1. Who is subject to the Brown Act? [See GC 54952 & 54952.1]**

All members of legislative bodies which include the City Council, Standing Advisory Committees, Planning Commission, Standing Subcommittees, as well as new members of these bodies who have been elected or appointed but who have not assumed duties of office.

#### **2. Who is *not* subject to the Brown Act? [See GC 54952]**

Non-standing ad hoc committees as well as ad hoc subcommittees composed of less than a quorum of the legislative body.

#### **3. What is the difference between standing and ad hoc committees or subcommittees?**

- A standing committee is formed by ordinance or resolution with a continuing subject matter or meeting schedule fixed by ordinance, resolution, or other formal action.
- An ad hoc committee is formed for a specific period of time for a particular purpose.
- A standing subcommittee is composed of less than a quorum of members of a legislative body with a continuing subject matter or a fixed meeting schedule.
- An ad hoc subcommittee is composed of less than a quorum of members of a legislative body existing for a specific period of time for a particular purpose.

4. **What is a meeting?** [See GC 54952.2]

Any congregation of a majority of members, in the same place, at the same time, to hear, discuss or deliberate on anything within the subject matter of the jurisdiction. Meetings include any communication through intermediaries or technological devices such as a telephone, fax machine or email to develop a collective concurrence as to action to be taken.

4a. **Can the exchange of e-mail be considered a meeting?**

Yes. The Attorney General has opined that the exchange of e-mails between a majority of the members of a public body may constitute a violation of the Brown Act if concurrence on certain matters is achieved. The reasoning behind this holding by the Attorney General is that deliberations conducted by way of e-mails occur outside the public process.

5. **What are not considered meetings?** [See GC 54952.2]

Individual contacts between members; individual contacts between members and third parties; conferences that are open to the public and involve a discussion of matters of general interest to the public or public agencies as long as members attending do not discuss local business; attendance at a community meeting other than that of the local agency, provided the majority do not discuss business; attendance at a purely social occasion.

6. **What is a regular meeting?** [See GC 54954; FCMC 2.36.160; EMID 2.28.160]

A regular meeting is a meeting held on a regular basis at a time and place established by resolution, ordinance, by-laws or other rule.

7. **What is an adjourned meeting?** [See GC 54955]

The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the secretary may declare the meeting adjourned to a stated time and place and cause a written notice of the adjournment to be given in the same manner as provided for special meetings unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, by-law, or other rule.

8. **What is a special meeting?** [See GC 54956; FCMC 2.36.170; EMID 2.28.170]

A special meeting is any meeting other than a regular meeting or adjourned regular meeting.

9. **What are the requirements for holding a special meeting?** [See GC 54956; FCMC 2.36.170; EMID 2.28.170]

A special meeting may be called at any time by the presiding officer (e.g., Committee Chairman), or by a majority of the members of the committee, by delivering personally or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice shall be delivered personally or by mail and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the secretary of the committee a written waiver of notice. The waiver may be by telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required regardless of whether any action is taken at the special meeting.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. The call and notice should be forwarded to the City Clerk for posting in the public notice board outside the Council Chambers at least 24 hours prior to the special meeting.

Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the legislative body concerning that item prior to action on that item.

10. **Where must meetings be held?** [See GC 54954; FCMC 2.36.160; EMID 2.28.160]

Regular and Special Meetings must be held within the boundaries of Foster City with certain exceptions. These include:

- a. Complying with State and Federal law;
- b. Inspecting real or personal property;
- c. Participating in a meeting that involves multiple agencies outside Foster City;
- d. Complying with a Court Order;
- e. Meeting with State or Federal elected officials;
- f. Visiting legal counsel for a closed session.

11. **What type of facility can meetings be held in?** [See GC 54961]

No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person, or persons, on the basis of race, religious creed, color, national origin, ancestry, or sex, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase.

12. **What needs to be on an agenda?** [See GC 54954.2]

An agenda must specify the time and location of the regular meeting and show a brief general description of each item of business to be transacted or discussed, not needing to exceed twenty (20) words per agenda item.

See also FCMC 2.36.230 and EMID 2.28.230 regarding Order of Business for advisory committee agendas.

13. **When does an agenda need to be posted?** [See GC 54954.2]

An agenda for a regular meeting must be posted at least 72 hours before the meeting.

14. **Where is the agenda posted?** [See GC 54954.2; FCMC 2.36.160; EMID 2.28.160]

The agenda is posted by the City Clerk in the public notice board outside the Council Chambers and may be posted in other locations.

15. **Can an item be discussed or acted upon if it is not on the agenda?** [See GC 54954.2]

No action or discussion can be taken on any item not appearing on the posted agenda, except that members of the committee may briefly respond to statements made or questions posed by persons exercising their public testimony rights. In addition, on their own initiative, or in response to questions posed by the public, committee members may ask a question for clarification, provide a reference to staff or other resources for factual information, or request staff to report back to the body at a subsequent meeting concerning any matter. Furthermore, a committee member or the committee itself may take action to direct staff to place a matter of business on a future agenda.

16. **When can an item not on the agenda be discussed or acted upon?** [See GC 54954.2]

The committee may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item, the committee shall publicly identify the item, and (1) upon a determination by a majority vote of the committee that an emergency situation exists which prompt action is necessary due to the disruption or threatened disruption of public facilities, as defined in Government Code Section 54956.5; or (2) upon a determination by a two-thirds vote of the committee, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to

the attention of the local agency subsequent to the agenda being posted; or (3) the item was posted on an agenda for a prior committee meeting occurring not more than 5 calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

**17. Is it required for an agenda to allow public comment?**

[See GC 54954.3; FCMC 2.36.180; EMID 2.28.180]

Yes.

Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the legislative body concerning that item prior to action on that item.

**18. Can the committee limit the total amount of time for public testimony?**

[See GC 54954.3]

The legislative body may adopt reasonable regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

**19. Can the committee prohibit public criticism?**

[See GC 54954.3]

The legislative body shall not prohibit public criticism of the policies, procedures, programs, or services of the agency or the acts or omissions of the legislative body.

**20. Are there any conditions of attendance for members of the public?**

[See GC 54953.3]

No. A member of the public shall not be required, as a condition to attend a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

21. **Can secret ballots be used?** [See GC 54953;  
FCMC 2.36.110 & EMID 2.28.110 will be amended]

No action can be taken by secret ballot, whether it is for a preliminary or final vote.

22. **Can the public tape record or use a video camera to record a meeting?** [GC 54953.5]

Recording of a meeting by a member of the public can be done either by audio or visual means. Meetings may also be broadcast in either one of those mediums. The Brown Act allows the legislative body to disallow recording of the meetings only if it disrupts the meeting due to noise, illumination, or obstruction of view.

23. **What materials, such as agendas, must be made available to the public?** [See GC 54957.5]

Agendas of public meetings and any other writings, when distributed to all, or a majority of all of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are public records under the California Public Records Act and shall be made available without delay.

Writings which are public records and which are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person.

24. **What is the penalty for holding an unlawful meeting?** [See GC 54959]

Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of the Brown Act, with wrongful intent to deprive the public of information to which it is entitled, is guilty of a misdemeanor.

Attachments: The Ralph M. Brown Act - California Government Code Sections 54950-54962  
Foster City Municipal Code Chapter 2.36, Citizens Advisory Committees  
Estero Municipal Improvement District Code Chapter 2.28, Citizens Advisory Committees

CALIFORNIA CODES  
GOVERNMENT CODE  
SECTION 54950-54963

54950. In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

54950.5. This chapter shall be known as the Ralph M. Brown Act.

54951. As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

54952. As used in this chapter, "legislative body" means:

(a) The governing body of a local agency or any other local body created by state or federal statute.

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

(c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited

liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

(d) The lessee of any hospital the whole or part of which is first leased pursuant to subdivision (p) of Section 32121 of the Health and Safety Code after January 1, 1994, where the lessee exercises any material authority of a legislative body of a local agency delegated to it by that legislative body whether the lessee is organized and operated by the local agency or by a delegated authority.

54952.1. Any person elected to serve as a member of a legislative body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this chapter and shall be treated for purposes of enforcement of this chapter as if he or she has already assumed office.

54952.2. (a) As used in this chapter, "meeting" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

(b) (1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

(2) Paragraph (1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person that do not violate subdivision (b).

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local

agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

54952.6. As used in this chapter, "action taken" means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body and any person elected to serve as a member of the legislative body who has not assumed the duties of office. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body.

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory

over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) No legislative body shall take action by secret ballot, whether preliminary or final.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), when a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and that number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(4) This subdivision shall remain in effect only until January 1, 2009.

54953.1. The provisions of this chapter shall not be construed to prohibit the members of the legislative body of a local agency from giving testimony in private before a grand jury, either as individuals or as a body.

54953.2. All meetings of a legislative body of a local agency that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

54953.3. A member of the public shall not be required, as a condition to attendance at a meeting of a legislative body of a local agency, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar

document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to the persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

54953.5. (a) Any person attending an open and public meeting of a legislative body of a local agency shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the legislative body of the local agency that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the local agency.

54953.6. No legislative body of a local agency shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

54953.7. Notwithstanding any other provision of law, legislative bodies of local agencies may impose requirements upon themselves which allow greater access to their meetings than prescribed by the minimal standards set forth in this chapter. In addition thereto, an elected legislative body of a local agency may impose such requirements on those appointed legislative bodies of the local agency of which all or a majority of the members are appointed by or under the authority of the elected legislative body.

54954. (a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently

brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district, except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of an applicant for the position of the superintendent of the district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

54954.1. Any person may request that a copy of the agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. If requested, the agenda and documents in the agenda packet shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. Upon receipt of the written request, the legislative body or its designee shall cause the requested materials to be mailed at the time the agenda is posted pursuant to Section 54954.2 and 54956 or upon distribution to all, or a majority of all, of the members of a legislative body, whichever occurs first. Any request for mailed copies of agendas or

agenda packets shall be valid for the calendar year in which it is filed, and must be renewed following January 1 of each year. The legislative body may establish a fee for mailing the agenda or agenda packet, which fee shall not exceed the cost of providing the service. Failure of the requesting person to receive the agenda or agenda packet pursuant to this section shall not constitute grounds or invalidation of the actions of the legislative body taken at the meeting for which the agenda or agenda packet was not received.

54954.2. (a) (1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within

the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

54954.3. (a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2. However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body. Every notice for a special meeting shall provide an opportunity for members of the public to directly address the legislative body concerning any item that has been described in the notice for the meeting before or during consideration of that item.

(b) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(c) The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

54954.4. (a) The Legislature hereby finds and declares that Section 12 of Chapter 641 of the Statutes of 1986, authorizing reimbursement to local agencies and school districts for costs mandated by the state pursuant to that act, shall be interpreted strictly. The intent of the Legislature is to provide reimbursement for only those costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986.

(b) In this regard, the Legislature directs all state employees and officials involved in reviewing or authorizing claims for reimbursement, or otherwise participating in the reimbursement process, to rigorously review each claim and authorize only those claims, or parts thereof, which represent costs which are clearly and unequivocally incurred as the direct and necessary result of compliance with Chapter 641 of the Statutes of 1986 and for which complete documentation exists. For purposes of Section 54954.2, costs eligible for reimbursement shall only include the actual cost to post a single agenda for any one meeting.

(c) The Legislature hereby finds and declares that complete, faithful, and uninterrupted compliance with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) is a matter of overriding public importance. Unless specifically stated, no future Budget Act, or related budget enactments, shall, in any manner, be interpreted to suspend, eliminate, or otherwise modify the legal obligation and duty of local agencies to fully comply with Chapter 641 of the Statutes

of 1986 in a complete, faithful, and uninterrupted manner.

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

(Subdivision (a) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

## PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

## PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

## CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

## CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the

**Government Code:**

## REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

## HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

## CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

## CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

## AUDIT BY BUREAU OF STATE AUDITS

54954.6. (a) (1) Before adopting any new or increased general tax or any new or increased assessment, the legislative body of a local agency shall conduct at least one public meeting at which local officials shall allow public testimony regarding the proposed new or increased general tax or new or increased assessment in addition to

the noticed public hearing at which the legislative body proposes to enact or increase the general tax or assessment.

For purposes of this section, the term "new or increased assessment" does not include any of the following:

(A) A fee that does not exceed the reasonable cost of providing the services, facilities, or regulatory activity for which the fee is charged.

(B) A service charge, rate, or charge, unless a special district's principal act requires the service charge, rate, or charge to conform to the requirements of this section.

(C) An ongoing annual assessment if it is imposed at the same or lower amount as any previous year.

(D) An assessment that does not exceed an assessment formula or range of assessments previously specified in the notice given to the public pursuant to subparagraph (G) of paragraph (2) of subdivision (c) and that was previously adopted by the agency or approved by the voters in the area where the assessment is imposed.

(E) Standby or immediate availability charges.

(2) The legislative body shall provide at least 45 days' public notice of the public hearing at which the legislative body proposes to enact or increase the general tax or assessment. The legislative body shall provide notice for the public meeting at the same time and in the same document as the notice for the public hearing, but the meeting shall occur prior to the hearing.

(b) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased general tax shall be accomplished by placing a display advertisement of at least one-eighth page in a newspaper of general circulation for three weeks pursuant to Section 6063 and by a first-class mailing to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the first publication of the joint notice pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. Notwithstanding paragraph (2) of subdivision (a), the joint notice need not include notice of the public meeting after the meeting has taken place. The public hearing pursuant to subdivision (a) shall take place no earlier than 45 days after the first publication of the joint notice pursuant to this subdivision. Any written request for mailed notices shall be effective for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(2) The notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The amount or rate of the tax. If the tax is proposed to be increased from any previous year, the joint notice shall separately state both the existing tax rate and the proposed tax rate increase.

(B) The activity to be taxed.

(C) The estimated amount of revenue to be raised by the tax annually.

(D) The method and frequency for collecting the tax.

(E) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(F) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the tax.

(c) (1) The joint notice of both the public meeting and the public hearing required by subdivision (a) with respect to a proposal for a new or increased assessment on real property shall be accomplished through a mailing, postage prepaid, in the United States mail and

shall be deemed given when so deposited. The public meeting pursuant to subdivision (a) shall take place no earlier than 10 days after the joint mailing pursuant to this subdivision. The public hearing shall take place no earlier than seven days after the public meeting pursuant to this subdivision. The envelope or the cover of the mailing shall include the name of the local agency and the return address of the sender. This mailed notice shall be in at least 10-point type and shall be given to all property owners proposed to be subject to the new or increased assessment by a mailing by name to those persons whose names and addresses appear on the last equalized county assessment roll or the State Board of Equalization assessment roll, as the case may be.

(2) The joint notice required by paragraph (1) of this subdivision shall include, but not be limited to, the following:

(A) The estimated amount of the assessment per parcel. If the assessment is proposed to be increased from any previous year, the joint notice shall separately state both the amount of the existing assessment and the proposed assessment increase.

(B) A general description of the purpose or improvements that the assessment will fund.

(C) The address to which property owners may mail a protest against the assessment.

(D) The phone number and address of an individual, office, or organization that interested persons may contact to receive additional information about the assessment.

(E) A statement that a majority protest will cause the assessment to be abandoned if the assessment act used to levy the assessment so provides. Notice shall also state the percentage of protests required to trigger an election, if applicable.

(F) The dates, times, and locations of the public meeting and hearing described in subdivision (a).

(G) A proposed assessment formula or range as described in subparagraph (D) of paragraph (1) of subdivision (a) if applicable and that is noticed pursuant to this section.

(3) Notwithstanding paragraph (1), in the case of an assessment that is proposed exclusively for operation and maintenance expenses imposed throughout the entire local agency, or exclusively for operation and maintenance assessments proposed to be levied on 50,000 parcels or more, notice may be provided pursuant to this subdivision or pursuant to paragraph (1) of subdivision (b) and shall include the estimated amount of the assessment of various types, amounts, or uses of property and the information required by subparagraphs (B) to (G), inclusive, of paragraph (2) of subdivision (c).

(4) Notwithstanding paragraph (1), in the case of an assessment proposed to be levied pursuant to Part 2 (commencing with Section 22500) of Division 2 of the Streets and Highways Code by a regional park district, regional park and open-space district, or regional open-space district formed pursuant to Article 3 (commencing with Section 5500) of Chapter 3 of Division 5 of, or pursuant to Division 26 (commencing with Section 35100) of, the Public Resources Code, notice may be provided pursuant to paragraph (1) of subdivision (b).

(d) The notice requirements imposed by this section shall be construed as additional to, and not to supersede, existing provisions of law, and shall be applied concurrently with the existing provisions so as to not delay or prolong the governmental decisionmaking process.

(e) This section shall not apply to any new or increased general tax or any new or increased assessment that requires an election of either of the following:

(1) The property owners subject to the assessment.

(2) The voters within the local agency imposing the tax or assessment.

(f) Nothing in this section shall prohibit a local agency from holding a consolidated meeting or hearing at which the legislative

body discusses multiple tax or assessment proposals.

(g) The local agency may recover the reasonable costs of public meetings, public hearings, and notice required by this section from the proceeds of the tax or assessment. The costs recovered for these purposes, whether recovered pursuant to this subdivision or any other provision of law, shall not exceed the reasonable costs of the public meetings, public hearings, and notice.

(h) Any new or increased assessment that is subject to the notice and hearing provisions of Article XIII C or XIII D of the California Constitution is not subject to the notice and hearing requirements of this section.

54955. The legislative body of a local agency may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting the clerk or secretary of the legislative body may declare the meeting adjourned to a stated time and place and he shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 for special meetings, unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule.

54955.1. Any hearing being held, or noticed or ordered to be held, by a legislative body of a local agency at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the legislative body in the same manner and to the same extent set forth in Section 54955 for the adjournment of meetings; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

54956. A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. The waiver may be given by

telegram. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public.

54956.5. (a) For purposes of this section, "emergency situation" means both of the following:

(1) An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the legislative body.

(2) A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring a legislative body to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by a majority of the members of the legislative body.

(b) (1) Subject to paragraph (2), in the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a legislative body may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement of Section 54956 or both of the notice and posting requirements.

(2) Each local newspaper of general circulation and radio or television station that has requested notice of special meetings pursuant to Section 54956 shall be notified by the presiding officer of the legislative body, or designee thereof, one hour prior to the emergency meeting, or, in the case of a dire emergency, at or near the time that the presiding officer or designee notifies the members of the legislative body of the emergency meeting. This notice shall be given by telephone and all telephone numbers provided in the most recent request of a newspaper or station for notification of special meetings shall be exhausted. In the event that telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the legislative body, or designee of the legislative body, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(c) During a meeting held pursuant to this section, the legislative body may meet in closed session pursuant to Section 54957 if agreed to by a two-thirds vote of the members of the legislative body present, or, if less than two-thirds of the members are present, by a unanimous vote of the members present.

(d) All special meeting requirements, as prescribed in Section 54956 shall be applicable to a meeting called pursuant to this section, with the exception of the 24-hour notice requirement.

(e) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the legislative body, or designee of the legislative body, notified or attempted to notify, a copy of the rollcall vote, and any actions taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

54956.6. No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as

specifically authorized by this chapter.

54956.7. Whenever a legislative body of a local agency determines that it is necessary to discuss and determine whether an applicant for a license or license renewal, who has a criminal record, is sufficiently rehabilitated to obtain the license, the legislative body may hold a closed session with the applicant and the applicant's attorney, if any, for the purpose of holding the discussion and making the determination. If the legislative body determines, as a result of the closed session, that the issuance or renewal of the license should be denied, the applicant shall be offered the opportunity to withdraw the application. If the applicant withdraws the application, no record shall be kept of the discussions or decisions made at the closed session and all matters relating to the closed session shall be confidential. If the applicant does not withdraw the application, the legislative body shall take action at the public meeting during which the closed session is held or at its next public meeting denying the application for the license but all matters relating to the closed session are confidential and shall not be disclosed without the consent of the applicant, except in an action by an applicant who has been denied a license challenging the denial of the license.

54956.75. (a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a legislative body of a local agency meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

54956.8. Notwithstanding any other provision of this chapter, a legislative body of a local agency may hold a closed session with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the local agency to grant authority to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its negotiators, the real property or real properties which the negotiations may concern, and the person or persons with whom its negotiators may negotiate.

For purposes of this section, negotiators may be members of the legislative body of the local agency.

For purposes of this section, "lease" includes renewal or renegotiation of a lease.

Nothing in this section shall preclude a local agency from holding a closed session for discussions regarding eminent domain proceedings pursuant to Section 54956.9.

54956.81. Notwithstanding any other provision of this chapter, a legislative body of a local agency that invests pension funds may hold a closed session to consider the purchase or sale of particular, specific pension fund investments. All investment transaction

decisions made during the closed session shall be made by rollcall vote entered into the minutes of the closed session as provided in subdivision (a) of Section 54957.2.

54956.86. Notwithstanding any other provision of this chapter, a legislative body of a local agency which provides services pursuant to Section 14087.3 of the Welfare and Institutions Code may hold a closed session to hear a charge or complaint from a member enrolled in its health plan if the member does not wish to have his or her name, medical status, or other information that is protected by federal law publicly disclosed. Prior to holding a closed session pursuant to this section, the legislative body shall inform the member, in writing, of his or her right to have the charge or complaint heard in an open session rather than a closed session.

54956.87. (a) Notwithstanding any other provision of this chapter, the records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulas or calculations for these payments, and contract negotiations with providers of health care for alternative rates are exempt from disclosure for a period of three years after the contract is fully executed. The transmission of the records, or the information contained therein in an alternative form, to the board of supervisors shall not constitute a waiver of exemption from disclosure, and the records and information once transmitted to the board of supervisors shall be subject to this same exemption.

(b) Notwithstanding any other provision of law, the governing board of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors may order that a meeting held solely for the purpose of discussion or taking action on health plan trade secrets, as defined in subdivision (f), shall be held in closed session. The requirements of making a public report of action taken in closed session, and the vote or abstention of every member present, may be limited to a brief general description without the information constituting the trade secret.

(c) Notwithstanding any other provision of law, the governing board of a health plan may meet in closed session to consider and take action on matters pertaining to contracts and contract negotiations by the health plan with providers of health care services concerning all matters related to rates of payment. The governing board may delete the portion or portions containing trade secrets from any documents that were finally approved in the closed session held pursuant to subdivision (b) that are provided to persons who have made the timely or standing request.

(d) Nothing in this section shall be construed as preventing the governing board from meeting in closed session as otherwise provided by law.

(e) The provisions of this section shall not prevent access to any records by the Joint Legislative Audit Committee in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2. The provisions of this section also shall not prevent access to any records by the

Department of Corporations in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

(f) For purposes of this section, "health plan trade secret" means a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that also meets both of the following criteria:

(1) The secrecy of the information is necessary for the health plan to initiate a new service, program, marketing strategy, business plan, or technology, or to add a benefit or product.

(2) Premature disclosure of the trade secret would create a substantial probability of depriving the health plan of a substantial economic benefit or opportunity.

54956.9. Nothing in this chapter shall be construed to prevent a legislative body of a local agency, based on advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the local agency in the litigation.

For purposes of this chapter, all expressions of the lawyer-client privilege other than those provided in this section are hereby abrogated. This section is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this chapter.

For purposes of this section, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

For purposes of this section, litigation shall be considered pending when any of the following circumstances exist:

(a) Litigation, to which the local agency is a party, has been initiated formally.

(b) (1) A point has been reached where, in the opinion of the legislative body of the local agency on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the local agency.

(2) Based on existing facts and circumstances, the legislative body of the local agency is meeting only to decide whether a closed session is authorized pursuant to paragraph (1) of this subdivision.

(3) For purposes of paragraphs (1) and (2), "existing facts and circumstances" shall consist only of one of the following:

(A) Facts and circumstances that might result in litigation against the local agency but which the local agency believes are not yet known to a potential plaintiff or plaintiffs, which facts and circumstances need not be disclosed.

(B) Facts and circumstances, including, but not limited to, an accident, disaster, incident, or transactional occurrence that might result in litigation against the agency and that are known to a potential plaintiff or plaintiffs, which facts or circumstances shall be publicly stated on the agenda or announced.

(C) The receipt of a claim pursuant to the Tort Claims Act or some other written communication from a potential plaintiff threatening litigation, which claim or communication shall be available for public inspection pursuant to Section 54957.5.

(D) A statement made by a person in an open and public meeting threatening litigation on a specific matter within the responsibility of the legislative body.

(E) A statement threatening litigation made by a person outside an open and public meeting on a specific matter within the responsibility of the legislative body so long as the official or employee of the local agency receiving knowledge of the threat makes a contemporaneous or other record of the statement prior to the

meeting, which record shall be available for public inspection pursuant to Section 54957.5. The records so created need not identify the alleged victim of unlawful or tortious sexual conduct or anyone making the threat on their behalf, or identify a public employee who is the alleged perpetrator of any unlawful or tortious conduct upon which a threat of litigation is based, unless the identity of the person has been publicly disclosed.

(F) Nothing in this section shall require disclosure of written communications that are privileged and not subject to disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(c) Based on existing facts and circumstances, the legislative body of the local agency has decided to initiate or is deciding whether to initiate litigation.

Prior to holding a closed session pursuant to this section, the legislative body of the local agency shall state on the agenda or publicly announce the subdivision of this section that authorizes the closed session. If the session is closed pursuant to subdivision

(a), the body shall state the title of or otherwise specifically identify the litigation to be discussed, unless the body states that to do so would jeopardize the agency's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

A local agency shall be considered to be a "party" or to have a "significant exposure to litigation" if an officer or employee of the local agency is a party or has significant exposure to litigation concerning prior or prospective activities or alleged activities during the course and scope of that office or employment, including litigation in which it is an issue whether an activity is outside the course and scope of the office or employment.

54956.95. (a) Nothing in this chapter shall be construed to prevent a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, for purposes of insurance pooling, or a local agency member of the joint powers agency, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the joint powers agency or a local agency member of the joint powers agency.

(b) Nothing in this chapter shall be construed to prevent the Local Agency Self-Insurance Authority formed pursuant to Chapter 5.5 (commencing with Section 6599.01) of Division 7 of Title 1, or a local agency member of the authority, from holding a closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by the authority or a local agency member of the authority.

(c) Nothing in this section shall be construed to affect Section 54956.9 with respect to any other local agency.

54956.96. (a) Nothing in this chapter shall be construed to prevent the legislative body of a joint powers agency formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1, from adopting a policy or a bylaw or including in its joint powers agreement provisions that authorize either or both of the following:

(1) All information received by the legislative body of the local agency member in a closed session related to the information presented to the joint powers agency in closed session shall be confidential. However, a member of the legislative body of a member

local agency may disclose information obtained in a closed session that has direct financial or liability implications for that local agency to the following individuals:

(A) Legal counsel of that member local agency for purposes of obtaining advice on whether the matter has direct financial or liability implications for that member local agency.

(B) Other members of the legislative body of the local agency present in a closed session of that member local agency.

(2) Any designated alternate member of the legislative body of the joint powers agency who is also a member of the legislative body of a local agency member and who is attending a properly noticed meeting of the joint powers agency in lieu of a local agency member's regularly appointed member to attend closed sessions of the joint powers agency.

(b) If the legislative body of a joint powers agency adopts a policy or a bylaw or includes provisions in its joint powers agreement pursuant to subdivision (a), then the legislative body of the local agency member, upon the advice of its legal counsel, may conduct a closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the joint powers agency pursuant to paragraph (1) of subdivision (a).

54957. (a) Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or a threat to the public's right of access to public services or public facilities.

(b) (1) Subject to paragraph (2), nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, discipline, or dismissal of a public employee or to hear complaints or charges brought against the employee by another person or employee unless the employee requests a public session.

(2) As a condition to holding a closed session on specific complaints or charges brought against an employee by another person or employee, the employee shall be given written notice of his or her right to have the complaints or charges heard in an open session rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding the session. If notice is not given, any disciplinary or other action taken by the legislative body against the employee based on the specific complaints or charges in the closed session shall be null and void.

(3) The legislative body also may exclude from the public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

(4) For the purposes of this subdivision, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee but shall not include any elected official, member of a legislative body or other independent contractors. Nothing in this subdivision shall limit local officials' ability to hold closed session meetings pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code. Closed sessions held pursuant to this subdivision shall not include discussion or action on proposed compensation except for a reduction of compensation that results from

the imposition of discipline.

54957.1. (a) The legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action of every member present, as follows:

(1) Approval of an agreement concluding real estate negotiations pursuant to Section 54956.8 shall be reported after the agreement is final, as follows:

(A) If its own approval renders the agreement final, the body shall report that approval and the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with the other party to the negotiations, the local agency shall disclose the fact of that approval and the substance of the agreement upon inquiry by any person, as soon as the other party or its agent has informed the local agency of its approval.

(2) Approval given to its legal counsel to defend, or seek or refrain from seeking appellate review or relief, or to enter as an amicus curiae in any form of litigation as the result of a consultation under Section 54956.9 shall be reported in open session at the public meeting during which the closed session is held. The report shall identify, if known, the adverse party or parties and the substance of the litigation. In the case of approval given to initiate or intervene in an action, the announcement need not identify the action, the defendants, or other particulars, but shall specify that the direction to initiate or intervene in an action has been given and that the action, the defendants, and the other particulars shall, once formally commenced, be disclosed to any person upon inquiry, unless to do so would jeopardize the agency's ability to effectuate service of process on one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(3) Approval given to its legal counsel of a settlement of pending litigation, as defined in Section 54956.9, at any stage prior to or during a judicial or quasi-judicial proceeding shall be reported after the settlement is final, as follows:

(A) If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

(B) If final approval rests with some other party to the litigation or with the court, then as soon as the settlement becomes final, and upon inquiry by any person, the local agency shall disclose the fact of that approval, and identify the substance of the agreement.

(4) Disposition reached as to claims discussed in closed session pursuant to Section 54956.95 shall be reported as soon as reached in a manner that identifies the name of the claimant, the name of the local agency claimed against, the substance of the claim, and any monetary amount approved for payment and agreed upon by the claimant.

(5) Action taken to appoint, employ, dismiss, accept the resignation of, or otherwise affect the employment status of a public employee in closed session pursuant to Section 54957 shall be reported at the public meeting during which the closed session is held. Any report required by this paragraph shall identify the title of the position. The general requirement of this paragraph notwithstanding, the report of a dismissal or of the nonrenewal of an employment contract shall be deferred until the first public meeting following the exhaustion of administrative remedies, if any.

(6) Approval of an agreement concluding labor negotiations with represented employees pursuant to Section 54957.6 shall be reported

after the agreement is final and has been accepted or ratified by the other party. The report shall identify the item approved and the other party or parties to the negotiation.

(7) Pension fund investment transaction decisions made pursuant to Section 54956.81 shall be disclosed at the first open meeting of the legislative body held after the earlier of the close of the investment transaction or the transfer of pension fund assets for the investment transaction.

(b) Reports that are required to be made pursuant to this section may be made orally or in writing. The legislative body shall provide to any person who has submitted a written request to the legislative body within 24 hours of the posting of the agenda, or to any person who has made a standing request for all documentation as part of a request for notice of meetings pursuant to Section 54954.1 or 54956, if the requester is present at the time the closed session ends, copies of any contracts, settlement agreements, or other documents that were finally approved or adopted in the closed session. If the action taken results in one or more substantive amendments to the related documents requiring retyping, the documents need not be released until the retyping is completed during normal business hours, provided that the presiding officer of the legislative body or his or her designee orally summarizes the substance of the amendments for the benefit of the document requester or any other person present and requesting the information.

(c) The documentation referred to in subdivision (b) shall be available to any person on the next business day following the meeting in which the action referred to is taken or, in the case of substantial amendments, when any necessary retyping is complete.

(d) Nothing in this section shall be construed to require that the legislative body approve actions not otherwise subject to legislative body approval.

(e) No action for injury to a reputational, liberty, or other personal interest may be commenced by or on behalf of any employee or former employee with respect to whom a disclosure is made by a legislative body in an effort to comply with this section.

(f) This section is necessary to implement, and reasonably within the scope of, paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

54957.2. (a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all or a majority of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

54957.5. (a) Notwithstanding Section 6255 or any other provisions

of law, agendas of public meetings and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

(b) (1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's Internet Web site in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(3) This subdivision shall become operative on July 1, 2008.

(c) Writings that are public records under subdivision (a) and that are distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) Nothing in this chapter shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1). Nothing in this chapter shall be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

54957.6. (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its

position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

54957.7. (a) Prior to holding any closed session, the legislative body of the local agency shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. In the closed session, the legislative body may consider only those matters covered in its statement. Nothing in this section shall require or authorize a disclosure of information prohibited by state or federal law.

(b) After any closed session, the legislative body shall reconvene into open session prior to adjournment and shall make any disclosures required by Section 54957.1 of action taken in the closed session.

(c) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements.

54957.8. (a) For purposes of this section, "multijurisdictional law enforcement agency" means a joint powers entity formed pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that provides law enforcement services for the parties to the joint powers agreement for the purpose of investigating criminal activity involving drugs; gangs; sex crimes; firearms trafficking or felony possession of a firearm; high technology, computer, or identity theft; human trafficking; or vehicle theft.

(b) Nothing contained in this chapter shall be construed to prevent the legislative body of a multijurisdictional law enforcement agency, or an advisory body of a multijurisdictional law enforcement agency, from holding closed sessions to discuss the case records of any ongoing criminal investigation of the multijurisdictional law enforcement agency or of any party to the joint powers agreement, to hear testimony from persons involved in the investigation, and to discuss courses of action in particular cases.

54957.9. In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting, the members of the legislative body conducting the meeting may order the meeting room cleared and continue in session. Only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section. Nothing in this section shall prohibit the legislative body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting.

54957.10. Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions to discuss a local agency employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan.

54958. The provisions of this chapter shall apply to the legislative body of every local agency notwithstanding the conflicting provisions of any other state law.

54959. Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.

54960. (a) The district attorney or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body, or to determine whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the legislative body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 54956.7, 54956.8, 54956.9, 54956.95, 54957, or 54957.6, order the legislative body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by either the district attorney or the plaintiff in a civil action pursuant to Section 54959, 54960, or 54960.1 alleging that a violation of this chapter has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this chapter, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

54960.1. (a) The district attorney or any interested person may commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that an action taken by a legislative body of a local agency in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 is null and void under this section. Nothing in this chapter shall be construed to prevent a legislative body from curing or correcting an action challenged pursuant to this section.

(b) Prior to any action being commenced pursuant to subdivision (a), the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5. The demand shall be in writing and clearly describe the challenged action of the legislative body and nature of the alleged violation.

(c) (1) The written demand shall be made within 90 days from the date the action was taken unless the action was taken in an open session but in violation of Section 54954.2, in which case the written demand shall be made within 30 days from the date the action was taken.

(2) Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

(3) If the legislative body takes no action within the 30-day period, the inaction shall be deemed a decision not to cure or correct the challenged action, and the 15-day period to commence the action described in subdivision (a) shall commence to run the day

after the 30-day period to cure or correct expires.

(4) Within 15 days of receipt of the written notice of the legislative body's decision to cure or correct, or not to cure or correct, or within 15 days of the expiration of the 30-day period to cure or correct, whichever is earlier, the demanding party shall be required to commence the action pursuant to subdivision (a) or thereafter be barred from commencing the action.

(d) An action taken that is alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in substantial compliance with Sections 54953, 54954.2, 54954.5, 54954.6, 54956, and 54956.5.

(2) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement thereto.

(3) The action taken gave rise to a contractual obligation, including a contract let by competitive bid other than compensation for services in the form of salary or fees for professional services, upon which a party has, in good faith and without notice of a challenge to the validity of the action, detrimentally relied.

(4) The action taken was in connection with the collection of any tax.

(5) Any person, city, city and county, county, district, or any agency or subdivision of the state alleging noncompliance with subdivision (a) of Section 54954.2, Section 54956, or Section 54956.5, because of any defect, error, irregularity, or omission in the notice given pursuant to those provisions, had actual notice of the item of business at least 72 hours prior to the meeting at which the action was taken, if the meeting was noticed pursuant to Section 54954.2, or 24 hours prior to the meeting at which the action was taken if the meeting was noticed pursuant to Section 54956, or prior to the meeting at which the action was taken if the meeting is held pursuant to Section 54956.5.

(e) During any action seeking a judicial determination pursuant to subdivision (a) if the court determines, pursuant to a showing by the legislative body that an action alleged to have been taken in violation of Section 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5 has been cured or corrected by a subsequent action of the legislative body, the action filed pursuant to subdivision (a) shall be dismissed with prejudice.

(f) The fact that a legislative body takes a subsequent action to cure or correct an action taken pursuant to this section shall not be construed or admissible as evidence of a violation of this chapter.

54960.5. A court may award court costs and reasonable attorney fees to the plaintiff in an action brought pursuant to Section 54960 or 54960.1 where it is found that a legislative body of the local agency has violated this chapter. The costs and fees shall be paid by the local agency and shall not become a personal liability of any public officer or employee of the local agency.

A court may award court costs and reasonable attorney fees to a defendant in any action brought pursuant to Section 54960 or 54960.1 where the defendant has prevailed in a final determination of such action and the court finds that the action was clearly frivolous and totally lacking in merit.

54961. (a) No legislative body of a local agency shall conduct any meeting in any facility that prohibits the admittance of any person,

or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or which is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. This section shall apply to every local agency as defined in Section 54951.

(b) No notice, agenda, announcement, or report required under this chapter need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed.

54962. Except as expressly authorized by this chapter, or by Sections 1461, 1462, 32106, and 32155 of the Health and Safety Code, or by Sections 37606, 37606.1, and 37624.3 of the Government Code as they apply to hospitals, or by any provision of the Education Code pertaining to school districts and community college districts, no closed session may be held by any legislative body of any local agency.

54963. (a) A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.

(b) For purposes of this section, "confidential information" means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grandjury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit

disclosures under the whistleblower statutes contained in Section 1102.5 of the Labor Code or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.

BILL NUMBER: ABX1 26      CHAPTERED  
BILL TEXT

CHAPTER 5  
FILED WITH SECRETARY OF STATE    JUNE 29, 2011  
APPROVED BY GOVERNOR    JUNE 28, 2011  
PASSED THE SENATE    JUNE 15, 2011  
PASSED THE ASSEMBLY    JUNE 15, 2011  
AMENDED IN SENATE    JUNE 14, 2011

INTRODUCED BY    Assembly Member Blumenfield

MAY 19, 2011

An act to amend Sections 33500, 33501, 33607.5, and 33607.7 of, and to add Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) to Division 24 of, the Health and Safety Code, and to add Sections 97.401 and 98.2 to the Revenue and Taxation Code, relating to redevelopment, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 26, Blumenfield. Community redevelopment.

(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law provides that an action may be brought to review the validity of the adoption or amendment of a redevelopment plan by an agency, to review the validity of agency findings or determinations, and other agency actions.

This bill would revise the provisions of law authorizing an action to be brought against the agency to determine or review the validity of specified agency actions.

(2) Existing law also requires that if an agency ceases to function, any surplus funds existing after payment of all obligations and indebtedness vest in the community.

The bill would suspend various agency activities and prohibit agencies from incurring indebtedness commencing on the effective date of this act. Effective October 1, 2011, the bill would dissolve all redevelopment agencies and community development agencies in existence and designate successor agencies, as defined, as successor entities. The bill would impose various requirements on the successor agencies and subject successor agency actions to the review of oversight boards, which the bill would establish.

The bill would require county auditor-controllers to conduct an agreed-upon procedures audit of each former redevelopment agency by March 1, 2012. The bill would require the county auditor-controller to determine the amount of property taxes that would have been allocated to each redevelopment agency if the agencies had not been dissolved and deposit this amount in a Redevelopment Property Tax Trust Fund in the county. Revenues in the trust fund would be allocated to various taxing entities in the county and to cover specified expenses of the former agency. By imposing additional duties upon local public officials, the bill would create a state-mandated local program.

(3) The bill would prohibit a redevelopment agency from issuing new bonds, notes, interim certificates, debentures, or other obligations if any legal challenge to invalidate a provision of this act is successful.

(4) The bill would appropriate \$500,000 to the Department of Finance from the General Fund for administrative costs associated with the bill.

(5) The bill would provide that its provisions take effect only if specified legislation is enacted in the 2011-12 First Extraordinary Session of the Legislature.

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

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

(7) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency

exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(8) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.  
Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) The economy and the residents of this state are slowly recovering from the worst recession since the Great Depression.

(b) State and local governments are still facing incredibly significant declines in revenues and increased need for core governmental services.

(c) Local governments across this state continue to confront difficult choices and have had to reduce fire and police protection among other services.

(d) Schools have faced reductions in funding that have caused school districts to increase class size and layoff teachers, as well as make other hurtful cuts.

(e) Redevelopment agencies have expanded over the years in this state. The expansion of redevelopment agencies has increasingly shifted property taxes away from services provided to schools, counties, special districts, and cities.

(f) Redevelopment agencies take in approximately 12 percent of all of the property taxes collected across this state.

(g) It is estimated that under current law, redevelopment agencies will divert \$5 billion in property tax revenue from other taxing agencies in the 2011-12 fiscal year.

(h) The Legislature has all legislative power not explicitly restricted to it. The California Constitution does not require that redevelopment agencies must exist and, unlike other entities such as counties, does not limit the Legislature's control over that existence. Redevelopment agencies were created by statute and can therefore be dissolved by statute.

(i) Upon their dissolution, any property taxes that would have been allocated to redevelopment agencies will no longer be deemed tax increment. Instead, those taxes will be deemed property tax revenues and will be allocated first to successor agencies to make payments on the indebtedness incurred by the dissolved redevelopment agencies, with remaining balances allocated in accordance with applicable constitutional and statutory provisions.

(j) It is the intent of the Legislature to do all of the following in this act:

(1) Bar existing redevelopment agencies from incurring new obligations, prior to their dissolution.

(2) Allocate property tax revenues to successor agencies for making payments on indebtedness incurred by the redevelopment agency prior to its dissolution and allocate remaining balances in accordance with applicable constitutional and statutory provisions.

(3) Beginning October 1, 2011, allocate these funds according to the existing property tax allocation within each county to make the funds available for cities, counties, special districts, and school and community college districts.

(4) Require successor agencies to expeditiously wind down the affairs of the dissolved redevelopment agencies and to provide the successor agencies with limited authority that extends only to the extent needed to implement a winddown of redevelopment agency affairs.

SEC. 2. Section 33500 of the Health and Safety Code is amended to read:

33500. (a) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within 90 days after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred prior to January 1, 2011.

(b) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within 90 days after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred prior to January 1, 2011.

(c) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within two years after

the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred after January 1, 2011.

(d) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within two years after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred after January 1, 2011.

SEC. 3. Section 33501 of the Health and Safety Code is amended to read:

33501. (a) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including without limiting the generality of the foregoing, the legality and validity of all proceedings theretofore taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds, and for the payment of the principal thereof and interest thereon.

(b) Notwithstanding subdivision (a), an action to determine the validity of a redevelopment plan, or amendment to a redevelopment plan that was adopted prior to January 1, 2011, may be brought within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(c) Any action that is commenced on or after January 1, 2011, which is brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity or legality of any issue, document, or action described in subdivision (a), may be brought within two years after any triggering event that occurred after January 1, 2011.

(d) For the purposes of protecting the interests of the state, the Attorney General and the Department of Finance are interested persons pursuant to Section 863 of the Code of Civil Procedure in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

(e) For purposes of contesting the inclusion in a project area of lands that are enforceably restricted, as that term is defined in Sections 422 and 422.5 of the Revenue and Taxation Code, or lands that are in agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, the Department of Conservation, the county agricultural commissioner, the county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice, are interested persons pursuant to Section 863 of the Code of Civil Procedure, in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

SEC. 4. Section 33607.5 of the Health and Safety Code is amended to read:

33607.5. (a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan which contains the provisions required by Section 33670, is either: (A) adopted on or after January 1, 1994, including later amendments to these redevelopment plans; or (B) adopted prior to January 1, 1994, but amended, after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 has been deducted from the total amount of tax increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. The payments made pursuant to this section to the affected taxing entities, including the community, shall be allocated among the affected taxing entities, including the community if the community elects to receive payments, in proportion to the percentage share of property taxes each affected taxing entity, including the community, receives during the fiscal year the funds are allocated, which percentage share shall be

determined without regard to any amounts allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code, and without regard to any allocation reductions to a city, a city and county, a county, a special district, or a redevelopment agency pursuant to Sections 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and Section 33681.12. The agency shall reduce its payments pursuant to this section to an affected taxing entity by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, 33445.6, 33446, or any other provision of law other than this section for, or in connection with, a public facility owned or leased by that affected taxing agency, except: (A) any amounts the agency has paid directly or indirectly pursuant to an agreement with a taxing entity adopted prior to January 1, 1994; or (B) any amounts that are unrelated to the specific project area or amendment governed by this section. The reduction in a payment by an agency to a school district, community college district, or county office of education, or for special education, shall be subtracted only from the amount that otherwise would be available for use by those entities for educational facilities pursuant to paragraph (4). If the amount of the reduction exceeds the amount that otherwise would have been available for use for educational facilities in any one year, the agency shall reduce its payment in more than one year.

(3) If an agency reduces its payment to a school district, community college district, or county office of education, or for special education, the agency shall do all of the following:

(A) Determine the amount of the total payment that would have been made without the reduction.

(B) Determine the amount of the total payment without the reduction which: (i) would have been considered property taxes; and (ii) would have been available to be used for educational facilities pursuant to paragraph (4).

(C) Reduce the amount available to be used for educational facilities.

(D) Send the payment to the school district, community college district, or county office of education, or for special education, with a statement that the payment is being reduced and including the calculation required by this subdivision showing the amount to be considered property taxes and the amount, if any, available for educational facilities.

(4) (A) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to school districts, 43.3 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 56.7 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011-12 fiscal year through the 2015-16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(B) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011-12 fiscal year through the 2015-16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(C) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of Section 2558 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011-12 fiscal year through the 2015-16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(D) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section for special education, 19 percent shall be considered to be property taxes for the purposes of Section 56712 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities, including, in the case of amounts paid during the 2011-12 fiscal year through the 2015-16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance.

(E) If, pursuant to paragraphs (2) and (3), an agency reduces its payments to an educational entity, the calculation made by the agency pursuant to paragraph (3) shall determine the amount considered to be property taxes and the amount available to be used for educational facilities in the year the reduction was made.

(5) Local education agencies that use funds received pursuant to this section for school facilities shall spend these funds at schools that are: (A) within the project area, (B) attended by students from the project area, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, or (D) determined by the governing board of a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, including the community if the community elects to receive a payment, an amount equal to 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. In any fiscal year in which the agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive the amount authorized by this paragraph.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivision (b) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 21 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment revenues.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivisions (b) and (c) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 14 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) Prior to incurring any loans, bonds, or other indebtedness, except loans or advances from the community, the agency may subordinate to the loans, bonds, or other indebtedness the amount required to be paid to an affected taxing entity by this section, provided that the affected taxing entity has approved these subordinations pursuant to this subdivision.

(2) At the time the agency requests an affected taxing entity to subordinate the amount to be paid to it, the agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service and the payments required by this section, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the agency will not be able to pay the debt payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(f) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected taxing entities may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected taxing entities during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment

agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected taxing entities, or to pay for public facilities that will be owned or leased to an affected taxing entity.

(g) As used in this section, a "local education agency" is a school district, a community college district, or a county office of education.

SEC. 5. Section 33607.7 of the Health and Safety Code is amended to read:

33607.7. (a) This section shall apply to a redevelopment plan amendment for any redevelopment plans adopted prior to January 1, 1994, that increases the limitation on the number of dollars to be allocated to the redevelopment agency or that increases, or eliminates pursuant to paragraph (1) of subdivision (e) of Section 33333.6, the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 33333.6, as those paragraphs read on December 31, 2001, or that lengthens the period during which the redevelopment plan is effective if the redevelopment plan being amended contains the provisions required by subdivision (b) of Section 33670. However, this section shall not apply to those redevelopment plans that add new territory.

(b) If a redevelopment agency adopts an amendment that is governed by the provisions of this section, it shall pay to each affected taxing entity either of the following:

(1) If an agreement exists that requires payments to the taxing entity, the amount required to be paid by an agreement between the agency and an affected taxing entity entered into prior to January 1, 1994.

(2) If an agreement does not exist, the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5, until termination of the redevelopment plan, calculated against the amount of assessed value by which the current year assessed value exceeds an adjusted base year assessed value. The amounts shall be allocated between property taxes and educational facilities, including, in the case of amounts paid during the 2011-12 fiscal year through the 2015-16 fiscal year, inclusive, land acquisition, facility construction, reconstruction, remodeling, maintenance, or deferred maintenance, according to the appropriate formula in paragraph (3) of subdivision (a) of Section 33607.5. In determining the applicable amount under Section 33607.5, the first fiscal year shall be the first fiscal year following the fiscal year in which the adjusted base year value is determined.

(c) The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment. The agency shall commence making these payments pursuant to the terms of the agreement, if applicable, or, if an agreement does not exist, in the first fiscal year following the fiscal year in which the adjusted base year value is determined.

SEC. 6. Part 1.8 (commencing with Section 34161) is added to Division 24 of the Health and Safety Code, to read:

#### PART 1.8. RESTRICTIONS ON REDEVELOPMENT AGENCY OPERATIONS

#### CHAPTER 1. SUSPENSION OF AGENCY ACTIVITIES AND PROHIBITION ON CREATION OF NEW DEBTS

34161. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, no agency shall incur new or expand existing monetary or legal obligations except as provided in this part. All of the provisions of this part shall take effect and be operative on the effective date of the act adding this part.

34162. (a) Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this act, an agency shall be unauthorized and shall not take any action to incur indebtedness, including, but not limited to, any of the following:

(1) Issue or sell bonds, for any purpose, regardless of the source

of repayment of the bonds. As used in this section, the term "bonds," includes, but is not limited to, any bonds, notes, bond anticipation notes, interim certificates, debentures, certificates of participation, refunding bonds, or other obligations issued by an agency pursuant to Part 1 (commencing with Section 33000), and Section 53583 of the Government Code, pursuant to any charter city authority or any revenue bond law.

(2) Incur indebtedness payable from prohibited sources of payment, which include, but are not limited to, income and revenues of an agency's redevelopment projects, taxes allocated to the agency, taxes imposed by the agency pursuant to Section 7280.5 of the Revenue and Taxation Code, assessments imposed by the agency, loan repayments made to the agency pursuant to Section 33746, fees or charges imposed by the agency, other revenues of the agency, and any contributions or other financial assistance from the state or federal government.

(3) Refund, restructure, or refinance indebtedness or obligations that existed as of January 1, 2011, including, but not limited to, any of the following:

(A) Refund bonds previously issued by the agency or by another political subdivision of the state, including, but not limited to, those issued by a city, a housing authority, or a nonprofit corporation acting on behalf of a city or a housing authority.

(B) Exercise the right of optional redemption of any of its outstanding bonds or elect to purchase any of its own outstanding bonds.

(C) Modify or amend the terms and conditions, payment schedules, amortization or maturity dates of any of the agency's bonds or other obligations that are outstanding or exist as of January 1, 2011.

(4) Take out or accept loans or advances, for any purpose, from the state or the federal government, any other public agency, or any private lending institution, or from any other source. For purposes of this section, the term "loans" include, but are not limited to, agreements with the community or any other entity for the purpose of refinancing a redevelopment project and moneys advanced to the agency by the community or any other entity for the expenses of redevelopment planning, expenses for dissemination of redevelopment information, other administrative expenses, and overhead of the agency.

(5) Execute trust deeds or mortgages on any real or personal property owned or acquired by it.

(6) Pledge or encumber, for any purpose, any of its revenues or assets. As used in this part, an agency's "revenues and assets" include, but are not limited to, agency tax revenues, redevelopment project revenues, other agency revenues, deeds of trust and mortgages held by the agency, rents, fees, charges, moneys, accounts receivable, contracts rights, and other rights to payment of whatever kind or other real or personal property. As used in this part, to "pledge or encumber" means to make a commitment of, by the grant of a lien on and a security interest in, an agency's revenues or assets, whether by resolution, indenture, trust agreement, loan agreement, lease, installment sale agreement, reimbursement agreement, mortgage, deed of trust, pledge agreement, or similar agreement in which the pledge is provided for or created.

(b) Any actions taken that conflict with this section are void from the outset and shall have no force or effect.

(c) Notwithstanding subdivision (a), a redevelopment agency may issue refunding bonds, which are referred to in this part as Emergency Refunding Bonds, only where all of the following conditions are met:

(1) The issuance of Emergency Refunding Bonds is the only means available to the agency to avoid a default on outstanding agency bonds.

(2) Both the county treasurer and the Treasurer have approved the issuance of Emergency Refunding Bonds.

(3) Emergency Refunding Bonds are issued only to provide funds for any single debt service payment that is due prior to October 1, 2011, and that is more than 20 percent larger than a level debt service payment would be for that bond.

(4) The principal amount of outstanding agency bonds is not increased.

34163. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following:

(a) Make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose, including, but not limited to, all of the following:

(1) Loans of moneys or any other thing of value or commitments to provide financing to nonprofit organizations to provide those organizations with financing for the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing or the acquisition of commercial property for lease, each pursuant to Chapter 7.5 (commencing with Section 33741) of Part 1.

(2) Loans of moneys or any other thing of value for residential construction, improvement, or rehabilitation pursuant to Chapter 8 (commencing with Section 33750) of Part 1. These include, but are not limited to, construction loans to purchasers of residential housing, mortgage loans to purchasers of residential housing, and loans to mortgage lenders, or any other entity, to aid in financing pursuant to Chapter 8 (commencing with Section 33750).

(3) The purchase, by an agency, of mortgage or construction loans from mortgage lenders or from any other entities.

(b) Enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private, or any individual or groups of individuals for any purpose, including, but not limited to, loan agreements, passthrough agreements, regulatory agreements, services contracts, leases, disposition and development agreements, joint exercise of powers agreements, contracts for the purchase of capital equipment, agreements for redevelopment activities, including, but not limited to, agreements for planning, design, redesign, development, demolition, alteration, construction, reconstruction, rehabilitation, site remediation, site development or improvement, removal of graffiti, land clearance, and seismic retrofits.

(c) Amend or modify existing agreements, obligations, or commitments with any entity, for any purpose, including, but not limited to, any of the following:

(1) Renewing or extending term of leases or other agreements, except that the agency may extend lease space for its own use to a date not to exceed six months after the effective date of the act adding this part and for a rate no more than 5 percent above the rate the agency currently pays on a monthly basis.

(2) Modifying terms and conditions of existing agreements, obligations, or commitments.

(3) Forgiving all or any part of the balance owed to the agency on existing loans or extend the term or change the terms and conditions of existing loans.

(4) Increasing its deposits to the Low and Moderate Income Housing Fund created pursuant to Section 33334.3 beyond the minimum level that applied to it as of January 1, 2011.

(5) Transferring funds out of the Low and Moderate Income Housing Fund, except to meet the minimum housing-related obligations that existed as of January 1, 2011, to make required payments under Sections 33690 and 33690.5, and to borrow funds pursuant to Section 34168.5.

(d) Dispose of assets by sale, long-term lease, gift, grant, exchange, transfer, assignment, or otherwise, for any purpose, including, but not limited to, any of the following:

(1) Assets, including, but not limited to, real property, deeds of trust, and mortgages held by the agency, moneys, accounts receivable, contract rights, proceeds of insurance claims, grant proceeds, settlement payments, rights to receive rents, and any other rights to payment of whatever kind.

(2) Real property, including, but not limited to, land, land under water and waterfront property, buildings, structures, fixtures, and improvements on the land, any property appurtenant to, or used in connection with, the land, every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens.

(e) Acquire real property by any means for any purpose, including, but not limited to, the purchase, lease, or exercising of an option to purchase or lease, exchange, subdivide, transfer, assume, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise acquire any real property, any interest in real property, and any improvements on it, including the repurchase of developed property previously owned by the agency and the acquisition of real property by eminent domain; provided, however, that nothing in this subdivision is intended to prohibit the acceptance or transfer of title for real property acquired prior to the effective date of this part.

(f) Transfer, assign, vest, or delegate any of its assets, funds, rights, powers, ownership interests, or obligations for any purpose to any entity, including, but not limited to, the community, the legislative body, another member of a joint powers authority, a trustee, a receiver, a partner entity, another agency, a nonprofit corporation, a contractual counterparty, a public body, a

limited-equity housing cooperative, the state, a political subdivision of the state, the federal government, any private entity, or an individual or group of individuals.

(g) Accept financial or other assistance from the state or federal government or any public or private source if the acceptance necessitates or is conditioned upon the agency incurring indebtedness that term is described in this part.

34164. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, engage in any of the following redevelopment activities:

(a) Prepare, approve, adopt, amend, or merge a redevelopment plan, including, but not limited to, modifying, extending, or otherwise changing the time limits on the effectiveness of a redevelopment plan.

(b) Create, designate, merge, expand, or otherwise change the boundaries of a project area.

(c) Designate a new survey area or modify, extend, or otherwise change the boundaries of an existing survey area.

(d) Approve or direct or cause the approval of any program, project, or expenditure where approval is not required by law.

(e) Prepare, formulate, amend, or otherwise modify a preliminary plan or cause the preparation, formulation, modification, or amendment of a preliminary plan.

(f) Prepare, formulate, amend, or otherwise modify an implementation plan or cause the preparation, formulation, modification, or amendment of an implementation plan.

(g) Prepare, formulate, amend, or otherwise modify a relocation plan or cause the preparation, formulation, modification, or amendment of a relocation plan where approval is not required by law.

(h) Prepare, formulate, amend, or otherwise modify a redevelopment housing plan or cause the preparation, formulation, modification, or amendment of a redevelopment housing plan.

(i) Direct or cause the development, rehabilitation, or construction of housing units within the community, unless required to do so by an enforceable obligation.

(j) Make or modify a declaration or finding of blight, blighted areas, or slum and blighted residential areas.

(k) Make any new findings or declarations that any areas of blight cannot be remedied or redeveloped by private enterprise alone.

(l) Provide or commit to provide relocation assistance, except where the provision of relocation assistance is required by law.

(m) Provide or commit to provide financial assistance.

34165. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall lack the authority to, and shall not, do any of the following:

(a) Enter into new partnerships, become a member in a joint powers authority, form a joint powers authority, create new entities, or become a member of any entity of which it is not currently a member, nor take on nor agree to any new duties or obligations as a member or otherwise of any entity to which the agency belongs or with which it is in any way associated.

(b) Impose new assessments pursuant to Section 7280.5 of the Revenue and Taxation Code.

(c) Increase the pay, benefits, or contributions of any sort for any officer, employee, consultant, contractor, or any other goods or service provider that had not previously been contracted.

(d) Provide optional or discretionary bonuses to any officers, employees, consultants, contractors, or any other service or goods providers.

(e) Increase numbers of staff employed by the agency beyond the number employed as of January 1, 2011.

(f) Bring an action pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of revenue bonds under this chapter and the legality and validity of all proceedings previously taken or proposed in a resolution of an agency to be taken for the authorization, issuance, sale, and delivery of the revenue bonds and for the payment of the principal thereof and interest thereon.

(g) Begin any condemnation proceeding or begin the process to acquire real property by eminent domain.

(h) Prepare or have prepared a draft environmental impact report. This subdivision shall not alter or eliminate any requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

34166. No legislative body or local governmental entity shall have any statutory authority to create or otherwise establish a new redevelopment agency or community development commission. No chartered city or chartered county shall exercise the powers granted in Part 1 (commencing with Section 33000) to create or otherwise establish a redevelopment agency.

34167. (a) This part is intended to preserve, to the maximum extent possible, the revenues and assets of redevelopment agencies so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools. It is the intent of the Legislature that redevelopment agencies take no actions that would further deplete the corpus of the agencies' funds regardless of their original source. All provisions of this part shall be construed as broadly as possible to support this intent and to restrict the expenditure of funds to the fullest extent possible.

(b) For purposes of this part, "agency" or "redevelopment agency" means a redevelopment agency created or formed pursuant to Part 1 (commencing with Section 33000) or its predecessor or a community development commission created or formed pursuant to Part 1.7 (commencing with Section 34100) or its predecessor.

(c) Nothing in this part in any way impairs the authority of a community development commission, other than in its authority to act as a redevelopment agency, to take any actions in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates.

(d) For purposes of this part, "enforceable obligation" means any of the following:

(1) Bonds, as defined by Section 33602 and bonds issued pursuant to Section 5850 of the Government Code, including the required debt service, reserve set-asides and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the redevelopment agency.

(2) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, including, but not limited to, moneys borrowed from the Low and Moderate Income Housing Fund, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(3) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, and unemployment payments.

(4) Judgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183. Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.

(5) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy.

(6) Contracts or agreements necessary for the continued administration or operation of the redevelopment agency to the extent permitted by this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(e) To the extent that any provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) conflicts with this part, the provisions of this part shall control. Further, if any provision in Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) provides an authority that this part is restricting or eliminating, the restriction and elimination provisions of this part shall control.

(f) Nothing in this part shall be construed to interfere with a redevelopment agency's authority, pursuant to enforceable obligations as defined in this chapter, to (1) make payments due, (2) enforce existing covenants and obligations, or (3) perform its obligations.

(g) The existing terms of any memorandum of understanding with an employee organization representing employees of a redevelopment agency adopted pursuant to the Meyers-Milias-Brown Act that is in force on the effective date of this part shall continue in force until September 30, 2011, unless a new agreement is reached with a recognized employee organization prior to that date.

(h) After the enforceable obligation payment schedule is adopted pursuant to Section 34169, or after 60 days from the effective date of this part, whichever is sooner, the agency shall not make a payment unless it is listed in an adopted enforceable obligation payment schedule, other than payments required to meet obligations with respect to bonded indebtedness.

(i) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(j) For purposes of this part, "auditor-controller" means the officer designated in subdivision (e) of Section 24000 of the Government Code.

34167.5. Commencing on the effective date of the act adding this part, the Controller shall review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency. If such an asset transfer did occur during that period and the government agency that received the assets is not contractually committed to a third party for the expenditure or encumbrance of those assets, to the extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). Upon receiving such an order from the Controller, an affected local agency shall, as soon as practicable, reverse the transfer and return the applicable assets to the redevelopment agency or, on or after October 1, 2011, to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170). The Legislature hereby finds that a transfer of assets by a redevelopment agency during the period covered in this section is deemed not to be in the furtherance of the Community Redevelopment Law and is thereby unauthorized.

34168. (a) Notwithstanding any other law, any action contesting the validity of this part or Part 1.85 (commencing with Section 34170) or challenging acts taken pursuant to these parts shall be brought in the Superior Court of the County of Sacramento.

(b) If any provision of this part or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end, the provisions of this part are severable.

#### CHAPTER 2. REDEVELOPMENT AGENCY RESPONSIBILITIES

34169. Until successor agencies are authorized pursuant to Part 1.85 (commencing with Section 34170), redevelopment agencies shall do all of the following:

(a) Continue to make all scheduled payments for enforceable obligations, as defined in subdivision (d) of Section 34167.

(b) Perform obligations required pursuant to any enforceable obligations, including, but not limited to, observing covenants for continuing disclosure obligations and those aimed at preserving the tax-exempt status of interest payable on any outstanding agency bonds.

(c) Set aside or maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Consistent with the intent declared in subdivision (a) of Section 34167, preserve all assets, minimize all liabilities, and preserve all records of the redevelopment agency.

(e) Cooperate with the successor agencies, if established pursuant to Part 1.85 (commencing with Section 34170), and provide all records and information necessary or desirable for audits, making of payments required by enforceable obligations, and performance of enforceable obligations by the successor agencies.

(f) Take all reasonable measures to avoid triggering an event of default under any enforceable obligations as defined in subdivision (d) of Section 34167.

(g) (1) Within 60 days of the effective date of this part, adopt an Enforceable Obligation Payment Schedule that lists all of the obligations that are enforceable within the meaning of subdivision

(i) of Section 34167 which includes the following information about each obligation:

- (A) The project name associated with the obligation.
- (B) The payee.

(C) A short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made.

(D) The amount of payments obligated to be made, by month, through December 2011.

(2) Payment schedules for issued bonds may be aggregated, and payment schedules for payments to employees may be aggregated. This schedule shall be adopted at a public meeting and shall be posted on the agency's Internet Web site or, if no Internet Web site exists, on the Internet Web site of the legislative body, if that body has an Internet Web site. The schedule may be amended at any public meeting of the agency. Amendments shall be posted to the Internet Web site for at least three business days before a payment may be made pursuant to an amendment. The Enforceable Obligation Payment Schedule shall be transmitted by mail or electronic means to the county auditor-controller, the Controller, and the Department of Finance. A notification providing the Internet Web site location of the posted schedule and notifications of any amendments shall suffice to meet this requirement.

(h) Prepare a preliminary draft of the initial recognized obligation payment schedule, no later than September 30, 2011, and provide it to the successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170).

(i) The Department of Finance may review a redevelopment agency action taken pursuant to subdivision (g) or (h). As such, all agency actions shall not be effective for three business days, pending a request for review by the department. Each agency shall designate an official to whom the department may make these requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. In the event that the department requests a review of a given agency action, the department shall have 10 days from the date of its request to approve the agency action or return it to the agency for reconsideration and this action shall not be effective until approved by the department. In the event that the department returns the agency action to the agency for reconsideration, the agency must resubmit the modified action for department approval and the modified action shall not become effective until approved by the department. This subdivision shall apply to a successor agency, if a successor agency is established pursuant to Part 1.85 (commencing with Section 34170), as a successor entity to a dissolved redevelopment agency, with respect to the preliminary draft of the initial recognized obligation payment schedule.

### CHAPTER 3. APPLICATION OF PART TO FORMER PARTICIPANTS OF THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

34169.5. (a) It is the intent of the Legislature that a redevelopment agency, that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), but that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

(b) For purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, the following shall apply:

(1) Any reference to "January 1, 2011," shall be construed to mean January 1 of the year preceding the year that the redevelopment agency became subject to this part, but no earlier than January 1, 2011.

(2) Any reference to a date "60 days from the effective date of this part" shall be construed to mean 60 days from the date that the redevelopment agency becomes subject to this part.

(3) Except as provided in paragraphs (1) and (2), any reference to a date certain shall be construed to be the date, measured from the date that the redevelopment agency became subject to this part, that is equivalent to the duration of time between the effective date of this part and the date certain identified in statute.

SEC. 7. Part 1.85 (commencing with Section 34170) is added to Division 24 of the Health and Safety Code, to read:

### PART 1.85. DISSOLUTION OF REDEVELOPMENT AGENCIES AND DESIGNATION OF SUCCESSOR AGENCIES

### CHAPTER 1. EFFECTIVE DATE, CREATION OF FUNDS, AND DEFINITION OF TERMS

34170. (a) Unless otherwise specified, all provisions of this part shall become operative on October 1, 2011.

(b) If any provision of this part or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application, and to this end, the provisions of this part are severable.

34170.5. (a) The successor agency shall create within its treasury a Redevelopment Obligation Retirement Fund to be administered by the successor agency.

(b) The county auditor-controller shall create within the county treasury a Redevelopment Property Tax Trust Fund for the property tax revenues related to each former redevelopment agency, for administration by the county auditor-controller.

34171. The following terms shall have the following meanings:

(a) "Administrative budget" means the budget for administrative costs of the successor agencies as provided in Section 34177.

(b) "Administrative cost allowance" means an amount that, subject to the approval of the oversight board, is payable from property tax revenues of up to 5 percent of the property tax allocated to the successor agency for the 2011-12 fiscal year and up to 3 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the successor agency for each fiscal year thereafter; provided, however, that the amount shall not be less than two hundred fifty thousand dollars (\$250,000) for any fiscal year or such lesser amount as agreed

to by the successor agency. However, the allowance amount shall exclude any administrative costs that can be paid from bond proceeds or from sources other than property tax.

(c) "Designated local authority" shall mean a public entity formed pursuant to subdivision (d) of Section 34173.

(d) (1) "Enforceable obligation" means any of the following:

(A) Bonds, as defined by Section 33602 and bonds issued pursuant to Section 58383 of the Government Code, including the required debt service, reserve set-asides, and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the former redevelopment agency.

(B) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(C) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, unemployment payments, or other obligations conferred through a collective bargaining agreement.

(D) Judgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183. Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.

(E) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy. However, nothing in this act shall prohibit either the successor agency, with the approval or at the direction of the oversight board, or the oversight board itself from terminating any existing agreements or contracts and providing any necessary and required compensation or remediation for such termination.

(F) Contracts or agreements necessary for the administration or operation of the successor agency, in accordance with this part, including, but not limited to, agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(G) Amounts borrowed from or payments owing to the Low and Moderate Income Housing Fund of a redevelopment agency, which had been deferred as of the effective date of the act adding this part; provided, however, that the repayment schedule is approved by the oversight board.

(2) For purposes of this part, "enforceable obligation" does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency. However, written agreements entered into (A) at the time of issuance, but in no event later than December 1, 2010, of indebtedness obligations, and (B) solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations for purposes of this part.

Notwithstanding this paragraph, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it, within two years of the date of creation of the redevelopment agency, may be deemed to be enforceable obligations.

(3) Contracts or agreements between the former redevelopment agency and other public agencies, to perform services or provide funding for governmental or private services or capital projects outside of redevelopment project areas that do not provide benefit to the redevelopment project and thus were not properly authorized under Part 1 (commencing with Section 33000) shall be deemed void on the effective date of this part; provided, however, that such contracts or agreements for the provision of housing properly authorized under Part 1 (commencing with Section 33000) shall not be deemed void.

(e) "Indebtedness obligations" means bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the redevelopment agency, or by a joint exercise of powers authority created by the redevelopment agency, to third-party investors or bondholders to finance or refinance redevelopment projects undertaken by the redevelopment agency in compliance with the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(f) "Oversight board" shall mean each entity established pursuant to Section 34179.

(g) "Recognized obligation" means an obligation listed in the Recognized Obligation Payment Schedule.

(h) "Recognized Obligation Payment Schedule" means the document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period as provided in subdivision (m) of Section 34177.

(i) "School entity" means any entity defined as such in subdivision (f) of Section 95 of the Revenue and Taxation Code.

(j) "Successor agency" means the county, city, or city and county that authorized the creation of each redevelopment agency or another entity as provided in Section 34173.

(k) "Taxing entities" means cities, counties, a city and county, special districts, and school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, that receive passthrough payments and distributions of property taxes pursuant to the provisions of this part.

## CHAPTER 2. EFFECT OF REDEVELOPMENT AGENCY DISSOLUTION

34172. (a) (1) All redevelopment agencies and redevelopment agency components of community development agencies created under Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) that were in existence on the effective date of this part are hereby dissolved and shall no longer exist as a public body, corporate or politic. Nothing in this part dissolves or otherwise affects the authority of a community redevelopment commission, other than in its authority to act as a redevelopment agency, in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates. For those other nonredevelopment purposes, the community development commission derives its authority solely from federal or local laws, or from state laws other than the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(2) A community in which an agency has been dissolved under this section may not create a new agency pursuant to Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100). However, a community in which the agency has been dissolved and the successor entity has paid off all of the former agency's enforceable obligations may create a new agency pursuant to Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100), subject to the tax increment provisions contained in Chapter 3.5 (commencing with Section 34194.5) of Part 1.9 (commencing with Section 34192).

(b) All authority to transact business or exercise powers previously granted under the Community Redevelopment Law (Part 1 (commencing with Section 33000)) is hereby withdrawn from the former redevelopment agencies.

(c) Solely for purposes of Section 16 of Article XVI of the California Constitution, the Redevelopment Property Tax Trust Fund shall be deemed to be a special fund of the dissolved redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment projects of each redevelopment

agency dissolved pursuant to this part.

(d) Revenues equivalent to those that would have been allocated pursuant to subdivision (b) of Section 16 of Article XVI of the California Constitution shall be allocated to the Redevelopment Property Tax Trust Fund of each successor agency for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies.

Amounts in excess of those necessary to pay obligations of the former redevelopment agency shall be deemed to be property tax revenues within the meaning of subdivision (a) of Section 1 of Article XIII A of the California Constitution.

34173. (a) Successor agencies, as defined in this part, are hereby designated as successor entities to the former redevelopment agencies.

(b) Except for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part, all authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law, are hereby vested in the successor agencies.

(c) (1) Where the redevelopment agency was in the form of a joint powers authority, and where the joint powers agreement governing the formation of the joint powers authority addresses the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part and each shall have a share of assets and liabilities based on the provisions of the joint powers agreement.

(2) Where the redevelopment agency was in the form of a joint powers authority, and where the joint powers agreement governing the formation of the joint powers authority does not address the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part, a proportionate share of the assets and liabilities shall be based on the assessed value in the project areas within each entity's jurisdiction, as determined by the county assessor, in its jurisdiction as compared to the assessed value of land within the boundaries of the project areas of the former redevelopment agency.

(d) (1) A city, county, city and county, or the entities forming the joint powers authority that authorized the creation of each redevelopment agency may elect not to serve as a successor agency under this part. A city, county, city and county, or any member of a joint powers authority that elects not to serve as a successor agency under this part must file a copy of a duly authorized resolution of its governing board to that effect with the county auditor-controller no later than one month prior to the effective date of this part.

(2) The determination of the first local agency that elects to become the successor agency shall be made by the county auditor-controller based on the earliest receipt by the county auditor-controller of a copy of a duly adopted resolution of the local agency's governing board authorizing such an election. As used in this section, "local agency" means any city, county, city and county, or special district in the county of the former redevelopment agency.

(3) If no local agency elects to serve as a successor agency for a dissolved redevelopment agency, a public body, referred to herein as a "designated local authority" shall be immediately formed, pursuant to this part, in the county and shall be vested with all the powers and duties of a successor agency as described in this part. The Governor shall appoint three residents of the county to serve as the governing board of the authority. The designated local authority shall serve as successor agency until a local agency elects to become the successor agency in accordance with this section.

(e) The liability of any successor agency, acting pursuant to the powers granted under the act adding this part, shall be limited to the extent of the total sum of property tax revenues it receives pursuant to this part and the value of assets transferred to it as a successor agency for a dissolved redevelopment agency.

34174. (a) Solely for the purposes of Section 16 of Article XVI of the California Constitution, commencing on the effective date of this part, all agency loans, advances, or indebtedness, and interest thereon, shall be deemed extinguished and paid; provided, however, that nothing herein is intended to absolve the successor agency of payment or other obligations due or imposed pursuant to the enforceable obligations; and provided further, that nothing in the act adding this part is intended to be construed as an action or circumstance that may give rise to an event of default under any of the documents governing the enforceable obligations.

(b) Nothing in this part, including, but not limited to, the dissolution of the redevelopment agencies, the designation of

successor agencies, and the transfer of redevelopment agency assets and properties, shall be construed as a voluntary or involuntary insolvency of any redevelopment agency for purposes of the indenture, trust indenture, or similar document governing its outstanding bonds.

34175. (a) It is the intent of this part that pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. It is intended that the cessation of any redevelopment agency shall not affect either the pledge, the legal existence of that pledge, or the stream of revenues available to meet the requirements of the pledge.

(b) All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on October 1, 2011, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of October 1, 2011.

34176. (a) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city, county, or city and county elects to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the city, county, or city and county.

(b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously performed by a redevelopment agency, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the agency, excluding any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:

(1) Where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.

(2) Where there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

(3) Where there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.

(c) Commencing on the operative date of this part, the entity assuming the housing functions formerly performed by the redevelopment agency may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000), including, but not limited to, Section 33418).

### CHAPTER 3. SUCCESSOR AGENCIES

34177. Successor agencies are required to do all of the following:

(a) Continue to make payments due for enforceable obligations.

(1) On and after October 1, 2011, and until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligations payment schedule shall be made. The initial enforceable obligation payment schedule shall be the last schedule adopted by the redevelopment agency under Section 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision (e) of Section 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under Section 34169 prior to the successor agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision. The enforceable obligation payment schedule may be amended by the successor agency at any public meeting and shall be subject to the approval of the oversight board as soon as the board has sufficient members to form a quorum.

(2) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(3) Commencing on January 1, 2012, only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency from the funds specified in the Recognized Obligation Payment Schedule. In addition, commencing January 1, 2012,

the Recognized Obligation Payment Schedule shall supersede the Statement of Indebtedness, which shall no longer be prepared nor have any effect under the Community Redevelopment Law.

(4) Nothing in the act adding this part is to be construed as preventing a successor agency, with the prior approval of the oversight board, as described in Section 34179, from making payments or enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

(5) From October 1, 2011, to July 1, 2012, a successor agency shall have no authority and is hereby prohibited from accelerating payment or making any lump-sum payments that are intended to prepay loans unless such accelerated repayments were required prior to the effective date of this part.

(b) Maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(c) Perform obligations required pursuant to any enforceable obligation.

(d) Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency. In making the distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(e) Dispose of assets and properties of the former redevelopment agency as directed by the oversight board; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Section 34181. The disposal is to be done expeditiously and in a manner aimed at maximizing value. Proceeds from asset sales and related funds that are no longer needed for approved development projects or to otherwise wind down the affairs of the agency, each as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under Section 34188.

(f) Enforce all former redevelopment agency rights for the benefit of the taxing entities, including, but not limited to, continuing to collect loans, rents, and other revenues that were due to the redevelopment agency.

(g) Effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.

(h) Expeditiously wind down the affairs of the redevelopment agency pursuant to the provisions of this part and in accordance with the direction of the oversight board.

(i) Continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the former redevelopment agency can be transferred to other parties. Bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to defease the bonds.

(j) Prepare a proposed administrative budget and submit it to the oversight board for its approval. The proposed administrative budget shall include all of the following:

(1) Estimated amounts for successor agency administrative costs for the upcoming six-month fiscal period.

(2) Proposed sources of payment for the costs identified in paragraph (1).

(3) Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.

(k) Provide administrative cost estimates, from its approved administrative budget that are to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund, to the county auditor-controller for each six-month fiscal period.

(1) (1) Before each six-month fiscal period, prepare a Recognized Obligation Payment Schedule in accordance with the requirements of this paragraph. For each recognized obligation, the Recognized Obligation Payment Schedule shall identify one or more of the following sources of payment:

(A) Low and Moderate Income Housing Fund.

(B) Bond proceeds.

(C) Reserve balances.

(D) Administrative cost allowance.

(E) The Redevelopment Property Tax Trust Fund, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of this part.

(F) Other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the former redevelopment agency, as approved by the oversight board

in accordance with this part.

(2) A Recognized Obligation Payment Schedule shall not be deemed valid unless all of the following conditions have been met:

(A) A draft Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency by November 1, 2011. From October 1, 2011, to July 1, 2012, the initial draft of that schedule shall project the dates and amounts of scheduled payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had such a redevelopment agency not been dissolved, and shall be reviewed and certified, as to its accuracy, by an external auditor designated pursuant to Section 34182.

(B) The certified Recognized Obligation Payment Schedule is submitted to and duly approved by the oversight board.

(C) A copy of the approved Recognized Obligation Payment Schedule is submitted to the county auditor-controller and both the Controller's office and the Department of Finance and be posted on the successor agency's Internet Web site.

(3) The Recognized Obligation Payment Schedule shall be forward looking to the next six months. The first Recognized Obligation Payment Schedule shall be submitted to the Controller's office and the Department of Finance by December 15, 2011, for the period of January 1, 2012, to June 30, 2012, inclusive. Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred, prior to January 1, 2012, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the successor agency.

34178. (a) Commencing on the operative date of this part, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency; provided, however, that a successor entity wishing to enter or reenter into agreements with the city, county, or city and county that formed the redevelopment agency that it is succeeding may do so upon obtaining the approval of its oversight board.

(b) Notwithstanding subdivision (a), any of the following agreements are not invalid and may bind the successor agency:

(1) A duly authorized written agreement entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations.

(2) A written agreement between a redevelopment agency and the city, county, or city and county that created it that provided loans or other startup funds for the redevelopment agency that were entered into within two years of the formation of the redevelopment agency.

(3) A joint exercise of powers agreement in which the redevelopment agency is a member of the joint powers authority. However, upon assignment to the successor agency by operation of the act adding this part, the successor agency's rights, duties, and performance obligations under that joint exercise of powers agreement shall be limited by the constraints imposed on successor agencies by the act adding this part.

34178.7. For purposes of this chapter with regard to a redevelopment agency that becomes subject to this part pursuant to Section 34195, only references to "October 1, 2011," and to the "operative date of this part" shall be modified in the manner described in Section 34191. All other dates shall be modified only as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

#### CHAPTER 4. OVERSIGHT BOARDS

34179. (a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before January 1, 2012. Members shall be selected as follows:

(1) One member appointed by the county board of supervisors.

(2) One member appointed by the mayor for the city that formed the redevelopment agency.

(3) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.

(4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made

pursuant to this paragraph shall be made by the county board of education.

(5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public appointed by the county board of supervisors.

(7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time.

(8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.

(9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.

(10) Where a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members appointed by the mayor of the city, where such appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city where such an appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

(b) The Governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by January 15, 2012, or any member position that remains vacant for more than 60 days.

(c) The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board's duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.

(d) Oversight board members shall have personal immunity from suit for their actions taken within the scope of their responsibilities as oversight board members.

(e) A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974.

(f) All notices required by law for proposed oversight board actions shall also be posted on the successor agency's Internet Web site or the oversight board's Internet Web site.

(g) Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

(h) The Department of Finance may review an oversight board action taken pursuant to the act adding this part. As such, all oversight board actions shall not be effective for three business days, pending a request for review by the department. Each oversight board shall designate an official to whom the department may make such requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. In the event that the department requests a review of a given oversight board action, it shall have 10 days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and such oversight board action shall not be effective until approved by the department. In the event that the department returns the oversight board action to the oversight board for reconsideration, the oversight board shall resubmit the modified action for department approval and the modified oversight board

action shall not become effective until approved by the department.

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with Section 1000) of the Government Code shall apply to oversight boards. Notwithstanding Section 1099 of the Government Code, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or community college district.

(j) Commencing on and after July 1, 2016, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board appointed as follows:

(1) One member may be appointed by the county board of supervisors.

(2) One member may be appointed by the city selection committee established pursuant to Section 50270 of the Government Code. In a city and county, the mayor may appoint one member.

(3) One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.

(4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the county board of supervisors.

(7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.

(k) The Governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2016, or any member position that remains vacant for more than 60 days.

(l) Commencing on and after July 1, 2016, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (b).

(m) Any oversight board for a given successor agency shall cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid.

34180. All of the following successor agency actions shall first be approved by the oversight board:

(a) The establishment of new repayment terms for outstanding loans where the terms have not been specified prior to the date of this part.

(b) Refunding of outstanding bonds or other debt of the former redevelopment agency by successor agencies in order to provide for savings or to finance debt service spikes; provided, however, that no additional debt is created and debt service is not accelerated.

(c) Setting aside of amounts in reserves as required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Merging of project areas.

(e) Continuing the acceptance of federal or state grants, or other forms of financial assistance from either public or private sources, where assistance is conditioned upon the provision of matching funds, by the successor entity as successor to the former redevelopment agency, in an amount greater than 5 percent.

(f) (1) If a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained.

(2) If no other agreement is reached on valuation of the retained assets, the value will be the fair market value as of the 2011 property tax lien date as determined by the county assessor.

(g) Establishment of the Recognized Obligation Payment Schedule.

(h) A request by the successor agency to enter into an agreement with the city, county, or city and county that formed the redevelopment agency that it is succeeding.

(i) A request by a successor agency or taxing entity to pledge, or

to enter into an agreement for the pledge of, property tax revenues pursuant to subdivision (b) of Section 34178.

34181. The oversight board shall direct the successor agency to do all of the following:

(a) Dispose of all assets and properties of the former redevelopment agency that were funded by tax increment revenues of the dissolved redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, and fire stations, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value.

(b) Cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations.

(c) Transfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the appropriate entity pursuant to Section 34176.

(d) Terminate any agreement, between the dissolved redevelopment agency and any public entity located in the same county, obligating the redevelopment agency to provide funding for any debt service obligations of the public entity or for the construction, or operation of facilities owned or operated by such public entity, in any instance where the oversight board has found that early termination would be in the best interests of the taxing entities.

(e) Determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the oversight board for its approval. The board may approve any amendments to or early termination of such agreements where it finds that amendments or early termination would be in the best interests of the taxing entities.

#### CHAPTER 5. DUTIES OF THE AUDITOR-CONTROLLER

34182. (a) (1) The county auditor-controller shall conduct or cause to be conducted an agreed-upon procedures audit of each redevelopment agency in the county that is subject to this part, to be completed by March 1, 2012.

(2) The purpose of the audits shall be to establish each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's passthrough payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial Recognized Obligation Payment Schedule.

(3) The county auditor-controller may charge the Redevelopment Property Tax Trust Fund for any costs incurred by the county auditor-controller pursuant to this part.

(b) By March 15, 2012, the county auditor-controller shall provide the Controller's office a copy of all audits performed pursuant to this section. The county auditor-controller shall maintain a copy of all documentation and working papers for use by the Controller.

(c) (1) The county auditor-controller shall determine the amount of property taxes that would have been allocated to each redevelopment agency in the county had the redevelopment agency not been dissolved pursuant to the operation of the act adding this part. These amounts are deemed property tax revenues within the meaning of subdivision (a) of Section 1 of Article XIII A of the California Constitution and are available for allocation and distribution in accordance with the provisions of the act adding this part. The county auditor-controller shall calculate the property tax revenues using current assessed values on the last equalized roll on August 20, pursuant to Section 2052 of the Revenue and Taxation Code, and pursuant to statutory formulas or contractual agreements with other taxing agencies, as of the effective date of this section, and shall deposit that amount in the Redevelopment Property Tax Trust Fund.

(2) Each county auditor-controller shall administer the Redevelopment Property Tax Trust Fund for the benefit of the holders of former redevelopment agency enforceable obligations and the taxing entities that receive passthrough payments and distributions of property taxes pursuant to this part.

(3) In connection with the allocation and distribution by the county auditor-controller of property tax revenues deposited in the Redevelopment Property Tax Trust Fund, in compliance with this part,

the county auditor-controller shall prepare estimates of amounts to be allocated and distributed, and provide those estimates to both the entities receiving the distributions and the Department of Finance, no later than November 1 and May 1 of each year.

(4) Each county auditor-controller shall disburse proceeds of asset sales or reserve balances, which have been received from the successor entities pursuant to Sections 34177 and 34187, to the taxing entities. In making such a distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(d) By October 1, 2012, the county auditor-controller shall report the following information to the Controller's office and the Director of Finance:

(1) The sums of property tax revenues remitted to the Redevelopment Property Tax Trust Fund related to each former redevelopment agency.

(2) The sums of property tax revenues remitted to each agency under paragraph (1) of subdivision (a) of Section 34183.

(3) The sums of property tax revenues remitted to each successor agency pursuant to paragraph (2) of subdivision (a) of Section 34183.

(4) The sums of property tax revenues paid to each successor agency pursuant to paragraph (3) of subdivision (a) of Section 34183.

(5) The sums paid to each city, county, and special district, and the total amount allocated for schools pursuant to paragraph (4) of subdivision (a) of Section 34183.

(6) Any amounts deducted from other distributions pursuant to subdivision (b) of Section 34183.

(e) A county auditor-controller may charge the Redevelopment Property Tax Trust Fund for the costs of administering the provisions of this part.

(f) The Controller may audit and review any county auditor-controller action taken pursuant to the act adding this part. As such, all county auditor-controller actions shall not be effective for three business days, pending a request for review by the Controller. In the event that the Controller requests a review of a given county auditor-controller action, he or she shall have 10 days from the date of his or her request to approve the county auditor-controller's action or return it to the county auditor-controller for reconsideration and such county auditor-controller action shall not be effective until approved by the Controller. In the event that the Controller returns the county auditor-controller's action to the county auditor-controller for reconsideration, the county auditor-controller must resubmit the modified action for Controller approval and such modified county auditor-controller action shall not become effective until approved by the Controller.

34183. (a) Notwithstanding any other law, from October 1, 2011, to July 1, 2012, and for each fiscal year thereafter, the county auditor-controller shall, after deducting administrative costs allowed under Section 34182 and Section 95.3 of the Revenue and Taxation Code, allocate moneys in each Redevelopment Property Tax Trust Fund as follows:

(1) Subject to any prior deductions required by subdivision (b), first, the county auditor-controller shall remit from the Redevelopment Property Tax Trust Fund to each local agency and school entity an amount of property tax revenues in an amount equal to that which would have been received under Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections read on January 1, 2011, or pursuant to any passthrough agreement between a redevelopment agency and a taxing jurisdiction that was entered into prior to January 1, 1994, that would be in force during that fiscal year, had the redevelopment agency existed at that time. The amount of the payments made pursuant to this paragraph shall be calculated solely on the basis of passthrough payment obligations, existing prior to the effective date of this part and continuing as obligations of successor entities, shall occur no later than January 16, 2012, and no later than June 1, 2012, and each January 16 and June 1 thereafter. Notwithstanding subdivision (e) of Section 33670, that portion of the taxes in excess of the amount identified in subdivision (a) of Section 33670, which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency.

(2) Second, on January 16, 2012, and June 1, 2012, and each January 16 and June 1 thereafter, to each successor agency for payments listed in its Recognized Obligation Payment Schedule for the six-month fiscal period beginning January 1, 2012, or July 1, 2012,

and each January 16 and June 1 thereafter, in the following order of priority:

(A) Debt service payments scheduled to be made for tax allocation bonds.

(B) Payments scheduled to be made on revenue bonds, but only to the extent the revenues pledged for them are insufficient to make the payments and only where the agency's tax increment revenues were also pledged for the repayment of the bonds.

(C) Payments scheduled for other debts and obligations listed in the Recognized Obligation Payment Schedule that are required to be paid from former tax increment revenue.

(3) Third, on January 16, 2012, and June 1, 2012, and each January 16 and June 1 thereafter, to each successor agency for the administrative cost allowance, as defined in Section 34171, for administrative costs set forth in an approved administrative budget for those payments required to be paid from former tax increment revenues.

(4) Fourth, on January 16, 2012, and June 1, 2012, and each January 16 and June 1 thereafter, any moneys remaining in the Redevelopment Property Tax Trust Fund after the payments and transfers authorized by paragraphs (1) to (3), inclusive, shall be distributed to local agencies and school entities in accordance with Section 34188.

(b) If the successor agency reports, no later than December 1, 2011, and May 1, 2012, and each December 1 and May 1 thereafter, to the county auditor-controller that the total amount available to the successor agency from the Redevelopment Property Tax Trust Fund allocation to that successor agency's Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, are insufficient to fund the payments required by paragraphs (1) to (3), inclusive, of subdivision (a) in the next six-month fiscal period, the county auditor-controller shall notify the Controller and the Department of Finance no later than 10 days from the date of that notification. The county auditor-controller shall verify whether the successor agency will have sufficient funds from which to service debts according to the Recognized Obligation Payment Schedule and shall report the findings to the Controller. If the Controller concurs that there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the amount remaining to be distributed to taxing entities pursuant to paragraph (4), and if that amount is exhausted, from amounts available for distribution for administrative costs in paragraph (3). If an agency, pursuant to the provisions of Section 33492.15, 33492.72, 33607.5, 33671.5, 33681.15, or 33688, made passthrough payment obligations subordinate to debt service payments required for enforceable obligations, funds for servicing bond debt may be deducted from the amounts for passthrough payments under paragraph (1), as provided in those sections, but only to the extent that the amounts remaining to be distributed to taxing entities pursuant to paragraph (4) and the amounts available for distribution for administrative costs in paragraph (3) have all been exhausted.

(c) The county treasurer may loan any funds from the county treasury that are necessary to ensure prompt payments of redevelopment agency debts.

(d) The Controller may recover the costs of audit and oversight required under this part from the Redevelopment Property Tax Trust Fund by presenting an invoice therefor to the county auditor-controller who shall set aside sufficient funds for and disburse the claimed amounts prior to making the next distributions to the taxing jurisdictions pursuant to Section 34188. Subject to the approval of the Director of Finance, the budget of the Controller may be augmented to reflect the reimbursement, pursuant to Section 28.00 of the Budget Act.

34185. Commencing on January 16, 2012, and on each January 16 and June 1 thereafter, the county auditor-controller shall transfer, from the Redevelopment Property Tax Trust Fund of each successor agency into the Redevelopment Obligation Retirement Fund of that agency, an amount of property tax revenues equal to that specified in the Recognized Obligation Payment Schedule for that successor agency as payable from the Redevelopment Property Tax Trust Fund subject to the limitations of Sections 34173 and 34183.

34186. Differences between actual payments and past estimated obligations on recognized obligation payment schedules must be reported in subsequent recognized obligation payment schedules and shall adjust the amount to be transferred to the Redevelopment Obligation Retirement Fund pursuant to this part. These estimates and accounts shall be subject to audit by county auditor-controllers and the Controller.

34187. Commencing January 1, 2012, whenever a recognized

obligation that had been identified in the Recognized Payment Obligation Schedule is paid off or retired, either through early payment or payment at maturity, the county auditor-controller shall distribute to the taxing entities, in accordance with the provisions of the Revenue and Taxation Code, all property tax revenues that were associated with the payment of the recognized obligation.

34188. For all distributions of property tax revenues and other moneys pursuant to this part, the distribution to each taxing entity shall be in an amount proportionate to its share of property tax revenues in the tax rate area in that fiscal year, as follows:

(a) (1) For distributions from the Redevelopment Property Tax Trust Fund, the share of each taxing entity shall be applied to the amount of property tax available in the Redevelopment Property Tax Trust Fund after deducting the amount of any distributions under paragraphs (2) and (3) of subdivision (a) of Section 34183.

(2) For each taxing entity that receives passthrough payments, that agency shall receive the amount of any passthrough payments identified under paragraph (1) of subdivision (a) of Section 34183, in an amount not to exceed the amount that it would receive pursuant to this section in the absence of the passthrough agreement. However, to the extent that the passthrough payments received by the taxing entity are less than the amount that the taxing entity would receive pursuant to this section in the absence of a passthrough agreement, the taxing entity shall receive an additional payment that is equivalent to the difference between those amounts.

(b) Property tax shares of local agencies shall be determined based on property tax allocation laws in effect on the date of distribution, without the revenue exchange amounts allocated pursuant to Section 97.68 of the Revenue and Taxation Code, and without the property taxes allocated pursuant to Section 97.70 of the Revenue and Taxation Code.

(c) The total school share, including passthroughs, shall be the share of the property taxes that would have been received by school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, in the jurisdictional territory of the former redevelopment agency, including, but not limited to, the amounts specified in Sections 97.68 and 97.70 of the Revenue and Taxation Code.

34188.8. For purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, a date certain identified in this chapter shall not be subject to Section 34191, except for dates certain in Section 34182 and references to "October 1, 2011," or to the "operative date of this part,". However, for purposes of those redevelopment agencies, a date certain identified in this chapter shall be appropriately modified, as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

#### CHAPTER 6. EFFECT OF THE ACT ADDING THIS PART ON THE COMMUNITY REDEVELOPMENT LAW

34189. (a) Commencing on the effective date of this part, all provisions of the Community Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies, including, but not limited to, Sections 33445, 33640, 33641, 33645, and subdivision (b) of Section 33670, shall be inoperative, except as those sections apply to a redevelopment agency operating pursuant to Part 1.9 (commencing with Section 34192).

(b) The California Law Revision Commission shall draft a Community Redevelopment Law cleanup bill for consideration by the Legislature no later than January 1, 2013.

(c) To the extent that a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) conflicts with this part, the provisions of this part shall control. Further, if a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) provides an authority that the act adding this part is restricting or eliminating, the restriction and elimination provisions of the act adding this part shall control.

(d) It is intended that the provisions of this part shall be read in a manner as to avoid duplication of payments.

#### CHAPTER 7. STABILIZATION OF LABOR AND EMPLOYMENT RELATIONS

34190. (a) It is the intent of the Legislature to stabilize the labor and employment relations of redevelopment agencies and successor agencies in furtherance of and connection with their responsibilities under the act adding this part.

(b) Nothing in the act adding this part is intended to relieve any redevelopment agency of its obligations under Chapter 10 (commencing

with Section 3500) of Division 4 of Title 1 of the Government Code. Subject to the limitations set forth in Section 34165, prior to its dissolution, a redevelopment agency shall retain the authority to meet and confer over matters within the scope of representation.

(c) A successor agency, as defined in Sections 34171 and 34173, shall constitute a public agency within the meaning of subdivision (c) of Section 3501 of the Government Code.

(d) Subject to the limitations set forth in Section 34165, redevelopment agencies, prior to and during their winding down and dissolution, shall retain the authority to bargain over matters within the scope of representation.

(e) In recognition that a collective bargaining agreement represents an enforceable obligation, a successor agency shall become the employer of all employees of the redevelopment agency as of the date of the redevelopment agency's dissolution. If, pursuant to this provision, the successor agency becomes the employer of one or more employees who, as employees of the redevelopment agency, were represented by a recognized employee organization, the successor agency shall be deemed a successor employer and shall be obligated to recognize and to meet and confer with such employee organization. In addition, the successor agency shall retain the authority to bargain over matters within the scope of representation and shall be deemed to have assumed the obligations under any memorandum of understanding in effect between the redevelopment agency and recognized employee organization as of the date of the redevelopment agency's dissolution.

(f) The Legislature finds and declares that the duties and responsibilities of local agency employer representatives under this chapter are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs. Furthermore, the Legislature also finds and declares that to the extent the act adding this part provides the funding with which to accomplish the obligations provided herein, the costs incurred by the local agency employer representatives in performing those duties and responsibilities under the act adding this part are not reimbursable as state-mandated costs.

(g) The transferred memorandum of understanding and the right of any employee organization representing such employees to provide representation shall continue as long as the memorandum of understanding would have been in force, pursuant to its own terms. One or more separate bargaining units shall be created in the successor agency consistent with the bargaining units that had been established in the redevelopment agency. After the expiration of the transferred memorandum of understanding, the successor agency shall continue to be subject to the provisions of the Meyers-Milias-Brown Act.

(h) Individuals formerly employed by redevelopment agencies that are subsequently employed by successor agencies shall, for a minimum of two years, transfer their status and classification in the civil service system of the redevelopment agency to the successor agency and shall not be required to requalify to perform the duties that they previously performed or duties substantially similar in nature and in required qualification to those that they previously performed. Any such individuals shall have the right to compete for employment under the civil service system of the successor agency.

#### CHAPTER 8. APPLICATION OF PART TO FORMER PARTICIPANTS OF THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM

34191. (a) It is the intent of the Legislature that a redevelopment agency that formerly operated pursuant to the Alternative Voluntary Redevelopment Program (Part 1.9 (commencing with Section 34192)), that becomes subject to this part pursuant to Section 34195, shall be subject to all of the requirements of this part, except that dates and deadlines shall be appropriately modified, as provided in this section, to reflect the date that the agency becomes subject to this part.

(b) Except as otherwise provided by law, for purposes of a redevelopment agency that becomes subject to this part pursuant to Section 34195, the following shall apply:

(1) Any reference to "January 1, 2011," shall be construed to mean January 1 of the year preceding the year that the redevelopment agency became subject to this part, but no earlier than January 1, 2011.

(2) Any reference to "October 1, 2011," or to the "operative date of this part," shall mean the date that is the equivalent to the "October 1, 2011," identified in Section 34167.5 for that redevelopment agency as determined pursuant to Section 34169.5.

(3) Except as provided in paragraphs (1) and (2), any reference to a date certain shall be construed to be the date, measured from the date that the redevelopment agency became subject to this part, that is equivalent to the duration of time between the operative date of this part and the date certain identified in statute.

SEC. 8. Section 97.401 is added to the Revenue and Taxation Code, to read:

97.401. Commencing October 1, 2011, the county auditor shall make the calculations required by Section 97.4 based on the amount deposited on behalf of each former redevelopment agency into the Redevelopment Property Tax Trust Fund pursuant to paragraph (1) of subdivision (c) of Section 34182 of the Health and Safety Code. The calculations required by Section 97.4 shall result in cities, counties, and special districts annually remitting to the Educational Revenue Augmentation Fund the same amounts they would have remitted but for the operation of Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code.

SEC. 9. Section 98.2 is added to the Revenue and Taxation Code, to read:

98.2. For the 2011-12 fiscal year, and each fiscal year thereafter, the computations provided for in Sections 98 and 98.1 shall be performed in a manner which recognizes that passthrough payments formerly required under the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code) are continuing to be made under the authority of Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code and those payments shall be recognized in the TEA calculations as though they were made under the Community Redevelopment Law. Additionally, the computations provided for in Sections 98 and 98.1 shall be performed in a manner that recognizes payments to a Redevelopment Property Tax Trust Fund, established pursuant to Section 34170.5 of the Health and Safety Code as if they were payments to a redevelopment agency as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

SEC. 10. If a legal challenge to invalidate any provision of this act is successful, a redevelopment agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code.

SEC. 11. The sum of five hundred thousand dollars (\$500,000) is hereby appropriated to the Department of Finance from the General Fund for allocation to the Treasurer, Controller, and Department of Finance for administrative costs associated with this act. The department shall notify the Joint Legislative Budget Committee and the fiscal committees in each house of any allocations under this section no later than 10 days following that allocation.

SEC. 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end, the provisions of this act are severable. The Legislature expressly intends that the provisions of Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code are severable from the provisions of Part 1.8 (commencing with Section 34161) of Division 24 of the Health and Safety Code, and if Part 1.85 is held invalid, then Part 1.8 shall continue in effect.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 14. This act shall take effect contingent on the enactment of Assembly Bill 27 of the 2011-12 First Extraordinary Session or Senate Bill 15 of in the 2011-12 First Extraordinary Session and only if the enacted bill adds Part 1.9 (commencing with Section 34192) to Division 24 of the Health and Safety Code.

SEC. 15. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 16. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.



## AB x1 26 Timeline as modified by California Redevelopment Association v. Matosantos\*

<b>By January 13</b>	If city does not want to serve as the "successor agency" to its redevelopment agency, then it must submit a resolution to that effect to the County Auditor-Controller by this date. If a city wishes to serve as the "successor agency," no action is required.
<b>February 1</b>	Redevelopment agencies are dissolved.
<b>On or after February 1</b>	Successor agency must create Redevelopment Obligation Retirement Fund.
<b>By February 1</b>	The City must decide whether to retain affordable housing function of the redevelopment agency. If successor agency does not elect to retain this function, it is transferred to the housing authority or, if no housing authority exists, to the State Housing and Community Development Agency.
<b>By February 1</b>	Successor agency must review the enforceable obligation payment schedule (EOPS) adopted by the redevelopment agency last fall, modify it if necessary, and readopt. The EOPS is subject to review and approval by the Oversight Board once that board has been formed. The successor agency may only make payments for those obligations identified in the EOPS until a Recognized Obligation Payment Schedule (ROPS) is approved.
<b>By March 1</b>	Successor agency must adopt a Recognized Obligation Payment Schedule (ROPS). This is a permanent schedule of obligations that replaces the interim EOPS once the ROPS has been approved. The County Auditor-Controller will allocate property tax increment to successor agencies to pay debts listed on ROPS.
<b>By April 1</b>	Successor agency reports to the County Auditor-Controller whether the total amount of property tax available to the agency will be sufficient to fund its ROPS obligations over the next six-month fiscal period.
<b>By April 15</b>	Successor agency must send the adopted ROPS to the State Controller and the State Department of Finance for approval. The ROPS is also subject to approval by the Oversight Board.
<b>By May 1</b>	Oversight Boards begin operations, files report of membership with State Department of Finance.
<b>Starting May 1</b>	Successor agency may only pay those obligations listed in the approved ROPS. The approved ROPS replaces the EOPS.
<b>By May 16 and continuing thereafter as specified</b>	The County Auditor-Controller transfers property tax to the successor agency in an amount equal to the cost of the obligations specified in the ROPS. This amount is transferred into the successor agency's Redevelopment Obligation Retirement Fund, and payments from this fund are used to satisfy the obligations identified in the ROPS.

\* This timeline does not represent a complete list of deadlines imposed by AB x1 26 as modified, but rather, it is list of the most relevant and time-sensitive deadlines and milestones for cities that will be opting to become the successor agency to their redevelopment agency. Please consult with your city attorney or your redevelopment agency counsel for more information.

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## Oversight Board of the Successor Agency City of Foster City

**Date:** April 5, 2012  
**To:** Members of the Oversight Board  
**Via:** James C. Hardy, City Manager  
**From:** Steve Toler, Assistant City Manager  
**Subject:** Bylaws for the Oversight Board

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### **RECOMMENDATION**

It is recommended that the Oversight Board by resolution adopt Bylaws for the Oversight Board.

### **EXECUTIVE SUMMARY**

In order to facilitate the process of meetings and establish rules for the Oversight Board, a set of Bylaws is recommended for adoption. Staff has prepared suggested Bylaws for the Board's consideration based upon the enacting legislation, "AB 26, Blumenfield, Community Redevelopment" (referred to as "ABx1 26"), that authorizes the formation of the Oversight Board.

### **BACKGROUND and ANALYSIS**

Pursuant to Section 34172 of the Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*; "CRL"), as modified by the California Supreme Court decision entered December 29, 2011, in *California Redevelopment Assn. v. Matosantos* (Case No. S194861), on February 1, 2012, all redevelopment agencies in the State of California were dissolved. On that date, by operation of law pursuant to CRL Section 34175, all assets, properties, contracts, leases, books and records, buildings and equipment of redevelopment agencies were transferred to successor agencies. On January 9, 2012, the City Council of the City of Foster City adopted Resolution No. 2012-2, affirming that the City would serve as the Successor Agency to the former Foster City Community Development Agency ("Former Agency"), in which capacity the City will wind down the affairs of the Former Agency at the direction of an Oversight Board. The Oversight Board has been established pursuant to CRL Section 34179 to assist in the close out and wind down of the dissolved Redevelopment Agency.

Article I – “The Oversight Board”, was developed based primarily upon the provisions of ABx1 26. The remaining Articles were developed based upon a variety of factors, including sample Bylaws issued by such entities as the California Redevelopment Association and law firms specializing in redevelopment law, sample Bylaws from other Oversight Boards across the State, and similar provisions guiding the formation and conduct of commissions and committees of the City of Foster City.

The five articles in the Bylaws are summarized below:

- **Article I “The Oversight Board”** – spells forth the purpose, duties and responsibilities, and membership of the Oversight Board based primarily upon the provisions in ABx1 26. The Article also identifies staff that will be assigned as liaisons to the Board, and that staff will serve in the position of secretary to the Board.
- **Article II “Officers”** – establishes the positions of Chair and Vice-Chair as Officers of the Board, the method of electing said officer positions, and the means of succession in the event of a vacancy in an officer position.
- **Article III “Meetings”** – establishes the requirement for an Annual Meeting whereby a report of the affairs of the Oversight Board will be made, as well as Regular Meetings with a recurring meeting schedule, and Special Meetings as may be called from time to time. This Article also spells forth the provisions for calling and noticing meetings, primarily based upon the Ralph M. Brown Act and Robert’s Rules of Orders. (Note: the Regular Meeting date as provided in the attached Bylaws will be modified based upon the Oversight Board’s deliberations as to establishing recurring meetings, which was scheduled on this agenda to be considered prior to this item.)
- **Article IV “Representation Before Public Bodies”** – identifies the Chair, or in his/her absence, a duly authorized designee, as the individual that is authorized to officially represent the Oversight Board before other public bodies.
- **Article V “Amendments”** – provides that the Bylaws may be amended by the Oversight Board as necessary.

Staff recommends that the Oversight Board adopt a set of Bylaws as a best practice in terms of governance of this public organization.

**Attachments:**

- Resolution
- Bylaws of the Oversight Board for the Successor Agency City of Foster City (Successor Agency to the Former Foster City Community Development Agency)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY  
CITY OF FOSTER CITY ADOPTING THE BYLAWS OF THE OVERSIGHT BOARD

SUCCESSOR AGENCY CITY OF FOSTER CITY

WHEREAS, the Foster City Community Development Agency was a redevelopment agency organized and existing under the California Community Redevelopment Law (Health & Safety Code §33000 *et. seq.*, "CRL") and was authorized to transact business and exercise the powers of a redevelopment agency pursuant to action of the Agency's Board; and,

WHEREAS, the State of California's enactment of "AB 26, Blumenfield, Community Redevelopment" (referred to as "ABx1 26") on June 29, 2011, and the subsequent ruling by the California Supreme Court entered December 29, 2011 in *California Redevelopment Assn. v. Matosantos* (Case No. S194861), dissolved redevelopment agencies effective February 1, 2012; and,

WHEREAS, the City Council adopted Resolution No. 2012-2 on January 9, 2012, affirming that the City would serve as the successor agency to the former Agency ("Successor Agency City of Foster City"), in which capacity the City will wind down the affairs of the Agency at the direction of an oversight board; and,

WHEREAS, on February 1, 2012, pursuant to Section 34172 of the CRL, the former Agency was dissolved by operation of law, and pursuant to Section 34175(b), all assets, properties, contracts, leases, books and records, buildings and equipment of the former Agency were transferred to the control of the City, in its capacity as Successor Agency, for administration pursuant to the provisions of Part 1.85 of the CRL (Health and Safety Code Section 34170 *et seq.*); and

WHEREAS, the Oversight Board of Successor Agency City of Foster City has been established pursuant to CRL Section 34179 to take certain actions to wind down the affairs of the Agency in accordance with the CRL; and

WHEREAS, the Oversight Board desires to adopt bylaws for the general operation of the Oversight Board, including but not limited to the designation of officers and conduct of meetings.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board of the Successor Agency City of Foster City that the Bylaws of the Oversight Board, attached hereto and incorporated herein as Exhibit A, are hereby approved and adopted.

PASSED AND ADOPTED as a resolution of the Oversight Board of the  
Successor Agency City of Foster City at the Initial Meeting held on the 5<sup>th</sup> day of  
April, 2012 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_

\_\_\_\_\_, CHAIR

ATTEST:

\_\_\_\_\_

\_\_\_\_\_, SECRETARY

# BYLAWS

## OVERSIGHT BOARD FOR THE SUCCESSOR AGENCY CITY OF FOSTER CITY (Successor Agency of the Former Foster City Community Development Agency)

### ARTICLE I - THE OVERSIGHT BOARD

#### **Section 1. Name of Oversight Board**

The name of the Oversight Board shall be the "Oversight Board for the Successor Agency City of Foster City" (hereinafter referred to as the "Oversight Board").

#### **Section 2. Purpose**

The Oversight Board shall perform the duties described in Chapter 4 (commencing with Section 34179) of Part 1.85 of Division 24 of the Health and Safety Code ("H&S Code") in connection with the winding down of the affairs of the former Foster City Community Development Agency (hereinafter the "Former Agency") by the City of Foster City in its capacity as the successor agency (hereinafter the "Successor Agency") of the Former Agency.

##### **a. Duties and Responsibilities**

In accordance with §34181 of the H&S Code, the duties and responsibilities of the Oversight Board are to direct the Successor Agency to do all of the following:

- (1) Dispose of all assets and properties of the Former Agency that were funded by tax increment revenues of the dissolved Former Agency; provided, however, that the Oversight Board may instead direct the Successor Agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, and fire stations, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. Any compensation to be provided to the Successor Agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value;

- (2) Cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations, as that term is defined in subdivision (d) of §34171 of the H&S Code;
- (3) Transfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the City of Foster City pursuant to §34176 of the H&S Code;
- (4) Terminate any agreement between the Former Agency and any public entity located in the County of San Mateo that obligates the Former Agency to provide funding for any debt service obligations of the public entity or for the construction or operation of facilities owned or operated by such public entity, in any instance where the Oversight Board finds that early termination would be in the best interests of the taxing entities; and
- (5) Determine whether any contracts, agreements or other arrangements between the Former Agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the Oversight Board for consideration and approval. The Oversight Board may approve any amendments to or early termination of such agreements where it finds that amendments or early termination would be in the best interests of the taxing entities.

b. Approvals Required

The following actions of the Successor Agency shall first be approved by the Oversight Board:

- (1) The establishment of new repayment terms for outstanding loans where the terms have not been specified prior to February 1, 2012;
- (2) Refunding of outstanding bonds or other debt of the Former Agency by the Successor Agency in order to provide for savings or to finance debt service spikes; provided, however, that no additional debt is created and debt service is not accelerated;
- (3) Setting aside of amounts in reserves as required by indentures, trust indentures, or similar documents governing the issuance of outstanding bonds of the Former Agency;
- (4) Merging of project areas;

- (5) Continuing the acceptance of federal or state grants, or other forms of financial assistance from either public or private sources, where assistance is conditioned upon the provision of matching funds by the Successor Agency as successor to the Former Agency, in an amount greater than five percent (5%);
- (6) If the City of Foster City and/or the County of San Mateo wish to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, the Oversight Board shall approve any compensation agreements by and between the City and/or County and other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to §34188 of the H&S Code, for the value of the property retained, provided however that if no agreement is reached on valuation of the retained assets, the value will be the fair market value as of the 2011 property tax lien date as determined by the county assessor.
- (7) Establishment of the recognized obligation payment schedule pursuant to §34177 of the H&S Code;
- (8) A request by the Successor Agency to enter into an agreement with the City of Foster City; and
- (9) A request by the Successor Agency or a taxing entity to pledge, or to enter into an agreement for the pledge of, property tax revenues pursuant to subdivision (b) of §34178 of the H&S Code.

c. Review by State Department of Finance

Pursuant to § 34177(h) of the H&S Code, the State Department of Finance (hereinafter "DOF") may review any action of the Oversight Board. The Chair of the Oversight Board shall be the contact between the Oversight Board and DOF and shall provide his/her telephone and email contact information to DOF. Actions taken by the Oversight Board shall not be effective for three (3) business days, pending a request for review by DOF. In the event that DOF requests review of an action taken by the Oversight Board, DOF shall have ten (10) days from the date of its request to approve the action or return it to the Oversight Board for reconsideration, and such action shall not be effective until approved by DOF. In the event that DOF returns the action to the Oversight Board for reconsideration, the Oversight Board shall consider the modified action, and resubmit the modified action to DOF for approval; the modified action shall not become effective until approved by DOF.

### **Section 3. Membership/Duration**

#### **a. Total Membership/Appointment**

Pursuant to §34179 of the H&S Code, the total membership of the Oversight Board shall be seven (7) members, selected as follows:

- (1) One member shall be appointed by the Board of Supervisors of the County of San Mateo;
- (2) One member shall be appointed by the Mayor of the City of Foster City;
- (3) One member shall be appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the Former Agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to §34188 of the H&S Code;
- (4) One member shall be appointed by the elected County of San Mateo Superintendent of Education or, if the County Superintendent is appointed, then this member shall be appointed by the County of San Mateo Board of Education;
- (5) One member shall be appointed by the Chancellor of the California Community Colleges to represent community college districts in the County of San Mateo;
- (6) One member shall be a member of the public appointed by the Board of Supervisors of the County of San Mateo; and
- (7) One member representing the employees of the Former Agency shall be appointed by the Mayor of the City of Foster City from the recognized employee organization representing the largest number of Former Agency employees employed by the Successor Agency at the time of appointment.

The Governor may appoint individuals to fill any member position identified herein that has not been filled by May 15, 2012. Following its initial formation, the Oversight Board shall report the names of its officers and other members to DOF.

The members shall serve without compensation and without reimbursement for expenses. Each member shall serve at the pleasure of the entity that appointed such member.

b. Duration

Pursuant to §34179(j) of the H&S Code, the Oversight Board shall be and remain established until the sooner of (1) the date that all indebtedness of the Former Agency has been repaid, or (2) July 1, 2016, at which time the Oversight Board shall be dissolved and replaced by a single oversight board for all successor agencies within the County of San Mateo.

**Section 4. Local Entity**

Pursuant to §34179(e) of the H&S Code, the Oversight Board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974.

**Section 5. Personal Immunity**

Pursuant to §34179(d) of the H&S Code, Oversight Board members shall have personal immunity from suit for their actions taken within the scope of their responsibilities as members of the Oversight Board.

**Section 6. Fiduciary Responsibilities**

Oversight Board members shall have fiduciary responsibilities to holders of enforceable obligations, as that term is defined in §34171(d) of the H&S Code, and the taxing entities that benefit from distributions of property tax and other revenues pursuant to §34188 of the H&S Code.

**Section 7. Resignation**

Any Oversight Board member may resign at any time by giving written notice to the Chair, who shall forward such notice to the Successor Agency and to DOF. Any such resignation will take effect upon receipt or upon any date specified therein. The acceptance of such resignation shall not be necessary to make it effective.

**Section 8. Filling of Vacancies**

In the event of a vacancy on the Oversight Board, the appointing entity for the vacant seat shall select a member to fill such vacancy as soon as reasonably practicable, provided however that the Governor may appoint individuals to fill any member position that remains vacant for more than sixty (60) days.

**Section 9. Staff**

The Oversight Board may direct the staff of the Successor Agency, through the City Manager or his/her designee, to perform work in furtherance of the duties and responsibilities of the Oversight Board. The Successor Agency shall pay for all of the

costs of the meetings of the Oversight Board and may include those costs in the administrative budget of the Successor Agency. The Successor Agency shall keep the records of the Oversight Board, and the City Manager shall designate a staff member to act as secretary at the meetings of the Oversight Board. The secretary shall prepare agendas and minutes of meetings of the Oversight Board, shall keep a record of the meetings in a journal of proceedings of the Oversight Board, and shall attest to and/or countersign all documents of the Oversight Board.

## **ARTICLE II – OFFICERS**

Officers of the Oversight Board shall be elected and serve as follows:

### **Section 1. Officers**

The officers of the Oversight Board shall consist of a Chair and a Vice Chair, who shall be elected in the manner set forth in this Article II.

### **Section 2. Chair**

The Chair shall preside at all meetings of the Oversight Board, and shall submit such agenda, recommendations and information at such meetings as are reasonable and proper for the conduct of the business affairs and policies of the Oversight Board. The Chair shall sign all documents necessary to carry out the business of the Oversight Board. The Chair of the Oversight Board shall be the contact between the Oversight Board and DOF and shall provide his/her telephone and email contact information to DOF.

### **Section 3. Vice Chair**

The Vice Chair shall perform the duties of the Chair in the absence or incapacity of the Chair. In the event of the death, resignation or removal of the Chair, the Vice Chair shall assume the Chair's duties until such time as the Oversight Board shall elect a new Chair.

### **Section 4. Additional Duties**

The officers of the Oversight Board shall perform such other duties and functions as may from time to time be required by the Oversight Board, these Bylaws, or other rules and regulations, or which duties and functions are incidental to the office held by such officers.

### **Section 5. Election**

The Chair and Vice Chair shall be elected from among the members of the Oversight Board at the first regular meeting of the Oversight Board. Thereafter, the Chair and Vice Chair shall be elected from among the members of the Oversight Board

at each annual meeting. Each officer shall hold office until the next annual meeting of the Oversight Board following his/her election and until his/her successor is elected and in office. Any such officer shall not be prohibited from succeeding himself or herself, but no person shall be elected as an officer in the same capacity for more than two consecutive full terms.

### **Section 6. Vacancies**

Should the office of the Chair or Vice Chair become vacant, the Oversight Board shall elect a successor from among the Oversight Board members at the next regular or special meeting, and such office shall be held for the unexpired term of said office.

## **ARTICLE III - MEETINGS**

### **Section 1. Annual Meetings**

Annual meetings shall be held on the [date/day (e.g., fourth Thursday)] in [\_\_\_\_\_] of each year at the hour of \_\_\_\_\_ a.m. / p.m., at the Council Chambers Conference Room, 620 Foster City Blvd, Foster City, California, or at such other locations as the Oversight Board may designate by resolution, provided however that should said date be a legal holiday, then any such annual meeting shall be held on the next business day thereafter ensuing which is not a legal holiday. At annual meetings, the Chair and Vice Chair shall be elected; reports of the affairs of the Oversight Board shall be considered; and any other business may be transacted which is within the purposes of the Oversight Board. Notice of an annual meeting shall be published in a newspaper of general circulation in the territorial jurisdiction of the Successor Agency at least once not less than ten (10) days prior to the date of the annual meeting.

### **Section 2. Regular Meetings**

The Oversight Board shall meet regularly on the [date/day (e.g., second and fourth Thursday)] of each month, at the hour of \_\_\_\_\_ a.m. / p.m., at the Council Chambers Conference Room, 620 Foster City Blvd., Foster City, California, or at such other locations as the Oversight Board may designate by resolution or in the notice of call of any special meeting. In the event that the regular meeting date shall be a legal holiday, then any such regular meeting shall be held on the next business day thereafter ensuing that is not a legal holiday. A notice, agenda and other necessary documents shall be delivered to the members, personally or by mail, at least seventy-two (72) hours prior to the meeting.

### **Section 3. Special Meetings**

Special meetings may be held upon call of the Chair, or an affirmative vote by a majority of the members of the Oversight Board present at a regular or special meeting of the Oversight Board at which a quorum is present, for the purpose of transacting any business designated in the call, after notification of all members of the Oversight Board

by written notice personally delivered or by mail at least twenty-four (24) hours before the time specified notice for a special meeting. At such special meeting, no business other than that designated in the call shall be considered.

#### **Section 4. Adjourned Meetings**

Any meeting of the Oversight Board may be adjourned to an adjourned meeting without the need for notice requirements of a special meeting, provided the adjournment indicates the date, time and place of the adjourned meeting. Oversight Board members absent from the meeting at which the adjournment decision is made shall be notified by the Chair of the adjourned meeting.

#### **Section 5. All Meetings to be Open and Public**

All meetings of the Oversight Board shall be open and public to the extent required by law. All persons shall be permitted to attend any such meetings, except as otherwise provided by law.

#### **Section 6. Posting Agendas/Notices**

The secretary, or his/her authorized representative, shall post an agenda for each regular Oversight Board meeting or a notice for each special Oversight Board meeting containing a brief description of each item of business to be transacted or discussed at the meeting together with the time and location of the meeting. Agendas/notices shall be posted at the Council Chambers, 620 Foster City Blvd., Foster City, California (a location readily accessible to the public) at least seventy-two (72) hours in advance of each regular meeting and at least twenty-four (24) hours in advance of each special meeting.

All notices required by law for proposed actions by the Oversight Board shall also be posted on the Successor Agency's internet web site.

#### **Section 7. Right of Public to Appear and Speak**

At every regular meeting, members of the public shall have an opportunity to address the Oversight Board on matters within the Oversight Board subject matter jurisdiction. Public input and comment on matters on the agenda, as well as public input and comment on matters not otherwise on the agenda, shall be made during the time set aside for public comment; provided however that the Oversight Board may direct that public input and comment on matters on the agenda be heard when the matter regularly comes up on the agenda.

The Chair may limit the total amount of time allocated for public discussion on particular issues and/or the time allocated for each individual speaker.

## **Section 8. Non-Agenda Items**

Matters brought before the Oversight Board at a regular meeting which were not placed on the agenda of the meeting shall not be acted upon by the Oversight Board at that meeting unless action on such matters is permissible pursuant to the Ralph M. Brown Act (Gov. Code §54950 et seq.). Those non-agenda items brought before the Oversight Board which the Oversight Board determines will require Oversight Board consideration and action and where Oversight Board action at that meeting is not so authorized shall be placed on the agenda for the next regular meeting.

## **Section 9. Quorum**

The powers of the Oversight Board shall be vested in the members thereof in office from time to time. A majority of the total membership of the Oversight Board shall constitute a quorum for the purpose of conducting the business of the Oversight Board, exercising its powers and for all other purposes, but less than that number may adjourn the meeting from time to time until a quorum is obtained. An affirmative vote by a majority of the total membership of the Oversight Board shall be required for approval of any questions brought before the Oversight Board.

## **Section 10. Unexcused Absences**

If a member shall be absent from three (3) meetings, whether regular or special, within six (6) consecutive calendar months, such absence shall result in the termination of the membership of the absenting member. A member's absence shall be excused if, prior to the meeting from which said member will be absent, said member notifies the Chair of his or her intent to be absent and the reasons therefor; provided however that a member shall be entitled to only two (2) excused absences within twelve (12) consecutive calendar months. At each meeting, after the roll has been called, the Chair shall report to the Oversight Board the name of any member who has so notified him or her of his or her intent to be absent and the reason for such absence.

## **Section 11. Order of Business**

All business and matters before the Oversight Board shall be transacted in conformance with Robert's Rules of Order.

## **Section 12. Minutes**

Minutes of the meetings of the Oversight Board shall be prepared in writing by the secretary. Copies of the minutes of each Oversight Board meeting shall be made available to each member of the Oversight Board and the Successor Agency. Approved minutes shall be filed in the official book of minutes of the Oversight Board.

#### **ARTICLE IV - REPRESENTATION BEFORE PUBLIC BODIES**

Any official representations on behalf of the Oversight Board before the Successor Agency, the San Mateo County Auditor-Controller, the State Controller, DOF, or any other public body shall be made by the Chair or his/her duly authorized designee.

#### **ARTICLE V - AMENDMENTS**

These Bylaws may be amended upon an affirmative vote by a majority of the total membership of the Oversight Board, but no such amendment shall be adopted unless at least seven (7) days written notice thereof has previously been given to all members of the Oversight Board. Notice of the amendment shall identify the section or sections of these Bylaws proposed to be amended. The Successor Agency shall be notified of any amendments to these Bylaws.



## Oversight Board of the Successor Agency City of Foster City

**Date:** April 5, 2012  
**To:** Chair and Members of the Oversight Board  
**Via:** James C. Hardy, City Manager *JCH*  
**From:** Steve Toler, Assistant City Manager  
**Subject:** Designation of Secretary Function on Behalf of Oversight Board

---

### RECOMMENDATION

It is recommended that the Oversight Board designate the function of Secretary to the Oversight Board as the primary staff liaison from the Successor Agency, which shall be the Assistant City Manager of the City of Foster City.

### EXECUTIVE SUMMARY

The Bylaws which are before the Oversight Board for approval at this meeting call for the Secretary function to be handled by the staff of the Successor Agency. The City Manager has determined that the Assistant City Manager shall be the primary staff liaison to the Oversight Board.

The Secretary functions enumerated in the Bylaws include: keeping the official records of the Oversight Board; prepare agendas at the direction of the Chairperson; prepare minutes of meetings of the Oversight Board for its approval; keep records of all meetings of the Oversight Board; and attest and/or countersign all documents of the Oversight Board.

It is recommended that the Oversight Board approve a minute order designating the Assistant City Manager of the City of Foster City to perform the functions of Secretary for the Oversight Board.



## Oversight Board of the Successor Agency City of Foster City

**Date:** April 5, 2012  
**To:** Chair and Members of the Oversight Board  
**Via:** James C. Hardy, City Manager *JCH*  
**From:** Steve Toler, Assistant City Manager  
**Subject:** Designation of Point of Contact for Communications with California  
Department of Finance

---

### RECOMMENDATION

It is recommended that the Oversight Board, by minute order, appoint a Point of Contact for purposes of communications with the California Department of Finance ("DOF") on behalf of the Successor Agency and its Oversight Board. It is further recommended that the Assistant City Manager of the City of Foster City be assigned as that Point of Contact.

### EXECUTIVE SUMMARY

California Health & Safety Code ("H&S Code") §34179(h) requires that the Oversight Board designate an official to whom the DOF may contact to in regards to ask questions or request further information regarding any actions of the Oversight Board. The provisions of that section require expedient turnaround times in terms of receiving information or requests from DOF and responding to DOF questions. Accordingly, it is necessary to appoint an official that will be able to respond to such inquiries in accordance with the timeframes of the legislation.

It is recommended that the Oversight Board appoint the Assistant City Manager of the City of Foster City as the point of contact relative to this section. It should be noted that this appointment is merely for the purposes outlined above. Any official representation of the Oversight Board before various public bodies, per the provisions of the Bylaws that are also on the agenda at this meeting, would be handled by the Chair or his/her designee. However, as it pertains to day-to-day contact by and between the DOF and the Successor Agency, it would be expedient to have the Assistant City Manager serve in that capacity on behalf of the Oversight Board.

It is the expected protocol that any communications between the DOF and the appointee will be shared with the Chair and, to the extent necessary, the remainder of the Oversight Board. Any items that require Oversight Board authorization will be brought before the Oversight Board in a timely fashion and in accordance with the timeframes specified in the H&S Code.

Upon Oversight Board approval at this meeting, the designated point of contact's e-mail address and phone number will be provided to the DOF in compliance with the statute.



## Oversight Board of the Successor Agency City of Foster City

**Date:** April 5, 2012  
**To:** Chair and Members of the Oversight Board  
**Via:** James C. Hardy, City Manager *JCH*  
**From:** Steve Toler, Assistant City Manager  
**Subject:** Resolution Authorizing the Filing of Statement of Organization with California Secretary of State and County Controller

---

### RECOMMENDATION

It is recommended that the Oversight Board authorize the Secretary of the Oversight Board to file a Statement of Organization with the California Secretary of State and with the San Mateo County Clerk's Office.

### EXECUTIVE SUMMARY

Government Code §53051 requires that a Statement of Organization be filed with the California Secretary of State and the county clerk within which a governmental entity is located within seventy (70) days of organization of such entity. The Oversight Board of the Successor Agency of the former Foster City Community Development Agency is considered an organization within the definition of the Government Code and within the provisions of California Health & Safety Code §34179.

The attached draft Statement of Facts will be filed with the Secretary of State and the San Mateo County Clerk's Office that will include the legal name of the agency, official mailing address, and the name of the Chair, Secretary, and each member of the Oversight Board, including address information.

Upon Oversight Board approval, the Secretary to the Oversight Board will file the Statement of Organization with the necessary public entities.

Attachment:

- Resolution
- Statement of Facts – Roster of Public Agencies Filing

RESOLUTION NO. \_\_\_\_\_

E

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY CITY OF FOSTER CITY AUTHORIZING THE SECRETARY OF THE OVERSIGHT BOARD TO FILE A STATEMENT OF ORGANIZATION WITH THE SECRETARY OF STATE AND THE COUNTY CLERK OF SAN MATEO COUNTY

SUCCESSOR AGENCY CITY OF FOSTER CITY

WHEREAS, Government Code Section 53051 requires the filing of a statement of organization with the Secretary of State and the county clerk of the county within which a governmental entity is located within seventy (70) days of organization of such entity; and,

WHEREAS, the Oversight Board for the Successor Agency City of Foster City organized itself pursuant to Chapter 4 (commencing with Section 34179) of Part 1.85 of Division 24 of the Health and Safety Code (the "Oversight Board");

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board of the Successor Agency City of Foster City that the Secretary of the Oversight Board for the Successor Agency City of Foster City is hereby authorized and directed to file information concerning said Oversight Board with the Secretary of State and the County Clerk of San Mateo County, as set forth in the "Statement of Facts," attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED as a resolution of the Oversight Board of the Successor Agency City of Foster City at the Initial Meeting held on the 5<sup>th</sup> day of April, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_

\_\_\_\_\_, CHAIR

ATTEST:

\_\_\_\_\_

\_\_\_\_\_, SECRETARY



State of California
Secretary of State

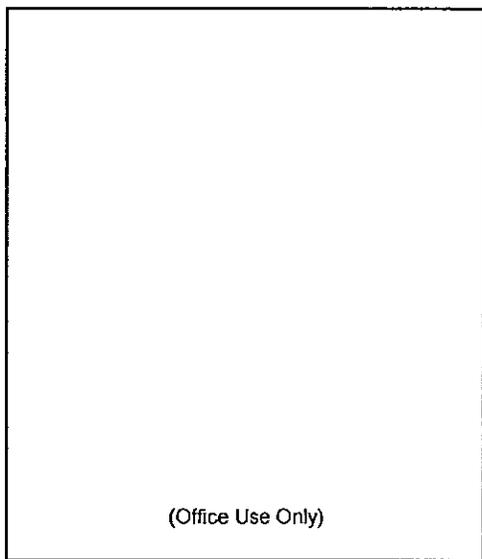
STATEMENT OF FACTS
ROSTER OF PUBLIC AGENCIES FILING

(Government Code section 53051)

Instructions:

- 1. Complete and mail to: Secretary of State, P.O. Box 942877, Sacramento, CA 94277-0001 (916) 653-3984
2. A street address must be given as the official mailing address or as the address of the presiding officer.
3. Complete addresses as required.
4. If you need additional space, attach information on an 8 1/2" X 11" page, one sided and legible.

New Filing [checked] Update [ ]



Legal name of Public Agency: Oversight Board of the Successor Agency City of Foster City

Nature of Update: New filing based upon the provisions of Health & Safety Code Section 34179 et. seq.

County: San Mateo

Official Mailing Address: City of Foster City, 610 Foster City Blvd., Foster City, CA 94404

Name and Address of each member of the governing board:

Chairman, President or other Presiding Officer (Indicate Title):

Name: Address:

Secretary or Clerk (Indicate Title):

Name: Address:

Members:

Name: Address:

Name: Address:

Name: Address:

Name: Address:

Name: Address:

RETURN ACKNOWLEDGMENT TO: (Type or Print)

April 6, 2012

Date

NAME

Successor Agency - City of Foster City

ADDRESS

610 Foster City Blvd.

CITY/STATE/ZIP

Foster City, CA 94404

Signature

Typed Name and Title

(

(

(



## Oversight Board of the Successor Agency City of Foster City

**Date:** April 5, 2012  
**To:** Chair and Members of the Oversight Board  
**Via:** James C. Hardy, City Manager  
**From:** Steve Toler, Assistant City Manager  
**Subject:** Background of the Foster City Community Development Agency

---

At its Initial Meeting, the Oversight Board will receive a brief presentation by Successor Agency staff as to the background of the former Foster City Community Development Agency in terms of the remaining obligations and the wind-down of the Agency's operations per the provisions of ABx1 26.

### **Background on Project Areas**

To that end, staff provides a brief overview of the three (3) project areas of the former Agency, and has attached the respective Redevelopment Plans of each project area as background information of which the Oversight Board is requested to become familiar prior to the meeting.

#### **Project Area One**

Formed in September 1981, this was the Agency's original project area, which encompassed primarily the commercial areas in Foster City, and incorporated most of the public infrastructure and amenities in its project area in terms of being able to invest tax increment funding to develop the necessary infrastructure to support redevelopment. As of FY 2010-2011, the tax increment received from this project area totaled over 93% of the total tax increment received by the former Agency.

Project Area One had a term that would expire in 2016, but had a maximum tax increment limit ("tax increment cap") of \$170 million. The tax increment cap was reached in April 2011. The Project Area does not receive any further tax increment and, as such, beginning in FY 2011-2012 all property taxes are allocated to the respective taxing entities. The City was already in the process of winding down the operations of Project Area One when ABx1 26 was enacted by the State.

#### **Marlin Cove**

Formed in January 1999, this project area encompasses the former Marlin Cove shopping center on Foster City Blvd at Marlin Ave. The shopping center was

redeveloped into a mixed-use commercial and residential property. Included in the residential component was the requirement for the developer to provide affordable housing units that would be subsidized through tax increment. The disposition and development agreement (“DDA”) also called for utility and other subsidies to assist the residential component in being able to provide affordable housing to residents. The project area has a term that expires in 2029, and subsidies are required to be paid to the developer from future tax increment until that time per the terms of the DDA.

**Hillsdale/Gull**

Formed in January 1999, this project area encompasses the former Port o’ Call Shopping Center that was located at the corner of E. Hillsdale Blvd and Gull Avenue. It was redeveloped by the developer to provide residential living units in the community, of which a portion was dedicated to affordable housing. The DDA calls for affordable housing subsidies to be provided to the developer from future tax increment. The project area has a term that expires in 2017, and subsidies are required to be paid to the developer until that time per the terms of the DDA.

**Year-End Report for FY 2010-2011**

Also provided in the Agenda Packet for this meeting is the Year-End Report for the former Agency for FY 2010-2011 that was approved by the Agency Board in December 2011.

**Attachments:**

- Plan for the Foster City Community Development Project Area – September 1981
  
- Redevelopment Plan for the Marlin Cove Redevelopment Project – January 1999
  
- Redevelopment Plan for the Hillsdale / Gull Redevelopment Project – January 1999
  
- Year-End Report for FY 2010-2011

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**CITY OF FOSTER CITY**

**PLAN**

**FOR THE**

**FOSTER CITY**

**COMMUNITY DEVELOPMENT**

**PROJECT AREA**

**SEPTEMBER 1981**

**Piedmont Associates  
City Bond and Mortgage Corporation**

# FOSTER CITY COMMUNITY DEVELOPMENT PLAN

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# FOSTER CITY COMMUNITY DEVELOPMENT PLAN

## I. INTRODUCTION

The Foster City Community Development Plan consists of text and three maps, Exhibits A, B & C. This Plan has been prepared following adoption of the Preliminary Plan by the Planning Commission of the City.

The Foster City Community Development Plan has been prepared pursuant to the Constitution of the State of California, the Community Redevelopment Law of the State of California, and all applicable laws and local ordinances. The Community Development Plan has been prepared by Piedmont Associates and City Bond and Mortgage Corporation, working in conjunction with the Community Development and City of Foster City Staff, and has been submitted to the City of Foster City and Community Development Agency on October 1, 1981.

This Plan has been prepared to satisfy three basic requirements;

1. To provide the Community Development Agency with the maximum ability and flexibility in terms of implementing programs within the Project Area, especially in the areas of finance,
2. To set forth certain basic goals of Agency activity.
3. To satisfy the many requirements of State Law concerning the content of a Community Development Plan.

This document, with certain exceptions, does not require specific programs of implementation, but instead sets forth a wide range of activities which may be undertaken by the Agency. This level of flexibility is necessary because precise activities to be undertaken by the Agency will be determined each year, as budgetary and financial resources permit.

It is important to note, when considering the content and level of specificity in this document, that a Community Development Plan is legally viewed as a relatively strict

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

document because of the implementation tools and power that it can invest in the Community Development Agency. Amendment of this Plan, once it is finally adopted by the Agency Board, will require duplication of most of the steps currently being undertaken by the Agency Board, City and Agency Staff, and consultants. Given the fact that Agency activities will be strictly limited by the level of funding and resources available to the Agency, it would be unrealistic to expect that Agency activities will have a substantial impact 'overnight.' Instead, Agency activities will gradually, over the upcoming decades, make it possible to improve the Project Area.

With these considerations in mind, we have prepared a relatively flexible document, so that Agency activities and projects can be fitted and refocused to the needs of the City and the Project Area over time.

Finally, even though much of the Project Area is vacant land, the Agency is provided with all of the powers and tools typically included for rehabilitation of property. Even though no property rehabilitation is required at this time, the term of existence for the Agency is set at thirty five years, and during that period, some property rehabilitation may be required.

# FOSTER CITY COMMUNITY DEVELOPMENT PLAN

## II. GENERAL DEFINITIONS

The following references will be used in this Plan unless the context otherwise requires:

- A. Agency means the Foster City Community Development Agency, Foster City, California.
- B. City means the City of Foster City, California.
- C. Community Development means those activities provide for under the California Community Redevelopment Codes, included within the Health and Safety Codes Section 33000 et. seq.
- D. County means the County of San Mateo, California.
- E. General Plan means the Foster City General Plan.
- F. Map means the Community Development Plan Map for the Project Area (Exhibit A).
- G. Owner means any individual or entity owning "real property" as defined herein.
- H. Person means any individual, or any public or private entity.
- I. Personal Property means movable property, chattels, property not part of real property defined below.
- J. Plan means the Foster City Community Development Plan being done under the Redevelopment Law as set forth in 'N' below.
- K. Planning Commission means the Planning Commission of the City of Foster City, California.
- L. Project means Foster City Community Development Project.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

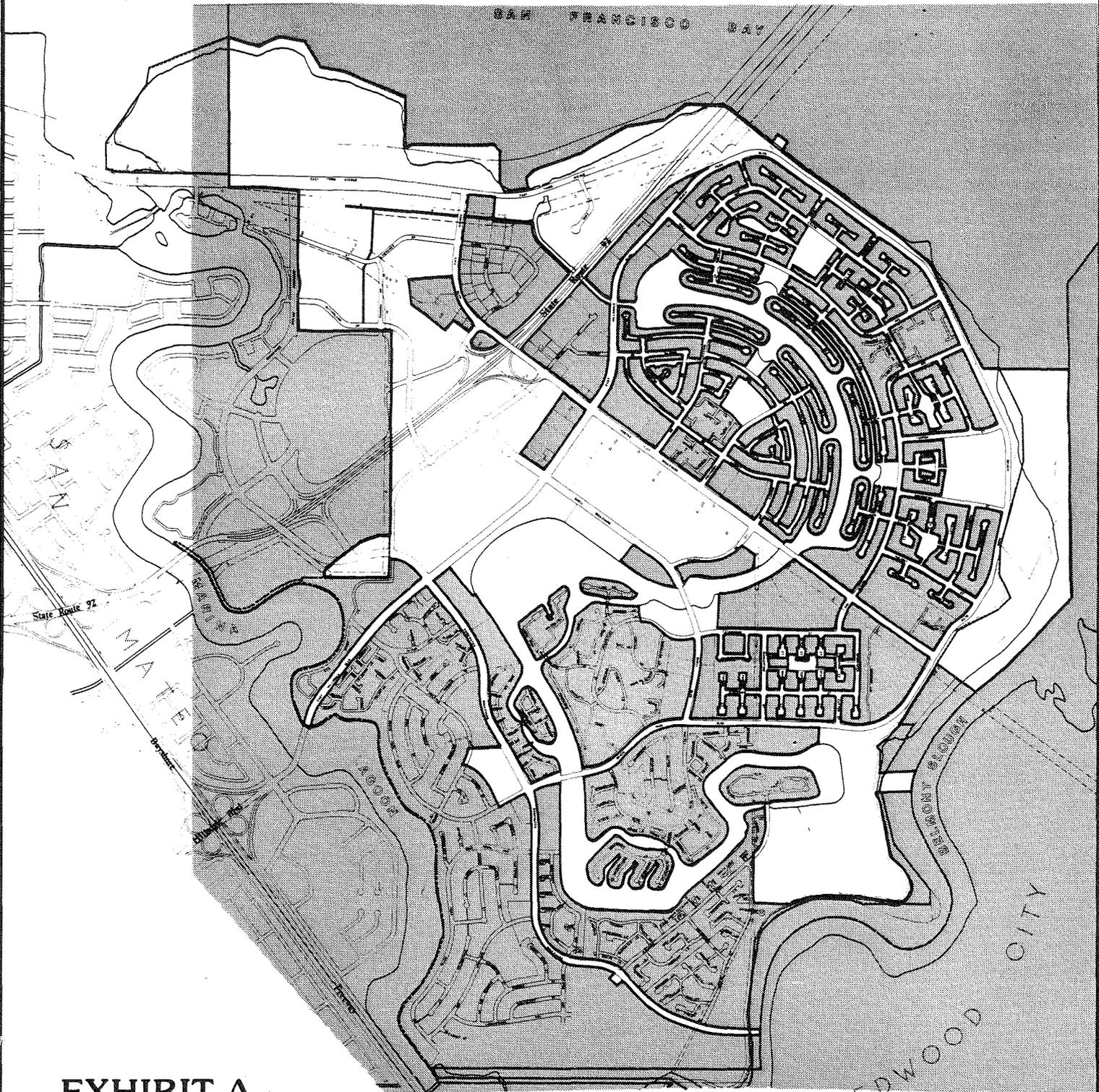
- M. Project Area means the area included within the boundaries of the Foster City Community Development Project.
- N. Real Property means land; including land under water and water front property buildings; structures, fixtures, and improvements on the land; and property appurtenant to or used in connection with the land; every estate, interest privilege, easement, franchise, and right in land, including but not limited to rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgement, mortgage or otherwise and the indebtedness secured by such liens.
- O. Redevelopment Law means the Community Redevelopment Law of the State of California (California Health and Safety Code, Section 33000 et seq.).
- P. State means the State of California.
- Q. Zoning Ordinances means the Zoning Ordinance of the City of Foster City, California.

III. PROJECT AREA BOUNDARIES

The Foster City Community Development Project Area, hereinafter called the Project Area is designated on the Project Boundary Map designated as Exhibit A, attached hereto and by this reference made a part hereof.

A legal description of the Project Area will be prepared and made a part of the Final Plan for the Project.

It should be noted that parts of the Project Area, as noted on the following map, consist of easements and rights-of-way currently possessed by either the City of Foster City or the Estero Municipal Improvement District.



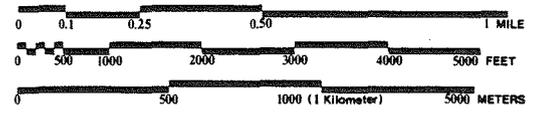
# EXHIBIT A PROJECT BOUNDARY

 NOT INCLUDED  
IN PROJECT AREA

--- CITY BOUNDARIES  
- - - - - ESTERO IMPROVEMENT DISTRICT BOUNDARY



**CITY OF  
FOSTER CITY  
CALIFORNIA**



IV. COMMUNITY DEVELOPMENT GOALS

The Community Redevelopment Statutes of the State of California enable a local government to form a Community Development Agency and determine that visual, economic, physical and/or social blight exists within an area or areas of the community. Blight encompasses a broad spectrum of problems, ranging from a lack of public improvements, physical characteristics that inhibit sound development of a particular site, and various other detrimental impacts, as well as the stereotypical view of visual blight.

The Foster City Agency proposes to use the process of Community Development to eliminate and reduce many aspects of economic, physical and social blight presently existing within the City of Foster City and more specifically within the boundaries of the Project Area, as set forth in this Community Development Plan. This action is necessary because within the Project Area there presently exists significant amounts of vacant land which have been precluded from effective development due to faulty planning and a lack of public improvements and facilities.

Because of faulty planning, primarily in terms of the scope and type of development which has taken place in the community, the City has not developed in a balanced manner. The economic base of the community is seriously lacking in office, retail, and other commercial uses. To remedy this situation at this time requires extraordinary public and private joint activity because of substantial circulation, public facilities and utilities deficiencies. These problems, among others, have hindered the development of the privately held lands within the Project Area.

Furthermore, because of the unique background of the City in being built virtually all at once and the present recognition of inadequate design of basic public infrastructure and the unanticipated effects of the soils and subsoils conditions, a substantial amount of the existing public facilities and utility systems are in need of substantial rehabilitation or replacement.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

The General Goals of this Community Development Plan are:

### GENERAL GOALS

1. To provide a more diversified and stable economic base for the Project Area and community.
2. To provide safer, more efficient, and economical movement of persons and goods within the Project Area and community.
3. To conserve and improve existing public facilities and to provide new such facilities as needed for the full and complete development of the Project Area and community.
4. To provide additional housing opportunities for all economic segments of the Project Area, community and region.
5. To provide additional employment opportunities for residents of the Project Area and community.
6. To create, conserve and protect those natural areas and environmental qualities that contribute to the beauty and character of the Project Area and community.

In addition to the above General Goals, the Agency will also observe and work to fulfill the goals of the City of Foster City as set forth in the Foster City General Plan.

In recognition of the above General Goals, the Agency will undertake the following Lines of Action:

### Lines of Action

#### **Goal 1 - More Diversified and Stable Economic Base**

- A. Create public/private partnerships to facilitate development of remaining commercial and industrial land

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

in order to increase and diversify revenue sources available to the City.

- B. Promote a high degree of architectural interest, quality of construction and urban character in the development of remaining vacant land in order to attract owners/tenants best able to contribute to the total betterment of the Project Area and community.
- C. Encourage the development of a variety of commercial and industrial uses in order to mitigate economic adversities affecting single commercial or industrial sectors of the economy.
- D. Encourage a broad range of building types, densities, locations and flexibility of use in order to better react to changing technologies, methods of production and distribution, and national and local social and economic circumstances.

### Goal 2 - Movement of Persons and Goods

- A. Reduce present commute traffic by providing local employment opportunities through the development of now vacant commercial and industrial lands.
- B. Reduce present and future commute traffic by use of car and van pools, staggered and/or flexible work hours and improved transit services.
- C. Integrate local transportation plans with other local, regional and state plans.
- D. Improve overall vehicular circulation by the construction of needed circulation improvements.
- E. Develop local public and private funding for projects either not eligible or not now fundable by outside agencies.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

### Goal 3 - Improve and Expand Public Facilities

- A. Rehabilitate or reconstruct deteriorated water, storm and sanitary utilities, including lines, pumps, treatment and storage facilities.
- B. Develop additional utility systems and facilities to service full development.
- C. Rehabilitate lagoon system by dredging and reconstruction of walls, culverts and intake and outflow facilities.
- D. Develop parks and recreation facilities to support present and future development.
- E. Develop safe and adequate educational facilities to serve residents of the Project Area and community.
- F. Reconstruct deteriorated streets.
- G. Develop Public Safety and Governmental facilities to support present and future development.
- H. Develop a publicly owned Marina.

### Goal 4 - Housing Opportunities

- A. Create public/private partnerships to provide affordable housing, with use of state and federal programs as economic incentives to such development.
- B. Use funds available per Community Redevelopment laws in support of affordable housing opportunities.
- C. Amend local laws as appropriate to respond to evolving life styles and economic conditions necessitating smaller unit sizes and, where allowable and desirable, more dense development.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

### Goal 5 - Employment Opportunities

- A. Provide additional employment opportunities through the development of now vacant commercial and industrial lands.
- B. Encourage development of child care facilities in both residential and employment areas and pursue amendment of local law, if necessary, to allow such facilities.
- C. Use Industrial Development Bond tax-exempt financing programs, where possible, to facilitate commercial and industrial development.

### Goal 6 - Natural Areas and Environmental Qualities

- A. Coordinate local plans for the creation, conservation and enhancement of natural areas with similar regional, state and federal plans.
- B. Encourage development that recognizes and addresses the concerns of the community to preserve the natural environment.
- C. Require future development and redevelopment to enhance the water oriented and open space qualities which give form and character to the community.

In addition to the above-stated Goals and Lines of Action, the following objectives are recognized by the Agency:

- 1. The Agency shall attempt to avoid any undesirable impact of project activities upon adjacent areas outside the Project Area.
- 2. The Agency shall attempt to provide whatever public improvements may be needed to support the objectives of the Plan. Such improvements may be in any part of the Project Area, or beyond project boundaries where essential to the success of the project.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

### V. DEVELOPMENT TECHNIQUES TO ACHIEVE PLAN OBJECTIVES

The development of the Community Development Project will be undertaken in accordance with the provision of the California Community Redevelopment Law. At this time, it is anticipated that the use of financial and tax incentives will provide sufficient incentive to the private sector for realization of the improvement of the Project Area and the eradication of blighting influences.

The Agency proposes to strive for successful economic, social and physical development within the Project Area by:

1. Installation, construction, or reconstruction of streets, utilities, landscaping, and other on-site and off-site improvements.
2. Encouragement of development of land by private enterprise for use in accordance with this plan.
3. Providing for open space and recreational land use.
4. Limited acquisition of real property.
5. Relocation assistance to displaced residential and non-residential occupants.
6. Disposition of property for uses in accordance with this plan.
7. Provision of tax-exempt financing to those projects in conformance to the Community Development Plan as well as all appropriate City Codes and Plans.
8. Utilization of tax-exempt financing vehicles available to the Agency, the City, and Estero District including but not limited to those authorized by the Redevelopment Construction Loan Act, those available through the General Powers of the Agency, and those available via the Parking and Assessment District Statutes of the State of California.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

### Redevelopment Construction Loan Act Financing and General Agency Powers Financing

The Redevelopment Construction Loan Act (RCLA or SB 99) as well as the General Powers of the Agency provide the authority for the Agency to issue tax-exempt mortgage-revenue bonds for the financing of housing construction as well as the development and construction of commercial facilities. These tax-exempt bonds are issued at below market interest rates because of the tax-exemption, but do not lead to any additional taxes because the specific projects financed by the bonds underwrite the debt service of the bonds.

The Agency may use RCLA financing to assist in the production of affordable housing. Given the current high interest rates and money market instability, RCLA financing for new housing is the most effective tool available to the City and Agency in terms of seeing that some affordable housing will be constructed within the community.

Commercial projects may also be eligible for RCLA and-or General Powers financing. This below-market financing for new development will make it financially feasible for developers and property owners to undertake additional landscaping, architectural amenities, and other project enhancements that otherwise would be too costly.

In all cases, RCLA financing will only be available to those projects which fully satisfy all local zoning and land use considerations. As a general rule, the Agency will expect that projects should show additional benefits to the community due to the provision of lower cost RCLA mortgage financing.

#### **A. Participation by Owners and Business Tenants**

The following part of the Plan is concerned with assuring that joint public-private activities will be undertaken successfully and to the maximum benefit of the Project.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

Even though the rehabilitation of privately held property is not now required within the Project Area, the Agency may become active in this area over the thirty five (35) year duration of the Project.

### 1. Opportunities for Owners and Business Tenants

The Agency shall extend reasonable preferences to persons who are engaged in business in the Project Area, to continue or re-enter in business within the Project Area if they meet the requirements prescribed in this Plan. For that purpose the Agency will adopt rules for re-entry of business in the Project Area.

It is the policy of the Agency to encourage the participation of property owners and businesses within the Project Area as such is necessary if the Community Development process is to be successful in improving the Project Area.

It is further the policy of the Agency to refrain from the acquisition of real property within the Project Area from owners who wish to remain and participate in the development of their property. To the extent possible the Agency shall attempt to acquire property only where there is a willingness to sell on the part of the private property owner. It is anticipated that the acquisition of real property within the Project Area will be limited and that the Agency's power of eminent domain will be used only in those rare instances in which the Agency determines that the acquisition of certain real property is necessary and is in the best interest of the project.

It is the policy of the Agency to minimize acquisition of private property when possible and to vigorously pursue the encouragement of participation within the development program of property owners and business within the Project Area. Said participation shall be pursued by the Agency by allowing owners of parcels of real property to: retain all or a portion of their properties; to acquire adjacent or other properties in

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

the Project Area; and to upgrade and develop their property in conformance with this Plan.

In the event a participant fails or refuses to maintain, rehabilitate or develop his or her real property pursuant to this Plan and/or the participation agreement, as an alternate thereto, the Agency is authorized but is not required to acquire the real property or any interest herein which if acquired may be sold or leased for rehabilitation or development in accordance with this Plan and the rules for owner participation.

The Agency may determine that certain real property within the Project Area presently meets the requirements and objectives of this Plan and the owners of such properties will be permitted to remain as conforming owners without a participation agreement with the Agency, provided such owners continue to operate and use the real property within the requirements of this Plan.

The Agency may also determine that certain real property within the Project Area is substantially in conformance with the requirements and objectives of this Plan and the owners of such properties shall be allowed to remain as conforming owners provided said owners adequately landscape such property.

The Agency shall not acquire, through the use of eminent domain, conforming property owned by conforming owners when established by a resolution of the Agency as set forth in Section B (1) infra.

In the event any of the conforming owners desire to:

- a) Construct any additional improvements or substantially alter or modify existing structures on any of the real property described above as conforming; or
- b) acquire additional real property within the

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

Project Area,

then such conforming owners may be required to enter into a participation agreement with the Agency in the same manner as required for owners of non-conforming properties.

### 2. Rules for Participation Opportunities, Priorities and Preferences

Owners of property and business tenants may participate in the development of property in the Project Area in accordance with the Preference Rules and Participation Rules adopted or subsequently amended by the Agency. In general, these rules shall provide that in the event of displacement as a result of Agency activities existing business owners and business tenants within the Project Area be given preference for re-entry into business within the redeveloped Project Area. Owners will be required to submit proof to the Agency of their qualifications and financial ability to carry out their agreement with the Agency.

### 3. Participation Agreements

Each participant, not a conforming owner, shall enter into a binding agreement with the Agency, at the option of the Agency, by which the participant agrees to rehabilitate, develop, or use the property in conformance with the Plan and to be subject to the provisions hereof. In such agreements, participants who retain real property shall be required to join in the recordation of such documents as are necessary in the determination of the Agency to make the provisions of this Plan applicable to their properties.

Participation Agreements will be required for all property development or rehabilitation if the Agency is to provide financial assistance to the respective property in question. Otherwise, a Participation Agreement will be required only in those cases where the Agency, by resolution, finds that there is a need

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

for such Agreement to implement the goals of the Plan.

### **B. Property Acquisition**

As presented in the Goals of this Plan, the Agency will always first work with the property owner to assure that the specific property is improved in conformance with this Plan and the General Plan of the City.

#### **1. Acquisition of Real Property**

Except as specifically exempted herein, the Agency may, but is not required to, acquire or obtain options to acquire real property located in the Project Area, by gift, devise, exchange, purchase, eminent domain or any other lawful method whatsoever. The Agency may also acquire any other interest in real property less than fee interest.

Since it is in the public interest and is necessary for the elimination of those conditions requiring redevelopment, the power of eminent domain may be employed by the Agency in some instances to acquire real property in the Project Area. However, said power of eminent domain will not be exercised when:

- a) The property in question is improved with a structure and the Agency has determined by resolution that the rehabilitation of the structure and its proposed use is consistent with the objectives of the Plan and that such rehabilitation is in the best interest of the project and the owner has thereafter entered into an owner participation agreement with the Agency and is faithfully performing under the terms of the agreement.
- b) The property in question is improved by a structure and the Agency has determined by resolution that said structure and its use is consistent with the objectives of the Plan, that such property conforms to the Plan and that no

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

owner participation agreement is necessary so long as the structure is adequately maintained and properly landscaped.

- c) The property in question is owned by a public body, unless prior consent is obtained from that public body. Prior to any acquisition through eminent domain the Agency shall adopt a resolution declaring a need to acquire any specific property and authorizing the acquisition by such a method.

The Agency must commence eminent domain proceedings within twelve years from the adoption of the ordinance including said property in the project area. The time limit on commencing an action in eminent domain cannot be extended without further amendment to the Plan.

### 2. Acquisition of Personal Property

Generally, personal property shall not be acquired. However, where necessary in the execution of this Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means.

### C. Cooperation with Public Bodies

Certain public bodies are authorized by state law to aid and cooperate, with or without consideration, in the planning, undertaking, construction, or operation of this Project. The Agency shall seek the aid and cooperation of such public bodies and shall attempt to coordinate this Plan with the activities of such public bodies in order to accomplish the purposes of redevelopment and the highest public good.

The Agency by law is not authorized to acquire real property owned by public bodies without the consent of such public bodies. The Agency, however, will seek the cooperation of all public bodies which own or intend to acquire property in the Project Area. The Agency shall have the right to impose on all public bodies the planning and design controls contained in the Plan to insure that present uses and any future development by public bodies conform to the

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

requirements of this Plan. Any public body which owns or leases property in the Project Area will be afforded all the privileges of owner and tenant participation if such body is willing to enter into a participation agreement with the Agency.

### D. Property Management

During such time as property in the Project Area is owned by the Agency, such property shall be under the management and control of the Agency. Such property may be rented or leased by the Agency pending its disposition for redevelopment.

In any year during which the Agency owns property in the Project Area, the Agency may, but shall not be required to, pay to the City, County, or any district or other public corporation which would have levied a tax upon such property had it not been exempt an amount of money in lieu of taxes; provided that no such payment shall be made for any period during which such property is devoted to a public use.

### E. Relocation of Persons Displaced

When undertaken, the relocation of persons and business will be subject to the following standards:

#### 1. Assistance in Finding Other Locations.

The Agency shall assist all families and single persons displaced by the Project in finding other locations and facilities. There are, in areas in the City, other than the Project Area (areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons displaced from the Project Areas), decent, safe and sanitary dwellings equal in number to the number of and available to such displaced families and persons and reasonably accessible to their places of employment. In order to carry out the Project with a minimum of hardship to persons displaced from their homes, the

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

Agency shall assist individuals and families in finding housing that is decent, safe, sanitary, within their financial means, in reasonable and convenient locations, and otherwise suitable to their needs. The Agency is also authorized to provide housing outside the Project Area for displaced persons.

### 2. Relocation Payments.

The Agency may pay reasonable moving expenses to persons (including families, business concerns and others) displaced by the Project. This provision is not intended to provide incentives for commercial and industrial business to move out of the Project Area. The Agency may make such relocation payments for moving expenses where the Agency determines it is in the best interest of the Project and not to do so would create a hardship on the persons involved. The Agency may make such other payments as may be in the best interest of the Project and for which funds are available. The Agency shall make all relocation payments required by applicable law.

### F. Demolition, Clearance, Public Improvements, Building and Site Preparation

#### 1. Demolition and Clearance

The Agency is authorized to demolish, clear or move buildings, structures, and other improvements from any real property owned or acquired by the Agency in the Project Area as necessary to carry out the purposes of this Plan.

#### 2. Public Improvements

The Agency is authorized to install and construct or to cause to be installed and constructed the public improvements and public utilities (within or outside the Project Area) necessary to carry out this Plan. Such public improvements include, but are not limited to, bridges, streets, curbs, gutters, sidewalks,

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

street lights, sewers, storm drains, traffic signals, electrical distribution systems, natural gas distribution systems, water distribution, production, and storage systems, buildings, parks, off-street parking, plazas, playgrounds, and landscaped areas.

It is anticipated that the following public improvements including the costs of property acquisition, site preparation, design and construction may be undertaken:

- a. Undergrounding of utilities within the Project Area.
  - b. Development of additional park space.
  - c. Development or purchase of additional community facilities.
  - d. Construction of school facilities within the Project Area.
  - e. Improvements to and expansion of the municipal utility system.
  - f. Improvements to the lagoon system.
  - g. Improvement and construction of traffic facilities
3. Preparation of Building and Development Sites

The Agency is authorized to prepare or cause to be prepared as building and development sites any real property in the Project Area owned or acquired by the Agency.

### **G. Rehabilitation and Moving of Structures by the Agency**

#### **1. Rehabilitation**

The Agency is authorized to rehabilitate or to cause to be rehabilitated any building or structure in the

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

Project Area acquired by the Agency. The Agency is also authorized and directed to advise, encourage, and assist in the rehabilitation of property in the Project Area not acquired by the Agency.

### 2. Moving of Structures

As necessary in carrying out this Plan, the Agency is authorized to move or cause to be moved any building or other structure to a location within or outside the Project Area.

## H. Property Disposition and Development

### 1. Real Property Disposition and Development

#### a) General

For the purposes of this Plan, the Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage or deed of trust, or otherwise dispose of any interest in real property. To the extent permitted by law, the Agency is authorized to dispose of real property by negotiated leases or sales without public bidding.

All real property acquired by this Agency in the Project Area shall be sold or leased for development for the uses permitted in the Plan. Real property may be conveyed by the Agency to the City or any other public body without charge.

Property containing buildings or structures rehabilitated by the Agency shall be offered for resale within one year after completion of rehabilitation or an annual report concerning such property shall be published by the Agency as required by law.

The Agency shall reserve such powers and controls in the disposition and development documents as my

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

be necessary to prevent transfer, retention, or use of property for speculative purposes and to insure that development is carried out pursuant to this Plan.

### b) Purchase and Development by Participants

Pursuant to the provisions of this Plan and the rules adopted by the Agency, the Agency may offer real property in the Project Area for purchase and development by owner and business-tenant participants prior to the time that real property is made available for purchase and development by persons who are not owners or business-tenants in the Project Area.

### c) Purchase and Development Documents

To provide adequate safeguards to insure that the provisions of this Plan will be carried out and to prevent the recurrence of blight, all real property sold, leased, or conveyed by the Agency, as well as all property subject to participation agreements, shall be made subject to the provisions of this Plan by leases, deeds, contracts, agreements, declarations of restrictions, provisions of the zoning ordinance, conditional use permits, or other means. Where appropriate, as determined by the Agency, such documents or portions thereof shall be recorded in the office of the Recorder of the County.

The leases, deeds, contracts, agreements, and declarations of restrictions may contain restrictions, covenants, covenants running with the land, rights of reverter, conditions, subsequent, equitable servitudes, or any other provision necessary to carry out this Plan.

All property in the Project Area is hereby subject to the restriction that there shall be no discrimination or segregation based upon race,

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

religion, sex, or national origin, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of property in the Project Area. All property sold, leased, conveyed, or subject to a participation agreement shall be made expressly subject by appropriate documents to the restriction that all deeds, leases, or contracts for the sale, lease, sublease, or other transfer or use, occupancy, tenure or enjoyment of land in the Project Area shall contain such nondiscrimination and nonsegregation clauses as are required by law, and as set forth in Section 1. herein. Appropriate covenants running with the land which will prohibit such restrictions shall be included in the disposition documents.

### d) Development

To the extent now or hereafter permitted by law, the Agency is authorized to pay for all or part of the value of the land and the cost of the installation and construction of any building, facility, structure, or other improvements either within or outside the Project Area for itself or for any public body or entity to the extent that such improvements would be of benefit to the Project Area.

During the period of development in the Project Area, the Agency shall insure that the provisions of this Plan and of other documents formulated pursuant to this Plan are being observed, and that development in the Project Area is proceeding in accordance with development documents and time schedules.

The Agency shall require that development plans on property acquired from Agency or on property subject to an owner participation agreement be submitted to Agency staff for approval and review. All development must conform to this Plan and all applicable Federal, State, and local laws, except

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

as such may be modified by requirements of this Plan or Agency agreements entered into to carry out the purposes of this Plan.

### e) Obligations to be Imposed on Developers

1) Purchasers of land acquired from Agency or subject to an owner participation agreement within the Project Area shall be required to develop such land in accordance with the provisions of this Plan. No building, sign or structure shall be constructed upon any part of such land unless architectural plans and specifications, showing the nature of such construction, parking, loading, surface treatment and landscaping, the location and orientation of structure(s) on the building site and, when requested, the grading plans for the building site to be built upon, shall have been submitted to, reviewed and approved in writing by the Agency. The Agency shall have the right to refuse to approve any such plans or specifications when in the opinion of the Agency such plans or specifications do not conform with the conditions and objectives of the Plan.

2) Acquirers, users or developers of land acquired from Agency or subject to an owner participation agreement within the Project Area must commence the erection of any building, prosecute diligently the work thereon and complete it with such reasonable period of time as agreed upon with the Agency.

3) Persons who are engaged in business in the Project Area shall be granted preference by the Agency to re-enter in business within said Area after redevelopment if they otherwise meet the requirements prescribed by the Plan.

4) The acquirer, user, or owner shall be responsible for complying with all

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

applicable State and local laws, ordinances and codes, in effect from time to time not superseded by this Plan.

### 2. Personal Property Disposition

For the purpose of this Plan, the Agency is authorized to sell, lease, exchange, transfer, assign, pledge, encumber, or otherwise dispose of personal property.

#### I. Prevention of Discrimination

##### 1. Development

The developer shall comply with all State and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, religion, sex, age, national origin, adopted in the sale, lease or occupancy of the property.

Pursuant to California Health and Safety Code (Sections 33337 and 33435-33436), contracts entered into by the Agency relating to the sale, transfer or leasing of land, or any interest therein acquired by the Agency within any Area or project, the provisions of said Section in substantially the form set forth therein shall be included in such contracts, and such contracts shall further provide that the provisions of said Section shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties and all other transferees under the instrument.

##### 2. Contracts

All deeds, leases or contracts for sale, lease, sublease or other transfer of any land in the Project Area shall contain the following nondiscrimination clauses as prescribed by California Health and Safety Code, Section 33236: (as amended).

In deeds the following language shall appear:

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

"The grantee herein covenants by and for himself, his heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against, or segregation of, any person or group of persons on account of race, religion, sex, or national origin, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee himself or any person claiming under or through him establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

In leases, the following language shall appear:

"The lessee herein covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through him, and this lease is made and accepted upon and subject to the following conditions: "That there shall be no discrimination against or segregation of any persons or group of persons, on account of race, religion, sex, or national origin, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment, of the premises herein leased, nor shall the lessee himself, or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, occupancy, or tenants, sublessees, subtenants, or vendees in the premises of herein leased."

### 3. Duration

The covenants in deeds, leases, and contracts from or with the Agency, with respect to Prevention of Discrimination, shall remain in effect in perpetuity.

# FOSTER CITY COMMUNITY DEVELOPMENT PLAN

## VI. PERMITTED LAND USES

The City of Foster City has adopted a General Plan which is in conformance with the State requirements for General Plans. The permitted land uses of this Agency Plan have been established so as to be consistent with and conform to the land uses of the Foster City General Plan, and it is intended that all provisions of zoning, sign and design review ordinances and specific plans are applicable to development in this area.

Further, it should be noted that the applicable zoning and planning processes will still have full effect and serve as the primary determinant for land use decisions. These more general land use designations are being used because the existing zoning and General Plan designations are adequate, and there is no need for another level of precise land use designations.

### A. MAP

A land use map showing the permitted land uses and major circulation routes within the Project Area is attached hereto as Exhibit B.

### B. MAJOR LAND USES

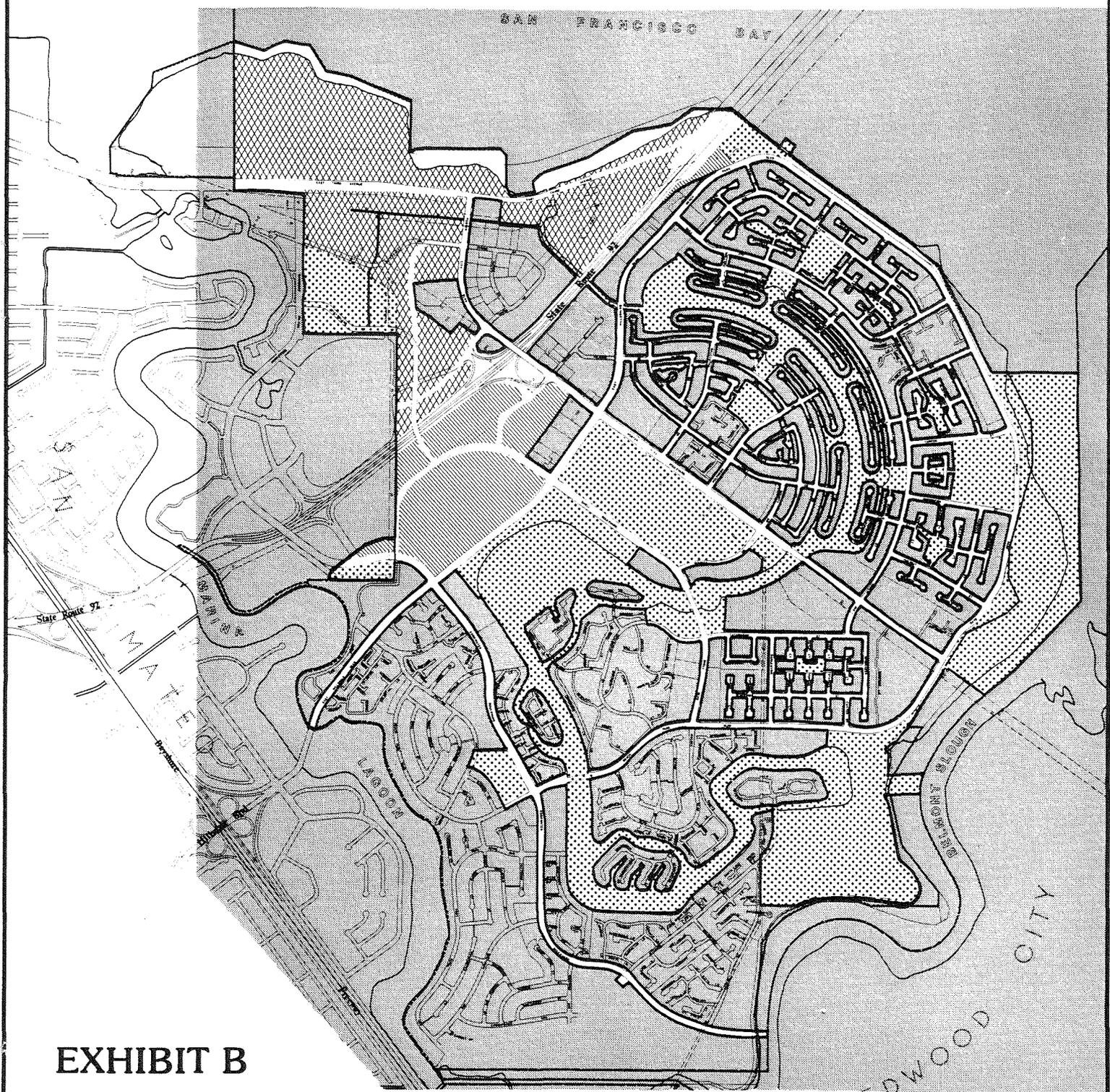
#### 1. Residential/Public

The areas shown on the Project Area Land Use and Circulation Plan Map as Residential/Public shall be developed in accordance with the provisions of the Residential and Parks and Schools categories of the General Plan Land Use Element and the Public Facilities category of the Zoning Ordinance, as determined to be applicable in the processing of development proposals.

#### 2. Industrial

The areas shown on the Project Area Land Use and Circulation Plan Map as Industrial shall be developed in accordance with the provisions of the Industrial,

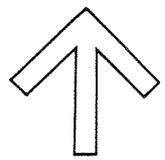
SAN FRANCISCO BAY



# EXHIBIT B LAND USE and CIRCULATION PLAN

-  RESIDENTIAL/PUBLIC
-  INDUSTRIAL
-  COMMERCIAL

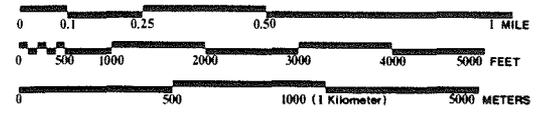
-  STREETS
-  NOT INCLUDED IN PROJECT AREA



--- CITY BOUNDARIES  
 - - - - - ESTERO IMPROVEMENT DISTRICT BOUNDARY



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 CALIFORNIA



## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

Residential and Parks and Schools categories of the General Plan Land Use Element, as determined to be applicable in the processing of development proposals.

### 3. Commercial

The areas shown on the Project Area Land Use and Circulation Plan Map as Commercial shall be developed in accordance with the provisions of the Commercial and Residential categories of the General Plan Land Use Element, as determined to be applicable in the processing of development proposals.

### C. PUBLIC RIGHTS-OF-WAY AND EASEMENTS

All streets within the Project Area may be widened, altered, or vacated for purposes of development of the Project Area. New streets may be created as necessary. These public rights-of-way shall be used for vehicular and/or pedestrian

traffic as well as for public improvements, public and private utilities, and activities typically found in the public rights-of-way. Any and all street vacations pursuant to this Plan shall be in accordance with the City's public hearing requirements as well as all other applicable law including, but not limited to, those provisions set forth in California Streets and Highways Code.

All properties encumbered by existing maintenance and navigation easements in favor of the City and Estero Municipal Improvement District shall be subject to any and all activities that may be undertaken toward the achievement of the Goals of this Plan and those of the City, including but not limited to the rehabilitation of the lagoons and lagoon walls, banks, culverts and bridges.

### D. GENERAL CONTROLS AND LIMITATIONS

All real property in the Project Area is hereby subject to the controls and requirements of this Plan. No real property shall be developed, rehabilitated, or otherwise changed after the date of adoption of the Plan except in

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

conformance with the provisions of this Plan and all applicable State and local laws in effect from time to time.

### 1. New Construction

All new construction shall comply with all applicable State and local laws in effect from time to time, except as inconsistent with agreements entered in by the Agency under the Authority of this Plan. All setback areas shall be landscaped and maintained by the owners with the exception of any portion necessary for access which shall be paved in accordance with the landscaping concept established by the Agency.

Parking facilities shall be provided in accordance with the criteria set forth in the General Plan and Zoning Ordinance of the City at the ratio set by the City. All parking shall be paved and drained so that storm and surface waters draining from parcels will not cross public sidewalks, and all parking spaces visible from the street shall be landscaped as necessary to prevent unsightly barren appearances as set forth by the Plan. Off-street loading facilities, trash areas, and any outdoor storage of materials approved by the Agency shall be adequately enclosed or screened by walls, landscaping, or other such enclosure consistent with the applicable City Ordinances and in a manner approved by the Agency.

### 2. Existing Non-Conforming Uses

The Agency is authorized to permit an existing use to remain in an existing building in good physical condition which does not conform to the provisions of this Plan provided that such use is generally compatible with the developments and uses within the Project Area.

### 3. Rehabilitation

Any structure within the Project Area which will be retained as part of this Plan shall not be altered,

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

reconstructed, or rehabilitated unless it is done so in conformance with this Plan and any and all guidelines which may be adopted by the Agency to assist in the implementation of the Plan. This conformity shall extend to the architectural character, the public spaces and other elements as required by the Agency.

### 4. Open Spaces and Landscaping

The approximate amount of open space to be provided within the Project Area is set forth in the General Plan and Zoning Ordinance of the City and is included as part of the goals and objectives of this Plan. These areas include, but are not limited to, the total of all areas which will be in the public rights-of-way, open space areas, the space around buildings, and all other outdoor areas not permitted through applicable limits of land coverage to be covered by buildings. Landscaping plans shall be required to be submitted to the Agency for review and approval.

### 5. Utilities

The Agency shall require that all utilities be placed underground unless otherwise approved by the Agency, including, but not limited to, the following: transformer vaults or pads, water meters and valves, telephone pull boxes, manhole inlets, and drain facilities, and Cable television.

### 6. Incompatible Uses

No use or structure which by reason of appearance, traffic, smoke, glare, noise, odor, or other similar factors that would be incompatible with the surrounding areas or structures shall be permitted in any part of the Project Area.

### 7. Nondiscrimination and Nonsegregation

There shall be no discrimination or segregation based on race, religion, sex, or national origin, permitted,

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of property in the Project Area.

### 8. Resubdivision of Parcels

After rehabilitation and-or development pursuant to this Plan, no parcel in the Project Area, including any parcel retained by a conforming owner or participant shall be subdivided without the approval of the Agency.

### 9. Variances

Under exceptional circumstances, the Agency is authorized to permit variances from the limits, restrictions, and controls established by the Plan. In order to permit such a variance the Agency must determine that:

- a) The application of one or more of the provisions of this Plan would result in unnecessary hardship to the property owner; and
- b) There are exceptional circumstances or conditions applicable to the property or to the intended development of the property which do not apply generally to other properties having the same standards, restrictions, and controls; and
- c) Permitting a variance from the limits, restrictions, or controls of this Plan will not be materially detrimental to the public welfare or injurious to property or improvements in the area; and
- d) Permitting a variance will not be contrary to the objectives of this Plan.

No such variance shall be granted which changes a basic land use pursuant to this Plan or which permits other than a minor departure from the provisions of this Plan. In permitting any such variance, the Agency

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

shall impose such conditions as are necessary to protect the public health, safety, or welfare, and to assure compliance with the objectives of the Plan.

### E. STANDARDS FOR DEVELOPMENT

Within the limits, restrictions, and controls established in the Plan, the Agency is authorized to establish specific building heights, building coverage, design criteria, architectural character, landscaping character, sign character, traffic circulation ingress and egress, and any other development and design control necessary to implement the Plan. Said controls would relate to both private and public areas within the Project Area. No new development shall be constructed and no existing improvements shall be substantially modified, altered, repaired, or rehabilitated except in accordance with the aforementioned standards for development. Said standards may be developed and adopted by the Agency. The Agency shall not approve plans which do not comply with the design criteria.

#### 1. Height and Bulk

On any building site the bulk of structures shall be regulated as provided in the City's Zoning Ordinance.

#### 2. Density

The maximum permitted dwelling unit density shall be 35 units per acre of site area, except that housing designed specifically for the elderly and physically handicapped may be developed at greater densities.

### F. BUILDING PERMIT

#### 1. Review of Applications

Upon the adoption of this Plan, no permit shall be issued for the construction of any new building or the addition to an existing building or any permit for rehabilitation in the Project Area until the

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

application for such permit has been processed in the manner herein provided. Any permit that is issued hereunder must be for construction or maintenance which conforms to the provisions of this Plan.

The procedure for filing an application for a building permit shall be the same procedure currently used by the City in processing building permit applications. Upon receipt of an application by the Public Works Department, the Public Works and Community Development Department shall submit to the Executive Director (or the authorized designee(s) of the Executive Director) of the Agency said application for review to determine if the proposed improvements conform to the Plan. Within fifteen (15) days thereafter, the Executive Director, or designee(s), shall submit a report to the Public Works and Community Development Department on said application. Said report shall:

- a) Deny the application.
- b) Approve the application.
- c) Approve the application with modifications or conditions felt to be necessary by the Executive Director.

After receipt of the report or after 15 days from the submittal of the application to the Executive Director, or designee(s), whichever occurs first, the Public Works and Community Development Department shall issue the permit with conditions, if any, as set forth in the Executive Director's report, or shall deny the issuance of the permit pursuant to the Executive Director's report.

### 2. Appeal

The applicant or the Agency may appeal the Executive Director's decision to withhold, to conditionally allow, or to allow the issuance of such a permit pursuant to established City procedures.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

### VII. NEIGHBORHOOD IMPACT

The purpose of this section is to describe the impact of the Project upon the residents of the area and the surrounding areas in terms of relocation, traffic circulation, environmental quality, availability of community facilities and services, on school population and quality of education, property assessments and taxes as well as other matters affecting the physical and social quality of the neighborhood.

All of these factors will be discussed in depth in the Environmental Impact Report prepared for the Final Plan. To include that data herein would be excessively voluminous and unnecessarily repetitive. However, the following is a summary of the consideration given to the above factors in the development of this Plan.

The Project is designed to eradicate the blighted conditions now prevalent in the area. The primary method of accomplishing this goal will be the provision of various economic and financial incentives to property owners, and the construction of public improvements. However, should property acquisition be necessary, properties shall be acquired and sites cleared for future development in economic parcel sizes.

An objective of the Community Development Project is to minimize the displacement of all residents. In parts of the Project Area where there are proposed no changes in the use of land or intensity of development, residents who remain are expected to benefit from environmental improvement.

If Agency activity should require a resident or business concern to move as a direct result of Agency activity, then the resident will be assisted in their relocation efforts as required by State Law, and as specified in the Report on the Community Development Plan.

Any detrimental impact on the surrounding residential neighborhoods will be avoided through the appropriate

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

exercise of City powers such as zoning and enforcement of codes.

When completed, the Project may introduce an increase in residential units within the project Area. The Plan and Project will be focused towards the accomodation of planned

commercial, residential and industrial development, vis-a-vis the existing demands being made on the circulation and public utility systems.

The Project is anticipated to be financed substantially by tax-increment funding. In this way, there will be the least burden in taxes to those businesses and homeowners within the Project Area as well as to the general property taxpayer in Foster City. Upon completion of the Project, sales tax and real estate tax revenues available to the City of Foster City should increase. In light of this growth, the tax burden of City residents should be lightened.

It is a principal objective of the Agency that the improvement of the Project Area will have beneficial effects upon the surrounding neighborhood.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

### VIII. METHODS FOR FINANCING THE PROJECT

#### A. General Description of the Proposed Financing Method

Upon adoption of this Plan by the City Council, the Agency is authorized to finance this Project with financial assistance from the City of Foster City, State of California, San Mateo County, Federal Government, Property Tax Increments, Interest Income, Agency notes and bonds, or any other available source.

The advances for survey and planning and the operating capital for administration of this Project may come through loans from the City. Such loans shall be on terms established by the City and the Agency. The City may also supply additional assistance through City loans and grants for various public facilities.

As available, gas tax funds from the State of California and the County of San Mateo and Transportation Development Act funds may be used toward the cost of the street system and related improvements. There will also be some revenue accruing to the Project from interest earned on investments of Agency funds.

The Agency is hereby authorized to obtain advances, borrow funds and create indebtedness and other obligations in carrying out this Plan after first submitting a financing summary of each project to the City Council. The principal and interest on such advances, funds, indebtedness and other obligations, may be paid from tax increments or any other funds available to the Agency.

#### B. Tax Increments

All taxes levied upon taxable property within the Project Area each year by or for the benefit of the State of California, County of San Mateo, City of Foster City, any district, or other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving this Plan, shall be divided as follows:

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

1. That portion of the taxes which would be produced by the rate upon which the tax is levied each year by, or for, each of the taxing agencies upon the total sum of the assessed value of the taxable property in the Project Area (as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency), last equalized prior to the effective date of such ordinance, shall be allocated to and when collected shall be paid into the funds of the respective taxing agencies as taxes by, or for, said taxing agencies on all other property paid. For the purpose of allocatng taxes levied by or for, any taxing agency or agencies which did not include the territory of the Project Area on the effective date of such ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the County of San Mateo last equalized on the effective date of said ordinance shall be used in determining the assessed valuation of the taxable property in the Project on the effective date; and
  
2. That portion of said levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the Agency to pay the principal of and interest on loans, monies advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the Agency to finance or refinance, in whole or in part, this Community Development Project. Unless and until the total assessed valuation of the taxable property in the Project Area exceeds the total assessed valuation of the taxable properties in such Project as shown by the last equalized assessment roll referred to in paragraph (1) hereof, all of the taxes levied and collected upon the taxable property in the Project shall be paid into the funds of the respective taxing agencies. When said loans, advances, and indebtedness, if any, and interest thereon, have been paid, all monies thereafter received from taxes upon the taxable property in the Project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

The portion of taxes mentioned in subdivision (2) above may be irrevocably pledged by the Agency for the payment of the principal of and interest on money advanced, loans, or any indebtedness (whether funded, refunded, assumed or otherwise) by the Agency to finance or refinance in whole or in part, the Foster City Community Development Project.

The Agency is authorized to make such pledges as to specific advances, loans, indebtednesses, and other obligations as appropriate, in carrying out the Project.

As to the tax increments generated within the Project Area, no loans, advances or indebtedness shall be established or incurred by the Agency after the expiration of fifteen years from date upon which this Plan was adopted without further amendment to this Plan.

The undertaking of major circulation improvements, as well as the rehabilitation of existing public utilities and the provision of additional public and educational facilities shall be costly. In 1981 dollars, preliminary estimates show that over \$35,000,000 in public improvements are required. Given that these improvements will be constructed over the next decade, as adequate funding is not currently available, it is likely that the \$35,000,000 figure will increase to at least \$55,000,000 due to inflation. It will be necessary to finance these improvements, and an interest rate of 10.0% with twenty (20) year term financing is likely. Hence, \$55,000,000 in expenditures will require up to \$128,000,000 in total debt service for said undertakings. Furthermore, an additional twenty percent (20.0%) of all expenditures must be earmarked to support and provide affordable housing, as required by State Law, and it is estimated that Agency operation and the undertaking of pay-as-you-go minor public improvements will require at least \$10,000,000 of Agency funds over the term of the project. Given these concerns, the following tax-increment revenue ceilings will be in effect.

As to bonds issued by the Agency to be repaid in whole or in part from the allocation of taxes pursuant to Section 33670

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

of the California Health and Safety Code, the amount of such bonded indebtedness outstanding at any one time shall not exceed \$55,000,000.

As to the tax increment generated within the Project Area, no more than \$170,000,000 may be divided and allocated to the Agency without further amendment of this Plan.

### C. Other Loans and Grants

Any other loans, grants, or financial assistance from any other public or private source may be utilized if available.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

### IX. ACTIONS BY THE CITY

The City shall aid and cooperate with the Agency in carrying out this Plan and shall take all actions necessary to ensure that continued fulfillment of the purposes of the Plan and to prevent the recurrence or spread in the area of conditions causing blight. Action by the City may include, but not be limited to, the following:

- A. Initiation and completion of proceedings for opening, closing, vacating, widening, or changing the grades of streets, alleys, and other public rights-of-ways, and for other necessary modifications of the streets, the street layout, and other public rights-of-way in the Project Area. Such action by the City shall include proceedings for the abandonment and relocation of public utilities in the public rights-of-way as appropriate to carry out this Plan.
- B. Initiation and completion of proceedings necessary for changes and improvements in publicly-owned public utilities within or affecting the Project Area.
- C. Imposition wherever necessary (by conditional use permits or other means) of appropriate controls, within the limits of this Plan, upon parcels in the Project Area to ensure their proper development and use.
- D. Provision for administrative enforcement of this Plan by the City after development. The City and the Agency shall develop and provide for enforcement of a program for continued maintenance by owners of all real property, both public and private, within the Project Area throughout the duration of this Plan.
- E. Performance of the above, and of all other functions and services relating to public health, safety, and physical development normally rendered in accordance with a schedule which will permit the development of the Project Area, to be commenced and carried to completion without unnecessary delay.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

### X. ENFORCEMENT

After development, the administrative enforcement of this Plan or other documents implementing this Plan shall be performed by the City or the Agency.

The provisions of this Plan or other documents entered into pursuant to this Plan may also be enforced by Court litigation instituted by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, re-entry, injunctions, or any other remedies appropriate to the purposes of this Plan. In addition, any recorded provisions which are expressly for the benefit of owners of property in the Project Area, may be enforced by such owners.

### XI. DURATION OF THIS PLAN

Except for the nondiscrimination and nonsegregation provisions, which shall run in perpetuity, the provisions of this Plan shall be effective and the provisions of other documents formulated pursuant to this Plan may be made effective for 35 years from the date of adoption of this Plan by the City Council.

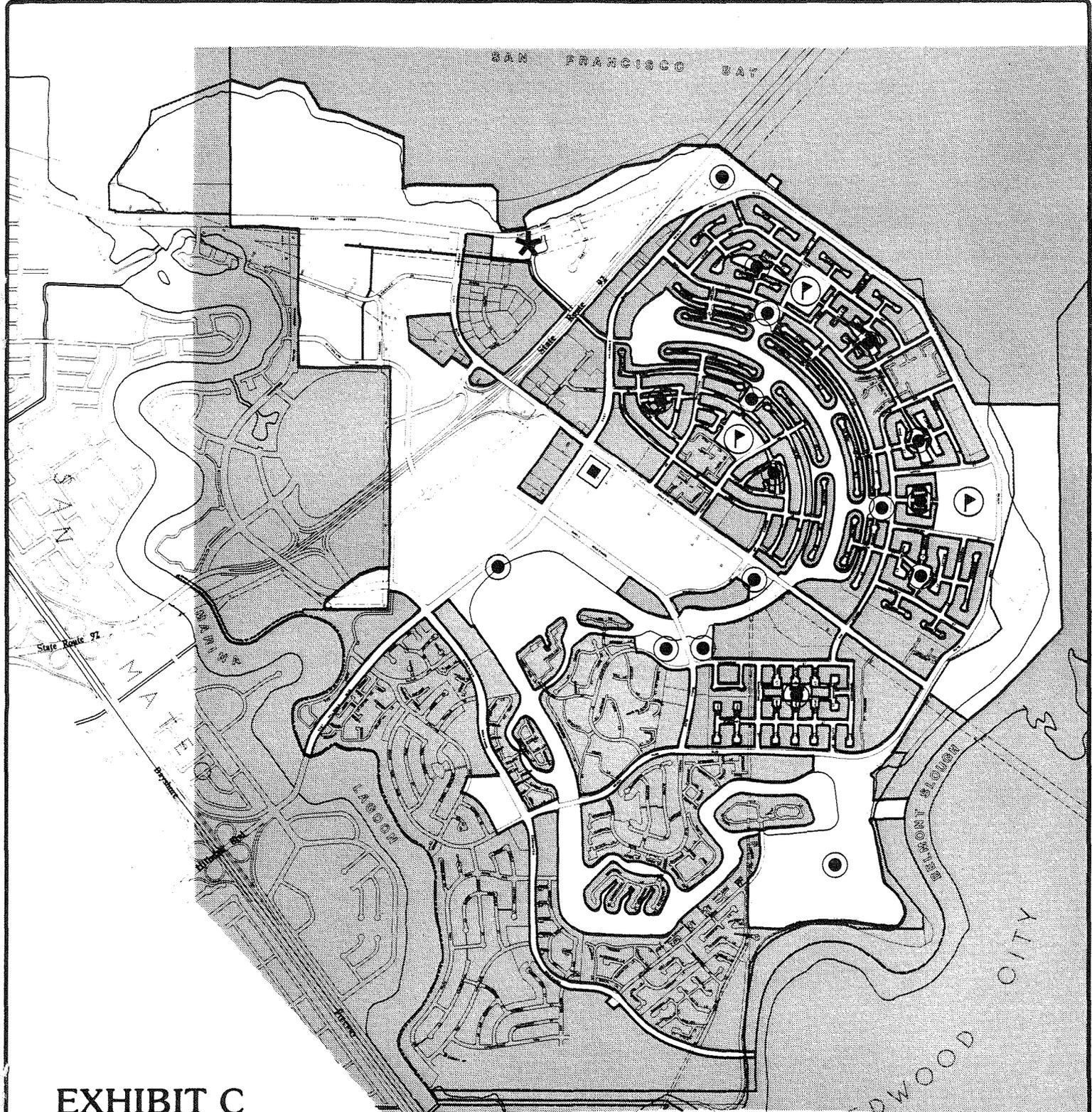
### XII. PROCEDURE FOR AMENDMENT

This Plan may be amended by means of the procedure established in the Redevelopment Law (see California Health and Safety Code 33450 to 33458), as the same now exists or as hereafter amended, or by any other procedure hereafter established by law.

## FOSTER CITY COMMUNITY DEVELOPMENT PLAN

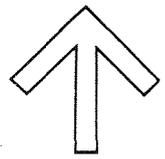
### XIII. CONSTRUCTION OF REPLACEMENT HOUSING

It is not the intention of the Agency, at the time of adoption of this Plan to eliminate any housing within the Project Area. However, pursuant to 33334.5 of the California Health and Safety Code, the Agency shall, within four years of the destruction or removal of low and moderate income housing, develop, construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to families of low and moderate income, an equal number of replacement dwelling units at affordable rents or sales prices within the Project Area or within the territorial jurisdiction of the Agency, in accordance with all of the provisions of 33413 and 33413.5 of the California Health and Safety Code.



**EXHIBIT C  
PUBLIC FACILITIES**

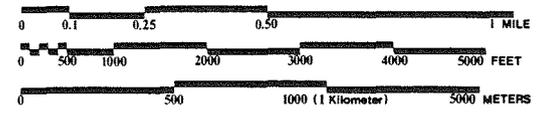
- ◆ CIVIC CENTER
- ★ MAINTENANCE FACILITY
- PARK
- ▶ SCHOOL



— CITY BOUNDARIES  
 - - - ESTERO IMPROVEMENT DISTRICT BOUNDARY



**CITY OF  
FOSTER CITY  
CALIFORNIA**



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**REDEVELOPMENT PLAN  
FOR THE  
MARLIN COVE REDEVELOPMENT PROJECT**

**Adopted:** January 4, 1999  
**Ordinance No.** 458

**Prepared by the  
FOSTER CITY COMMUNITY DEVELOPMENT AGENCY  
FOSTER CITY, CALIFORNIA**

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**REDEVELOPMENT PLAN  
FOR THE  
MARLIN COVE REDEVELOPMENT PROJECT**

**I. [Section 100] INTRODUCTION**

This is the Redevelopment Plan (the "Plan") for the Marlin Cove Redevelopment Project (the "Project") in the City of Foster City (the "City"), County of San Mateo, State of California. This Plan consists of text (Sections 100 through 1000), the Redevelopment Plan Map (Exhibit "A"), a Legal Description of the Project Area (Exhibit "B"), and the Proposed Public Improvements and Facilities Projects (Exhibit "C"). This Plan was prepared by the Community Development Agency of the City of Foster City (the "Agency") pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code, Section 33000 *et seq.*; all statutory references hereinafter shall be to the Health and Safety Code unless otherwise designated), the California Constitution, and all applicable local codes and ordinances.

The definitions of general terms which are contained in the Community Redevelopment Law govern the construction of this Plan, unless more specific terms and definitions therefor are otherwise provided in this Plan.

Many of the requirements contained in this Plan are necessitated by and in accord with statutory provisions in effect at the time of adoption of this Plan. Such statutory provisions may be changed from time to time. In the event that any such changes affect this Plan's requirements, and would be applicable to the Agency, the Project, or this Plan whether or not this Plan were formally amended to reflect such changes, then the requirements of this Plan that are so affected shall be superseded by such changes, to the extent necessary to be in conformity with such changes.

The project area (the "Project Area") includes all properties within the Project boundary shown on the Redevelopment Plan Map and described in the Legal Description of the Project Area.

The proposed redevelopment of the Project Area as described in this Plan conforms to the General Plan for the City of Foster City, as applied in accord with local codes and ordinances.

This Redevelopment Plan is based upon the Preliminary Plan formulated and adopted by the Foster City Planning Commission (the "Planning Commission") on May 7, 1998.

This Plan provides the Agency with powers, duties and obligations to implement and further the program generally formulated in this Plan for the redevelopment, rehabilitation, and revitalization of the Project Area. This Plan does not present a specific plan or establish priorities for specific projects for the redevelopment, rehabilitation, and revitalization of any particular area within the Project Area nor does this Plan present specific proposals in an attempt to solve or alleviate the concerns and problems of the community related to the Project Area. Instead, this Plan presents a process and a basic framework within which specific development plans will be presented, priorities for specific projects will be established, and specific solutions will be proposed, and by which tools are provided to the Agency to fashion, develop, and proceed with such specific plans, projects, and solutions.

In general, the goals and objectives of the redevelopment program in the Project Area are as follows:

1. The elimination and prevention of the spread of blight and deterioration; and the conservation, rehabilitation and redevelopment of the Project Area in accord with the General Plan, specific plans, the Redevelopment Plan and local codes and ordinances.
2. The achievement of an environment reflecting a high level of concern for architectural, landscape, and urban design and land use principles appropriate for attainment of the objectives of the Redevelopment Plan.

3. The control of unplanned growth by guiding revitalization activities and new development in such fashion as to meet the needs of the Project Area, the City and its citizens.
4. The retention of as many existing businesses as possible by means of redevelopment and rehabilitation activities and by encouraging and assisting the cooperation and participation of owners, businesses and public agencies in the revitalization of the Project Area.
5. The encouragement of investment by the private sector in the development and redevelopment of the Project Area by eliminating impediments to such development and redevelopment.
6. The expansion of the community's supply of housing, including opportunities for low- and moderate-income households.
7. To encourage maximum participation of residents, business persons, property owners, and community organizations in the redevelopment of the Project Area.
8. To replan, redesign and develop areas which are stagnant or improperly used.

Redevelopment of the Project Area pursuant to this Redevelopment Plan and the above goals and objectives will attain the purposes of the California Community Redevelopment Law by: (1) elimination of areas suffering from economic dislocation and disuse; (2) replanning, redesign and/or redevelopment of areas which are stagnant or improperly utilized, and which could not be accomplished by private enterprise acting alone without public participation and assistance; (3) protecting and promoting sound development and redevelopment of blighted areas and the general welfare of the citizens of the City by remedying such injurious conditions through the employment of appropriate means; (4) installation of new or replacement of existing public improvements, facilities and utilities in areas which are currently inadequately served with regard to such improvements, facilities and utilities; and (5) other means as deemed appropriate.

**II. [Section 200] PROJECT AREA BOUNDARY AND LEGAL DESCRIPTION**

The boundary of the Project Area is shown on the Redevelopment Plan Map attached as Exhibit "A," and is described in the Legal Description of the Project Area attached as Exhibit "B."

**III. [Section 300] PROPOSED REDEVELOPMENT ACTIVITIES**

**A. [Section 301] General**

The Agency proposes to eliminate and prevent the spread of blight and blighting influences, and to strengthen the economic base of the Project Area and the community, by some or all of the following:

1. Permitting participation in the redevelopment process by owners and occupants of properties located in the Project Area, and the extension of preferences to business occupants and other tenants desiring to remain or relocate within the Project Area, consistent with this Plan and rules adopted by the Agency;
2. Acquisition of real property and assembly of adequate sites for the development and construction of residential facilities;
3. Management of property under the ownership and control of the Agency;
4. Relocation assistance to displaced occupants of property acquired by the Agency in the Project Area;
5. Demolition or removal of buildings and improvements;
6. Installation, construction, expansion, addition, extraordinary maintenance or re-construction of streets, utilities, and other public facilities and improvements;
7. Disposition of property for uses in accordance with this Plan;
8. Redevelopment of land by private enterprise or public agencies for uses in accordance with this Plan;
9. Rehabilitation of structures and improvements by present owners, their successors, and the Agency;
10. Rehabilitation, development or construction of low and moderate income housing within the Project and/or the City; and
11. Providing for the retention of controls and establishment of restrictions or covenants running with the land so that property will continue to be used in accordance with this Plan.

In the accomplishment of these purposes and activities, and in the implementation and furtherance of this Plan, the Agency is authorized to use all the powers provided in this Plan and all the powers to the extent now or hereafter permitted by law, which powers are not expressly limited by this Plan.

**B. [Section 302] Owner Participation and Business Reentry Preferences**

**1. [Section 303] Owner Participation**

Owners of real property within the Project Area shall be extended reasonable opportunities to participate in the redevelopment of property in the Project Area if such owners agree to participate in the redevelopment in conformity with this Redevelopment Plan and owner participation implementation rules adopted by the Agency.

Participation methods include remaining in substantially the same location either by retaining all or portions of the property, or by retaining all or portions of the property and purchasing adjacent property from the Agency or joining with another person or entity for the rehabilitation or development of the owner's property and, if appropriate, other property. An owner who participates in the same location may be required to rehabilitate or demolish all or part of his/her existing buildings, or the Agency may acquire the buildings only and then remove

or demolish the buildings. Participation methods also include the Agency buying land and improvements at fair market value from owners and offering other parcels for purchase and rehabilitation or development by such owners, or offering an opportunity for such owners to rehabilitate or develop property jointly with other persons or entities.

Participation opportunities shall necessarily be subject to and limited by factors including but not limited to the following: (1) the elimination and changing of some land uses; (2) the construction, realignment, abandonment, widening, opening and/or other alteration or elimination of public rights-of-way; (3) the removal, relocation, and/or installation of public utilities and public facilities; (4) the ability of potential participants to finance the proposed acquisition, development or rehabilitation in accordance with this Redevelopment Plan; (5) the ability and experience of potential participants to undertake and complete the proposed development; (6) any reduction in the total number of individual parcels in the Project Area; (7) the construction or expansion of public improvements and facilities, and the necessity to assemble areas for such; (8) any change in orientation and character of the Project Area; (9) the necessity to assemble areas for public and/or private development; (10) the requirements of this Plan and applicable rules, regulations, and ordinances of the City of Foster City; (11) any Design Guide adopted by the Agency pursuant to Section 422 hereof; and (12) the feasibility of the potential participant's proposal.

## **2. [Section 304] Business Reentry Preferences**

Business occupants engaged in business in the Project Area shall be extended reasonable preferences to reenter in business within the redeveloped area if they otherwise meet the requirements prescribed by this Redevelopment Plan and business reentry preferences implementation rules adopted by the Agency.

Reentry preferences shall necessarily be subject to and limited by factors such as the following: (1) the extent to which suitable relocation or reentry accommodations exist or are rehabilitated or developed within the Project Area; (2) the extent to which suitable relocation or reentry accommodations are available to displaced business occupants within an acceptable time period or at rents and other terms that are acceptable to such displaced business occupants, and within their financial means; and (3) the requirements of this Redevelopment Plan or any Design Guide adopted by the Agency pursuant to this Redevelopment Plan.

## **3. [Section 305] Participation Agreements**

The Agency may require that, as a condition to participate in redevelopment or to obtain a building permit pursuant to Section 423 hereof, each participant shall enter into a binding written participation agreement with the Agency by which the participant agrees to contribute, sell, lease, acquire, rehabilitate, develop or use and maintain the property in conformance with this Plan and to be subject to provisions hereof and such other provisions and conditions to which the parties may agree. In such agreements, participants who retain real property may be required to sign and join in the recordation of such documents as is necessary to make the provisions of this Plan and such participation agreement applicable to their properties. In the event an owner or participant fails or refuses to develop, or use and maintain, his/her real property pursuant to this Plan and such participation agreement, the real property or any interest therein may be acquired by the Agency and sold or leased for rehabilitation or development in accordance with this Plan.

Whether or not a participant enters into a participation agreement with the Agency, the provisions of this Plan are applicable to all public and private property in the Project Area.

## **4. [Section 306] Implementing Rules**

The provisions of Sections 302 through 305 shall be implemented according to the rules adopted by the Agency prior to the approval of this Plan, and the same may be from time to time amended by the Agency. Where there is a conflict between the participation and re-entry preferences provisions in this Plan and such rules adopted by the Agency, the rules shall prevail.

**C. [Section 307] Property Acquisition**

**1. [Section 308] Acquisition of Real Property**

The Agency may acquire, but is not required to acquire, any real property located in the Project Area by gift, devise, exchange, lease, purchase, eminent domain or any other lawful method.

It is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment and in order to execute this Plan for the power of eminent domain to be employed by the Agency to acquire real property in all portions of the Project Area. The Agency is not authorized to acquire real property owned by public bodies which do not consent to such acquisition. The Agency is authorized, however, to acquire public property transferred to private ownership before redevelopment of the Project Area is completed, unless the Agency and the private owner enter into a participation agreement and the owner completes his/her responsibilities under the participation agreement. No eminent domain proceeding to acquire property within the Project Area shall be commenced after twelve (12) years following the effective date of the ordinance approving and adopting this Plan. Such time limitation may be extended only by amendment of this Plan.

The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is also authorized to acquire any other interest in real property less than a fee.

Without the consent of the owner, the Agency shall not acquire property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency shall not acquire real property on which an existing building is to be continued on its present site and in its present form and use without the consent of the owner, unless such building requires structural alteration, improvement, modernization, or rehabilitation, or the site or lot on which the building is situated requires modification in size, shape or use, or it is necessary to impose upon such property any of the standards, restrictions and controls of this Plan or of any Design Guide adopted by the Agency pursuant to this Plan, and the owner fails or refuses to participate in the Plan or in conformance with any such Design Guide by executing a participation agreement.

**2. [Section 309] Acquisition of Personal Property**

Generally, personal property shall not be acquired by the Agency. However, where necessary in the execution of this Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means, including eminent domain.

**D. [Section 310] Property Management**

During such time as property, if any, in the Project Area is owned by the Agency, such property shall be under the management and control of the Agency. Such property may be rented or leased by the Agency pending its disposition for redevelopment, and such rental or lease shall be pursuant to such policies as the Agency may adopt.

**E. [Section 311] Relocation of Occupants Displaced by Agency Acquisition**

**1. [Section 312] Assistance in Finding Other Locations**

The Agency shall assist business concerns and others displaced by Agency action in the Project Area in finding other locations and facilities. In order to carry out the Project with a minimum of hardship to business concerns and others, if any, displaced from their places of business, the Agency shall assist such business concerns and others in finding new locations that are decent, safe, sanitary, within their respective financial means, in reasonably convenient locations, and otherwise suitable to their respective needs.

**2. [Section 313] Relocation Payments**

The Agency shall make all relocation payments required by law to business concerns and others displaced by the Agency from property in the Project Area. Such relocation payments shall be made pursuant

to the California Relocation Assistance Law (Government Code Section 7260 *et seq.*) and Agency rules and regulations adopted pursuant thereto as such may be amended from time to time. The Agency may make such other payments as it may deem appropriate and for which funds are available.

**F. [Section 314] Payments to Taxing Agencies In Lieu of Taxes**

The Agency may in any year during which it owns property in the Project Area pay directly to the City, County, or other district, including, but not limited to, a school district, or other public corporation for whose benefit a tax would have been levied upon the Agency-owned property had it not been exempt, an amount of money in lieu of taxes.

**G. [Section 315] Demolition, Clearance, Public Improvements, Building and Site Preparation**

**1. [Section 316] Demolition and Clearance**

The Agency is authorized to demolish and clear buildings, structures, and other improvements from any real property in the Project Area as necessary to carry out the purposes of this Plan.

**2. [Section 317] Public Improvements**

The Agency is authorized to pay for, develop, install and construct, or to cause to be installed and constructed, the public improvements, facilities and utilities (within or outside the Project Area) necessary to carry out this Plan. Such public improvements, facilities and utilities include, but are not limited to, the following: (1) over- and under-passes; (2) sewers; (3) storm drains; (4) electrical, natural gas, telephone and water distribution systems; (5) parks and plazas; (6) playgrounds; (7) parking and transportation facilities; (8) landscaped areas; (9) street and circulation improvements; (10) flood control improvements and facilities; (11) fire stations, school facilities and community centers; and (12) other public facilities serving the needs of Project Area occupants.

**3. [Section 318] Preparation of Building Sites**

The Agency is authorized to prepare, or cause to be prepared, as building sites any real property in the Project Area owned by the Agency. The Agency is also authorized to construct foundations, platforms, and other structural forms necessary for the provision or utilization of air rights sites for buildings to be used for commercial, public, and other uses provided in this Plan.

Prior consent of the City Council is required for the Agency to develop sites for commercial or industrial use by providing streets, sidewalks, utilities or other improvements which an owner or operator of the site would otherwise be obliged to provide.

The Agency may take any actions which it determines are necessary and which are consistent with other state and federal laws to remedy or remove a release of hazardous substances on, under, or from property in the Project Area in accordance with the requirements of Community Redevelopment Law Section 33459 *et seq.*

**H. [Section 319] Property Disposition and Development**

**1. [Section 320] Real Property Disposition and Development**

**a. [Section 321] General**

For the purposes of this Plan, the Agency is authorized to sell, lease for a period not to exceed 99 years, exchange, subdivide, transfer, assign, pledge, encumber by mortgage or deed of trust, or otherwise dispose of any interest in real property. The Agency is authorized to dispose of real property by negotiated lease, sale, or transfer without public bidding but only after public hearing.

Before any interest in real property of the Agency acquired in whole or in part, directly or indirectly, with tax increment moneys is sold, leased, or otherwise disposed of for development pursuant to this Plan, such sale, lease or disposition shall be first approved by the City Council by resolution after public hearing in conformance with Section 33433 of the Community Redevelopment Law.

All real property acquired by the Agency in the Project Area shall be sold or leased to public or private persons or entities for development for the uses permitted in this Plan, and any such sale or lease may be for an amount at less than fair market value if determined to be at the highest and best use consistent with this Plan. Real property may also be conveyed by the Agency to the City and, where beneficial to the Project Area, to any other public body without charge or for an amount at less than fair market value.

All purchasers or lessees of property from the Agency shall be made obligated to use the property for the purposes designated in this Plan, to begin and complete development of the property within a period of time which the Agency fixes as reasonable, and to comply with other conditions which the Agency deems necessary to carry out the purposes of this Plan.

During the period of development in the Project Area, the Agency shall ensure that the provisions of this Plan and of other documents formulated pursuant to this Plan are being observed, and that development in the Project Area is proceeding in accordance with development documents and time schedules.

**b. [Section 322] Disposition and Development Documents**

The Agency shall reserve powers and controls in disposition and development documents as may be necessary to prevent transfer, retention, or use of property for speculative purposes and to ensure that development is expeditiously carried out pursuant to this Plan.

To provide adequate safeguards to ensure that the provisions of this Plan will be carried out and to prevent the recurrence of blight, all real property sold, leased, or conveyed by the Agency, as well as all property subject to participation agreements, shall be made subject to the provisions of this Plan and any adopted Design Guide and other conditions imposed by the Agency by leases, deeds, contracts, agreements, declarations of restrictions, provisions of the zoning ordinance, conditional use permits, or other means. Where appropriate, as determined by the Agency, such documents or portions thereof shall be recorded in the Office of the Recorder of the County.

The leases, deeds, contracts, agreements, and declarations of restrictions may contain restrictions, covenants, covenants running with the land, rights of reverter, conditions subsequent, equitable servitudes, or any other provision necessary to carry out this Plan.

All property in the Project Area is hereby subject to the restriction that there shall be no discrimination or segregation based upon sex, marital status, race, color, religion, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of property in the Project Area. All property sold, leased, conveyed, or subject to a participation agreement, by or through the Agency, shall be expressly subject by appropriate documents to the restriction that all deeds, leases, or contracts for the sale, lease, sublease, or other transfer of land in the Project Area shall contain such non-discrimination and non-segregation clauses as are required by law, including without limitation, the requirements of Sections 33435 and 33436 of the Community Redevelopment Law.

**c. [Section 323] Development by the Agency or Other Public Bodies or Entities**

To the extent now or hereafter permitted by law, the Agency may, with the consent of the City Council of the City of Foster City, pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly owned either within or outside the Project Area, if the City Council determines: (1) that such buildings, facilities, structures, or other improvements are of benefit to the Project Area or the immediate neighborhood in which the Project is located, regardless of whether such improvement is within another project area; (2) that no other reasonable means of financing such buildings, facilities, structures, or other improvements are available to the community; and (3) that the payment

of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements will assist in the elimination of one or more blighting conditions inside the Project Area or provide housing for low or moderate income persons and is consistent with the implementation plan adopted pursuant to Section 33352 or 33490 of the Community Redevelopment Law. Such determinations by the Agency and the City Council shall be final and conclusive.

Specifically, the Agency may pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure or other improvement set forth in Section 317 of this Plan, including, without limitation, those set forth in Exhibit "C," Proposed Public Improvements and Facilities Projects.

When the value of such land or the cost of the installation and construction of such building, facility, structure, or other improvement, or both, has been, or will be paid or provided for initially by the City or other public corporation, the Agency may enter into a contract with the City or other public corporation under which it agrees to advance funds to, or reimburse the City or other public corporation for all or part of the value of such land or all or part of the cost of such building, facility, structure, or other improvement, or both, by periodic payments over a period of years.

The obligation of the Agency under such contract shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment of the Project Area, which indebtedness may be made payable out of taxes levied in the Project Area and allocated to the Agency under subdivision (b) of Section 33670 of the Community Redevelopment Law and Section 502 of this Plan, or out of any other available funds.

In a case where such land has been or will be acquired by, or the cost of the installation and construction of such building, facility, structure or other improvement has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or other improvement which has been or will be leased to the City such contract may be made with, and such reimbursement may be made payable to, the City.

Before the Agency commits to use the portion of taxes to be allocated and paid to the Agency pursuant to subdivision (b) of Section 33670 for the purpose of paying all or part of the value of the land for, and the cost of the installation and construction of, any publicly owned building, other than parking facilities, the City Council shall hold a public hearing in accord with the provisions of Section 33679 of the Community Redevelopment Law.

**d. [Section 324] Development Plans**

All development plans (whether public or private) shall be processed in the manner provided by applicable City codes as they are or as they may be amended from time to time. All development in the Project Area must conform to City and Agency design review procedures, including any Design Guide adopted by the Agency pursuant to Section 422 hereof.

**2. [Section 325] Personal Property Disposition**

For the purposes of this Plan, the Agency is authorized to lease, sell, exchange, transfer, assign, pledge, encumber, or otherwise dispose of personal property which is acquired by the Agency.

**I. [Section 326] Cooperation with Public Bodies**

Certain public bodies are authorized by state law to aid and cooperate with or without consideration in the planning, undertaking, construction, or operation of this Project. The Agency shall seek the aid and cooperation of such public bodies and attempt to coordinate this Plan with the activities of such public bodies in order to accomplish the purposes of redevelopment and the highest public good.

The Agency, by law, is not authorized to acquire real property owned by public bodies without the consent of such public bodies. The Agency, however, will seek the cooperation of all public bodies which own or intend to acquire property in the Project Area. Any public body which owns or leases property in the Project

Area will be afforded all the privileges of owner participation if such public body is willing to enter into a participation agreement with the Agency. All plans for development of property in the Project Area by a public body shall be subject to Agency approval.

The Agency may impose on all public bodies the planning and design controls contained in and authorized by this Plan to ensure that present uses and any future development by public bodies will conform to the requirements of this Plan. The Agency is authorized to financially (and otherwise) assist any public entity in the cost of public land, buildings, facilities, structures, or other improvements (within or outside the Project Area) which land, buildings, facilities, structures, or other improvements are of benefit to the Project.

**J. [Section 327] Rehabilitation, Conservation and Moving of Structures**

**1. [Section 328] Rehabilitation and Conservation**

The Agency is authorized to rehabilitate and conserve, or to cause to be rehabilitated and conserved, any building or structure in the Project Area owned by the Agency. The Agency is also authorized to advise, encourage, and assist (through a loan program or otherwise) in the rehabilitation and conservation of property in the Project Area not owned by the Agency. The Agency is also authorized to acquire, restore, rehabilitate, move and conserve buildings of historic or architectural significance.

It shall be the purpose of this Plan to allow for the retention of as many existing businesses as practicable and to add to the economic life of these businesses by a program of voluntary participation in their conservation and rehabilitation. The Agency is authorized to conduct a program of assistance and enforcement to encourage owners of property within the Project Area to upgrade and maintain their property consistent with this Plan and such standards as may be developed for the Project Area.

The extent of retention, conservation and rehabilitation in the Project Area shall be subject to the following limitations:

- a. The rehabilitation of the structure must be compatible with land uses as provided for in this Plan;
- b. Rehabilitation and conservation activities on a structure must be carried out in an expeditious manner and in conformance with the requirements of this Plan and such property rehabilitation standards as may be adopted by the Agency and the City.
- c. The expansion of public improvements, facilities and utilities.
- d. The assembly and development of areas in accordance with this Plan.

The Agency may adopt property rehabilitation standards for the rehabilitation of properties in the Project Area.

Within the Project Area and as part of an agreement that provides for the development and rehabilitation of property that will be used for industrial or manufacturing purposes, the Agency may assist with the financing of facilities or capital equipment, including, but not necessarily limited to, pollution control devices. The Agency may also establish a program under which it loans funds to owners or tenants for the purpose of rehabilitating commercial buildings or structures within the Project Area.

The Agency shall not assist in the rehabilitation or conservation of properties which, in its opinion, are not economically and/or structurally feasible, or which do not further the purposes of this Plan.

**2. [Section 329] Moving of Structures**

As necessary in carrying out this Plan, the Agency is authorized to move or to cause to be moved, any standard structure or building or any structure or building which can be rehabilitated to a location within or outside the Project Area.

**K. [Section 330] Low or Moderate Income Housing**

**1. [Section 331] Authority Generally**

The Agency may, inside or outside the Project Area, acquire land, improve sites, or construct or rehabilitate structures or assist private parties in the performance of such actions in order to provide housing for persons and families of low or moderate income. The Agency may also provide subsidies to, or for the benefit of, such persons and families or households to assist them in obtaining housing. The Agency may also sell, lease, grant, or donate real property owned or acquired by the Agency to the Housing Authority of the County of San Mateo and may otherwise cooperate with the Housing Authority in carrying out the provisions of Section 334 hereinbelow.

**2. [Section 332] Increase, Improve and Preserve the Supply**

Pursuant to Section 33334.2 of the Community Redevelopment Law, not less than 20 percent of all taxes which are allocated to the Agency pursuant to subdivision (b) of Section 33670 of the Community Redevelopment Law and Section 502 of this Plan shall be used by the Agency for the purposes of increasing, improving and preserving the City's supply of low and moderate income housing available at affordable housing costs, as defined by Sections 50052.5 and 50053 of the Health & Safety Code, to persons and families of low or moderate income, as defined in Section 50093 of the Health & Safety Code, and very low income households, as defined in Section 50105 of the Health & Safety Code, unless one of the findings permitted by Section 33334.2 is made annually by resolution.

The funds for these purposes shall be held in a separate Low and Moderate Income Housing Fund until used. Any interest earned by such Low and Moderate Income Housing Fund and any repayments or other income to the Agency for loans, advances, or grants, of any kind, from such Low and Moderate Income Housing Fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the Low and Moderate Income Housing Fund.

**3. [Section 333] New or Rehabilitated Dwelling Units Developed Within Project Area**

At least thirty percent (30%) of all new and substantially rehabilitated dwelling units developed by the Agency, if any, shall be available at affordable housing cost to persons and families of low or moderate income. Not less than fifty percent (50%) of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

At least fifteen percent (15%) of all new and substantially rehabilitated dwelling units developed within the Project Area by public or private entities or persons other than the Agency, if any, shall be available at affordable housing cost to persons and families of low or moderate income. Not less than forty percent (40%) of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing costs to very low income households.

The Agency may satisfy the provisions of the above paragraphs, in whole or in part, by any of the methods described in Community Redevelopment Law Section 33413(b) or any other method permitted by law.

The percentage requirements set forth in this Section 333 shall apply in the aggregate to housing made available pursuant to the first and second paragraphs, respectively, of this Section 333 and not to each individual case of rehabilitation, development or construction of dwelling units, unless the Agency determines otherwise.

If all or any portion of the Project Area is developed with low or moderate income housing units, the Agency shall require by contract or other appropriate means that such housing be made available for rent or purchase to the persons and families of low and moderate income displaced by the Project. Such persons and

families shall be given priority in renting or buying such housing; provided, however, failure to give such priority shall not affect the validity of title to real property.

**5. [Section 334] Duration of Dwelling Unit Availability and Agency Monitoring**

The Agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price-restricted pursuant to Section 333 shall remain available at affordable housing cost to persons and families of low income, moderate income and very low income households, respectively, for the longest feasible time, as determined by the Agency, but for not less than the period set forth in Section 800 for the duration of this Plan's land use controls, except to the extent a longer or shorter period of time is permitted or required by other provisions of the law.

Pursuant to Section 33418 of the Community Redevelopment Law, the Agency shall monitor, on an ongoing basis, any housing affordable to persons and families of low or moderate income developed or otherwise made available pursuant to the Community Redevelopment Law. As part of this monitoring, the Agency shall require owners or managers of the housing to submit an annual report to the Agency. The annual reports shall include for each rental unit the rental rate and the income and family size of the occupants, and for each owner-occupied unit whether there was a change in ownership from the prior year and, if so, the income and family size of the new owners. The income information required by this section shall be supplied by the tenant in a certified statement on a form provided by the Agency.

**L. [Section 335] Implementation Plans**

In accordance with the provisions of Section 33490 of the Community Redevelopment Law, no later than five years following the effective date of the ordinance adopting this Plan, and every five years thereafter, the Agency shall, after a public hearing, adopt an implementation plan for the Project Area. The implementation plan may include more than one project area, at the Agency's option.

At least once within the five-year term of each plan adopted by the Agency, no earlier than two years and no later than three years after adoption of each implementation plan, the Agency shall conduct a public hearing and hear testimony of all interested parties for the purpose of reviewing this Redevelopment Plan and the implementation plan and evaluating the progress of the Project. The hearing may be for two or more project areas if those project areas are included within the same implementation plan.

**IV. [Section 400] LAND USES AND DEVELOPMENT REQUIREMENTS**

**A. [Section 401] Redevelopment Plan Map and Major Project Area Land Uses**

The Redevelopment Plan Map attached hereto illustrates the location of the Project Area boundary, identifies the major streets within the Project Area, and designates the major land uses authorized within the Project Area by the City's current General Plan. The City will from time to time update and revise the General Plan. It is the intention of this Redevelopment Plan that the major and other land uses to be permitted within the Project Area shall be as provided within the City's General Plan, as it currently exists or as it may from time to time be amended, and as implemented and applied by City ordinances, resolutions and other laws. The major land uses authorized within the Project Area by the General Plan are described below. Other uses may be authorized from time to time by General Plan amendments.

**B. [Section 402] Major Land Uses**

The major land use permitted within the Project Area shall be: Neighborhood Commercial. The areas shown on the Redevelopment Plan Map for the foregoing use may be used for any of the various kinds of uses specified for or permitted within such areas by the General Plan and City ordinances, resolutions and other laws.

**C. [Section 403] Alternative Major Land Uses**

Certain areas are shown on the Redevelopment Plan Map with alternative land uses. Such areas or any portion of such areas may be used for the designated alternative land use, subject to a General Plan amendment providing for such use. The following alternative land use shall, in place of the use presented above, be permitted within the Project Area: Mixed Neighborhood Commercial/Apartment or Condominium Residential.

**D. [Section 404] Other Land Uses**

**1. [Section 405] Public Rights-of-Way**

Major public streets within or adjacent to the Project Area are generally described as follows:

Foster City Boulevard

Marlin Avenue

Additional public streets, alleys and easements may be created in the Project Area as needed for proper use and/or development. Existing streets and alleys and easements may be abandoned, closed or modified as necessary for proper use and/or development. It is anticipated that Project development may entail vacation and/or realignment of certain streets, alleys, and other rights-of-way.

**2. [Section 406] Other Public, Semi-Public, Institutional and Non-Profit Uses**

In any area shown on the Redevelopment Plan map, the Agency is authorized to permit the maintenance, establishment or enlargement of public, semi-public, institutional, or non-profit uses, including park and recreational facilities, libraries, educational, fraternal, employee, philanthropic, religious and charitable institutions, utilities, railroad rights-of-way, and facilities of other similar associations or organizations. All such uses shall conform so far as possible to the provisions of this Plan applicable to the uses in the specific area involved and as permitted under the General Plan. The Agency may impose such other reasonable requirements and/or restrictions as are necessary to protect the development and uses in the Project Area.

**E. [Section 407] Conforming Properties**

The Agency may, at its sole and absolute discretion, determine that certain real properties within the Project Area meet the requirements of this Plan, and the owners of such properties may be permitted to remain as owners of conforming properties without a participation agreement with the Agency, provided such owners

continue to operate, use, and maintain the real properties within the requirements of this Plan. A certificate of conformance to this effect may be issued by the Agency and recorded. An owner of a conforming property may be required by the Agency to enter into a participation agreement with the Agency in the event that such owner desires to (1) construct any additional improvements or substantially alter or modify existing structures on any of the real property described above as conforming; or (2) acquire additional property within the Project Area.

**F. [Section 408] Interim Uses**

Pending the ultimate development of land by developers and participants, the Agency is authorized to use or permit the use of any land in the Project Area for interim uses not in conformity with the uses permitted in this Plan. Such interim use shall conform to all applicable City codes.

**G. [Section 409] Nonconforming Uses**

The Agency is authorized to permit an existing use to remain in an existing building in good condition, which use does not conform to the provisions of this Plan, provided that such use is generally compatible with existing and proposed developments and uses in the Project Area, and abatement of such uses is not required by applicable City codes. The owner of such a property may be required to enter into a participation agreement, to record a covenant of restrictions against the property, and agree to the imposition of such reasonable restrictions as may be necessary to protect the development and uses in the Project Area.

The Agency may authorize additions, alterations, repairs or other improvements in the Project Area for uses which do not conform to the provisions of this Plan where such improvements are within a portion of the Project where, in the determination of the Agency, such improvements would be compatible with surrounding and Project Area uses and development and are permitted under applicable City codes.

**H. [Section 410] General Controls and Limitations**

All real property in the Project Area is hereby made subject to the controls and requirements of this Plan. No real property shall be developed, rehabilitated, or otherwise changed after the effective date of the ordinance adopting this Plan, except in conformance with the provisions of this Plan.

**1. [Section 411] Construction**

All construction in the Project Area shall comply with all applicable state and local laws in effect from time to time.

In addition to applicable codes, ordinances, or other requirements governing development in the Project Area, additional specific performance and development standards may be adopted by the Agency to control and direct redevelopment activities in the Project Area, including property rehabilitation standards adopted pursuant to Section 328 hereof, and one or more Design Guides adopted pursuant to Section 420 hereof.

**2. [Section 412] Limitation on the Number of Buildings**

The approximate number of buildings in the Project Area shall not exceed the maximum number allowed under the densities permitted under the City's General Plan, as implemented and applied by local codes and ordinances.

**3. [Section 413] Number of Dwelling Units**

The number of dwelling units in the Project Area shall not exceed the maximum number allowed under the densities permitted under the City's General Plan, as implemented and applied by local codes and ordinances.

4. **[Section 414] Limitations on Type, Size and Height of Buildings**

Except as set forth in other sections of this Plan, the type, size, and height of buildings shall be as limited by the applicable federal, state and local statutes, ordinances, and regulations.

5. **[Section 415] Open Spaces, Landscaping, Light, Air and Privacy**

The approximate amount of open space to be provided in the Project Area is the total of all area which will be in the public rights-of-way, the public grounds, spaces around buildings, and all other outdoor areas not permitted to be covered by buildings. Landscaping shall be developed in the Project Area to ensure optimum use of living plant material.

In all areas, sufficient space shall be maintained between buildings to provide adequate light, air and privacy.

6. **[Section 416] Signs**

All signs shall conform to City requirements. Design of all proposed new signs shall be submitted prior to installation to the Agency and/or City for review and approval pursuant to the procedures permitted by this Plan.

7. **[Section 417] Utilities**

The Agency shall require that all utilities be placed underground whenever physically possible and economically feasible.

8. **[Section 418] Incompatible Uses**

No use or structure which in the Agency's opinion would, by reason of appearance, traffic, smoke, glare, noise, odor, or similar factors, be incompatible with the surrounding areas or structures shall be permitted in any part of the Project Area.

9. **[Section 419] Nondiscrimination and Nonsegregation**

There shall be no discrimination or segregation based upon race, color, creed, religion, sex, marital status, national origin, or ancestry permitted in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of property in the Project Area.

10. **[Section 420] Subdivision of Parcels**

No parcels in the Project Area, including any parcel retained by a participant, shall be consolidated, subdivided or re-subdivided without the approval of the appropriate City body, and, if necessary for purposes of this Plan, the Agency.

11. **[Section 421] Minor Variations**

The Agency is authorized to permit minor variations from the limits, restrictions and controls established by this Plan. In order to permit any such variation, the Agency must determine that:

- a. The application of certain provisions of the Plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Plan.
- b. There are exceptional circumstances or conditions applicable to the property or to the intended development of the property which do not apply generally to other properties having the same standards, restrictions, and controls.

- c. Permitting a variation will not be materially detrimental to the public welfare or injurious to property or improvements in the area.
- d. Permitting a variation will not be contrary to the objectives of the Plan or the General Plan.

No such variation shall be granted which changes a basic land use or permits other than a minor departure from the provisions of this Plan. In permitting any such variation, the Agency shall impose such conditions as are necessary to protect the public health, safety, or welfare, and to assure compliance with the purposes of this Plan. Any such variation permitted by the Agency hereunder shall not supersede any other approval required under City codes and ordinances.

**I. [Section 422] Design Guide**

Within the limits, restrictions, and controls established in this Plan, the Agency is authorized to establish heights of buildings, land coverage, setback requirements, design and sign criteria, traffic circulation, traffic access, parking, and other development and design controls necessary for proper development and use of both private and public areas within the Project Area. These may be established by the approval of specific developments, by the adoption of general restrictions and controls by resolution of the Agency, or by the adoption of one or more Design Guides pursuant to this Section.

No new improvement shall be constructed and no existing improvement shall be substantially modified, altered, repaired, or rehabilitated except in accordance with architectural, landscape, and site plans submitted to and approved in writing by the Agency unless allowed pursuant to the procedures of Section 423 hereof. One of the objectives of this Plan is to create an attractive and pleasant environment in the Project Area. Therefore, such plans shall give consideration to good design, open space, and other amenities to enhance the aesthetic and architectural quality of the Project Area. The Agency shall not approve any plans that do not comply with this Plan.

**J. [Section 423] Building Permits**

No permit shall be issued for the construction of any new building or any addition, construction, moving, conversion or alteration to an existing building or structure, or preparation of any site, or the installation of any physical improvement, including grading and landscaping, in the Project Area from the date of adoption of this Plan until the application for such permit has been made by the owner or his agent and processed in the manner provided hereinbelow. Any permit that is issued hereunder must be in conformance with the provisions of this Plan, any Design Guide adopted by the Agency, any restrictions or controls established by resolution of the Agency, and any applicable participation or other agreement.

Upon receipt of such an application, the City's Building Department shall conduct an initial screening to determine if the proposed project is incompatible with this Redevelopment Plan and/or any standards adopted pursuant hereto. If the Department determines the proposed project is compatible, the permit may be issued subject to City requirements. If the Department determines that the proposed project could be incompatible, it shall refer the matter to the Executive Director of the Agency, who may in his/her discretion, indicate that the proposed project is compatible, that the proposed project is incompatible, that the proposed project can be made compatible by granting the permit with conditions, or refer the matter to the Agency. The Executive Director shall complete his/her review of the matter and take one of the foregoing actions within 25 days after the receipt of the application.

The Agency is authorized to establish permit procedures and approvals in addition to those set forth above where required for purposes of this Plan. A building permit shall be issued only after the applicant for same has been granted all approvals required by the City and the Agency at the time of application.



valuation of the taxable property in the Project Area exceeds the total assessed value of the taxable property in the Project Area as shown by the last equalized assessment roll referred to in subdivision 1 hereof, all of the taxes levied and collected upon the taxable property in the Project Area shall be paid into the funds of the respective taxing agencies. When said bonds, loans, advances and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in the Project Area shall be paid to the respective taxing agencies as taxes on all other property are paid.

3. That portion of the taxes in excess of the amount identified in subdivision 1 hereof which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayment of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to and when collected shall be paid into, the fund of that taxing agency. This subdivision 3 shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.

The portion of taxes mentioned in subdivision 2 above is hereby irrevocably pledged for the payment of the principal of and interest on the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed or otherwise) by the Agency to finance or refinance the Project, in whole or in part.

The Agency is authorized to make such pledges as to specific advances, loans and indebtedness as appropriate in carrying out the Project.

#### **C. [Section 503] Agency Bonds**

The Agency is authorized to issue bonds from time to time, if it deems it appropriate to do so, in order to finance all or any part of the Project.

Neither the members of the Agency nor any persons executing the bonds are liable personally on the bonds by reason of their issuance.

The bonds and other obligations of the Agency are not a debt of the City, the State, or any of its political subdivisions and neither the City, the State, nor any of its political subdivisions is liable on them, nor in any event shall the bonds or obligations be payable out of any funds or properties other than those of the Agency; and such bonds and other obligations shall so state on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The amount of bonded indebtedness to be repaid in whole or part from the allocation of taxes described in subdivision 2 of Section 502 above which can be outstanding at any one time shall not exceed \$11 (eleven) million in principal amount, except by amendment of this Plan. This limit, however, shall not prevent the Agency from issuing additional bonds in order to fulfill the Agency's obligations under Section 33413 of the Community Redevelopment Law.

#### **D. [Section 504] Time Limit on Establishment of Indebtedness**

The Agency shall not establish or incur loans, advances, or indebtedness to finance in whole or in part the Project beyond 20 years from the effective date of the ordinance adopting this Plan. Loans, advances, or indebtedness may be repaid over a period of time beyond said time limit. Such time limitation may be extended only by amendment of this Plan. This limit, however, shall not prevent the Agency from incurring debt to be paid from the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Community Redevelopment Law and Section 332 of this Plan. This limit shall not prevent the Agency from refinancing, refunding or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit contained in this Section 504.

**E. [Section 505] Statutory Payments to Affected Taxing Entities**

To the extent applicable, and in the amounts and manner provided therein, the Agency shall annually pay to Project Area affected taxing entities the payments required by Section 33607.5 of the Community Redevelopment Law.

**F. [Section 506] Time Limit on Receipt of Tax Increment**

The Agency may not receive and shall not repay indebtedness with the proceeds from property taxes received pursuant to Section 33670 of the Community Redevelopment Law and Section 502 of this Plan beyond 45 years from the effective date of the ordinance adopting this Plan, except to repay debt to be paid from the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Community Redevelopment Law and Section 332 of this Plan.

## VI. [Section 600] ACTIONS BY THE CITY

The City shall aid and cooperate with the Agency in carrying out this Plan and shall take all actions necessary to ensure the continued fulfillment of the purposes of this Plan and to prevent the recurrence or spread in the area of conditions causing blight. Actions by the City may include, but are not limited to, the following:

1. Institution and completion of proceedings for opening, closing, vacating, widening, or changing the grades of streets, alleys, and other public rights-of-way, and for other necessary modifications of the streets, the street layout, and other public rights-of-way in the Project Area. Such action by the City shall include the requirement of abandonment, removal, and relocation by the public utility companies of their operations in public rights-of-way as appropriate to carry out this Plan, provided that nothing in this Plan shall be construed to require the cost of such abandonment, removal, and relocation be borne by others than those legally required to bear such costs.
2. Institution and completion of proceedings necessary for changes and improvements in private and publicly-owned public utilities within or affecting the Project Area.
3. Revision of the Zoning Ordinance or adoption of specific plans as appropriate within the Project Area to permit the land uses and development authorized by this Plan.
4. Imposition wherever necessary (by covenants or restrictions, conditional use permits or other means) of appropriate controls within the limits of this Plan upon parcels in the Project Area to ensure their proper development and use.
5. Execution of statutory development agreements where necessary and appropriate to facilitate developments approved by the Agency.
6. Provision for administrative enforcement of this Plan by the City after development.
7. Performance of the above actions, and of all other functions and services relating to public health, safety, and physical development normally rendered in accordance with a schedule which will permit the redevelopment of the Project Area to be commenced and carried to completion without unnecessary delays.
8. Provision of services and facilities and the various officials, offices and departments of the City for the Agency's purposes under this Plan.
9. Provision of financial assistance in accordance with Section 500 of this Plan.
10. The undertaking and completing of any other proceedings necessary to carry out the Project.

The foregoing actions to be taken by the City may involve financial outlays by the City, but do not constitute a commitment to make such outlays unless specifically agreed to and authorized by the City.

**VII. [Section 700] ENFORCEMENT**

The administration and enforcement of this Plan, including the preparation and execution of any documents implementing this Plan, shall be performed by the Agency and/or the City.

The provisions of this Plan or other documents entered into pursuant to this Plan may also be enforced by court litigation instituted by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, re-entry, injunctions, or any other remedies appropriate to the purposes of this Plan. In addition, any recorded provisions which are expressly for the benefit of owners of property in the Project Area may be enforced by such owners.

**VIII. [Section 800] DURATION OF THIS PLAN**

Except for the non-discrimination and non-segregation provisions imposed by the Agency which shall run in perpetuity, and the affordable housing covenants imposed by the Agency which shall continue in effect for a period as may be determined and specified by the Agency, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, for 30 years from the effective date of the ordinance adopting this Plan by the City Council; provided, however, that, subject to the limitations and exceptions thereto set forth in Sections 504 and 506 of this Plan, the Agency may issue bonds and incur obligations pursuant to this Plan which extend beyond the termination date, and in such event, this Plan shall continue in effect for the purpose of repaying such bonds or other obligations until the date of retirement of such bonds or other obligations.

After the termination of this Plan pursuant to the above date, the Agency shall have no authority to act pursuant to this Plan except to pay previously incurred indebtedness and to enforce existing covenants or contracts unless the Agency has not completed its housing obligations pursuant to Section 33413 of the Community Redevelopment Law, in which case the Agency shall retain its authority to implement requirements under Section 33413, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete such housing obligations as soon as it is reasonably possible.

**IX. [Section 900] PROCEDURE FOR AMENDMENT**

This Plan may be amended by means of the procedure established in the Community Redevelopment Law, or by any other procedure hereafter established by law.

**X. [Section 1000] SEVERABILITY**

If any provision, section, subsection, subdivision, sentence, clause or phrase of this Plan is for any reason held to be invalid, unenforceable, or unconstitutional, such decision shall not affect the validity and effectiveness of the remaining portion or portions of the Plan. In the event that any portion of the Project Area shall be determined to have been invalidly or incorrectly included in the Project Area that is the subject of this Plan, such portion of the Project Area shall be deemed severable from the remainder of the Project Area which shall remain fully subject to the provisions of this Plan.



This map was prepared for illustrative purposes only and is not necessarily to scale, nor should it be used to ascertain precise project area boundary lines.

MARLIN AVE.  
FOSTER CITY BLVD.

Existing Land Use: Neighborhood Commercial  
Alternative Land Use: Mixed Neighborhood Commercial/Apartment or Condominium Residential

**EXHIBIT "A"**  
Redevelopment Plan Map  
Marlin Cove Redevelopment Project Area  
Foster City Community Development Agency

MARLIN COVE SHOPPING CENTER

REAL PROPERTY IN THE CITY OF FOSTER CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, A PORTION OF THE LANDS OF THE CITY OF FOSTER CITY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP MONUMENT SET IN CONCRETE AT THE INTERSECTION OF FOSTER CITY BOULEVARD AND MARLIN AVENUE AS SHOWN ON PARCEL MAP 1-72, RECORDED IN VOLUME 15 OF PARCEL MAPS AT PAGE 49, SAN MATEO COUNTY RECORDS; THENCE ALONG THE CENTERLINE OF MARLIN AVENUE AS SHOWN ON SAID MAP S 36° 19' 48" W 65.00 FEET; THENCE N 53° 40' 12" W 40.00 FEET TO A POINT ON THE WEST RIGHT OF WAY BOUNDARY OF MARLIN AVENUE SAID POINT BEING THE **TRUE POINT OF BEGINNING**; THENCE ALONG SAID MARLIN AVENUE RIGHT OF WAY BOUNDARY S 36° 19' 48" W 3.00 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 740.25 FEET, THROUGH A CENTRAL ANGLE OF 21° 08' 36", AN ARC LENGTH OF 273.17 FEET; THENCE N 88° 53' 10" W 490.00 FEET; THENCE N 53° 40' 12" W 400.87 FEET; THENCE N 28° 49' 55" W 350.85 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 400.00 FEET, FROM WHICH POINT A RADIAL LINE BEARS N 28° 49' 55" W, THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 20° 48' 39", AN ARC LENGTH OF 145.29 FEET; THENCE N 40° 21' 26" E 75.16 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 400.00 FEET, THROUGH A CENTRAL ANGLE OF 11° 29' 27", AN ARC LENGTH OF 80.22 FEET TO A POINT OF COMPOUND CURVATURE, THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 145.72 FEET, THROUGH A CENTRAL ANGLE OF 2° 35' 43", AN ARC LENGTH OF 6.60 FEET, THENCE N 54° 26' 36" E 110.54 FEET; THENCE S 53° 40' 12" E 60.93 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 22.80 FEET, FROM WHICH POINT A RADIAL LINE BEARS N 66° 13' 57" E, THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 39° 34' 34", AN ARC LENGTH OF 15.75 FEET; THENCE S 63° 20' 49" E 135.14 FEET TO A POINT IN THE SOUTH RIGHT OF WAY BOUNDARY OF FOSTER CITY BOULEVARD; THENCE ALONG SAID RIGHT OF WAY LINE S 53° 40' 12" E 749.24 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC LENGTH OF 31.42 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 12.124 ACRES MORE OR LESS

**EXHIBIT "C"**  
**Marlin Cove Redevelopment Project**  
**PROPOSED PUBLIC IMPROVEMENTS AND FACILITIES PROJECTS**

1. Water System Improvements

- Pipe replacement
- Hydrant and water line installation

2. Sewer System Improvements

- Pipe replacement
- Installation of new sewer lines
- Upgrade lift station

3. Street and Traffic Improvements

- Traffic signal installation
- Arterial/collector improvements
- Local neighborhood traffic calming

Note: This listing of proposed improvements and facilities is set forth for planning purposes, and shall not be deemed as a limitation on the Agency's authority to implement the Redevelopment Plan.

ORDINANCE NO. 458

AN ORDINANCE OF THE CITY OF FOSTER CITY APPROVING AND ADOPTING THE REDEVELOPMENT PLAN FOR THE MARLIN COVE REDEVELOPMENT PROJECT

CITY OF FOSTER CITY

WHEREAS, the City Council of the City of Foster City ("City Council") has received from the Community Development Agency of the City of Foster City ("Agency") the proposed Redevelopment Plan for the Marlin Cove Redevelopment Project ("Redevelopment Plan"), a copy of which is on file at the office of the City Clerk, City Hall, 610 Foster City Boulevard, Foster City, California, and at the office of the Agency at the same address, together with the Agency's Report to City Council Including the Supplementary Report on the proposed Redevelopment Plan ("Report to City Council"), including: 1) reasons for the selection of the Project Area; 2) description of physical and economic conditions existing in Project Area, including urbanization information, and an analysis of the effect of the use of a different equalized assessment roll on existing conditions; 3) description of specific projects proposed by Agency in the Project Area and description of how proposed projects will improve or alleviate conditions in the Project Area; 4) proposed method of financing the redevelopment of the Project Area, including assessment of economic feasibility of the Project and reasons for including tax increment financing, and effect of the use of a different equalized assessment roll on the proposed method of financing the Project Area; 5) a method or plan for relocation of businesses who may be temporarily or permanently displaced from the Project Area; 6) an analysis of the Preliminary Plan; 7) the report and recommendations of the Planning Commission and the report required by Section 65402 of the Government Code; 8) a summary of consultations with Project Area owners, residents, community organizations, and others; 9) an environmental impact report; 10) the report of the county fiscal officer; 11) an analysis of the county fiscal officer report, summary of consultations with affected taxing agencies, responses to written objections and concerns of affected taxing agencies, and an analysis of the effect of the use of a different base year on such analyses and consultations; and 12) an Implementation Plan for the first five years of the Redevelopment Plan; and

WHEREAS, the Planning Commission of the City of Foster City ("Planning Commission") has submitted to the City Council its report and recommendations concerning the Redevelopment Plan and its certification that the Redevelopment Plan conforms to the General Plan for the City of Foster City; and

WHEREAS, a Draft Environmental Impact Report ("Draft EIR") for the Foster City Neighborhood Shopping Centers was prepared for the proposed Redevelopment Plan for the Marlin Cove Redevelopment Project and the proposed Redevelopment Plan for the Hillsdale/Gull Redevelopment Project, and the Agency received comments on the Draft EIR during the 45-day review period; and

WHEREAS, on October 1, 1998, the Planning Commission held a duly noticed public hearing on the Draft Environmental Impact Report ("EIR"), prepared in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), the Guidelines for implementation of the California Quality Act (14 Cal. Adm. Code Section 15000 *et seq.*) and environmental procedures adopted by the Agency pursuant thereto; and the Draft EIR was thereafter revised and supplemented to incorporate comments received and responses thereto, during the public comment period, and, as so revised and supplemented, a Final EIR was prepared by the Agency; and

WHEREAS, the Agency and the City Council have, by Resolution No. 184 and Resolution No. 98-128 adopted on December 21, 1998, jointly certified that the EIR has been completed in compliance with the California Environmental Quality Act ("CEQA"), the State CEQA guidelines, and local guidelines; and have jointly adopted a mitigation monitoring program, and made findings; and

WHEREAS, the City Council and the Agency held a joint public hearing on Monday, December 21, 1998, on adoption of the Redevelopment Plan in the City Council Chambers, 610 Foster City Boulevard, Foster City, California; and

WHEREAS, notice of said hearing was duly and regularly published in the *Foster City Islander*, a newspaper of general circulation in the City of Foster City, once a week for five successive weeks prior to the date of said hearing, and a copy of said notices and affidavits of publication are on file with the City Clerk and the Agency; and

WHEREAS, copies of the notice of joint public hearing, including a map, were mailed by first class mail to the last known address of each assessee as shown on the last equalized assessment roll of the County of San Mateo for each parcel of land in the Project Area; and

WHEREAS, each assessee in the Project Area whose property would be subject to acquisition by purchase or condemnation under the provisions of the Redevelopment Plan was sent a letter to such effect attached to the notice of the joint public hearing; and

WHEREAS, copies of the notice of joint public hearing were mailed by certified mail with return receipt requested to the governing body of each taxing agency which receives taxes from property in the Project Area; and

WHEREAS, notices of the joint public hearing were also mailed first class mail to businesses and others; and

WHEREAS, the City Council has evaluated the report and recommendation of the Planning Commission, the Report to City Council, the Redevelopment Plan, the Owner Participation and Business Reentry Preference Rules, and the Environmental Impact Report, has provided an opportunity for all persons to be heard, has received and considered all evidence presented for or against any and all aspects of the Redevelopment Plan, and has made written findings in response to each written objection of a property owner and affected taxing entity; and

WHEREAS, all actions required by law have been taken by all appropriate public bodies.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Foster City does hereby find as follows:

1. The purposes and intent of the City Council with respect to the Project Area are to accomplish the following:
  - a) The elimination and prevention of the spread of blight and deterioration; and the conservation, rehabilitation and redevelopment of the Project Area in accord with the General Plan, specific plans, the Redevelopment Plan and local codes and ordinances.
  - b) The achievement of an environment reflecting a high level of concern for architectural, landscape, and urban design and land use principles appropriate for attainment of the objectives of the Redevelopment Plan.
  - c) The control of unplanned growth by guiding revitalization activities and new development in such fashion as to meet the needs of the Project Area, the City and its citizens.
  - d) The encouragement of investment by the private sector in the development and redevelopment of the Project Area by eliminating impediments to such development and redevelopment.
  - e) The expansion of the community's supply of housing, including opportunities for low- and moderate-income households.

- f) To encourage maximum participation of residents, business persons, property owners, and community organizations in the redevelopment of the Project Area.
- g) To replan, redesign and develop areas which are stagnant or improperly used.
- h) The retention of as many existing businesses as possible by means of redevelopment and rehabilitation activities and by encouraging and assisting the cooperation and participation of owners, businesses and public agencies in the revitalization of the Project Area.
2. The City Council hereby finds and determines, based on the evidence in the record, including but not limited to, the Report to City Council, and all documents referenced therein, and evidence received at the joint public hearing on adoption of the Redevelopment Plan held on December 21, 1998, that:
- a) The Project Area is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*). This finding is based on the following conditions which characterize the Project Area:
- Deterioration;
  - Defective construction;
  - Substandard design;
  - Depreciated or stagnant property values;
  - Depreciated or stagnant retail sales tax revenues;
  - Hazardous waste
  - Abnormally high business vacancies;
  - Low lease rates; and
  - Public improvement deficiencies.

Such conditions are causing and will increasingly cause a reduction and lack of proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the City which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone, requiring redevelopment in the interest of the health, safety and general welfare of the people of the City and the State. This finding is based on the fact that governmental action available to the City without redevelopment would be insufficient to cause any significant correction of the blighting conditions, and that the nature and costs of the public improvements and facilities and other actions required to correct the blighting conditions are beyond the capacity of the City and cannot be undertaken or borne by private enterprise acting alone or in concert with available governmental action.

- b) The Project Area is a predominantly urbanized area as defined by subsection (b) of Health and Safety Code section 33320.1. This finding is based on the fact that not less than eighty percent (80%) of all property in the Project Area has been or is devoted for urban uses, as demonstrated by the Report to City Council. In addition, also demonstrated by the Report to City Council, the Project Area is an integral part of an area developed for urban uses.
- c) The Redevelopment Plan will redevelop the Project Area in conformity with the Community Redevelopment Law and in the interests of the public peace, health, safety and welfare. This finding is based upon the fact that the purposes of the Community Redevelopment Law would be attained by the Project: by eliminating areas suffering from economic dislocation or disuse; by replanning, redesigning and/or redeveloping areas which are stagnant or improperly utilized, and which could not be accomplished by private enterprise acting alone without public participation and assistance; by protecting and promoting sound development and redevelopment of blighted areas and the general welfare of the citizens of the City by remedying such injurious conditions through the employment of appropriate means; and by installing new, or replacing existing public improvements, facilities and utilities in areas

which are currently inadequately served with regard to such improvements, facilities and utilities.

- d) The adoption and carrying out of the Redevelopment Plan is economically sound and feasible. This finding is based on the fact that under the Redevelopment Plan, the Agency will be authorized to seek and utilize a variety of potential financing resources, including property tax increments; that the nature and timing of public redevelopment assistance will depend on the amount and availability of such financing resources, including tax increments, generated by new investment in the Project Area; that under the Redevelopment Plan, no public redevelopment activity can be undertaken unless the Agency can demonstrate that it has adequate revenue to finance the activity; and that the financing plan included within the Report to City Council demonstrates that sufficient public and private financial resources will be available to carry out the Project.
- e) The Redevelopment Plan is consistent with the General Plan of the City of Foster City, including, but not limited to the Housing Element. This finding is based on the finding of the Planning Commission that the Redevelopment Plan conforms to the General Plan for the City of Foster City.
- f) The carrying out of the Redevelopment Plan will promote the public peace, health, safety and welfare of the City of Foster City and will effectuate the purposes and policies of the Community Redevelopment Law. This finding is based on the fact that redevelopment will benefit the Project Area by correcting conditions of blight and by coordinating public and private actions to stimulate development and improve the economic, social and physical conditions of the Project Area, and by increasing employment opportunities within the City.
- g) The condemnation of real property, as provided for in the Redevelopment Plan, is necessary to the execution of the Redevelopment Plan, and adequate provisions have been made for the payment for property to be acquired as provided by law. This finding is based upon the need to ensure that the provisions of the Redevelopment Plan will be carried out and to prevent the recurrence of blight, and the fact that no property will be acquired until adequate funds are available to pay full compensation therefor.
- h) The Agency has a feasible method and plan for the relocation of businesses that might be displaced, temporarily or permanently from facilities in the Project Area. This finding is based upon the fact that the Redevelopment Plan provides for relocation assistance according to law and the fact that such assistance, including relocation payments, constitutes a feasible method for relocation.
- i) The Project Area does not include any non-contiguous areas. Inclusion of any lands, building, or improvements which are not detrimental to the public health, safety or welfare is necessary for the effective redevelopment of the entire area of which they are a part, and any such area is not included solely for the purpose of obtaining the allocation of tax increment revenues from such area pursuant to Section 33670 of the Community Redevelopment Law without other substantial justification for its inclusion. This finding is based upon the fact that all properties within Project Area boundaries were included because they were underutilized because of blighting influences, or were affected by the existence of blighting influences, or were necessary either to accomplish the objectives and benefits of the Redevelopment Plan or because of the need to impose uniform requirements on the Project Area as a whole. Such properties will share in the benefits of the Project.
- j) The elimination of blight and the redevelopment of the Project Area could not reasonably be expected to be accomplished by private enterprise acting alone without the aid and assistance of the Agency. This finding is based upon the existence of several blighting influences, including, but not limited to, deterioration, defective construction, substandard design, and the

lack of adequate public improvements and facilities, and the inability of individual owners and developers to economically remove these blighting influences without substantial public assistance.

- k) The time limitations contained in the Redevelopment Plan are reasonably related to the proposed projects to be implemented in the Project Area and to the ability of the Agency to eliminate blight within the Project Area. This finding is made based on the fact that the Redevelopment Plan contains debt establishment, plan effectiveness, and debt repayment limits pursuant to Section 33333.2 of the Community Redevelopment Law, and the Report to City Council adequately demonstrates this relationship.
3. Written objections to the Redevelopment Plan filed with the City Clerk before the hour set for hearing and all written and oral objections presented to the City Council at the hearing having been considered, [and in the case of written objections received from Project Area property owners and affecting taxing agencies, having been responded to in writing,] are hereby overruled.
  4. That certain document entitled "Final Environmental Impact Report for the Foster City Neighborhood Shopping Centers," a copy of which is on file in the office of the Agency, and in the office of the City Clerk, having been duly reviewed and considered, is hereby incorporated into this Ordinance by reference and made a part hereof. All activities undertaken by the Agency and/or the City of Foster City pursuant to or in implementation of the Redevelopment Plan shall be undertaken in accordance with the mitigation monitoring program set forth in said Final Environmental Impact Report, and the Agency shall undertake such additional environmental reviews as necessary at the time of implementation of such activities.
  5. That certain document entitled "Redevelopment Plan for the Marlin Cove Redevelopment Project" the map contained therein, and such other reports as are incorporated therein by reference, copies of which are on file in the office of the Agency and the office of the City Clerk, having been duly reviewed and considered, is hereby incorporated in this Ordinance by reference and made a part hereof, and as so incorporated is hereby designated, approved and adopted as the official "Redevelopment Plan for the Marlin Cove Redevelopment Project."
  6. In order to implement and facilitate the effectuation of the Redevelopment Plan hereby approved, this City Council hereby: (a) pledges its cooperation in helping to carry out the Redevelopment Plan, (b) requests the various officials, departments, boards, and agencies of the City having administrative responsibilities in the Project Area likewise to cooperate to such end and to exercise their respective functions and powers in a manner consistent with redevelopment of the Project Area, (c) stands ready to consider and take appropriate action upon proposals and measures designed to effectuate the Redevelopment Plan, and (d) declares its intention to undertake and complete any proceeding, including the expenditure of monies, necessary to be carried out by the City under the provisions of the Redevelopment Plan.
  7. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the responsibility for carrying out the Redevelopment Plan.
  8. The City Clerk is hereby directed to record with the County Recorder of San Mateo County a description of the land within the Project Area and a statement that proceedings for the redevelopment of the Project Area have been instituted under the Community Redevelopment Law.
  9. The Building Division of the Community Development Department of the City of Foster City is hereby directed for a period of two (2) years after the effective date of this Ordinance to advise all applicants for building permits within the Project Area that the site for which a building permit is sought for the construction of buildings or for other improvements is within a redevelopment project area.

10. The City Clerk is hereby directed to transmit a copy of the description and statement recorded by the City Clerk pursuant to Section 9 of this Ordinance, a copy of this Ordinance, and a map or plat indicating the boundaries of the Project Area, to the Auditor-Controller and Assessor of the County of San Mateo, to the governing body of each of the taxing agencies which receives taxes from property in the Project Area, and to the State Board of Equalization, within thirty days following the adoption of the Redevelopment Plan.
11. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance and to cause the same to be published in the *Foster City Islander*, a newspaper of general circulation, published and circulated in the City of Foster City.
12. If any part of this Ordinance or the Redevelopment Plan which it approves is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance or of the Redevelopment Plan, and this City Council hereby declares that it would have passed the remainder of the Ordinance or approved the remainder of the Redevelopment Plan if such invalid portion thereof had been deleted.
13. This Ordinance shall be in full force and effect thirty (30) days after passage.

This Ordinance was introduced and read on the 21<sup>st</sup> day of December, 1998 and passed and adopted on the 4<sup>th</sup> day of January, 1999, by the following vote:

AYES: **Councilmembers Harter, Larsen, Lawrence, and Townsend**  
NOES: **None**  
ABSENT: **Mayor Wilder**  
ABSTAIN: **None**



DEBORAH E.G. WILDER, MAYOR  
By Vice Mayor Jim Lawrence

ATTEST:

  
\_\_\_\_\_  
THERESE L. TAHIR, CITY CLERK

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**REDEVELOPMENT PLAN  
FOR THE  
HILLSDALE/GULL REDEVELOPMENT PROJECT**

**Adopted:** January 4, 1999  
**Ordinance No.** 460

**Prepared by the  
FOSTER CITY COMMUNITY DEVELOPMENT AGENCY  
FOSTER CITY, CALIFORNIA**

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# REDEVELOPMENT PLAN FOR THE HILLSDALE/GULL REDEVELOPMENT PROJECT

## I. [Section 100] INTRODUCTION

This is the Redevelopment Plan (the "Plan") for the Hillside/Gull Redevelopment Project (the "Project") in the City of Foster City (the "City"), County of San Mateo, State of California. This Plan consists of text (Sections 100 through 1000), the Redevelopment Plan Map (Exhibit "A"), a Legal Description of the Project Area (Exhibit "B"), and the Proposed Public Improvements and Facilities Projects (Exhibit "C"). This Plan was prepared by the Community Development Agency of the City of Foster City (the "Agency") pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code, Section 33000 *et seq.*; all statutory references hereinafter shall be to the Health and Safety Code unless otherwise designated), the California Constitution, and all applicable local codes and ordinances.

The definitions of general terms which are contained in the Community Redevelopment Law govern the construction of this Plan, unless more specific terms and definitions therefor are otherwise provided in this Plan.

Many of the requirements contained in this Plan are necessitated by and in accord with statutory provisions in effect at the time of adoption of this Plan. Such statutory provisions may be changed from time to time. In the event that any such changes affect this Plan's requirements, and would be applicable to the Agency, the Project, or this Plan whether or not this Plan were formally amended to reflect such changes, then the requirements of this Plan that are so affected shall be superseded by such changes, to the extent necessary to be in conformity with such changes.

The project area (the "Project Area") includes all properties within the Project boundary shown on the Redevelopment Plan Map and described in the Legal Description of the Project Area.

The proposed redevelopment of the Project Area as described in this Plan conforms to the General Plan for the City of Foster City, as applied in accord with local codes and ordinances.

This Redevelopment Plan is based upon the Preliminary Plan formulated and adopted by the Foster City Planning Commission (the "Planning Commission") on May 7, 1998.

This Plan provides the Agency with powers, duties and obligations to implement and further the program generally formulated in this Plan for the redevelopment, rehabilitation, and revitalization of the Project Area. This Plan does not present a specific plan or establish priorities for specific projects for the redevelopment, rehabilitation, and revitalization of any particular area within the Project Area nor does this Plan present specific proposals in an attempt to solve or alleviate the concerns and problems of the community related to the Project Area. Instead, this Plan presents a process and a basic framework within which specific development plans will be presented, priorities for specific projects will be established, and specific solutions will be proposed, and by which tools are provided to the Agency to fashion, develop, and proceed with such specific plans, projects, and solutions.

In general, the goals and objectives of the redevelopment program in the Project Area are as follows:

1. The elimination and prevention of the spread of blight and deterioration; and the conservation, rehabilitation and redevelopment of the Project Area in accord with the General Plan, specific plans, the Redevelopment Plan and local codes and ordinances.
2. The achievement of an environment reflecting a high level of concern for architectural, landscape, and urban design and land use principles appropriate for attainment of the objectives of the Redevelopment Plan.

3. The control of unplanned growth by guiding revitalization activities and new development in such fashion as to meet the needs of the Project Area, the City and its citizens.
4. The encouragement of investment by the private sector in the development and redevelopment of the Project Area by eliminating impediments to such development and redevelopment.
5. The expansion of the community's supply of housing, including opportunities for low- and moderate-income households.
6. To encourage maximum participation of residents, business persons, property owners, and community organizations in the redevelopment of the Project Area.
7. To replan, redesign and develop areas which are stagnant or improperly used.

Redevelopment of the Project Area pursuant to this Redevelopment Plan and the above goals and objectives will attain the purposes of the California Community Redevelopment Law by: (1) elimination of areas suffering from economic dislocation and disuse; (2) replanning, redesign and/or redevelopment of areas which are stagnant or improperly utilized, and which could not be accomplished by private enterprise acting alone without public participation and assistance; (3) protecting and promoting sound development and redevelopment of blighted areas and the general welfare of the citizens of the City by remedying such injurious conditions through the employment of appropriate means; (4) installation of new or replacement of existing public improvements, facilities and utilities in areas which are currently inadequately served with regard to such improvements, facilities and utilities; and (5) other means as deemed appropriate.

**II. [Section 200] PROJECT AREA BOUNDARY AND LEGAL DESCRIPTION**

The boundary of the Project Area is shown on the Redevelopment Plan Map attached as Exhibit "A," and is described in the Legal Description of the Project Area attached as Exhibit "B."



finance the proposed acquisition, development or rehabilitation in accordance with this Redevelopment Plan; (5) the ability and experience of potential participants to undertake and complete the proposed development; (6) any reduction in the total number of individual parcels in the Project Area; (7) the construction or expansion of public improvements and facilities, and the necessity to assemble areas for such; (8) any change in orientation and character of the Project Area; (9) the necessity to assemble areas for public and/or private development; (10) the requirements of this Plan and applicable rules, regulations, and ordinances of the City of Foster City; (11) any Design Guide adopted by the Agency pursuant to Section 422 hereof; and (12) the feasibility of the potential participant's proposal.

## **2. [Section 304] Participation Agreements**

The Agency may require that, as a condition to participate in redevelopment or to obtain a building permit pursuant to Section 423 hereof, each participant shall enter into a binding written participation agreement with the Agency by which the participant agrees to contribute, sell, lease, acquire, rehabilitate, develop or use and maintain the property in conformance with this Plan and to be subject to provisions hereof and such other provisions and conditions to which the parties may agree. In such agreements, participants who retain real property may be required to sign and join in the recordation of such documents as is necessary to make the provisions of this Plan and such participation agreement applicable to their properties. In the event an owner or participant fails or refuses to develop, or use and maintain, his/her real property pursuant to this Plan and such participation agreement, the real property or any interest therein may be acquired by the Agency and sold or leased for rehabilitation or development in accordance with this Plan.

Whether or not a participant enters into a participation agreement with the Agency, the provisions of this Plan are applicable to all public and private property in the Project Area.

## **4. [Section 305] Implementing Rules**

The provisions of Sections 302 through 304 shall be implemented according to the rules adopted by the Agency prior to the approval of this Plan, and the same may be from time to time amended by the Agency. Where there is a conflict between the participation and re-entry preferences provisions in this Plan and such rules adopted by the Agency, the rules shall prevail.

### **C. [Section 306] Property Acquisition**

#### **1. [Section 307] Acquisition of Real Property**

The Agency may acquire, but is not required to acquire, any real property located in the Project Area by gift, devise, exchange, lease, purchase, eminent domain or any other lawful method.

It is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment and in order to execute this Plan for the power of eminent domain to be employed by the Agency to acquire real property in all portions of the Project Area. The Agency is not authorized to acquire real property owned by public bodies which do not consent to such acquisition. The Agency is authorized, however, to acquire public property transferred to private ownership before redevelopment of the Project Area is completed, unless the Agency and the private owner enter into a participation agreement and the owner completes his/her responsibilities under the participation agreement. No eminent domain proceeding to acquire property within the Project Area shall be commenced after twelve (12) years following the effective date of the ordinance approving and adopting this Plan. Such time limitation may be extended only by amendment of this Plan.

The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is also authorized to acquire any other interest in real property less than a fee.

Without the consent of the owner, the Agency shall not acquire property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency shall not acquire real property on which an existing building is to be continued on its present site and in its present form and use without the consent of the owner, unless such building requires structural alteration, improvement, modernization, or rehabilitation, or the site or lot on which the building is situated requires modification in size,

shape or use, or it is necessary to impose upon such property any of the standards, restrictions and controls of this Plan or of any Design Guide adopted by the Agency pursuant to this Plan, and the owner fails or refuses to participate in the Plan or in conformance with any such Design Guide by executing a participation agreement.

**2. [Section 308] Acquisition of Personal Property**

Generally, personal property shall not be acquired by the Agency. However, where necessary in the execution of this Plan, the Agency is authorized to acquire personal property in the Project Area by any lawful means, including eminent domain.

**D. [Section 309] Property Management**

During such time as property, if any, in the Project Area is owned by the Agency, such property shall be under the management and control of the Agency. Such property may be rented or leased by the Agency pending its disposition for redevelopment, and such rental or lease shall be pursuant to such policies as the Agency may adopt.

**E. [Section 310] Relocation of Occupants Displaced by Agency Acquisition**

**1. [Section 311] Assistance in Finding Other Locations**

The Agency shall assist business concerns and others displaced by Agency action in the Project Area in finding other locations and facilities. In order to carry out the Project with a minimum of hardship to business concerns and others, if any, displaced from their places of business, the Agency shall assist such business concerns and others in finding new locations that are decent, safe, sanitary, within their respective financial means, in reasonably convenient locations, and otherwise suitable to their respective needs.

**2. [Section 312] Relocation Payments**

The Agency shall make all relocation payments required by law to business concerns and others displaced by the Agency from property in the Project Area. Such relocation payments shall be made pursuant to the California Relocation Assistance Law (Government Code Section 7260 *et seq.*) and Agency rules and regulations adopted pursuant thereto as such may be amended from time to time.

**F. [Section 313] Payments to Taxing Agencies In Lieu of Taxes**

The Agency may in any year during which it owns property in the Project Area pay directly to the City, County, or other district, including, but not limited to, a school district, or other public corporation for whose benefit a tax would have been levied upon the Agency-owned property had it not been exempt, an amount of money in lieu of taxes.

**G. [Section 314] Demolition, Clearance, Public Improvements, Building and Site Preparation**

**1. [Section 315] Demolition and Clearance**

The Agency is authorized to demolish and clear buildings, structures, and other improvements from any real property in the Project Area as necessary to carry out the purposes of this Plan.

**2. [Section 316] Public Improvements**

The Agency is authorized to pay for, develop, install and construct, or to cause to be installed and constructed, the public improvements, facilities and utilities (within or outside the Project Area) necessary to carry out this Plan. Such public improvements, facilities and utilities include, but are not limited to, the following: (1) over- and under-passes; (2) sewers; (3) storm drains; (4) electrical, natural gas, telephone and water distribution systems; (5) parks and plazas; (6) playgrounds; (7) parking and transportation facilities; (8) landscaped areas; (9) street and circulation improvements; (10) flood control improvements and facilities; (11)

fire stations, school facilities and community centers; and (12) other public facilities serving the needs of Project Area occupants.

**3. [Section 317] Preparation of Building Sites**

The Agency is authorized to prepare, or cause to be prepared, as building sites any real property in the Project Area owned by the Agency. The Agency is also authorized to construct foundations, platforms, and other structural forms necessary for the provision or utilization of air rights sites for buildings to be used for commercial, public, and other uses provided in this Plan.

Prior consent of the City Council is required for the Agency to develop sites for commercial or industrial use by providing streets, sidewalks, utilities or other improvements which an owner or operator of the site would otherwise be obliged to provide.

The Agency may take any actions which it determines are necessary and which are consistent with other state and federal laws to remedy or remove a release of hazardous substances on, under, or from property in the Project Area in accordance with the requirements of Community Redevelopment Law Section 33459 *et seq.*

**H. [Section 318] Property Disposition and Development**

**1. [Section 319] Real Property Disposition and Development**

**a. [Section 320] General**

For the purposes of this Plan, the Agency is authorized to sell, lease for a period not to exceed 99 years, exchange, subdivide, transfer, assign, pledge, encumber by mortgage or deed of trust, or otherwise dispose of any interest in real property. The Agency is authorized to dispose of real property by negotiated lease, sale, or transfer without public bidding but only after public hearing.

Before any interest in real property of the Agency acquired in whole or in part, directly or indirectly, with tax increment moneys is sold, leased, or otherwise disposed of for development pursuant to this Plan, such sale, lease or disposition shall be first approved by the City Council by resolution after public hearing in conformance with Section 33433 of the Community Redevelopment Law.

All real property acquired by the Agency in the Project Area shall be sold or leased to public or private persons or entities for development for the uses permitted in this Plan, and any such sale or lease may be for an amount at less than fair market value if determined to be at the highest and best use consistent with this Plan. Real property may also be conveyed by the Agency to the City and, where beneficial to the Project Area, to any other public body without charge or for an amount at less than fair market value.

All purchasers or lessees of property from the Agency shall be made obligated to use the property for the purposes designated in this Plan, to begin and complete development of the property within a period of time which the Agency fixes as reasonable, and to comply with other conditions which the Agency deems necessary to carry out the purposes of this Plan.

During the period of development in the Project Area, the Agency shall ensure that the provisions of this Plan and of other documents formulated pursuant to this Plan are being observed, and that development in the Project Area is proceeding in accordance with development documents and time schedules.

**b. [Section 321] Disposition and Development Documents**

The Agency shall reserve powers and controls in disposition and development documents as may be necessary to prevent transfer, retention, or use of property for speculative purposes and to ensure that development is expeditiously carried out pursuant to this Plan.

To provide adequate safeguards to ensure that the provisions of this Plan will be carried out and to prevent the recurrence of blight, all real property sold, leased, or conveyed by the Agency, as well as all property subject to participation agreements, shall be made subject to the provisions of this Plan and any adopted Design Guide and other conditions imposed by the Agency by leases, deeds, contracts, agreements, declarations of restrictions, provisions of the zoning ordinance, conditional use permits, or other means. Where appropriate, as determined by the Agency, such documents or portions thereof shall be recorded in the Office of the Recorder of the County.

The leases, deeds, contracts, agreements, and declarations of restrictions may contain restrictions, covenants, covenants running with the land, rights of reverter, conditions subsequent, equitable servitudes, or any other provision necessary to carry out this Plan.

All property in the Project Area is hereby subject to the restriction that there shall be no discrimination or segregation based upon sex, marital status, race, color, religion, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of property in the Project Area. All property sold, leased, conveyed, or subject to a participation agreement, by or through the Agency, shall be expressly subject by appropriate documents to the restriction that all deeds, leases, or contracts for the sale, lease, sublease, or other transfer of land in the Project Area shall contain such non-discrimination and non-segregation clauses as are required by law, including without limitation, the requirements of Sections 33435 and 33436 of the Community Redevelopment Law.

**c. [Section 322] Development by the Agency or Other Public Bodies or Entities**

To the extent now or hereafter permitted by law, the Agency may, with the consent of the City Council of the City of Foster City, pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement which is publicly owned either within or outside the Project Area, if the City Council determines: (1) that such buildings, facilities, structures, or other improvements are of benefit to the Project Area or the immediate neighborhood in which the Project is located, regardless of whether such improvement is within another project area; (2) that no other reasonable means of financing such buildings, facilities, structures, or other improvements are available to the community; and (3) that the payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements will assist in the elimination of one or more blighting conditions inside the Project Area or provide housing for low or moderate income persons and is consistent with the implementation plan adopted pursuant to Section 33352 or 33490 of the Community Redevelopment Law. Such determinations by the Agency and the City Council shall be final and conclusive.

Specifically, the Agency may pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure or other improvement set forth in Section 316 of this Plan, including, without limitation, those set forth in Exhibit "C," Proposed Public Improvements and Facilities Projects.

When the value of such land or the cost of the installation and construction of such building, facility, structure, or other improvement, or both, has been, or will be paid or provided for initially by the City or other public corporation, the Agency may enter into a contract with the City or other public corporation under which it agrees to advance funds to, or reimburse the City or other public corporation for all or part of the value of such land or all or part of the cost of such building, facility, structure, or other improvement, or both, by periodic payments over a period of years.

The obligation of the Agency under such contract shall constitute an indebtedness of the Agency for the purpose of carrying out the redevelopment of the Project Area, which indebtedness may be made payable out of taxes levied in the Project Area and allocated to the Agency under subdivision (b) of Section 33670 of the Community Redevelopment Law and Section 502 of this Plan, or out of any other available funds.

In a case where such land has been or will be acquired by, or the cost of the installation and construction of such building, facility, structure or other improvement has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or other improvement which

has been or will be leased to the City such contract may be made with, and such reimbursement may be made payable to, the City.

Before the Agency commits to use the portion of taxes to be allocated and paid to the Agency pursuant to subdivision (b) of Section 33670 for the purpose of paying all or part of the value of the land for, and the cost of the installation and construction of, any publicly owned building, other than parking facilities, the City Council shall hold a public hearing in accord with the provisions of Section 33679 of the Community Redevelopment Law.

**d. [Section 323] Development Plans**

All development plans (whether public or private) shall be processed in the manner provided by applicable City codes as they are or as they may be amended from time to time. All development in the Project Area must conform to City and Agency design review procedures, including any Design Guide adopted by the Agency pursuant to Section 422 hereof.

**2. [Section 324] Personal Property Disposition**

For the purposes of this Plan, the Agency is authorized to lease, sell, exchange, transfer, assign, pledge, encumber, or otherwise dispose of personal property which is acquired by the Agency.

**I. [Section 325] Cooperation with Public Bodies**

Certain public bodies are authorized by state law to aid and cooperate with or without consideration in the planning, undertaking, construction, or operation of this Project. The Agency shall seek the aid and cooperation of such public bodies and attempt to coordinate this Plan with the activities of such public bodies in order to accomplish the purposes of redevelopment and the highest public good.

The Agency, by law, is not authorized to acquire real property owned by public bodies without the consent of such public bodies. The Agency, however, will seek the cooperation of all public bodies which own or intend to acquire property in the Project Area. Any public body which owns or leases property in the Project Area will be afforded all the privileges of owner participation if such public body is willing to enter into a participation agreement with the Agency. All plans for development of property in the Project Area by a public body shall be subject to Agency approval.

The Agency may impose on all public bodies the planning and design controls contained in and authorized by this Plan to ensure that present uses and any future development by public bodies will conform to the requirements of this Plan. The Agency is authorized to financially (and otherwise) assist any public entity in the cost of public land, buildings, facilities, structures, or other improvements (within or outside the Project Area) which land, buildings, facilities, structures, or other improvements are of benefit to the Project.

**J. [Section 326] Low or Moderate Income Housing**

**1. [Section 327] Authority Generally**

The Agency may, inside or outside the Project Area, acquire land, improve sites, or construct or rehabilitate structures or assist private parties in the performance of such actions in order to provide housing for persons and families of low or moderate income. The Agency may also provide subsidies to, or for the benefit of, such persons and families or households to assist them in obtaining housing. The Agency may also sell, lease, grant, or donate real property owned or acquired by the Agency to the Housing Authority of the County of San Mateo and may otherwise cooperate with the Housing Authority in carrying out the provisions of Section 328 hereinbelow.

**2. [Section 328] Increase, Improve and Preserve the Supply**

Pursuant to Section 33334.2 of the Community Redevelopment Law, not less than 20 percent of all taxes which are allocated to the Agency, pursuant to subdivision (b) of Section 33670 of the Community

Redevelopment Law and Section 502 of this Plan shall be used by the Agency for the purposes of increasing, improving and preserving the City's supply of low and moderate income housing available at affordable housing costs, as defined by Sections 50052.5 and 50053 of the Health & Safety Code, to persons and families of low or moderate income, as defined in Section 50093 of the Health & Safety Code, and very low income households, as defined in Section 50105 of the Health & Safety Code, unless one of the findings permitted by Section 33334.2 is made annually by resolution.

The funds for these purposes shall be held in a separate Low and Moderate Income Housing Fund until used. Any interest earned by such Low and Moderate Income Housing Fund and any repayments or other income to the Agency for loans, advances, or grants, of any kind, from such Low and Moderate Income Housing Fund, shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the Low and Moderate Income Housing Fund.

**4. [Section 329] New or Rehabilitated Dwelling Units Developed Within Project Area**

At least thirty percent (30%) of all new and substantially rehabilitated dwelling units developed by the Agency, if any, shall be available at affordable housing cost to persons and families of low or moderate income. Not less than fifty percent (50%) of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

At least fifteen percent (15%) of all new and substantially rehabilitated dwelling units developed within the Project Area by public or private entities or persons other than the Agency, if any, shall be available at affordable housing cost to persons and families of low or moderate income. Not less than forty percent (40%) of the dwelling units required to be available at affordable housing cost to persons and families of low or moderate income shall be available at affordable housing costs to very low income households.

The Agency may satisfy the provisions of the above paragraphs, in whole or in part, by any of the methods described in Community Redevelopment Law Section 33413(b) or any other method permitted by law.

The percentage requirements set forth in this Section 329 shall apply independently in the aggregate to housing made available pursuant to the first and second paragraphs, respectively, of this Section 329 and not to each individual case of rehabilitation, development or construction of dwelling units, unless the Agency determines otherwise.

If all or any portion of the Project Area is developed with low or moderate income housing units, the Agency shall require by contract or other appropriate means that such housing be made available for rent or purchase to the persons and families of low and moderate income displaced by the Project. Such persons and families shall be given priority in renting or buying such housing; provided, however, failure to give such priority shall not affect the validity of title to real property.

**5. [Section 331] Duration of Dwelling Unit Availability and Agency Monitoring**

The Agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price-restricted pursuant to Sections 328 and 330 shall remain available at affordable housing cost to persons and families of low income, moderate income and very low income households, respectively, for the longest feasible time, as determined by the Agency, but for not less than the period set forth in Section 800 for the duration of this Plan's land use controls, except to the extent a longer or shorter period of time is permitted or required by other provisions of the law.

Pursuant to Section 33418 of the Community Redevelopment Law, the Agency shall monitor, on an ongoing basis, any housing affordable to persons and families of low or moderate income developed or otherwise made available pursuant to the Community Redevelopment Law. As part of this monitoring, the Agency shall require owners or managers of the housing to submit an annual report to the Agency. The annual reports shall include for each rental unit the rental rate and the income and family size of the occupants, and for each owner-occupied unit whether there was a change in ownership from the prior year and, if so, the income

and family size of the new owners. The income information required by this section shall be supplied by the tenant in a certified statement on a form provided by the Agency.

**K. [Section 332] Implementation Plans**

In accordance with the provisions of Section 33490 of the Community Redevelopment Law, no later than five years following the effective date of the ordinance adopting this Plan, and every five years thereafter, the Agency shall, after a public hearing, adopt an implementation plan for the Project Area. The implementation plan may include more than one project area, at the Agency's option.

At least once within the five-year term of each plan adopted by the Agency, no earlier than two years and no later than three years after adoption of each implementation plan, the Agency shall conduct a public hearing and hear testimony of all interested parties for the purpose of reviewing this Redevelopment Plan and the implementation plan and evaluating the progress of the Project. The hearing may be for two or more project areas if those project areas are included within the same implementation plan.

**IV. [Section 400] LAND USES AND DEVELOPMENT REQUIREMENTS**

**A. [Section 401] Redevelopment Plan Map and Major Project Area Land Uses**

The Redevelopment Plan Map attached hereto illustrates the location of the Project Area boundary, identifies the major streets within the Project Area, and designates the major land uses authorized within the Project Area by the City's current General Plan. The City will from time to time update and revise the General Plan. It is the intention of this Redevelopment Plan that the major and other land uses to be permitted within the Project Area shall be as provided within the City's General Plan, as it currently exists or as it may from time to time be amended, and as implemented and applied by City ordinances, resolutions and other laws. The major land uses authorized within the Project Area by the General Plan are described below. Other uses may be authorized from time to time by General Plan amendments.

**B. [Section 402] Major Land Uses**

The major land use permitted within the Project Area shall be: Neighborhood Commercial. The areas shown on the Redevelopment Plan Map for the foregoing use may be used for any of the various kinds of uses specified for or permitted within such areas by the General Plan and City ordinances, resolutions and other laws.

**C. [Section 403] Alternative Major Land Uses**

Certain areas are shown on the Redevelopment Plan Map with alternative land uses. Such areas or any portion of such areas may be used for the designated alternative land use, subject to a General Plan amendment providing for such use. The following alternative land uses shall, in place of the use presented above, be permitted within the Project Area: Apartment or Condominium Residential.

**D. [Section 404] Other Land Uses**

**1. [Section 405] Public Rights-of-Way**

Major public streets within or adjacent to the Project Area are generally described as follows:

East Hillsdale Boulevard

Gull Avenue

Additional public streets, alleys and easements may be created in the Project Area as needed for proper use and/or development. Existing streets and alleys and easements may be abandoned, closed or modified as necessary for proper use and/or development. It is anticipated that Project development may entail vacation and/or realignment of certain streets, alleys, and other rights-of-way.

**2. [Section 406] Other Public, Semi-Public, Institutional and Non-Profit Uses**

In any area shown on the Redevelopment Plan map, the Agency is authorized to permit the maintenance, establishment or enlargement of public, semi-public, institutional, or non-profit uses, including park and recreational facilities, libraries, educational, fraternal, employee, philanthropic, religious and charitable institutions, utilities, railroad rights-of-way, and facilities of other similar associations or organizations. All such uses shall conform so far as possible to the provisions of this Plan applicable to the uses in the specific area involved and as permitted under the General Plan. The Agency may impose such other reasonable requirements and/or restrictions as are necessary to protect the development and uses in the Project Area.

**E. [Section 407] Conforming Properties**

The Agency may, at its sole and absolute discretion, determine that certain real properties within the Project Area meet the requirements of this Plan, and the owners of such properties may be permitted to remain as owners of conforming properties without a participation agreement with the Agency, provided such owners continue to operate, use, and maintain the real properties within the requirements of this Plan. A certificate of conformance to this effect may be issued by the Agency and recorded. An owner of a conforming property may

be required by the Agency to enter into a participation agreement with the Agency in the event that such owner desires to (1) construct any additional improvements or substantially alter or modify existing structures on any of the real property described above as conforming; or (2) acquire additional property within the Project Area.

**F. [Section 408] Interim Uses**

Pending the ultimate development of land by developers and participants, the Agency is authorized to use or permit the use of any land in the Project Area for interim uses not in conformity with the uses permitted in this Plan. Such interim use shall conform to all applicable City codes.

**G. [Section 409] Nonconforming Uses**

The Agency is authorized to permit an existing use to remain in an existing building in good condition, which use does not conform to the provisions of this Plan, provided that such use is generally compatible with existing and proposed developments and uses in the Project Area, and abatement of such uses is not required by applicable City codes. The owner of such a property may be required to enter into a participation agreement, to record a covenant of restrictions against the property, and agree to the imposition of such reasonable restrictions as may be necessary to protect the development and uses in the Project Area.

The Agency may authorize additions, alterations, repairs or other improvements in the Project Area for uses which do not conform to the provisions of this Plan where such improvements are within a portion of the Project where, in the determination of the Agency, such improvements would be compatible with surrounding and Project Area uses and development and are permitted under applicable City codes.

**H. [Section 410] General Controls and Limitations**

All real property in the Project Area is hereby made subject to the controls and requirements of this Plan. No real property shall be developed, rehabilitated, or otherwise changed after the effective date of the ordinance adopting this Plan, except in conformance with the provisions of this Plan.

**1. [Section 411] Construction**

All construction in the Project Area shall comply with all applicable state and local laws in effect from time to time.

In addition to applicable codes, ordinances, or other requirements governing development in the Project Area, additional specific performance and development standards may be adopted by the Agency to control and direct redevelopment activities in the Project Area, including Design Guides adopted pursuant to Section 420 hereof.

**2. [Section 412] Limitation on the Number of Buildings**

The approximate number of buildings in the Project Area shall not exceed the maximum number allowed under the densities permitted under the City's General Plan, as implemented and applied by local codes and ordinances.

**3. [Section 413] Number of Dwelling Units**

The number of dwelling units in the Project Area shall not exceed the maximum number allowed under the densities permitted under the City's General Plan, as implemented and applied by local codes and ordinances.

**4. [Section 414] Limitations on Type, Size and Height of Buildings**

Except as set forth in other sections of this Plan, the type, size, and height of buildings shall be as limited by the applicable federal, state and local statutes, ordinances, and regulations.

**5. [Section 415] Open Spaces, Landscaping, Light, Air and Privacy**

The approximate amount of open space to be provided in the Project Area is the total of all area which will be in the public rights-of-way, the public grounds, spaces around buildings, and all other outdoor areas not permitted to be covered by buildings. Landscaping shall be developed in the Project Area to ensure optimum use of living plant material.

In all areas, sufficient space shall be maintained between buildings to provide adequate light, air and privacy.

**6. [Section 416] Signs**

All signs shall conform to City requirements. Design of all proposed new signs shall be submitted prior to installation to the Agency and/or City for review and approval pursuant to the procedures permitted by this Plan.

**7. [Section 417] Utilities**

The Agency shall require that all utilities be placed underground whenever physically possible and economically feasible.

**8. [Section 418] Incompatible Uses**

No use or structure which in the Agency's opinion would, by reason of appearance, traffic, smoke, glare, noise, odor, or similar factors, be incompatible with the surrounding areas or structures shall be permitted in any part of the Project Area.

**9. [Section 419] Nondiscrimination and Nonsegregation**

There shall be no discrimination or segregation based upon race, color, creed, religion, sex, marital status, national origin, or ancestry permitted in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of property in the Project Area.

**10. [Section 420] Subdivision of Parcels**

No parcels in the Project Area, including any parcel retained by a participant, shall be consolidated, subdivided or re-subdivided without the approval of the appropriate City body, and, if necessary for purposes of this Plan, the Agency.

**11. [Section 421] Minor Variations**

The Agency is authorized to permit minor variations from the limits, restrictions and controls established by this Plan. In order to permit any such variation, the Agency must determine that:

- a. The application of certain provisions of the Plan would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Plan.
- b. There are exceptional circumstances or conditions applicable to the property or to the intended development of the property which do not apply generally to other properties having the same standards, restrictions, and controls.
- c. Permitting a variation will not be materially detrimental to the public welfare or injurious to property or improvements in the area.
- d. Permitting a variation will not be contrary to the objectives of the Plan or the General Plan.

No such variation shall be granted which changes a basic land use or permits other than a minor departure from the provisions of this Plan. In permitting any such variation, the Agency shall impose such conditions as are necessary to protect the public health, safety, or welfare, and to assure compliance with the purposes of this Plan. Any such variation permitted by the Agency hereunder shall not supersede any other approval required under City codes and ordinances.

**I. [Section 422] Design Guide**

Within the limits, restrictions, and controls established in this Plan, the Agency is authorized to establish heights of buildings, land coverage, setback requirements, design and sign criteria, traffic circulation, traffic access, parking, and other development and design controls necessary for proper development and use of both private and public areas within the Project Area. These may be established by the approval of specific developments, by the adoption of general restrictions and controls by resolution of the Agency, or by the adoption of one or more Design Guides pursuant to this Section.

No new improvement shall be constructed and no existing improvement shall be substantially modified, altered, repaired, or rehabilitated except in accordance with architectural, landscape, and site plans submitted to and approved in writing by the Agency unless allowed pursuant to the procedures of Section 423 hereof. One of the objectives of this Plan is to create an attractive and pleasant environment in the Project Area. Therefore, such plans shall give consideration to good design, open space, and other amenities to enhance the aesthetic and architectural quality of the Project Area. The Agency shall not approve any plans that do not comply with this Plan.

**J. [Section 423] Building Permits**

No permit shall be issued for the construction of any new building or any addition, construction, moving, conversion or alteration to an existing building or structure, or preparation of any site, or the installation of any physical improvement, including grading and landscaping, in the Project Area from the date of adoption of this Plan until the application for such permit has been made by the owner or his agent and processed in the manner provided hereinbelow. Any permit that is issued hereunder must be in conformance with the provisions of this Plan, any Design Guide adopted by the Agency, any restrictions or controls established by resolution of the Agency, and any applicable participation or other agreement.

Upon receipt of such an application, the City's Building Department shall conduct an initial screening to determine if the proposed project is incompatible with this Redevelopment Plan and/or any standards adopted pursuant hereto. If the Department determines the proposed project is compatible, the permit may be issued subject to City requirements. If the Department determines that the proposed project could be incompatible, it shall refer the matter to the Executive Director of the Agency, who may in his/her discretion, indicate that the proposed project is compatible, that the proposed project is incompatible, that the proposed project can be made compatible by granting the permit with conditions, or refer the matter to the Agency. The Executive Director shall complete his/her review of the matter and take one of the foregoing actions within 25 days after the receipt of the application.

The Agency is authorized to establish permit procedures and approvals in addition to those set forth above where required for purposes of this Plan. A building permit shall be issued only after the applicant for same has been granted all approvals required by the City and the Agency at the time of application.

**V. [Section 500] METHOD OF FINANCING THE PROJECT**

**A. [Section 501] General Description of the Proposed Financing Method**

The Agency is authorized to finance the Project with tax increment funds; interest income; Agency bonds; donations; loans from private financial institutions; the lease or sale of Agency-owned property; owner participant or developer loans; use or transient occupancy taxes; participation in development; or with financial assistance from the City, State of California, the federal government, or any other available source, public or private.

The Agency is also authorized to obtain advances, borrow funds, issue bonds, and create indebtedness in carrying out this Plan. The principal and interest on such advances, funds, and indebtedness may be paid from tax increments or any other funds available to the Agency. Advances and loans for survey and planning and for the operating capital for administration of the Project may be provided by the City or any other available source, public or private, until adequate tax increment or other funds are available or sufficiently assured to repay the advances and loans and to permit borrowing adequate working capital from other sources. The City, as it is able, may also supply additional assistance through issuance of bonds, loans and grants and in-kind assistance.

The City or any other public agency may expend money to assist the Agency in carrying out the Project. As available, gas tax funds or other legally available funds from the state and county may be used for street improvements and public transit facilities. All or a portion of the parking may be installed through a parking authority or other public or private entities.

Any other loans, grants, guarantees, or financial assistance from the United States, the State of California, or any other public or private source will be utilized if available as appropriate in carrying out the Project. In addition, the Agency may make loans as permitted by law to public or private entities for any of its redevelopment purposes.

Tax increment financing, as authorized by Section 502 of this Plan, is intended as a source of financing in combination with other sources of financing that may be available for specific Project activities.

**B. [Section 502] Tax Increment Funds**

All taxes levied upon taxable property within the Project Area each year, by or for the benefit of the State of California, the County of San Mateo, the City of Foster City, any district or any other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving this Plan, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of said taxing agencies upon the total sum of the assessed value of the taxable property in the Project Area as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency, last equalized prior to the effective date of such ordinance, shall be allocated to and when collected shall be paid to the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory of the Project on the effective date of such ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the County of San Mateo last equalized on the effective date of said ordinance shall be used in determining the assessed valuation of the taxable property in the Project Area on said effective date); and
2. Except as provided in subdivision 3 below, that portion of said levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the Agency to pay the principal of and interest on bonds, loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the Agency to finance or refinance, in whole or in part, the Project. Unless and until the total assessed

valuation of the taxable property in the Project Area exceeds the total assessed value of the taxable property in the Project Area as shown by the last equalized assessment roll referred to in subdivision 1 hereof, all of the taxes levied and collected upon the taxable property in the Project Area shall be paid into the funds of the respective taxing agencies. When said bonds, loans, advances and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in the Project Area shall be paid to the respective taxing agencies as taxes on all other property are paid.

3. That portion of the taxes in excess of the amount identified in subdivision 1 hereof which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayment of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to and when collected shall be paid into, the fund of that taxing agency. This subdivision 3 shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.

The portion of taxes mentioned in subdivision 2 above is hereby irrevocably pledged for the payment of the principal of and interest on the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed or otherwise) by the Agency to finance or refinance the Project, in whole or in part.

The Agency is authorized to make such pledges as to specific advances, loans and indebtedness as appropriate in carrying out the Project.

**C. [Section 503] Agency Bonds**

The Agency is authorized to issue bonds from time to time, if it deems it appropriate to do so, in order to finance all or any part of the Project.

Neither the members of the Agency nor any persons executing the bonds are liable personally on the bonds by reason of their issuance.

The bonds and other obligations of the Agency are not a debt of the City, the State, or any of its political subdivisions and neither the City, the State, nor any of its political subdivisions is liable on them, nor in any event shall the bonds or obligations be payable out of any funds or properties other than those of the Agency; and such bonds and other obligations shall so state on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

The amount of bonded indebtedness to be repaid in whole or part from the allocation of taxes described in subdivision 2 of Section 502 above which can be outstanding at any one time shall not exceed \$7 (seven) million in principal amount, except by amendment of this Plan. This limit, however, shall not prevent the Agency from issuing additional bonds in order to fulfill the Agency's obligations under Section 33413 of the Community Redevelopment Law.

**D. [Section 504] Time Limit on Establishment of Indebtedness**

The Agency shall not establish or incur loans, advances, or indebtedness to finance in whole or in part the Project beyond 20 years from the effective date of the ordinance adopting this Plan. Loans, advances, or indebtedness may be repaid over a period of time beyond said time limit. Such time limitation may be extended only by amendment of this Plan. This limit, however, shall not prevent the Agency from incurring debt to be paid from the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Community Redevelopment Law and Section 328 of this Plan. This limit shall not prevent the Agency from refinancing, refunding or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit contained in this Section 504.

**E. [Section 505] Statutory Payments to Affected Taxing Entities**

To the extent applicable, and in the amounts and manner provided therein, the Agency shall annually pay to Project Area affected taxing entities the payments required by Section 33607.5 of the Community Redevelopment Law.

**F. [Section 506] Time Limit on Receipt of Tax Increment**

The Agency may not receive and shall not repay indebtedness with the proceeds from property taxes received pursuant to Section 33670 of the Community Redevelopment Law and Section 502 of this Plan beyond 45 years from the effective date of the ordinance adopting this Plan, except to repay debt to be paid from the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Community Redevelopment Law and Section 328 of this Plan.

## VI. [Section 600] ACTIONS BY THE CITY

The City shall aid and cooperate with the Agency in carrying out this Plan and shall take all actions necessary to ensure the continued fulfillment of the purposes of this Plan and to prevent the recurrence or spread in the area of conditions causing blight. Actions by the City may include, but are not limited to, the following:

1. Institution and completion of proceedings for opening, closing, vacating, widening, or changing the grades of streets, alleys, and other public rights-of-way, and for other necessary modifications of the streets, the street layout, and other public rights-of-way in the Project Area. Such action by the City shall include the requirement of abandonment, removal, and relocation by the public utility companies of their operations in public rights-of-way as appropriate to carry out this Plan, provided that nothing in this Plan shall be construed to require the cost of such abandonment, removal, and relocation be borne by others than those legally required to bear such costs.
2. Institution and completion of proceedings necessary for changes and improvements in private and publicly-owned public utilities within or affecting the Project Area.
3. Revision of the Zoning Ordinance or adoption of specific plans as appropriate within the Project Area to permit the land uses and development authorized by this Plan.
4. Imposition wherever necessary (by covenants or restrictions, conditional use permits or other means) of appropriate controls within the limits of this Plan upon parcels in the Project Area to ensure their proper development and use.
5. Execution of statutory development agreements where necessary and appropriate to facilitate developments approved by the Agency.
6. Provision for administrative enforcement of this Plan by the City after development.
7. Performance of the above actions, and of all other functions and services relating to public health, safety, and physical development normally rendered in accordance with a schedule which will permit the redevelopment of the Project Area to be commenced and carried to completion without unnecessary delays.
8. Provision of services and facilities and the various officials, offices and departments of the City for the Agency's purposes under this Plan.
9. Provision of financial assistance in accordance with Section 500 of this Plan.
10. The undertaking and completing of any other proceedings necessary to carry out the Project.

The foregoing actions to be taken by the City may involve financial outlays by the City, but do not constitute a commitment to make such outlays unless specifically agreed to and authorized by the City.

## VII. [Section 700] ENFORCEMENT

The administration and enforcement of this Plan, including the preparation and execution of any documents implementing this Plan, shall be performed by the Agency and/or the City.

The provisions of this Plan or other documents entered into pursuant to this Plan may also be enforced by court litigation instituted by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, re-entry, injunctions, or any other remedies appropriate to the purposes of this Plan. In addition, any recorded provisions which are expressly for the benefit of owners of property in the Project Area may be enforced by such owners.

**VIII. [Section 800] DURATION OF THIS PLAN**

Except for the non-discrimination and non-segregation provisions imposed by the Agency which shall run in perpetuity, and the affordable housing covenants imposed by the Agency which shall continue in effect for a period as may be determined and specified by the Agency, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, for 30 years from the effective date of the ordinance adopting this Plan by the City Council; provided, however, that, subject to the limitations and exceptions thereto set forth in Sections 504 and 506 of this Plan, the Agency may issue bonds and incur obligations pursuant to this Plan which extend beyond the termination date, and in such event, this Plan shall continue in effect for the purpose of repaying such bonds or other obligations until the date of retirement of such bonds or other obligations.

After the termination of this Plan pursuant to the above date, the Agency shall have no authority to act pursuant to this Plan except to pay previously incurred indebtedness and to enforce existing covenants or contracts unless the Agency has not completed its housing obligations pursuant to Section 33413 of the Community Redevelopment Law, in which case the Agency shall retain its authority to implement requirements under Section 33413, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete such housing obligations as soon as it is reasonably possible.

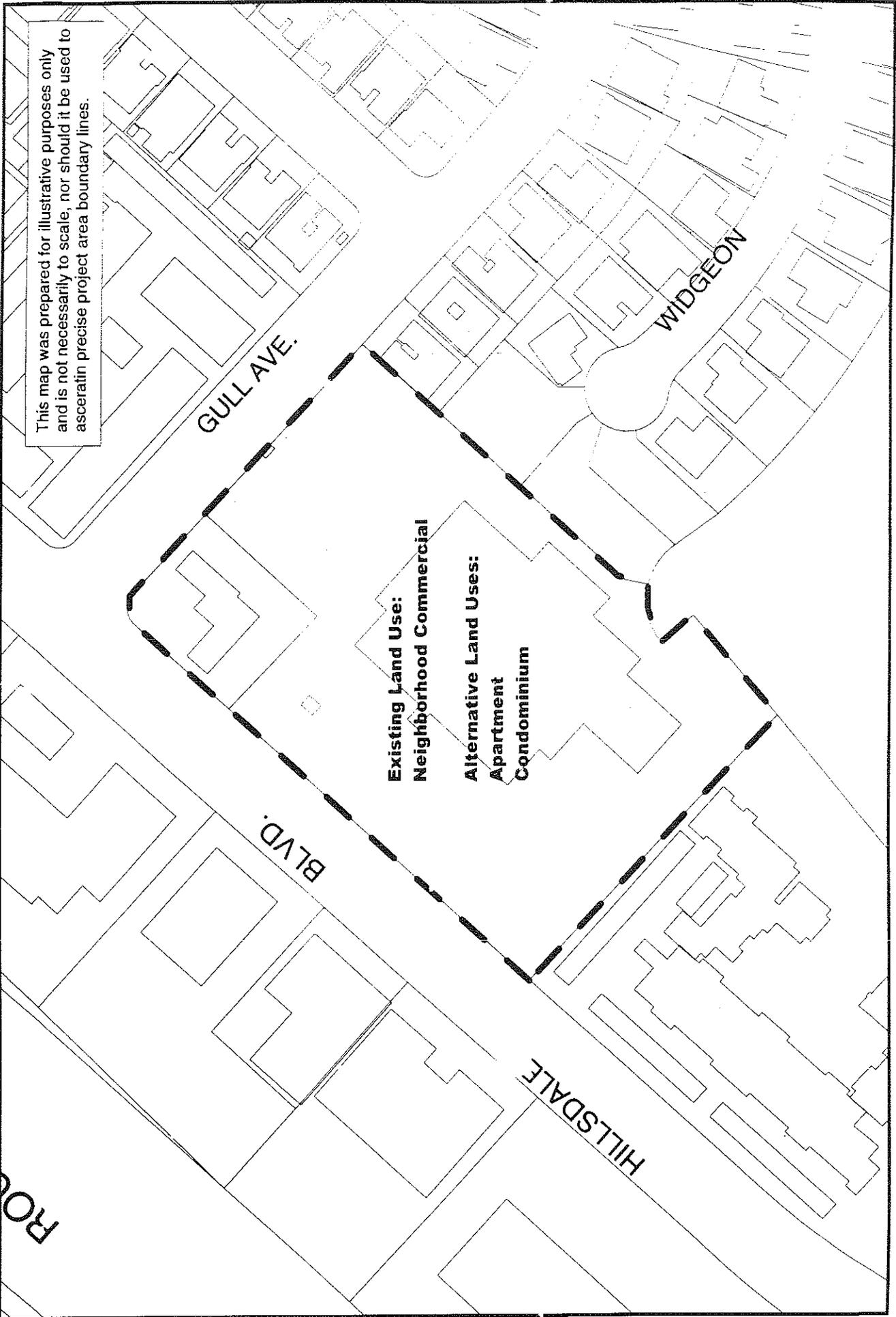
**IX. [Section 900] PROCEDURE FOR AMENDMENT**

This Plan may be amended by means of the procedure established in the Community Redevelopment Law, or by any other procedure hereafter established by law.

**X. [Section 1000] SEVERABILITY**

If any provision, section, subsection, subdivision, sentence, clause or phrase of this Plan is for any reason held to be invalid, unenforceable, or unconstitutional, such decision shall not affect the validity and effectiveness of the remaining portion or portions of the Plan. In the event that any portion of the Project Area shall be determined to have been invalidly or incorrectly included in the Project Area that is the subject of this Plan, such portion of the Project Area shall be deemed severable from the remainder of the Project Area which shall remain fully subject to the provisions of this Plan.

This map was prepared for illustrative purposes only and is not necessarily to scale, nor should it be used to ascertain precise project area boundary lines.



**EXHIBIT "A"**  
Redevelopment Plan Map  
Hillsdale/Gull Redevelopment Project Area  
Foster City Community Development Agency

PORT O' CALL SHOPPING CENTER

REAL PROPERTY IN THE CITY OF FOSTER CITY, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, A PORTION OF THE LANDS OF THE CITY OF FOSTER CITY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP MONUMENT SET IN CONCRETE AT THE INTERSECTION OF EAST HILLSDALE BOULEVARD AND GULL STREET AS SHOWN ON MAP TRACT NO. 822, RECORDED IN VOLUME 60 OF MAPS AT PAGES 29 THROUGH 32, SAN MATEO COUNTY RECORDS; THENCE ALONG THE CENTERLINE OF GULL STREET AS SHOWN ON SAID MAP S 47° 55' 00" E 60.00 FEET; THENCE S 42° 05' 00" W 30.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY BOUNDARY OF GULL STREET SAID POINT BEING THE **TRUE POINT OF BEGINNING**; THENCE S 47° 55' 00" E 320.00 FEET ALONG SAID GULL STREET SOUTH RIGHT OF WAY; THENCE LEAVING SAID RIGHT OF WAY BOUNDARY, S 42° 05' 00" W 334.62 FEET; THENCE S 11° 35' 24" W 22.50 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 60.00 FEET, FROM WHICH POINT A RADIAL LINE BEARS S 11° 35' 24" W, THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 51° 50' 24", AN ARC LENGTH OF 54.29 FEET; THENCE S 40° 15' 00" E 35.00 FEET; THENCE S 49° 45' 00" W 128.77 FEET; THENCE N 47° 55' 00" W 339.90 FEET TO A POINT ON THE SOUTH RIGHT OF WAY BOUNDARY OF EAST HILLSDALE BOULEVARD; THENCE ALONG SAID RIGHT OF WAY LINE N 42° 05' 00" E 510.00 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 90° 00' 00", AN ARC LENGTH OF 31.42 FEET TO THE **TRUE POINT OF BEGINNING**.

CONTAINING 4.154 ACRES MORE OR LESS

**EXHIBIT "C"**  
**Hillsdale/Gull Redevelopment Project**  
**PROPOSED PUBLIC IMPROVEMENTS AND FACILITIES PROJECTS**

1. Water System Improvements
  - Pipe replacement
  - Hydrant and water line installation
2. Sewer System Improvements
  - Pipe replacement
  - Installation of new sewer lines
3. Street and Traffic Improvements
  - Traffic signalization

**Note:** This listing of proposed improvements and facilities is set forth for planning purposes, and shall not be deemed as a limitation on the Agency's authority to implement the Redevelopment Plan.

ORDINANCE NO. 460

AN ORDINANCE OF THE CITY OF FOSTER CITY APPROVING AND ADOPTING THE REDEVELOPMENT PLAN FOR THE HILLSDALE/GULL REDEVELOPMENT PROJECT

CITY OF FOSTER CITY

WHEREAS, the City Council of the City of Foster City ("City Council") has received from the Community Development Agency of the City of Foster City ("Agency") the proposed Redevelopment Plan for the Hillside/Gull Redevelopment Project ("Redevelopment Plan"), a copy of which is on file at the office of the City Clerk, City Hall, 610 Foster City Boulevard, Foster City, California, and at the office of the Agency at the same address, together with the Agency's Report to City Council Including the Supplementary Report on the proposed Redevelopment Plan ("Report to City Council"), including: 1) reasons for the selection of the Project Area; 2) description of physical and economic conditions existing in Project Area, including urbanization information, and an analysis of the effect of the use of a different equalized assessment roll on existing conditions; 3) description of specific projects proposed by Agency in the Project Area and description of how proposed projects will improve or alleviate conditions in the Project Area; 4) proposed method of financing the redevelopment of the Project Area, including assessment of economic feasibility of the Project and reasons for including tax increment financing, and effect of the use of a different equalized assessment roll on the proposed method of financing the Project Area; 5) a method or plan for relocation of businesses who may be temporarily or permanently displaced from the Project Area; 6) an analysis of the Preliminary Plan; 7) the report and recommendations of the Planning Commission and the report required by Section 65402 of the Government Code; 8) a summary of consultations with Project Area owners, residents, community organizations, and others; 9) an environmental impact report; 10) the report of the county fiscal officer; 11) an analysis of the county fiscal officer report, summary of consultations with affected taxing agencies, responses to written objections and concerns of affected taxing agencies, and an analysis of the effect of the use of a different base year on such analyses and consultations; and 12) an Implementation Plan for the first five years of the Redevelopment Plan; and

WHEREAS, the Planning Commission of the City of Foster City ("Planning Commission") has submitted to the City Council its report and recommendations concerning the Redevelopment Plan and its certification that the Redevelopment Plan conforms to the General Plan for the City of Foster City; and

WHEREAS, a Draft Environmental Impact Report ("Draft EIR") for the Foster City Neighborhood Shopping Centers was prepared for the proposed Redevelopment Plan for the Hillside/Gull Redevelopment Project and the proposed Redevelopment Plan for the Marlin Cove Redevelopment Project, and the Agency received comments on the Draft EIR during the 45-day review period; and

WHEREAS, on October 1, 1998, the Planning Commission held a duly noticed public hearing on the Draft Environmental Impact Report ("EIR"), prepared in accordance with the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*), the Guidelines for implementation of the California Quality Act (14 Cal. Adm. Code Section 15000 *et seq.*) and environmental procedures adopted by the Agency pursuant thereto; and the Draft EIR was thereafter revised and supplemented to incorporate comments received and responses thereto, during the public comment period, and, as so revised and supplemented, a Final EIR was prepared by the Agency; and

WHEREAS, the Agency and the City Council have, by Resolution No. 184 and Resolution No. 98-131 adopted on December 21, 1998, jointly certified that the EIR has been completed in compliance with the California Environmental Quality Act ("CEQA"), the State CEQA guidelines, and local guidelines; and have jointly adopted a mitigation monitoring program, and made findings; and

WHEREAS, the City Council and the Agency held a joint public hearing on Monday, December 21, 1998, on adoption of the Redevelopment Plan in the City Council Chambers, 610 Foster City Boulevard, Foster City, California; and

WHEREAS, notice of said hearing was duly and regularly published in the *Foster City Islander*, a newspaper of general circulation in the City of Foster City, once a week for five successive weeks prior to the date of said hearing, and a copy of said notices and affidavits of publication are on file with the City Clerk and the Agency; and

WHEREAS, copies of the notice of joint public hearing, including a map, were mailed by first class mail to the last known address of each assessee as shown on the last equalized assessment roll of the County of San Mateo for each parcel of land in the Project Area; and

WHEREAS, each assessee in the Project Area whose property would be subject to acquisition by purchase or condemnation under the provisions of the Redevelopment Plan was sent a letter to such effect attached to the notice of the joint public hearing; and

WHEREAS, copies of the notice of joint public hearing were mailed by certified mail with return receipt requested to the governing body of each taxing agency which receives taxes from property in the Project Area; and

WHEREAS, notices of the joint public hearing were also mailed first class mail to businesses and others; and

WHEREAS, the City Council has evaluated the report and recommendation of the Planning Commission, the Report to City Council, the Redevelopment Plan, the Owner Participation and Business Reentry Preference Rules, and the Environmental Impact Report, has provided an opportunity for all persons to be heard, has received and considered all evidence presented for or against any and all aspects of the Redevelopment Plan, and has made written findings in response to each written objection of a property owner and affected taxing entity; and

WHEREAS, all actions required by law have been taken by all appropriate public bodies.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Foster City does hereby find as follows:

1. The purposes and intent of the City Council with respect to the Project Area are to accomplish the following:
  - a) The elimination and prevention of the spread of blight and deterioration; and the conservation, rehabilitation and redevelopment of the Project Area in accord with the General Plan, specific plans, the Redevelopment Plan and local codes and ordinances.
  - b) The achievement of an environment reflecting a high level of concern for architectural, landscape, and urban design and land use principles appropriate for attainment of the objectives of the Redevelopment Plan.
  - c) The control of unplanned growth by guiding revitalization activities and new development in such fashion as to meet the needs of the Project Area, the City and its citizens.
  - d) The encouragement of investment by the private sector in the development and redevelopment of the Project Area by eliminating impediments to such development and redevelopment.
  - e) The expansion of the community's supply of housing, including opportunities for low- and moderate-income households.
  - f) To encourage maximum participation of residents, business persons, property owners, and community organizations in the redevelopment of the Project Area.
  - g) To replan, redesign and develop areas which are stagnant or improperly used.

2. The City Council hereby finds and determines, based on the evidence in the record, including but not limited to, the Report to City Council, and all documents referenced therein, and evidence received at the joint public hearing on adoption of the Redevelopment Plan held on December 21, 1998, that:

a) The Project Area is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*). This finding is based on the following conditions which characterize the Project Area:

- Substandard design;
- Incompatible uses;
- Depreciated or stagnant property values;
- Hazardous waste
- Depreciated or stagnant retail sales tax revenues;
- Abnormally high business vacancies;
- Low lease rates; and
- Public improvement deficiencies.

Such conditions are causing and will increasingly cause a reduction and lack of proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the City which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone, requiring redevelopment in the interest of the health, safety and general welfare of the people of the City and the State. This finding is based on the fact that governmental action available to the City without redevelopment would be insufficient to cause any significant correction of the blighting conditions, and that the nature and costs of the public improvements and facilities and other actions required to correct the blighting conditions are beyond the capacity of the City and cannot be undertaken or borne by private enterprise acting alone or in concert with available governmental action.

b) The Project Area is a predominantly urbanized area as defined by subsection (b) of Health and Safety Code section 33320.1. This finding is based on the fact that not less than eighty percent (80%) of all property in the Project Area has been or is devoted for urban uses, as demonstrated by the Report to City Council. In addition, also demonstrated by the Report to City Council, the Project Area is an integral part of an area developed for urban uses.

c) The Redevelopment Plan will redevelop the Project Area in conformity with the Community Redevelopment Law and in the interests of the public peace, health, safety and welfare. This finding is based upon the fact that the purposes of the Community Redevelopment Law would be attained by the Project: by eliminating areas suffering from economic dislocation or disuse; by replanning, redesigning and/or redeveloping areas which are stagnant or improperly utilized, and which could not be accomplished by private enterprise acting alone without public participation and assistance; by protecting and promoting sound development and redevelopment of blighted areas and the general welfare of the citizens of the City by remedying such injurious conditions through the employment of appropriate means; and by installing new, or replacing existing public improvements, facilities and utilities in areas which are currently inadequately served with regard to such improvements, facilities and utilities.

d) The adoption and carrying out of the Redevelopment Plan is economically sound and feasible. This finding is based on the fact that under the Redevelopment Plan, the Agency will be authorized to seek and utilize a variety of potential financing resources, including property tax increments; that the nature and timing of public redevelopment assistance will depend on the amount and availability of such financing resources, including tax increments, generated by new investment in the Project Area; that under the Redevelopment Plan, no public redevelopment activity can be undertaken unless the Agency can demonstrate that it has

adequate revenue to finance the activity; and that the financing plan included within the Report to City Council demonstrates that sufficient public and private financial resources will be available to carry out the Project.

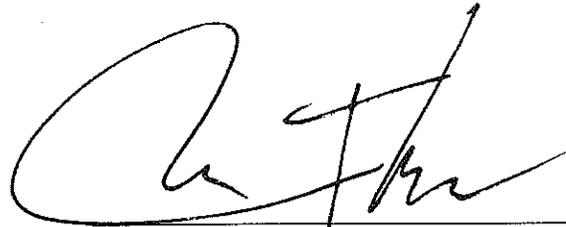
- e) The Redevelopment Plan is consistent with the General Plan of the City of Foster City, including, but not limited to the Housing Element. This finding is based on the finding of the Planning Commission that the Redevelopment Plan conforms to the General Plan for the City of Foster City.
- f) The carrying out of the Redevelopment Plan will promote the public peace, health, safety and welfare of the City of Foster City and will effectuate the purposes and policies of the Community Redevelopment Law. This finding is based on the fact that redevelopment will benefit the Project Area by correcting conditions of blight and by coordinating public and private actions to stimulate development and improve the economic, social and physical conditions of the Project Area, and by increasing employment opportunities within the City.
- g) The condemnation of real property, as provided for in the Redevelopment Plan, is necessary to the execution of the Redevelopment Plan, and adequate provisions have been made for the payment for property to be acquired as provided by law. This finding is based upon the need to ensure that the provisions of the Redevelopment Plan will be carried out and to prevent the recurrence of blight, and the fact that no property will be acquired until adequate funds are available to pay full compensation therefor.
- h) The Agency has a feasible method and plan for the relocation of businesses that might be displaced, temporarily or permanently from facilities in the Project Area. This finding is based upon the fact that the Redevelopment Plan provides for relocation assistance according to law and the fact that such assistance, including relocation payments, constitutes a feasible method for relocation.
- i) The Project Area does not include any non-contiguous areas. Inclusion of any lands, building, or improvements which are not detrimental to the public health, safety or welfare is necessary for the effective redevelopment of the entire area of which they are a part, and any such area is not included solely for the purpose of obtaining the allocation of tax increment revenues from such area pursuant to Section 33670 of the Community Redevelopment Law without other substantial justification for its inclusion. This finding is based upon the fact that all properties within Project Area boundaries were included because they were underutilized because of blighting influences, or were affected by the existence of blighting influences, or were necessary either to accomplish the objectives and benefits of the Redevelopment Plan or because of the need to impose uniform requirements on the Project Area as a whole. Such properties will share in the benefits of the Project.
- j) The elimination of blight and the redevelopment of the Project Area could not reasonably be expected to be accomplished by private enterprise acting alone without the aid and assistance of the Agency. This finding is based upon the existence of several blighting influences, including, but not limited to, substandard design, high business vacancies, and the lack of adequate public improvements and facilities, and the inability of individual owners and developers to economically remove these blighting influences without substantial public assistance.
- k) The time limitations contained in the Redevelopment Plan are reasonably related to the proposed projects to be implemented in the Project Area and to the ability of the Agency to eliminate blight within the Project Area. This finding is made based on the fact that the Redevelopment Plan contains debt establishment, plan effectiveness, and debt repayment limits pursuant to Section 33333.2 of the Community Redevelopment Law, and the Report to City Council adequately demonstrates this relationship.

3. Written objections to the Redevelopment Plan filed with the City Clerk before the hour set for hearing and all written and oral objections presented to the City Council at the hearing having been considered, [and in the case of written objections received from Project Area property owners and affecting taxing agencies, having been responded to in writing,] are hereby overruled.
4. That certain document entitled "Final Environmental Impact Report for the Foster City Neighborhood Shopping Centers," a copy of which is on file in the office of the Agency, and in the office of the City Clerk, having been duly reviewed and considered, is hereby incorporated into this Ordinance by reference and made a part hereof. All activities undertaken by the Agency and/or the City of Foster City pursuant to or in implementation of the Redevelopment Plan shall be undertaken in accordance with the mitigation monitoring program set forth in said Final Environmental Impact Report, and the Agency shall undertake such additional environmental reviews as necessary at the time of implementation of such activities.
5. That certain document entitled "Redevelopment Plan for the Hillside/Gull Redevelopment Project" the map contained therein, and such other reports as are incorporated therein by reference, copies of which are on file in the office of the Agency and the office of the City Clerk, having been duly reviewed and considered, is hereby incorporated in this Ordinance by reference and made a part hereof, and as so incorporated is hereby designated, approved and adopted as the official "Redevelopment Plan for the Hillside/Gull Redevelopment Project."
6. In order to implement and facilitate the effectuation of the Redevelopment Plan hereby approved, this City Council hereby: (a) pledges its cooperation in helping to carry out the Redevelopment Plan, (b) requests the various officials, departments, boards, and agencies of the City having administrative responsibilities in the Project Area likewise to cooperate to such end and to exercise their respective functions and powers in a manner consistent with redevelopment of the Project Area, (c) stands ready to consider and take appropriate action upon proposals and measures designed to effectuate the Redevelopment Plan, and (d) declares its intention to undertake and complete any proceeding, including the expenditure of monies, necessary to be carried out by the City under the provisions of the Redevelopment Plan.
7. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the responsibility for carrying out the Redevelopment Plan.
8. The City Clerk is hereby directed to record with the County Recorder of San Mateo County a description of the land within the Project Area and a statement that proceedings for the redevelopment of the Project Area have been instituted under the Community Redevelopment Law.
9. The Building Division of the Community Development Department of the City of Foster City is hereby directed for a period of two (2) years after the effective date of this Ordinance to advise all applicants for building permits within the Project Area that the site for which a building permit is sought for the construction of buildings or for other improvements is within a redevelopment project area.
10. The City Clerk is hereby directed to transmit a copy of the description and statement recorded by the City Clerk pursuant to Section 9 of this Ordinance, a copy of this Ordinance, and a map or plat indicating the boundaries of the Project Area, to the Auditor-Controller and Assessor of the County of San Mateo, to the governing body of each of the taxing agencies which receives taxes from property in the Project Area, and to the State Board of Equalization, within thirty days following the adoption of the Redevelopment Plan.
11. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance and to cause the same to be published in the *Foster City Islander*, a newspaper of general circulation, published and circulated in the City of Foster City.

12. If any part of this Ordinance or the Redevelopment Plan which it approves is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance or of the Redevelopment Plan, and this City Council hereby declares that it would have passed the remainder of the Ordinance or approved the remainder of the Redevelopment Plan if such invalid portion thereof had been deleted.
13. This Ordinance shall be in full force and effect thirty (30) days after passage.

This Ordinance was introduced and read on the 21<sup>st</sup> day of December, 1998 and passed and adopted on the 4th day of January, 1999, by the following vote:

AYES: Councilmembers Harter, Larsen, Lawrence, and Townsend  
NOES: None  
ABSENT: Mayor Wilder  
ABSTAIN: None



DEBORAH E.G. WILDER, MAYOR  
By Vice Mayor Jim Lawrence

ATTEST:

  
\_\_\_\_\_  
THERESE L. TAHIR, CITY CLERK

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## Mimi Lam

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**From:** Massanda DJohns <MDJohns@smcgov.org>  
**Sent:** Thursday, March 29, 2012 3:11 PM  
**To:** Curtis Banks; Jim Hardy; Lin-lin Cheng; Foster City; Steve Toler; Foster City; Foster City; Foster City; Foster City; Foster City; Foster City  
**Cc:** Massanda DJohns; Ramen Prasad; Robyn Rose; Shirley Tourel; Bob Adler; Kanchan Charan  
**Subject:** Courtesy Notice - Foster City Agreed Upon Procedures: Phase 1 & 2  
**Attachments:** AUP Phase 1 & 2 - Foster City.pdf

Oversight Committee and Successor Agency of the former RDA,

As we enter the final stages to "certify the initial Recognized Obligation Payment Schedule", we want to keep the Oversight Committee and Successor Agency abreast with the progress of the Agreed Upon Procedures (AUP) for the County's compliance with minimum AUP as issued by the State Controller's Office.

Please see memo attached for details on the next steps in the process for completing the Agreed Upon Procedures engagement in compliance with ABx1 26.

Regards

*Massanda C. D'Johns, CPA  
Internal Auditor II  
Controller's Office,  
San Mateo County  
555 County Center, 4th Floor  
Redwood City, CA 94063  
PH. 650.599.1164  
Fax 650.363.7888  
[mdjohns@smcgov.org](mailto:mdjohns@smcgov.org)  
PONY ID: CTL135*



**Office of Controller**



**TOM HUENING  
CONTROLLER**

**COUNTY OF SAN MATEO**

555 COUNTY CENTER, 4<sup>TH</sup> FLOOR • REDWOOD CITY • CALIFORNIA 94063

ROBERT G. ADLER  
ASSISTANT CONTROLLER

KANCHAN K. CHARAN  
DEPUTY CONTROLLER

TELEPHONE: (650) 363-4777  
FAX: (650) 363-7888  
[www.co.sanmateo.ca.us/controller](http://www.co.sanmateo.ca.us/controller)

Date: March 29, 2012  
To: The Oversight Committee and Successor Agency of the former Foster City RDA  
From: Kanchan Charan, Deputy Controller  
Subject: Agreed-Upon Procedures Phase 1 & Phase 2

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Dear All,

Pursuant to Health and Safety Code Section 34182 (H&S 34182), the County Controller's Office is required to conduct an **agreed-upon procedures (AUP) engagement** for each of the former redevelopment agencies (RDAs) in San Mateo County (the County) by July 1, 2012 for the following purposes:

- To establish each RDA's assets and liabilities,
- To document and determine each RDAs pass through payment obligations to other taxing agencies,
- To document and determine both the amount and the terms of any indebtedness incurred by the RDA and,
- To certify the initial Recognized Obligation Payment Schedule (ROPS).

As you may be aware, the State Controller's Office (SCO) has issued guidance on the procedures the County Controller shall perform in order to comply with H&S 34182, which procedures are enclosed with this letter as Attachment A. Our office contracted with Macias, Gini & O'Connell LLP (MGO), independent certified public accountants, to perform the required AUP work in accordance to the SCO's guidelines in order to comply with H&S 34182.

H&S 34177(l) provides that the initial ROPS for the period January 1, 2012 - June 30, 2012 shall be "certified" by the County Controller, then approved by the Oversight Committee and submitted by the Successor Agency to the SCO and Department of Finance (DOF) by April 15, 2012. We therefore contracted with MGO to perform the required AUP in two phases: Phase 1 to certify each Successor Agency's initial ROPS and to issue reports to the County Controller concerning the same by April 2, 2012; and Phase 2 to complete the remaining H&S 34182 requirements and issue a report to the County Controller by June 29, 2012. These phases are described in greater detail below:

**Phase 1 – Agreed-Upon Procedures Report to "certify the initial Recognized Obligation Payment Schedule" pursuant to H&S 34182.**

Some Successor Agencies' initial ROPS contained outstanding items and were therefore advised that they had until 5:00 p.m. on Monday, March 26, 2012, to supply such outstanding information to MGO. We will provide each Successor Agency with a **draft** of MGO's Phase 1 report by 5:00 p.m. on Thursday, March 29, 2012 which will incorporate the information provided on March 26th as well as set forth MGO's preliminary findings. As of today, MGO still expects to issue the FINAL Phase 1 Report to the County Controller by April 2, 2012 and each Oversight Board shall receive the FINAL report from the County Controller no later than **April 4, 2012.**

**Phase 2 – Agreed-Upon Procedures Report pursuant to H&S 34182 to be issued by June 29, 2012.**

*As is apparent from the SCO's recommended AUP procedures, the AUP "audit" required to be performed by the County Controller pursuant to H&S 34182 is not the equivalent of a financial statement audit and should not be construed as a replacement thereto.*

A financial statement audit of each former RDA will provide the highest level of assurance to reduce the risk of material misstatement. Although the County Controller cannot direct Successor Agencies to undertake such financial statement audits, each Successor Agency has informed the County Controller of its arrangements for the preparation of a financial statement audit for the period July 1, 2011 - January 31, 2012. Since these arrangements have already been made by the Successor Agencies, the County Controller strongly recommends that each Oversight Committee and Successor Agency consider directing such financial statement audits to be completed **by June 1, 2012.** This will enable MGO to review audited (as opposed to unaudited) balances while completing Phase 2 of the AUP procedures, and will ultimately save each Oversight Committee the time and expense of reconciling the balances provided to MGO with the audited balances, and accounting for any differences which could result in adjustments in future ROPS (an effort that could be significant). Additionally, it would appear to be in the Oversight Committee's and Successor Agency's best interests to determine the audited balances as soon as possible in order to ensure unencumbered funds transferred to the County Controller pursuant to H&S 34177(d) are correct.

If you have any questions, feel free to contact me at (650) 363-4893 or e-mail me at [kcharan@smcgov.org](mailto:kcharan@smcgov.org).

Sincerely,



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Kanchan Charan, Deputy Controller

County Auditor-Controller / Oversight Board of the Successor Agency  
\_\_\_\_ County / City of \_\_\_\_\_  
\_\_\_\_, CA \_\_\_\_\_

INDEPENDENT ACCOUNTANT'S REPORT ON  
APPLYING AGREED-UPON PROCEDURES

We have performed the minimum required agreed-upon procedures enumerated in Attachment A, which were agreed to by the California State Controller's Office, Department of Finance, and \_\_\_\_\_ County Auditor-Controller, \_\_\_\_\_, solely to assist you in ensuring that the dissolved redevelopment agency is complying with its statutory requirements with respect to ABX1 26. Management of the successor agency and the county are responsible for the accounting records pertaining to statutory compliance pursuant to Health and Safety Code section 34182(a)(1). This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The scope of this engagement was limited to performing the minimum required agreed-upon procedures as set forth in Attachment A and additional procedures identified by the \_\_\_\_\_ County Auditor-Controller as set forth in Attachment A.1.

Attachment B identifies the findings noted as a result of the procedures performed.

[Alternatively, the practitioner could include both the procedures and the results on one attachment with the results of each procedure immediately following the description of that procedure.]

We were not engaged to and did not conduct an audit, the objective of which would be the expression of an opinion as to the appropriateness of the results summarized in Attachment B. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the \_\_\_\_\_ County Auditor-Controller, the successor agency, and applicable State agencies, and is not intended to be, and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

County Auditor-Controller / Certified Public Accountant

\_\_\_\_\_, California

\_\_\_\_\_, 2012

**Attachment A—Agreed-Upon Procedures Engagement  
Pursuant to ABX1 26, Community Redevelopment Dissolution**

*Purpose: To establish each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's pass-through payment obligations to other taxing agencies, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency and certify the initial recognized obligation payment schedule. [Health and Safety Code section 34182(a)(2)]*

In conformity with attestation standards, the language in each separate report for each agency will need to be specific as to the type of documents that were examined in performing the procedure.

**A. RDA Dissolution and Restrictions**

For each redevelopment agency dissolved, perform the following:

1. Obtain a copy of the enforceable obligation payment schedule (EOPS) for the period of August 1, 2011, through December 31, 2011. Trace the redevelopment project name or area (which ever applies) associated with the obligations, the payee, a description of the nature of the work/service agreed to, and the amount of payments made by month through December 31, 2011, and compare it to the legal document(s) that forms the basis for the obligations. Since amount could be estimated, determine that they are stated as such and that legal documentation supports those estimates.
2. Obtain a copy of all amended EOPS filed during the period of January 1, 2012, through June 30, 2012. Trace the redevelopment project name or area (which ever applies) associated with the obligations, the payee, a description of the nature of the work/service agreed to, and the amount of payments to be made by month through June 30, 2012, and compare it to the legal documents that forms the basis for the obligations. Again, since amount could be estimated, determine that they are stated as such and that legal documentation supports those estimates.
3. Identify any obligation listed on the EOPS that were entered into after June 29, 2011, by inspecting the date of incurrence specified on Form A of the Statement of Indebtedness filed with the County Auditor-Controller, which was filed on or before October 1, 2011.
4. Inquire and specifically state in the report the manner in which the agency did or did not execute a transfer of the Low and Moderate Income Housing Fund to the redevelopment successor agency by February 1, 2012. Procedures to accomplish this might include changing the name of the accounting fund and related bank accounts that are holding these assets for the successor agency. If the successor agency is a party other than the agency that created the redevelopment agency, an examination of bank statements and changing of account titles and fund names evidencing such transfer will be sufficient.
5. Inquire and specifically state in the report how housing activities (assets and functions, rights, powers, duties, and obligations) were transferred and the manner in which this agency did or did not execute a transfer. Procedures to accomplish this might include changing the name of the accounting fund and related bank accounts that are holding these assets for the other agency. An examination of bank statements and changing of account titles and fund names evidencing such transfers will be sufficient. If the housing successor is a party other than the agency that created the redevelopment agency, an examination of bank statements and re-recording of titles evidencing such transfer will be sufficient.

## **B. Successor Agency**

1. Inspect evidence that a successor agency (A) has been established by February 1, 2012; and (B) the successor agency oversight board has been appointed, with names of the successor agency oversight board members, which must be submitted to the Department of Finance by May 1, 2012.
2. Inquire regarding the procedures accomplished and specifically state in the report the manner in which this agency did or did not execute a transfer of operations to the successor agency, which was due by February 1, 2012. Procedures to accomplish this might include changing the name of the accounting fund and related bank accounts that are holding these assets for the successor agency. If the successor agency is a party other than the agency that created the redevelopment agency, an examination of bank statements and changing of account titles and fund names evidencing such transfers will be sufficient.
3. Ascertain that the successor agency has established the Redevelopment Obligation Retirement Fund(s) in its accounting system.
4. Inspect the EOPS and ROPS and identify the payments that were due to be paid through the date of the AUP report. Select a sample (based on a dollar amount and/or percentage amount as determined by the \_\_\_\_\_ County Auditor-Controller) and compare the payments that were due to be paid through the date of the AUP report to a copy of the cancelled check or other documentation supporting the payment.
5. Obtain listings that support the asset figures (cash, investments, accounts receivable, notes, receivables, fixed assets, etc.) in the audited financial statements as of June 30, 2010, June 30, 2011, or the agency's fiscal year ending \_\_\_\_\_, and as of January 31, 2012, as determined by the successor agency and include as an attachment to the AUP report.

## **C. Recognized Obligation Payment Schedule (Draft ROPS)**

- Obtain a copy of the initial draft of the ROPS from the successor agency.
1. Inspect evidence that the initial draft of the ROPS was prepared by March 1, 2012.
  2. Note in the minutes of the Oversight Board that the draft ROPS has been approved by the Oversight Board. If the Oversight Board has not yet approved the draft ROPS as of the date of the AUP, this should be mentioned in the AUP report.
  3. Inspect evidence that a copy of the draft ROPS was submitted to the County Auditor-Controller, State Controller, and Department of Finance.
  4. Inspect evidence that the draft ROPS includes monthly scheduled payments for each enforceable obligation for the current six-month reporting time period.
  5. Select a sample (based on dollar amount and/or percentage amount as determined by the \_\_\_\_\_ County Auditor-Controller) and trace enforceable obligations listed on the draft ROPS to the legal document that forms the basis for the obligation.
  6. Trace the obligations enumerated on the draft ROPS to the obligations enumerated on the EOPS (including amendments) and note any material differences as agreed to by the \_\_\_\_\_ County Auditor-Controller.

**D. Recognized Obligation Payment Schedule (Final ROPS)**

- Obtain a copy of the final ROPS (January 1, 2012, through June 30, 2012) from the successor agency.
  1. Inspect evidence that the final ROPS was submitted to the County Auditor-Controller, the State Controller, and Department of Finance by April 15, 2012, and is posted on the website of the City/County as successor agency (Health and Safety Code section 34177(2)(C)).
  2. Inspect the final ROPS and identify the payments that were due to be paid through the date of the Agreed-Upon Procedures report. For payments on the ROPS that were identified as being due through the date of the Agreed-Upon Procedures report, inspect evidence of payment and determine that amounts agree to the purpose of the obligation as amounts could be estimated.
  3. Select a sample (based on a dollar amount and/or percentage amount as determined by the \_\_\_\_\_ County Auditor-Controller) and trace enforceable obligations listed on the final ROPS to the legal agreements or documents that forms the basis for the obligation.

**E. Other Procedures**

- Obtain a list of pass-through obligations and payment schedules.
  1. Obtain a list of pass-through obligations and payments made from the successor agency from July 1, 2011 through January 31, 2012, inspect evidence of payment, and note any differences from the list of pass-through obligations and payments made.
- Issue Agreed-Upon Procedures Report and distribute to the California State Controller by July 15, 2012.

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## Oversight Board of the Successor Agency City of Foster City

**Date:** April 5, 2012  
**To:** Chair and Members of the Oversight Board  
**Via:** James C. Hardy, City Manager  
**From:** Steve Toler, Assistant City Manager  
**Subject:** Consideration of Need for Legal Counsel to the Oversight Board

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### **RECOMMENDATION**

It is recommended that the Oversight Board consider whether or not it wishes to obtain legal counsel in fulfilling its obligations pursuant to the wind-down of the Former Foster City Community Development Agency.

### **BACKGROUND and ANALYSIS**

The Oversight Board will be implementing the provisions of ABx1 26 in winding down the affairs of the former Foster City Community Development Agency. It may be necessary from time to time for the Oversight Board to consult legal counsel in terms of developing and/or interpreting the provisions of various agreements or legislation that may have an impact on the Oversight Board decisions and exercise of its responsibilities.

Because of the inherent conflict of interest that would exist, it is not advised, nor will it be acceptable, for the City Attorney to the City of Foster City, nor the former Agency counsel that is assisting the City in its role as Successor Agency, to provide legal counsel to the Oversight Board. Accordingly, the Oversight Board would need to find separate legal counsel to advise the Board on matters where legal interpretation or services are required.

The city attorneys and County Counsel in San Mateo County have recently met to discuss this matter and have prepared a document that provides the names of alternative legal counsel that the Oversight Boards in San Mateo County can consider should they feel the need to obtain legal counsel. That report will be provided to the Oversight Board under separate cover in advance of the meeting.

Staff is recommending that the Oversight Board determine whether or not it is interest in obtaining legal services in support of exercising its responsibilities under California Health & Safety Code §34179, et seq.

The following alternatives are provided for consideration:

1. Determine that legal counsel is required and instruct the Chair and/or a subcommittee to interview prospective firms provided at the recommendation of the San Mateo County City Attorneys Group and bring forward a recommendation to the Oversight Board at a future meeting.
2. Determine that legal counsel is required and instruct the Chair and/or a subcommittee of the board to develop a Request for Proposal to interested firms to submit proposals for legal services for Oversight Board consideration at a future meeting.
3. Table this item to a future meeting for due consideration dependent upon future deliberations of the Oversight Board.
4. Determine that legal counsel is not required and, therefore, take no action on this item.

Direction can be provided by minute order.

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## Mimi Lam

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**From:** Steve Toler  
**Sent:** Tuesday, April 03, 2012 2:55 PM  
**To:** Dick W. Bennett (dwbrda@gmail.com); Elizabeth McManus (emcmanus@smuhdsd.org); Jim Keller (kellerj@smccd.edu); LAKKC@aol.com; Mary McMillan (mmcmillan@smcgov.org); Rick Wykoff; Tina Acree (AFSCME)  
**Cc:** Jim Hardy; Curtis Banks; Lin-lin Cheng; Jean Savaree  
**Subject:** FC Oversight Board: Legal Counsel  
**Attachments:** Oversight Board Baum.docx; Oversight Board Labadie.doc; OVERSIGHT BOARD LEGAL AGR TEMPLATE .doc

### Oversight Board Members:

At our meeting on Thursday (4/5), Item #12 is in regards to whether or not the Oversight Board wishes to have legal counsel to assist the Board in exercising its duties and responsibilities. As indicated in the Staff Report, it is not appropriate for the City Attorney for the City of Foster City, nor the City's special legal counsel on redevelopment matters, to assist the Oversight Board in its role due to the inherent conflict of interest. Yet the City Attorneys, as well as County Counsel, in San Mateo County have been concerned in ensuring that the Board has available counsel to assist it in its role.

To that end, the City Attorneys and County Counsel have met over the past couple of months in terms of identifying potential attorneys that could provide legal counsel to the Board in its deliberations. On Friday, March 30, they met once again to finalize their discussions on this matter, and have identified two attorneys that have the experience and capability to assist the Board: Gary M. Baum, and Craig Labadie. Both attorneys have provided resumes to the City Attorneys group, which are attached to this e-mail for your consideration. Both attorneys come with the requisite experience that could provide the Board much needed assistance as it implements the provisions of ABx1 26.

In addition, the City Attorneys and County Counsel have also prepared a template legal agreement that could be used by the Board to actuate and agreement with either attorney, or another attorney at the Board's choosing. That template is attached for your consideration as well.

The City Attorneys and County Counsel are strongly recommending that the Oversight Boards in the County hire legal counsel to represent it to provide assistance and insight into matters that may require interpretation of the provisions of ABx1 26, as well as contractual or other matters that may require the expertise of an attorney.

I wanted to pass this information and the City Attorneys' recommendations to you in advance of the meeting. I will have hard copies available of these documents, as well as this e-mail, at your meeting on Thursday.

See you then.

Steve Toler

**Assistant City Manager  
City of Foster City**

**GARY M. BAUM**  
**Law Offices of Gary M. Baum**  
**19925 Stevens Creek Boulevard, Suite 100**  
**Cupertino, CA 95014-2358**  
**408-833-6246**  
**garybaumlaw@gmail.com**

**BAR  
MEMBERSHIP**

Admitted to California State Bar and Federal Courts, December 1984.  
Admitted to U.S. Supreme Court 2006.

**EMPLOYMENT**

**Law Offices of Gary M. Baum.** December 2010 to the present. Solo practice representing cities in labor, land use and environmental matters. General Counsel to the Silicon Valley Regional Interoperability Authority a 13 member Joint Powers Authority including 12 Cities and the County of Santa Clara.

**City of Palo Alto – City Attorney.** July 2004 to October 2010. Restructured City Attorney’s Office. Out-sourced litigation. Increased office productivity more than 100%, with fewer attorneys. Reduced open litigation by more than 25%. Contributed to the development of City’s innovative green building program. Managed office of ten people.

**City of Santa Clara - Assistant City Attorney.** April 1998 to June 2004. Counsel to Planning Commission. Developed environmental crimes prosecution program resulting in fines of \$1,000,000.

**City of Morgan Hill - City Attorney.** November 1993 to March 1998. First in-house City Attorney. Reduced open litigation from 32 cases to 6. Defended writ actions in trial court and Court of Appeal.

**City of Redondo Beach - Assistant City Attorney.** July 1992 to October 1993. Counsel to Planning Commission. Significant reductions made to outside counsel expenses.

**City of Garden Grove - Acting City Attorney/Senior Deputy City Attorney.** May 1989 to June 1992. Counsel to Planning Commission. Prosecuted code enforcement cases. Defended writ actions.

**Ball, Hunt, Hart, Brown & Baerwitz, Long Beach - Associate.** July 1986 to April 1989. Represented Cities, School Districts and Developers. Prosecuted and defended CEQA writ cases at trial and in Court of Appeal.

**Rutan & Tucker, Costa Mesa – Associate.** August 1985 to June 1986. Represented School Districts, Cities and Developers in Land Use and Employment Litigation.

**University of Southern California Law School – Land Use Teaching Assistant.** July 1983 to May 1984.

**PRO TEM/  
ARBITRATION  
BAR** Temporary Judge, Santa Clara Superior Court & Small Claims Court  
Arbitrator/Mediator, Los Angeles County Bar Association.  
Santa Clara County Bar Association: Member Board of Trustees 2003 - 2005.

**ASSOCIATION** Co-Chair Judiciary Committee 2003 – 2005.  
Chair of Legal Services Committee 2010.  
Volunteer Pro Bono Project 1995 – present.  
Volunteer Domestic Violence Limited Scope Representation Project 2005 – present.  
Board Member, Vice President - Pro Bono Project 2011 - present.

**PROFESSIONAL ORGANIZATIONS** Co-President Bay Area City Attorney’s Association. 2008 - 2010

**AWARDS** Access to Justice Award by the Pro Bono Project 2009.  
Pro Bono Attorney of the Year Santa Clara County Bar Association 2007.  
Northern California “Super Lawyer” 2005.

**PUBLICATIONS** *Land Use Controls: Another Approach to Reality*, USC Cites, 1984.  
*League of California Cities: Billing Protocol*, The Directory of Municipal Law Practitioners, October 1995.  
California District Attorney's Association Environmental Prosecution. Manual: *City Attorney Prosecution of Environmental Crimes*, February 2004, Updated September 2009.

**PRESENTATIONS** League of California Cities: *Litigation for the City Attorney*.  
Bay Area City Attorney Association: *Prosecuting Environmental Crimes*.  
International Municipal Lawyer’s Association: *The Role of the City Attorney; CEQA/NEPA and Climate Change; R.L.U.I.P.A.*  
Santa Clara County Bar Association: *Prosecution of Environmental Crimes*.  
Los Angeles County Bar Association: *New Environmental Legislation*.  
ALI-ABA: *Defending CEQA Lawsuits*.

**LAW SCHOOL** **University of Southern California Law School**  
Juris Doctor Degree, May 1984.  
Top 1/3 of Class.

**COLLEGE** **Whittier College**  
Bachelor of Arts, May 1981.  
Major in Biology & Political Science completed in three years.  
Top 20% of Class.

**University of California at Davis**  
Certificate in Land Use & Environmental Planning, June 1997.

**University of California at Santa Cruz**  
Certificate in Hazardous Materials Management, November 2000.

# CRAIG LABADIE

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## PROFESSIONAL EXPERIENCE

**LAW OFFICES OF CRAIG LABADIE**  
Sole Practitioner

Current

City Attorney for the City of Albany. Special Counsel to the City of Concord on issues pertaining to the reuse planning and property disposition process for the former Concord Naval Weapons Station, a closed military base.

**CITY OF CONCORD**  
City Attorney

2000 - 2011

Served as the chief legal advisor to City Council, Redevelopment Agency, Concord Naval Weapons Station Local Reuse Authority, City Boards and Commissions, and all City Departments. Represented the City and oversaw outside litigation counsel in connection with liability claims and litigation, including municipal code enforcement litigation. Subject matter areas included Brown Act, Public Records Act, Political Reform Act, municipal finance, public works, land use and environmental law, redevelopment, labor and employment, military base closure, law enforcement, and general municipal law.

As an officer and President of the City Attorneys Department within the League of California Cities from 2004-07, I took an active leadership role in numerous educational and advocacy efforts for our membership. Ongoing activities included planning of educational seminars, updating Municipal Law Handbook, and oversight of Legal Advocacy Committee. Special initiatives as President included drafting of *The People's Business: A Guide to the California Public Records Act*, updating of *Open and Public IV: A Guide to the Ralph M. Brown Act*, updating of guidebook on Proposition 218 (limits on local fees, taxes and assessments), and updating of guide to compliance with conflict of interest laws.

**MCDONOUGH, HOLLAND & ALLEN, Oakland, California**  
Shareholder, Public Law Department

1989 - 2000

City Attorney for the Cities of Mill Valley, Sausalito and Hercules  
Acting City Attorney for the City of Novato  
Special Counsel for numerous Bay Area cities

Founding shareholder of Bay Area office for Sacramento-based firm representing local



CALIFORNIA SUPREME COURT, Associate Justice Stanley Mosk      1981 - 1982  
Annual Law Clerk

Researched and drafted Supreme Court opinions, evaluated cases presented for hearing, and supervised student externs. Drafted manual for handling appellate writs.

## **PROFESSIONAL ASSOCIATIONS**

### **LEAGUE OF CALIFORNIA CITIES - CITY ATTORNEYS DEPARTMENT**

President (2006-07)  
Department Officer (2004-06)  
Chair, Legislative Committee (2002-04)  
President, Contra Costa County City Attorneys Association (2001)  
President, Bay Area City Attorneys Association (1996)  
Member, Municipal Law Handbook Committee (1993-95)

### **CALIFORNIA STATE BAR**

Public Law Section, Executive Committee (1989-92)  
Editor, *Public Law Journal*  
Member, Contra Costa County Bar Association (1988-Present)

### **CONTINUING EDUCATION OF THE BAR**

Chair, Continuing Education of the Bar Governing Committee (1998-99)  
Member, Continuing Education of the Bar Governing Committee (1994-97)  
Chair, Joint Advisory Committee on Continuing Education of the Bar (1993-94)  
Chair, Continuing Education of the Bar Subcommittee on Real Property Law (1991-93)

## **LEGAL EDUCATION**

### **UNIVERSITY OF CALIFORNIA, DAVIS**

Juris Doctor Degree (1981)  
Order of the Coif  
Editor, U.C. Davis Law Review  
Best Brief Award, Environmental Moot Court Competition

## **AGREEMENT FOR PROFESSIONAL SERVICES**

**THIS AGREEMENT** is made and entered into on March \_\_, 2012, by and between the City of \_\_\_\_\_, a municipal corporation, acting as the Successor Agency to the \_\_\_\_\_ City Redevelopment Agency ("CITY"), organized and existing under the provisions of AB x1 26, enacted June 29, 2011 ("Redevelopment Dissolution Act"), and \_\_\_\_\_, an attorney licensed to practice law in the State of California ("ATTORNEY").

**THE PARTIES ENTER THIS AGREEMENT** based upon the following facts, understandings and intentions:

City Attorney would provide legal services to the \_\_\_\_\_ CITY OVERSIGHT BOARD ("OVERSIGHT BOARD") as contemplated pursuant to the Redevelopment Dissolution Act as part of its staffing obligation, but because the City Attorney's Office has a conflict of interest due to its representation of CITY as the Successor Agency, CITY is obtaining the services of special counsel to serve as the legal advisor for the OVERSIGHT BOARD; and

CITY desires to contract with ATTORNEY and ATTORNEY desires to contract with CITY for provision of professional services as further described herein, upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE, IN CONSIDERATION** of the mutual covenants and promises of the parties herein contained, the parties hereto agree as follows:

1. **Effective Date.** The effective date of this Agreement is March \_\_, 2012.
2. **Scope of Services.** CITY engages ATTORNEY to provide legal advice and representation to OVERSIGHT BOARD regarding implementation of the Redevelopment Dissolution Act, including but not limited to advice regarding the powers and duties of the OVERSIGHT BOARD under the Act as well as compliance with the requirements of the Brown Act, Public Records Act and Political Reform Act in the performance of such powers and duties. ATTORNEY shall provide both GENERAL LEGAL SERVICES and CLIENT SPECIFIC LEGAL SERVICES, which are defined in Section 4.
3. **Compensation.** ATTORNEY shall be compensated on hourly basis for services

rendered under Section 2, at the rate of \$215 per hour. Additional hourly rate for services are as follows: Partner Level Attorneys \$215; Associate Level Attorneys \$185; Law Clerks \$75; and Paralegals \$65.

Attorney shall be reimbursed for actual and reasonable out-of-pocket expenses such as mileage, photocopy charges, research-related charges, filing fees, telephone charges, and other costs related to representation. ATTORNEY may submit monthly statements for services rendered. Time will be billed in tenths of an hour (six-minute increments). Travel time shall be charge and paid at fifty percent (50%) of the hourly billing rate.

GENERAL LEGAL SERVICES are those legal services that pertain to generally shared or common issues among San Mateo County Oversight Boards where ATTORNEY's research and advice will be generally applicable to all Oversight Boards ATTORNEY represents such as advice regarding the Brown Act, the Political Reform Act, Public Records Act, and general powers and duties of Oversight Boards. CLIENT SPECIFIC SERVICES are those legal services rendered specifically and exclusively to a particular Oversight Board at its direction such as appearing at Oversight Board to provide legal counsel during its meeting or researching and advising on an issue specifically pertaining to that Board.

Further, for GENERAL LEGAL SERVICES applicable to all OVERSIGHT BOARD's that ATTORNEY represents in San Mateo County, ATTORNEY shall divide the billing for such GENERAL LEGAL SERVICES equally among all OVERSIGHT BOARDS that ATTORNEY represents in San Mateo County. ATTORNEY shall separately bill each OVERSIGHT BOARD for work performed independently and at the direction of that particular OVERSIGHT BOARD. While the OVERSIGHT BOARD shall review the detailed bill of the ATTORNEY, CITY shall receive a summary bill of such services.

It is intended that payment to ATTORNEY will be made by CITY acting as the Successor Agency within thirty (30) days after receipt of each invoice, subject to such work being in compliance both with the scope of services as set forth in this Agreement and within the budget established by the CITY for said services.

**4. Confidential Communications and Information.** CITY acting as the Successor

Agency is the contracting entity and the OVERSIGHT BOARD is the client for the purposes of confidential client communications. Confidential communications between the OVERSIGHT BOARD and ATTORNEY are not to be shared with CITY or CITY as the Successor Agency. All documents, communications or other information developed or received by or for ATTORNEY in performance of the Agreement are confidential and not to be disclosed to any person except as authorized by OVERSIGHT BOARD, or as required by law.

5. **Termination.** With the consent of the OVERSIGHT BOARD, CITY may terminate ATTORNEY's employment at any time with or without cause and with no notice. However, CITY agrees to pay ATTORNEY for all legal services rendered by ATTORNEY up to the time of termination, plus all costs advanced and expenses incurred by ATTORNEY in the course of representing CITY. In the event of termination, ATTORNEY will promptly return CITY's papers and property to it.

6. **Standard of Performance.** ATTORNEY represents to CITY that the services shall be performed in an expeditious manner and with the degree of skill and care that is in conformance with generally accepted professional standards prevailing at the time work is performed.

7. **Performance by Attorney.** ATTORNEY shall not employ other Attorneys or contractors without the prior written approval of the CITY. Unless otherwise expressly agreed by the CITY, ATTORNEY'S representative shall remain responsible for the quality and timeliness of performance of the services, notwithstanding any permitted or approved delegation hereunder.

8. **Ownership and Maintenance of Documents.** All documents furnished by ATTORNEY pursuant to this AGREEMENT are instruments of ATTORNEY'S services in respect to any individual project. They are not intended nor represented to be suitable for reuse by others on extensions of this project or on any other project. Any reuse without specific written verification and adoption by ATTORNEY for the specific purposes intended will be at user's sole risk and without liability or legal exposure and expenses to ATTORNEY, including attorney's fees arising out of such unauthorized reuse. ATTORNEY'S records pertaining to work performed under this Agreement shall be given to CITY at the completion of the work.

9. **Conflict of Interest.** ATTORNEY shall avoid any conflict of interest in the performance

of this Agreement. ATTORNEY represents that the ATTORNEY has no existing conflict of interest in representing OVERSIGHT BOARD and will not acquire any such interest, which could interfere with the performance of services required under this Agreement.

**10. Independent Contractor.** In assuming and performing the services, ATTORNEY is an independent contractor and shall not be eligible for any benefits, which the CITY may provide its employees, except as expressly provided for in the AGREEMENT. ATTORNEY shall have responsibility for and control over the means of providing services under this AGREEMENT.

**11. Malpractice Insurance.** Attorney shall maintain a current policy of errors and omissions insurance at all times.

**12. Amendment.** This Agreement may be amended, modified, or changed by the parties subject to mutual consent by execution of a written amendment executed by authorized representatives of CITY and ATTORNEY and as consented to by the OVERSIGHT BOARD.

**13. Compliance with Laws.** ATTORNEY shall comply with all applicable Federal, State, and local laws, rules, and regulations, and shall obtain all applicable licenses and permits for the conduct of its business and the performance of the services.

**14. Severability.** Each portion of this document is severable, so that if one portion is found to be legally invalid, the remaining portion shall remain in effect.

**15. Financial Records.** Records of ATTORNEY'S reimbursable expenses pertaining to this project covered by this AGREEMENT will be made available to OVERSIGHT BOARD and/or CITY if and when required.

**16. Notices.** All notices required hereunder shall be in writing and mailed postage prepaid by Certified or Registered mail, return receipt requested, or by personal delivery to the CITY'S address as shown below, or such other places as CITY or ATTORNEY may, from time to time, respectively, designate in a written notice given to the other. Notice shall be deemed received three (3) days after the date of the mailing thereof or upon personal delivery.

To CITY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**[PICK ONE]**

To ATTORNEY:

**Gary Baum**  
19925 Stevens Creek Blvd., Suite 100  
Cupertino, CA 95014-2358  
Phone: (408) 833-6246  
Fax: (408) 540-1210  
E-mail: [garybaumlaw@gmail.com](mailto:garybaumlaw@gmail.com)

**Craig Labadie**  
50 Tara Road  
Orinda, CA 94563  
Phone: (925) 250-5424  
FAX: (925) 253-0891  
E-mail: [labadielaw@gmail.com](mailto:labadielaw@gmail.com)

IN WITNESS WHEREOF, the parties have executed this AGREEMENT in one or more duplicate originals as of the date and year first written above.

**ATTORNEY**  
**CITY OF** \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:  
Special Counsel  
Address:  
Telephone:

By: \_\_\_\_\_  
Name:  
Title:  
Address:  
Telephone:

**CONSENTED TO:**

\_\_\_\_\_  
Chair, Oversight Board of \_\_\_\_\_

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TO: Chair and Members of the Community Development Agency

VIA: James C. Hardy, City Manager/Executive Director

FROM: Richard B. Marks, Community Development Director  
Curtis Banks, Planning Manager

DATE: December 19, 2011

SUBJECT: YEAR-END REPORT ON COMMUNITY DEVELOPMENT AGENCY  
ACTIVITIES FOR FISCAL YEAR 2010-11

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### RECOMMENDATION

That the Community Development Agency receive and accept by Minute Order the following year-end report on Agency activities for FY 2010-11 as required by Section 33080.1 of the State Health and Safety Code.

### EXECUTIVE SUMMARY

Section 33080.1 of the State Health and Safety Code requires that redevelopment agencies prepare and submit a report each year to the legislative body including the audit report, a fiscal statement (Controller's Report), a description of the Agency's activities affecting housing and displacement, regarding the progress made in eliminating blight, reporting any outstanding loan receivables and describing property owned and acquired during the previous fiscal year.

Of the Agency's three Project Areas, Project Area One reached its tax increment cap of \$170 million in April 2011. Even though Project Area One receives no additional tax increment after April 2011, it still has obligations. The City and the Agency entered into three agreements during FY 2010-11 relative to funds held by the Agency that call for the City to act on the Agency's behalf:

- Affordable Housing Reimbursement Agreement (Resolution 295, attached)
- Public Improvements Reimbursement Agreement (Resolution 294, attached)
- Cooperative Services Agreement (Resolution 298, attached)

In adopting the State Budget for FY 2011-2012, the State Legislature approved ABx1 26, which requires dissolution of all redevelopment agencies in those California cities that do not opt to make the required "voluntary" payments under ABx1 27. The bills were signed into law by the Governor on June 28, and chaptered on June 29, 2011, the effective date of this legislation. As of the effective date, redevelopment agencies are not allowed to adopt

new project areas, enter into new contracts, or incur additional indebtedness. The legislation also purports to nullify agreements entered into between an agency and the city and/or county that created the agency after January 1, 2011, and requires that any assets transferred between the agency and the city and/or county after that date be returned to the agency. Pages 33-35 of the audit contains more detailed information about the impacts of this legislation on the Agency.

The Agency adopted an "Enforceable Obligation Payment Schedule" as required by ABx1 26 and ABx1 27 by adoption of Resolution 301 (attached).

Litigation to challenge both ABx1 26 and ABx1 27 was filed by the California Redevelopment Association (CRA), the League of California Cities, and the Cities of San Jose and Union City on July 18, 2011. The Court issued an injunction to stay implementation of the legislation pending the Court's ruling on whether or not the legislation is constitutional. The Court has indicated it will provide a ruling on the lawsuit by January 15, 2012. As stated in the audit on page 35, in the event that ABx1 26 is upheld, the funds transferred to the City under the terms of the three agreements may need to be transferred back to the Agency.

## BACKGROUND

The following sections of the California State Health & Safety Code require redevelopment agencies each year to prepare and submit a report to the legislative body about the following items:

### Audit Report

Section 33080.1(a)(1) specifies the report shall include an independent financial audit, including a report as to the Agency's compliance with the applicable laws, regulations, and administrative requirements. The audit must also report on the Agency's financial activities with respect to money required to be held in a separate low- and moderate-income housing fund pursuant to Section 33334.3. The audit report must also include a calculation of the "excess surplus" in the Housing Fund pursuant to Section 33334.12. The Agency is required to inform the legislative body of any major violations that are identified as part of the independent financial audit report. The Agency is also required to inform the legislative body that failure to correct the major violations may result in the Attorney General filing an action against the Agency (Section 33080.2).

### Fiscal Statement

A fiscal statement for the previous year containing information on the amount of indebtedness, the amount of tax increment revenues received by the Agency, the amount of tax increment revenue paid to any taxing entities (including specified information about payments made to school districts and community college districts under various provisions of the Community Redevelopment Law [CRL]) and other information required by Section 33080.5.

## Housing Activities

Section 33080.4 specifies the reporting requirements for an agency's housing activities, including displacement of existing units and the number of agency-assisted housing units that were acquired, rehabilitated, or assisted by the agency and restricted by agreement to be available for occupancy at affordable housing cost.

## Blight Progress Report

Section 33080.1(d) – the annual report must include “a description of the agency's progress, including specific actions and expenditures, in alleviating blight in the previous fiscal year.”

## Loan Report

Section 33080.1(e) – the annual report must include “a list of, and status report on, all loans made by the redevelopment agency that are fifty thousand dollars (\$50,000) or more, that in the previous fiscal year were in default, or not in compliance with the terms of the loan approved by the redevelopment agency.”

## Property Report

Section 33080.1(f) – the annual report must include “a description of the total number and nature of the properties that the agency owns and those properties the agency has acquired in the previous year.”

## ANALYSIS

### PROJECT AREA ONE

#### *Fiscal Year 2010-11*

#### Tax Increment Cap Reached

Project Area One has a tax increment cap of \$170 million. Since this project area reached its tax increment cap in April 2011, the books for the Project Area were closed as of June 30, 2011. Remaining General Fund assets were transferred to the City under the terms of a Public Improvements Reimbursement Agreement (for assets intended for public improvements) and a Cooperative Services Agreement (for assets intended for payment under the 1991 Settlement Agreement with the San Mateo Union High School District). Housing Fund assets were transferred to the City under the terms of an Affordable Housing Reimbursement Agreement, intended to fulfill the Agency's Affordable Housing requirements. (Copies of these Resolutions are attached).

## Audit

Please see the attached Audit Report. It includes a report on the Agency's financial activities, including the Housing Fund. The calculation of excess surplus is contained in the Annual Report on Housing Activity to the Department of Housing and Community Development described below. The Agency is free of its debt financing obligations as of June 30, 2010. The Audit concludes on page 42, "...we did not identify any deficiencies in the internal control over financial reporting that we consider to be material weaknesses...."

The report also states on page 39, "The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*."

## Fiscal Statement

Please see the attached Annual Report to the State Controller.

## Housing Activities

Please see the attached Annual Report on Housing Activity to Department of Housing and Community Development. There were no very low-, low-, or moderate-income families or elderly households displaced or moved from their units or units destroyed or removed from the housing market either in the 2010-11 fiscal year or projected in the 2011-12 fiscal year.

Resolution No. 284 adopting the FY 2010-11 budget is attached which includes the required findings that the use of housing fund monies outside of the project areas will be of benefit to the project areas and that the administrative costs are necessary for the production, improvement and preservation of low- and moderate-income housing. The documentation of the proportionality of the administrative expenses from the Housing Fund for FY 2010-11 is contained in the attached memo dated June 10, 2010.

Please see the attached table, "Units Built or Approved in the Community Development Project Areas" for a subtotal of the 141 affordable housing units in Project Area One. All of the affordable housing units are occupied and subject to restrictions that maintain them for occupancy by very low-, low- or moderate-income families. All the restricted units in Marina Green have had their deed restrictions expire in 2009.

Pursuant to Resolution 292 adopted on January 18, 2011, the housing units in the three Project Areas may be aggregated for the purpose of determining compliance with the requirements to provide affordable housing. The attached table, "Past Housing Production and Affordable Housing Requirements" shows that for the combined three Project Areas, 260 affordable units are required and 277 units are provided. Also, 99 very low income units are required and 175 are provided. The affordable units that are outside any of the Project Areas (7 of the Agency-owned units) are counted on a 2 for 1 basis. There were no new or rehabilitated units in Project Area One in FY 2010-11.

Metro Senior Apartments. Agency staff has received the required annual and quarterly reports from Metro Senior Apartments and found that they are in compliance with their

agreement with the Agency. Agency staff participated in the annual Board meeting and setting of the budgets for 2011 and 2012. The waiting list is closed due to little turnover.

Foster's Landing. The final annual payment was made to Fosters Landing in May 2011. The Affordable Housing Agreement for Fosters Landing provides that the annual reimbursement from tax increment to Fosters Landing to offset the costs of the affordable housing "...shall be reduced or eliminated proportionately to any reduction or elimination of the Tax Increment..." Thus, because Project One has reached its revenue cap and receives no more tax increment, no additional payments of tax increment to Fosters Landing are required. Fosters Landing will, however, be required to continue to provide annual reports until the affordable housing restrictions expire. The number of affordable units required will begin to be reduced in 2021 and the requirements for the remaining affordable units will expire in 2023.

Marina Green and Emerald Bay. The Emerald Bay Development is not required to submit an annual report, because they are owner-occupied units. Staff does a review annually of utility bills and County Assessor records to ensure that the units have remained owner-occupied. There were no sales of the restricted units in FY 2010-11.

In FY 2005-06, one of the Emerald Bay units came up for sale and the Agency Board decided to exercise its option to purchase the unit. This unit has been added to the Existing Unit Purchase Program.

The deed restrictions for Marina Green were for a 20-year term. The last unit's deed restrictions expired in November 2009.

Existing Unit Purchase Program. The Housing Fund for Project Area One also supports the eight Agency-owned affordable housing units, seven of which are outside Project Area One. In 2008, a duplex was purchased, increasing the number of units from five to seven. The agency also purchased a single-family house in 2009. These units are rented to families in the very-low or low-income ranges. The units are managed by HIP Housing.

First-Time Homebuyer Program. The First-Time Homebuyer Program provides a 30-year second mortgage with the interest and payments deferred for the first five years. In February 2004, the Agency Board approved changes in the First-Time Homebuyer Program to include property covenants and equity sharing, as required by changes in state law. In FY 2004-05, Staff worked with the Agency's attorney and the San Mateo County Office of Housing, who administers the Agency's First-Time Homebuyer Program, to obtain approval from CalHFA to "partner" with the First-Time Homebuyer Program. At the same time, the Agency Board approved an increase in the loan amount to \$75,000.

In October 2010, the Agency Board approved changes in the First-Time Homebuyer Program to conform to new Fannie Mae requirements that exclude subordinate loans that include both interest and shared appreciation. The revision to the First Time Homebuyer loan program eliminated the interest charge and retained the shared appreciation.

Three new First-Time Homebuyer loans were issued in FY 2010-11. A table, "First-Time Homebuyer Program Status" listing the loans made is attached, including those that are still outstanding and those that have been repaid. So far in FY 2011-12, no additional loans have been made. As of December 31, 2011, a total of 33 loans have been made with 18 loans still outstanding. Also attached is a balance sheet for the program showing that as of the end of FY 2010-11, there was a balance of \$328,578.93.

In August 2010, staff was notified of a possible foreclosure of a property in the Admiralty Condominiums. In 2006, the City loaned \$75,000 to the property owners through the first time buyer loan program. The purchase price of the property in 2006 was \$487,945. The borrower received CalFHA loans totaling \$390,600. The unit is 998 square feet with two (2) bedrooms with one (1) bathroom. Since 2009, the sale price for other similar units in the Admiralty Condominium complex has been between \$305,000 and \$350,000.

The property was sold for \$320,000. Net proceeds after closing costs were \$304,826. Based on advice from the Agency Attorney and the City Attorney, the sale was not contested as there is insufficient equity to cover even the primary lender's loan, let alone the Agency's loan. The loan was written off as a loss of \$74,000.

Staff also received notice on December 8, 2010 that another loan in the Admiralty Condominiums is in default. The default is due in part to a significant increase in homeowner association dues and a \$37,000 assessment required to pay for improvements to the complex. The owner is actively working with the bank to remain in the unit.

No new loans have been issued following the passage of AB1x 26 and AB1x 27 in June 2011 which prohibit redevelopment agencies from entering into new agreements or indebtedness, except as necessary to carry out enforceable obligations.

Human Investment Project (HIP) Homeshare Program. Project Area One housing funds are used for implementation of the HIP Homeshare Program. An Agreement with HIP Housing for the Homeshare Program was approved in April 2005, which automatically renews unless terminated.

HIP provides the City with quarterly and annual reports. The Annual Report for FY 2010-11 is attached. Forty-one Foster City residents were interviewed for the Home Share program and 6 residents were placed in shared housing. Home Equity Conversion counseling was provided to seven Foster City senior homeowners. No Foster City families participated this year in the Self-Sufficiency Program for Families with Children, although in past years several Foster City families have benefitted from this program.

### Blight Progress Report

As part of the on-going program to meet the goals of Project Area One and to alleviate blight conditions, construction of the permanent facility for the teen center was completed in 2009.

## Loan Report

In FY 2010-11 there were no loans in default, or not in compliance with the terms of the loans approved by the Redevelopment Agency in Project Area One, with the exception of the two first-time homebuyer loans in the Admiralty Condominiums that are discussed above.

## Property Report

The Agency now owns eight housing units, including four units in two duplex buildings in Neighborhood 1, one single-family unit in Neighborhood 2, one townhouse unit in Emerald Bay, one condominium unit in Sand Harbor South and one single-family unit in Neighborhood 8, which are rented to families of very low- or low-income. The last purchase was a single-family house in June 2009. The City contracts with the HIP Housing for property management services for these units. A listing of properties owned by the Agency is attached.

## MARLIN COVE PROJECT AREA

*Fiscal Year 2010-11*

### Audit

Please see the attached Audit Report.

### Fiscal Statement

Please see the attached Annual Report to the State Controller.

### Housing Activities

Please see the attached Annual Report on Housing Activity to the Department of Housing and Community Development. There were no very low-, low- or moderate-income families or elderly households displaced or moved from their units or units destroyed or removed from the housing market either in the 2010-11 fiscal year or projected in the 2011-12 fiscal year.

The Housing Covenants for the Marlin Cove and Miramar Developments require semi-annual reports in November and May of each year. The annual report for Marlin Cove was submitted in April 2011 for the time period May 1, 2010 to April 30, 2011. Please refer to the attached memo dated July 14, 2011, reviewing the annual report and concluding that the annual financial subsidy should be paid per the Affordable Housing Covenant and Disposition and Development Agreement.

Within the Marlin Cove Project Area, 84, or 30%, of the total 280 housing units are in the affordable housing programs. This is well above the minimum 15% required by the State

Health and Safety Code 33213(b) and helps to meet the 15% requirement in Project Area One. The annual report shows that as of April 30, 2011, the required 84 units were filled.

Several of the households assigned to very-low or moderate-income categories now have increased incomes to above the income limits for that category. The bond financing for Marlin Cove requires that the households be considered to remain in their original income category until their income exceeds 140% of the income limit. Staff and the Agency Counsel have had discussions over the past two years with the owner's representatives regarding how to coordinate the requirements of the bond financing and the Agency Affordable Housing Covenant, and have resolved this issue by requiring that the lower income limits published by the California Housing and Community Development Department be used for the initial qualification of tenants, but for annual recertification of existing tenants the higher income limits published by the United States Department of Housing and Urban Development (HUD), including a "buffer zone" up to 140% of that limit, as allowed by the bond covenants, will be used. The Agency has informed the Developer that if at any point, the State takes an enforcement action against the City or Agency to create additional very low income units, the Agency would insist upon strict compliance with the letter of the Agency covenant without recognition of a "buffer zone" and absent such strict compliance, the Agency would refuse to make further disbursements of financial assistance.

#### Blight Progress Report

During FY 2002-03, the occupancy of the Marlin Cove Redevelopment Project was essentially completed, with the occupancy of the last tenant space occurring in FY 2004-05. The formerly blighted site has been replaced with an attractive commercial and residential development.

Ranch 99 Market moved into the grocery space in May 2004. The store seems to be doing well and has not created significant parking or traffic problems. Maintenance of the shopping center has been the subject of code enforcement efforts. Improvement has been noted, but the code enforcement monitoring efforts are ongoing.

#### Loan Report

There were no loans in default, or not in compliance with the terms of the loan approved by the Redevelopment Agency in the Marlin Cove Project Area.

#### Property Report

No property was acquired or sold during the fiscal year.

## HILLSDALE/GULL PROJECT AREA

*Fiscal Year 2010-11*

### Audit

Please see the attached Audit Report.

### Fiscal Statement

Please see the attached Annual Report to the State Controller.

### Housing Activities

Please see the attached Annual Report on Housing Activity to Department of Housing and Community Development. There were no very low-, low- or moderate-income families or elderly households displaced or moved from their units or units destroyed or removed from the housing market either in the 2010-11 fiscal year or projected in the 2011-12 fiscal year.

Within the Hillside/Gull Project Area, 48, or 30%, of the total 159 housing units are in the affordable housing programs. This is well above the minimum 15% required by the State Health and Safety Code 33213(b). Please refer to the attached memo dated July 21, 2011, reviewing the annual report and concluding that the annual financial subsidy should be paid per the Affordable Housing Covenant and Disposition and Development Agreement. The amount of the subsidy was reduced based on reduced tax increment following a reduction in the assessed value for the property.

The report notes that two units were vacant as of April 30, 2011 and since the submittal of the April 2011 report, were rented to a moderate-income household and a very low-income household. This results in a deficit of one very low-income unit that will need to be remedied by renting the next available unit to a very low-income household.

Similar to the Marlin Cove development, several of the households at Miramar assigned to very-low or moderate-income categories now have increased incomes to above the income limits for that category. The tax credit financing for Miramar requires that the households be considered to remain in their original income category until their income exceeds 140% of the income limit. Staff and the Agency Counsel have had discussions over the past two years with the owner's representatives regarding how to coordinate the requirements of the bond financing and the Agency Affordable Housing Covenant, and have resolved this issue by requiring that the lower income limits published by the California Housing and Community Development Department be used for the initial qualification of tenants, but for the annual recertification of existing tenants, the higher income limits published by the United States Department of Housing and Urban Development (HUD) including a "buffer zone" up to 140% of that limit be used. The Agency has informed the Developer that if at any point, the State takes an enforcement action against the City or Agency to create additional very low income units, the Agency would insist upon strict compliance with the letter of the Agency covenant without recognition of a "buffer zone" and absent such strict

compliance, the Agency would refuse to make further disbursements of financial assistance.

#### Blight Progress Report

During FY 2002-03, the occupancy of the Hillsdale/Gull Redevelopment Project was essentially completed. The formerly blighted site has been replaced with an attractive residential development.

#### Loan Report

There were no loans in default, or not in compliance with the terms of the loan approved by the Redevelopment Agency in the Hillsdale/Gull Project Area.

#### Property Report

No property was acquired or sold during the fiscal year.

#### CONTRACTUAL SERVICES

A summary of agreements for contractual services is attached. The agreements are all current, with the exception of the agreement with San Mateo County for the First Time Homebuyer Loan Program. Given the uncertainty regarding the future of the Community Development Agency due to the State's attempt to terminate redevelopment, Staff is awaiting for the outcome of the California Redevelopment Agency's lawsuit prior to renewing or terminating these agreements.

#### IMPLEMENTATION PLAN

Section 33290 of the State Health and Safety Code requires redevelopment agencies to produce Implementation Plans every five years. In general, the Implementation Plan must set forth specific goals and objectives for the coming five years, and explain how the stated goals, objectives, projects and expenditures will eliminate blight. The Agency adopted a five-year Implementation Plan for 2005-2010 on September 19, 2005.

Staff began working on the Implementation Plan in early 2011, but then stopped when legislation was adopted as part of the Governor's budget proposal that prohibits Agencies from adopting new Implementation Plans.

#### NEXT STEPS

After reviewing the Agency's annual report, the legislative body must take any appropriate action not later than the first meeting occurring more than 21 days after receipt of the annual report. Typically the appropriate action is to accept the report, but if major violations are identified, the appropriate action may be to direct the Agency to correct them.

## ATTACHMENTS\*

1. Resolutions transferring funds and adopting Payment Schedule
  - a. Resolution 294, Public Improvement Reimbursement Agreement
  - b. Resolution 295, Affordable Housing Reimbursement Agreement
  - c. Resolution 298, Cooperative Service Agreement
  - d. Resolution 301, Enforceable Obligation Payment Schedule
2. Audit Report, Caporicci & Larson for the Fiscal Year Ended June 30, 2011
3. Annual Report to the State Controller
4. Annual Report on Housing Activity to Department of Housing and Community Development
5. Budget Resolutions
  - a. Resolution 284 approving FY 2010-11 CDA Budget
  - b. Resolution 300 approving FY 2011-12 CDA Budget
6. Memo re: Proportionality of Housing Fund Administrative Expense
  - a. Memo to James C. Hardy dated June 10, 2010 re: Proportionality of Housing Fund Administrative and Planning Expense for 2010-11 Budget
7. Table: Units Built or Approved in the Community Development Project Areas (1985-2011)
8. Affordable Housing Percentage Requirements:
  - a. Table: Past Housing Production and Affordable Housing Requirements
  - b. Resolution No. 292 Regarding Aggregation of Project Areas
9. Metro Senior Homes Rent Roll, & Annual Management Report, dated November 14, 2011
10. Review of Fosters Landing Annual Report:
  - a. Letter to Linda Peyton dated May 18, 2011
  - b. Memo to James Hardy dated May 9, 2011
11. Tables: First-Time Homebuyer Program Status, First-Time Home Buyer Program Activity and Balance, and Properties Owned by the Community Development Agency
12. Annual Report for Home Share Program from Human Investment Project dated July 18, 2011
13. Memo to James Hardy dated July 14, 2011 reviewing Marlin Cove Annual Report
14. Memo to James Hardy dated July 21, 2011 reviewing Miramar Annual Report
15. Table: CDA Agreements for Professional Services

\*Attachments are in a binder for the Agency Board and are also available for public inspection in the City Clerk's Office.

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A RESOLUTION OF THE FOSTER CITY COMMUNITY DEVELOPMENT AGENCY APPROVING A PUBLIC IMPROVEMENTS REIMBURSEMENT AGREEMENT WITH THE CITY OF FOSTER CITY FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS IN AN AMOUNT NOT TO EXCEED \$2,946,700

FOSTER CITY COMMUNITY DEVELOPMENT AGENCY

WHEREAS, the Foster City Community Development Agency ("Agency") has prepared a Community Development Plan ("Community Development Plan") for the Foster City Community Development Project Area One ("Project Area"), which results in the allocation of property taxes from the Project Area to the Agency ("Tax Increment") pursuant to Section 33670(b) of the California Community Redevelopment Law (Health & Safety Code Section 33000 et seq.) ("CRL") for purposes of redevelopment; and,

WHEREAS, the intent of the Community Development Plan is, in part, to provide for the construction and installation of necessary public infrastructure and facilities and to facilitate the restoration and/or replacement of existing inadequate public facilities; to take all other necessary actions to implement the Community Development Plan for the Project Area; and to expend Tax Increment to accomplish the goals and objectives of the Community Development Plan; and,

WHEREAS, the Agency has adopted a Five-Year Implementation Plan for the Project Area ("Implementation Plan") establishing goals for elimination of blight, production of affordable housing, construction of infrastructure and public improvements and community and commercial revitalization; and, in order to implement the programs and activities associated with each goal, the Agency has committed redevelopment funds from the Project Area based on estimated available Tax Increment revenue and debt financing structures; and,

WHEREAS, pursuant to Section 33220 of the CRL, certain public bodies, including the City of Foster City ("City"), may aid and cooperate in the planning, undertaking, construction, or operation of redevelopment projects; and, the Agency desires assistance and cooperation of the City to carry out the public infrastructure and improvement projects listed in Exhibit 1 to the Agreement (defined below) (collectively, "Projects"); and, the programs and activities associated with the Projects include but are not limited to acquisition of property, development of design criteria, design, planning, preparation of construction bid documents, financial analysis, financing, project administration and new construction or rehabilitation, as applicable; and,

WHEREAS, the City is willing to aid and cooperate with the Agency to expeditiously implement the Projects in accordance with the Community Development Plan and Implementation Plan on the condition that Agency pledge certain net available property tax increment to finance the Projects in this current fiscal year and forthcoming fiscal years; and,

WHEREAS, pursuant to Section 33445(a) of the CRL, the Agency may, with the consent of the City Council of the City, pay all or part of the value of the land for and the cost of the installation and construction of any buildings, facilities, structures or other improvements which are publicly owned and located inside or contiguous to a project area upon a determination by the City Council that such building, facilities, structures or other improvements are of benefit to the project area by helping to eliminate blight within the project area, that no other reasonable means of financing the acquisition of the land or installation or construction of such buildings, facilities, structures or other improvements that are publicly owned are available to the community, and that the payment of funds for the acquisition of the land or installation or construction of the building, facilities, structure or other improvements that are publicly owned is consistent with the implementation plan adopted by the Agency pursuant to Section 33490 of the CRL; and,

WHEREAS, pursuant to Section 33445(c) of the CRL, when the value of the land or the installation and construction of a building, facility, structure, or other improvement that is publicly owned, or both, has been, or will be, paid or provided for initially by the City, the Agency may enter into a contract with the City under which the Agency agrees to reimburse the City for all or part of the value of the land or all or a part of the cost of the building, facility, structure or other improvement that is publicly owned; and,

WHEREAS, the Agency and City Council have prepared and wish to enter into a Public Improvements Reimbursement Agreement ("Agreement") to provide for City's development and construction of the Projects within or contiguous to the Project Area and Agency's reimbursement of City for the costs of the Projects; and,

WHEREAS, a project Final Environmental Impact Report was prepared and certified on the Community Development Plan ("Final EIR") in accordance with the California Environmental Quality Act ("CEQA"), which included analysis of the Projects on a programmatic level; and,

WHEREAS, at this time there are no preliminary drawings, plans or other sufficient information to enable a meaningful environmental assessment of the specific Projects, therefore, the Agreement provides that the commitment of funds to and commencement of the specific projects set forth therein shall be subject to completion of additional environmental review and analysis, as required by CEQA.

NOW, THEREFORE, BE IT RESOLVED by the Foster City Community Development Agency, that:

Section 1. Agency hereby finds and determines that the provision of the proposed Projects are of benefit to the Project Area as they will help to eliminate blight within the Project Area, that no other reasonable means of financing the Projects is available to the community; and that the payment of funds for the Projects is consistent with the Agency's Implementation Plan for the Project Area adopted pursuant to Section 33490 of the CRL. These findings and determinations are based upon the following facts:

- A. All the Projects are either located within or contiguous to the Project Area and will assist in eliminating the following blight conditions: capital improvement projects are needed in Project Area One to eliminate blight conditions resulting from current and projected growth in the Area and the insufficiency of the existing facilities to meet the current and projected needs of the Area and the community, particularly in the area of park infrastructure improvements.
- B. Although the City is able to aid and assist the Agency by undertaking the Projects, the City lacks the resources necessary to fund the Projects from the General Fund, and other potential sources of funds are no longer available or are inadequate. The City's General Fund continues to be eroded by increased insurance and liability costs and State mandated programs which are not fully funded by the State. Further there has been a marked decline in tax revenues and the availability of State and federal grants over the past several years.
- C. The Implementation Plan for the Project Area contains the specific goals and objectives of the Agency for the Project Area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the five year period covered by the Implementation Plan, and an explanation of how the goals and objectives, programs, and expenditures will eliminate blight within the Project Area. The Projects are consistent with the Implementation Plan, as the goals and programs provide for the elimination of inadequate public improvements and the provision of public infrastructure of benefit to the Project Area.

Section 2. The Agency hereby approves the Public Improvements Reimbursement Agreement and hereby authorizes and directs the Chair of the Agency to execute the Agreement on behalf of the Agency, subject to any minor, technical or clarifying changes that may be approved by the Agency's counsel. The Agency hereby further authorizes and directs the Executive Director to take all actions and execute all documents as necessary to carry out the Agreement and accomplish the acquisition of land, installation and construction of the Projects, and the Agency's reimbursement of City for the costs of the Projects as provided for in the Agreement.

Section 3. Funds in the initial amount of \$1,600,000, plus such additional amounts as needed to fund the Projects provided that the total funds transferred does not exceed \$2,946,700, are authorized to be transferred from the Agency's Project Area One General Fund to the City in accordance with the terms of the Agreement.

PASSED AND ADOPTED as a resolution of the Board of Directors of the Foster City Community Development Agency at the Regular Meeting held on the 7<sup>th</sup> day of February, 2011 by the following vote:

AYES: Members Bronitsky, Frisella, Kiesel, and Chair Koelling

NOES: Member Wykoff

ABSENT: None

ABSTAIN: None

  
\_\_\_\_\_  
LINDA KOELLING, CHAIR

ATTEST:

  
\_\_\_\_\_  
DORIS L. PALMER, SECRETARY

FOSTER CITY  
RECEIVED

DEC 29 2011

PLANNING/  
CODE ENFORCEMENT

# City of Foster City Community Development Agency

Foster City, California

*Basic Financial Statements  
and Independent Auditors' Reports*

*For the fiscal year ended June 30, 2011*

**C&L**

Caporicci & Larson, Inc.  
A Subsidiary of Marcum LLP  
Certified Public Accountants



Caporicci & Larson, Inc.  
A Subsidiary of Marcum LLP  
Certified Public Accountants

## INDEPENDENT AUDITORS' REPORT

To the Honorable Members of the Board of Directors  
of the City of Foster City Community Development Agency  
Foster City, California

We have audited the accompanying financial statements of the government activities and each major fund of the City of Foster City Community Development Agency, California (Agency), a component unit of the City of Foster City and the Estero Municipal Improvement District, California (City/District), as of and for the year ended June 30, 2011, as listed in the table of contents. These financial statements are the responsibility of the Agency's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

As described in Note 1 to the basic financial statements, these basic financial statements present only the Agency's and are not intended to present fairly the financial position and results of operations of the City/District in conformity with accounting principles generally accepted in the United States of America.

In our opinion, the basic financial statements referred to above present fairly, in all material respects, the financial position of the governmental activities and each major fund of the Agency as of June 30, 2011, and the respective changes in financial position for the year then ended in conformity with generally accepted accounting principles in the United States of America.

As explained further in Note 6 of the basic financial statements, the California State Legislature has enacted legislation that is intended to provide for the dissolution of redevelopment agencies in the State of California. The effects of this legislation are uncertain pending the result of certain lawsuits that have been initiated to challenge the constitutionality of this legislation.

As described in Note 1 to the financial statements, the Agency adopted the provisions of Governmental Accounting Standards Board (GASB) Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions.

CITY OF FOSTER CITY  
COMMUNITY DEVELOPMENT AGENCY

Management's Discussion and Analysis  
for the Fiscal Year Ended June 30, 2011

As management of the City of Foster City Community Development Agency (Agency), a component unit of the City of Foster City, California (City), we offer readers of the Agency's basic financial statements this narrative overview and analysis of the Agency's financial activities for the fiscal year ended June 30, 2011. We encourage readers to consider the information presented here in conjunction with the Agency's basic financial statements.

#### FINANCIAL HIGHLIGHTS

- The assets of the Agency exceeded liabilities at the close of the fiscal year 2010-2011 by \$518,000 (*net assets*). The entire amount of \$518,000 is restricted to meet the Agency's housing project obligations (*restricted net assets*) for the Marlin Cove project area and E. Hillsdale/Gull project area.
- The Agency's total net assets decreased by \$17.3 million during the fiscal year, primarily due to the Agency's Project One Area reached its tax increment cap in fiscal year 2010-2011. The tax increment revenues were allocated back to the taxing entities based on their respective apportionment allocations. In addition, the Agency's has entered into City/CDA Cooperative Services Agreement, Affordable Housing Reimbursement Agreement (AHRA) and Public Improvement Reimbursement Agreement (PIRA) and transferred the remaining Project One Area fund balances to the City, in order for the City to administer the outstanding debt, housing, and capital improvement obligations.
- The State of California, in an effort to solve its budget deficit for FY 2010-2011, took \$350 million from redevelopment agencies statewide under the Supplemental Educational Relief Augmentation Fund (SERAF) program. The Agency's share of this State takeaway totaled \$1,161,095.

#### OVERVIEW OF THE FINANCIAL STATEMENTS

The Agency's *basic financial statements* are comprised of three components: 1) Government-wide financial statements; 2) fund financial statements; and, 3) notes to the basic financial statements.

The **Government-Wide Financial Statements** are designed to provide readers with a broad overview of the Agency's finances in a manner similar to a private-sector business.

The *statement of net assets* presents information on all of the Agency's assets and liabilities, with the difference between the two reported as *net assets*. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the Agency is improving or deteriorating.

The *statement of activities* presents information showing how the Agency's net assets changed during the current fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will result in cash flows in future fiscal periods.

The government-wide financial statements report on the function of the Agency that is principally supported by incremental property tax revenues. The Agency's functions are to revitalize blighted and economically disadvantaged sections of the City and to provide affordable housing assistance.

The **Fund Financial Statements** are designed to report information about groupings of related accounts that are used to maintain control over resources that have been segregated for specific activities or objectives. The Agency, like other states and local governments, uses fund accounting to ensure and demonstrate finance-related legal compliance.

**Changes in Net Assets** – The changes in net assets for governmental and for the year ended June 30, 2011 are shown below in comparison to the year ended June 30, 2010.

	2011	2010	Dollar Change	Percent Change
<b>General Revenues</b>				
Property taxes	10,341,676	15,225,578	(4,883,902)	-32.08%
Investment income	392,881	537,377	(144,496)	-26.89%
Other	5,555	41,347	(35,792)	-86.56%
<b>Total Revenues</b>	<b>10,740,112</b>	<b>15,804,302</b>	<b>(5,064,190)</b>	<b>-32.04%</b>
<b>Expenses</b>				
Community development	5,684,524	8,611,486	(2,926,962)	-33.99%
Interest on long-term debt	156,685	1,390,041	(1,233,356)	-88.73%
<b>Total Expenses</b>	<b>5,841,209</b>	<b>10,001,527</b>	<b>(4,160,318)</b>	<b>-41.60%</b>
<b>Transfers to the City of Foster City</b>	<b>(22,185,946)</b>	<b>-</b>	<b>(22,185,946)</b>	<b>100.00%</b>
<b>Change in net assets</b>	<b>(17,287,043)</b>	<b>5,802,775</b>	<b>(903,872)</b>	<b>-15.58%</b>
Net assets, beginning of year	17,804,789	12,002,014	5,802,775	48.35%
Net assets, end of year	\$ 517,746	\$ 17,804,789	\$ 4,898,903	27.51%

Key changes to **revenue** categories are explained below:

- Taxes – Property tax increment collections decreased by 32.08% as Project One Area reached its cap during fiscal year 2010-2011.
- Investment income – The decrease in investment income is primarily due to the fact that yields on fixed-income securities fell by approximately 31.5 basis points from the prior year, thereby reducing investment income. In addition, the decrease of property tax revenue.
- Other revenues – The decrease in other income was due to a loan payoff of nearly \$38,000 by one of the borrowers in prior fiscal year under the first-time home buyer's program.

Key changes in **expense** categories are explained below:

- Community Development – the State's takeaway of \$1.2 million from the Community Development Agency in compare to the \$5.6 million in the prior year.
- Interest on long-term debt – reduced due to the final payment of outstanding loan obligations.

- Interest rates – Yields on 2- and 5-year Treasury securities, the benchmark securities for fixed-income investments, have fallen to all-time lows. This could potentially have a negative impact on investment income generated on the City / District's investment portfolio.
- State Budget Woes and Termination of Redevelopment Agencies – the State of California continues to face multi-billion dollar deficits. Continued concerns are raised as to whether or not the State will seek additional sources of revenues from local government, or push services to the local level, in order to balance their budget. Revenue projections by the State Controller indicate that the State may have to implement further cuts in January 2012 in order to stave off a deficit. The State's actions to terminate redevelopment are continuing to be fought by redevelopment agencies and cities at the California Supreme Court, with a ruling anticipated by January 15, 2012. The Court's ruling could have a significant impact on the City's redevelopment agency and its financial resources, which could have a negative ripple effect on the potential for development of affordable housing on the City-owned 15-acre site adjacent to City Hall and on the City's ability to meet its State-mandated affordable housing obligations.
- Unemployment – Unemployment in California is in the low 11.9% range, which is mirrored in the Bay Area and on the San Francisco Peninsula. Until the workforce is once again employed by the business community, commercial and multi-family property values will likely not rebound, thereby keeping property tax revenues at no- or low-growth patterns for the coming years.

**BASIC FINANCIAL STATEMENTS**

**GOVERNMENT-WIDE FINANCIAL STATEMENTS**

**City of Foster City Community Development Agency**

**Statement of Activities and Changes in Net Assets**

For the fiscal year ended June 30, 2011

Functions/Programs	Expenses	Program Revenues Total	Net (Expense) Revenue and Changes in Net Assets
<b>Primary government:</b>			
<b>Governmental activities:</b>			
Community development	\$ 5,684,523	\$ -	\$ (5,684,523)
Interest on long-term debt/advances	156,685	-	(156,685)
<b>Total primary government</b>	<b>\$ 5,841,208</b>	<b>\$ -</b>	<b>(5,841,208)</b>
<b>General Revenues:</b>			
			10,341,676
Property taxes			392,881
Investment income and rentals			5,555
Other			(22,185,947)
Transfers to the City of Foster City			<u>(11,445,835)</u>
<b>Total general revenues and transfers</b>			<b>(17,287,043)</b>
			<b>(17,287,043)</b>
<b>Change in net assets</b>			<b>(17,287,043)</b>
			17,804,789
<b>Net assets, beginning of year</b>			<u>17,804,789</u>
<b>Net assets, end of year</b>			<u>\$ 517,746</u>

See accompanying Notes to the Basic Financial Statements.

**FUND FINANCIAL STATEMENTS**

**GOVERNMENTAL FUND FINANCIAL STATEMENTS**

**City of Foster City Community Development Agency**  
**Reconciliation of the Governmental Funds Balance Sheet**  
**to the Government-Wide Statement of Net Assets**  
**June 30, 2011**

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Total Fund Balances - Total Governmental Funds	\$	517,746
		<hr/>
Net Assets of Governmental Activities	\$	517,746
		<hr/> <hr/>

See accompanying Notes to the Basic Financial Statements.

**City of Foster City Community Development Agency**  
**Reconciliation of the Governmental Funds Statement of Revenues, Expenditures and Changes**  
**in Fund Balances to the Government-Wide Statement of Activities and Changes in Net Assets**  
**For the fiscal year ended June 30, 2011**

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Net Change in Fund Balances - Total Governmental Funds \$ (17,274,389)

Amounts reported for governmental activities in the Statement of Activities and Changes in Net Assets were reported differently because:

For governmental funds, this represents the release of deferred revenue (1,128,351)

Repayment of bond principal and other debt is an expenditure in the governmental funds, but the repayment reduces long-term liabilities in the Statement of Net Assets.

Advances payable to the City of Foster City 1,115,697

Change in Net Assets of Governmental Activities \$ (17,287,043)

# City of Foster City Community Development Agency

## Notes to the Basic Financial Statements

For the fiscal year ended June 30, 2011

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### 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The basic financial statements of the City of Foster City Community Development Agency, California, (Agency) have been prepared in conformity with generally accepted accounting principles (GAAP) as applied to governmental agencies. The Governmental Accounting Standards Board (GASB) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The more significant of the Agency's accounting policies are described below.

#### A. *Description of Reporting Entity*

The Agency was created by ordinance in May 1981, under the provisions of the Health and Safety Code of the State of California (Community Redevelopment Law) primarily to reduce and eliminate many aspects of economic, physical, and social blight presently existing within the City of Foster City and Estero Municipal Improvement District, California (City/District), and more specifically within the boundaries of the Foster City Community Development Project Area, the Marlin Cove Project Area and the Hillsdale/Gull Project Area (Project Areas) as set forth in the plans for the Project Areas (Plans). Blight encompasses a broad spectrum of problems, ranging from lack of public improvements, physical characteristics that inhibit sound development of a particular site, and various other detrimental factors, as well as the stereotypical view of visual blight.

In implementing the Plans, the Agency has undertaken various redevelopment activities and capital improvement projects within the Project Areas, administering activities of the Agency, and adopting final redevelopment plans and planning for the implementation thereof. The Agency adopted the Foster City Community Development Project Area by ordinance in November 1981. The Marlin Cove Project Area and the Hillsdale/Gull Project Areas were adopted by ordinance in January 1999.

Under the Plans adopted by the Agency, the Agency is authorized to finance projects within the Project Areas with financial assistance from the City/District, State of California, County of San Mateo, federal government, and specific revenue sources such as property tax increments, investment income, Agency notes and bonds, or any other available source. The resulting principal and interest may be paid from tax increments or any other funds available to the Agency.

The Agency has no taxing power and does not have the power to pledge the general credit or taxing power of the City/District, the State of California or any political subdivision thereof. However, California's Health and Safety Code allows redevelopment agencies with appropriate approvals of the local legislative bodies to recover costs of financing improvements from increased tax revenues (tax increment) associated with increased property values of individual project areas.

The Agency is a separate legal entity and its policies are determined by the City Council and the District Board of Directors in a separate capacity as members of the Agency Board. All staff work is performed by the officials and staff of the City/District or by consultants to the Agency. The Agency is an integral part of the City/District, and the accompanying financial statements are included as a blended component unit in the City/District's basic financial statements.

City of Foster City Community Development Agency  
Notes to the Basic Financial Statements, Continued  
For the fiscal year ended June 30, 2011

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1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Continued

B. *Basis of Accounting/Measurement Focus, Continued*

*Governmental Fund Financial Statements, Continued*

Revenues are recorded when received in cash, except for revenues subject to accrual (generally 60 days after year-end) are recognized when due. The primary revenue sources, which have been treated as susceptible to accrual by the Agency, are property taxes, intergovernmental revenues, and other taxes. Expenditures are recorded in the accounting period in which the related fund liability is incurred.

Deferred revenues arise when potential revenues do not meet both the "measurable" and "available" criteria for recognition in the current period. Deferred revenues also arise when the government receives resources before it has a legal claim to them, as when grant monies are received prior to incurring qualifying expenditures. In subsequent periods, when both revenue recognition criteria are met or when the government has a legal claim to the resources, the deferred revenue is removed and revenue is recognized.

The Reconciliation of the Fund Financial Statements to the Government-Wide Financial Statements is provided to explain the differences created by the integrated approach of GASB Statement No. 34.

C. *Cash and Investments*

The Agency pools its cash and investments with the City/District. The City/District pools cash and investments resources from all funds in order to facilitate and maximize the management of cash and investments. The balance in the pooled account is available to meet current operating requirements. Cash in excess of current requirements is invested in various interest-bearing accounts and other investments for varying terms.

City of Foster City Community Development Agency  
Notes to the Basic Financial Statements, Continued  
For the fiscal year ended June 30, 2011

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1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES, Continued

F. Fund Balances, Continued

The Agency established the following policies relating to its fund balance classifications.

1. Committed Fund Balances

- *Highest Level of Decision-Making Authority* - the Board of Directors of the Community Development Agency are acknowledged as the highest level of decision-making authority in terms of establishing fund balance classifications and creating Committed Fund Balances.
- *Formal Action Required* - the Board shall have the authority to establish, modify or rescind Committed Fund Balances by Ordinance, Resolution or Minute Order, where appropriate, passed by a majority vote.
- *Timing* - the Council/Board / Board will take formal action to commit any resources as soon as possible upon determining its desire to take such action, but no later than June 30 of the fiscal year in which it applies in order for the action to be valid for the presentation of the annual report.

2. Assigned Fund Balances

- *Approval Authority* - the Board delegates the authority to the City / District Manager / Executive Director to assign fund balance amounts to specific purposes when such policies are enacted by the governing body.
- *Specific Policies* - the Board may establish policies as needed to delegate authority to an appropriate official to assign resources to specific purposes in terms of creating, modifying or rescinding Assigned Fund Balances. Such policies will be approved by the governing body by Resolution or Minute Order passed by a majority vote.

3. Expenditure of Funds - Order of Expenditure

- *Restricted and Unrestricted Funds* - when an expenditure is incurred for purposes for which both Restricted and Unrestricted Fund Balances are available, the Agency shall consider that Restricted Funds shall be spent first until such funds are exhausted, at which time Committed, Assigned or Unassigned Funds will be used.
- *Committed, Assigned or Unassigned Funds* - when an expenditure is incurred where there are no Restricted Funds available, and for which Committed and/or Assigned Fund Balances are available, the Agency shall exhaust Committed Funds first until such funds are exhausted, then shall exhaust Assigned Funds until such funds are exhausted.

4. Classification of Fund Balances

- The Agency shall at least on an annual basis, and by virtue of the adoption of its annual budget, establish a listing of all Fund Balances and their classifications.

**City of Foster City Community Development Agency**  
**Notes to the Basic Financial Statements, Continued**  
**For the fiscal year ended June 30, 2011**

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**2. CASH AND INVESTMENTS**

The Agency has pooled its cash and investments of \$1,021,838 with the City/District in order to achieve a higher return on investment.

The investments made by the City/District are limited to those allowable under State statutes and include the following types of investments:

- ◆ Bankers Acceptance
- ◆ State of California Local Agency Investment Fund (LAIF)
- ◆ Certificates of Deposit
- ◆ Commercial Paper
- ◆ Government Agency Securities
- ◆ Money Market Certificates
- ◆ Passbook Savings Accounts
- ◆ San Mateo County Investment Pool
- ◆ Treasury Bills and Notes

All cash and investments are stated at fair value. Pooled investment earnings are allocated monthly based on the average cash and investment balances of the various funds and related entities of the City/District.

Deposits - Custodial Credit Risk

Custodial credit risk is the risk that in the event of a bank failure, the City/District's deposits may not be returned. The City/District does not have a policy for custodial credit risk on deposits except for certificates of deposits.

Under the California Government Code, a financial institution is required to secure deposits in excess of \$250,000 made by state or local governmental units by pledging securities held in the form of an undivided collateral pool. The market value of the pledged securities in the collateral pool must equal at least 110% of the total amount deposited by the public agencies.

Investments - Custodial Credit Risk

The custodial credit risk for investments is the risk that, in the event of the failure of the counterparty (e.g., broker-dealer) to a transaction, a government will not be able to recover the value of its investment or collateral securities that are in the possession of another party. The City/District's investment policy does not contain legal or policy requirements that would limit the exposure to custodial credit risk for investments with the exception of repurchase agreements for which the City/District requires a collateralization level of 102% of the market value of the investment.

Interest Rate Risk

As a means of limiting its exposure to fair value losses arising from rising interest rates, the City/District's investment policy limits the weighted average maturity of the City/District's cash and investment pool to less than five years.

**City of Foster City Community Development Agency**  
**Notes to the Basic Financial Statements, Continued**  
**For the fiscal year ended June 30, 2011**

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**3. LONG-TERM DEBT**

A summary of changes in long-term debt during the year ended June 30, 2011, follows:

	Balance July 1, 2010	Additions	Retirements	Balance June 30, 2011
Advances payable to the City of Foster City	1,115,697	-	(1,115,697)	-
Total	\$ 1,115,697	\$ -	\$ (1,115,697)	\$ -

**Advances payable to the City of Foster City**

The remaining advances from the City/District to the Agency was for administrative support and capital improvements. The repayment of advances is limited to property tax increment revenues. The interest rate on the advances from the City/District before and after the fiscal year ended June 30, 1997 was 8% and 10%, respectively. The Agency repaid \$1,115,697 of the advances during the year.

**4. RISK MANAGEMENT**

The Agency is exposed to various risks of loss related to torts, theft of, damage to, and destruction of assets, errors and omissions, and natural disasters. The Agency participates as a component unit of the City/District in the Association of Bay Area Governments PLAN Corporation (ABAG). The purpose of ABAG is to spread the adverse effects of losses among the member agencies and to purchase excess insurance as a group, thereby reducing its expense. The Agency, through cost allocations from the City/District, contributes its pro-rata share of anticipated losses to a pool administered by ABAG. Additional disclosures and information regarding the City/District's insurance is presented in the notes to the City/District's basic financial statements.

**5. COMMITMENTS & CONTINGENCIES**

**Settlement with San Mateo Union High School District**

In 1991, the Agency settled a lawsuit involving the allocation of property tax increment revenue to the San Mateo Unified High School District (High School District). Based on the settlement, the Agency had agreed to pay the High School District a fixed amount of \$300,000 of tax increment annually through fiscal year 1996. For each fiscal year from 1997 to 2006, the Agency was obligated to pay the High School District an amount equal to 7.5% of the projected net tax increment received by the Agency in each fiscal year. For each fiscal year from 2007 to 2016, the Agency is obligated to pay the High School District in accordance with an agreed-upon payment schedule based on 10% of the original estimated net tax increment received in each fiscal year. Total payments to the High School District are not to exceed \$9,636,000 and are to be made only from the tax revenues of the year payments are made. Accordingly, no liability for the future settlement payments has been recorded as it was contingent on receipt of sufficient Tax Increment revenues to require payment. During fiscal year 2011, the Agency paid \$467,000 to the High School District.

**City of Foster City Community Development Agency**  
**Notes to the Basic Financial Statements, Continued**  
**For the fiscal year ended June 30, 2011**

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**5. COMMITMENTS & CONTINGENCIES, Continued**

**Hillsdale/Gull Disposition and Development Agreement**

In March 2000, the Agency approved a Disposition and Development Agreement (DDA) with a developer. The DDA includes the entire Hillsdale/Gull Project Area site and consists of residential development. The DDA calls for significant Agency participation under an Agency Grant. The Agency agreed to grant to the developer an amount not to exceed \$4,000,000 for an affordable housing land subsidy, fees due the City in connection with the development of the site, other demolition costs and affordable unit construction costs.

During fiscal year 2001, the Agency paid the developer \$2,000,000. The balance of the Agency Grant will be due to the developer, provided the developer has provided to the Agency by April 15 of each year written evidence documenting payment of all property taxes and assessments due on the site. The Agency paid the developer the required installment in the amount of \$177,187 during the fiscal year ended June 30, 2011.

A tentative payment schedule of \$233,659 per year has been established depending upon the developers compliance with the agreement through 2015/2016.

**Litigation**

The Agency may become involved in various legal actions, administrative proceedings, or claims in the ordinary course of operations. Although it is not possible to predict with certainty the outcome of these actions or the range of possible loss or recovery, it is the opinion of the Agency's legal counsel and management that the resolution of these matters will not have a material adverse affect on the financial condition of the Agency.

**Grant programs**

The Agency participates in Federal, State, and local grant programs. These programs are subject to audits by the granting agencies. Agency management does not expect any material adverse affect on the financial condition of the Agency as a result of any potential grant audits.

City of Foster City Community Development Agency  
Notes to the Basic Financial Statements, Continued  
For the fiscal year ended June 30, 2011

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6. RECENT CHANGES IN LEGISLATION AFFECTING CALIFORNIA REDEVELOPMENT AGENCIES, Continued

The City and the Agency entered into three agreements during fiscal year 2010-11 relative to funds held by the Agency that call for the City to act upon the Agency's behalf:

- (i) *Affordable Housing Reimbursement Agreement (AHRA)* - This agreement was enacted by the Agency Board and City Council on February 7, 2011. The AHRA calls for the City to act upon the Agency's behalf in implementing and administering affordable housing programs within the City. A total of \$19.1M was transferred from the Agency to the City for purposes of implementing the programs contained in the AHRA.
- (ii) *Public Improvements Reimbursement Agreement (PIRA)* - This agreement was enacted by the Agency Board and City Council on February 7, 2011. The PIRA calls for the City to complete anticipated public improvement projects on behalf of the Agency, which were appropriated by the City Council for purposes of constructing parks-related public improvements at Sea Cloud Park. A total of \$607,376 was transferred from the Agency to the City for purposes of implementing that project.
- (iii) *Cooperative Services Agreement (CSA)* - This agreement was enacted by the Agency Board and City Council on April 18, 2011. The CSA calls for the City to act on the Agency's behalf in administering the Agency's final financial obligations to the San Mateo Union High School District (SMUHSD) under the terms of the Stipulated Judgment and Mutual Release between the Agency and SMUHSD dated June 27, 1991. A total of \$2.5M was transferred from the Agency to the City for purposes of liquidating the future amounts due to SMUHSD.

In the event that Assembly Bill X1 26 is upheld, the transfer recognized by funds of the City under the terms of the aforementioned agreements may need to be transferred back to the Agency. The City might additionally be impacted if reimbursements paid by the redevelopment agency to the City for shared administrative services are reduced or eliminated.

If ABX1 26 and 27 are upheld, the City of Foster City would be required to pay over \$6.1M in order to participate in the Voluntary Alternative Redevelopment Program under ABX1 27. Thereafter, an estimated \$1.2M will be due annually. The amounts to be paid after fiscal year 2012-13 have yet to be determined by the State Legislature. The semi-annual payments would be due on January 15 and May 15 of each year and would increase or decrease with changes in tax increment. Additionally, an increased amount would be due to schools if any "new debt" is incurred. Assembly Bill X1 27 allows a one-year reprieve on the agency's obligation to contribute 20% of tax increment to the low-and-moderate-income housing fund so as to permit the Agency to assemble sufficient funds to make its initial payments. Failure to make these payments would require agencies to be terminated under the provisions of ABX1 26.

**SUPPLEMENTARY INFORMATION**



Caporicci & Larson, Inc.  
A Subsidiary of Marcum LLP  
Certified Public Accountants

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND  
OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN  
ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

To the Honorable Members of the Board of Directors  
of the City of Foster City Community Development Agency  
Foster City, California

We have audited the basic financial statements of the City of Foster City Community Development Agency (the "Agency"), a component unit of the City of Foster City and the Estero Municipal Improvement District, California (City/District), as of and for the year ended June 30, 2011, and have issued our report thereon dated December 28, 2011. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of the Agency is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the Agency's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements but not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Agency's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Agency's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in the Agency's internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The result of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.



Caporicci & Larson, Inc.  
A Subsidiary of Marcum LLP  
Certified Public Accountants

## INDEPENDENT AUDITORS' REPORT ON COMPLIANCE

To the Honorable Members of the Board of Directors  
of the City of Foster City Community Development Agency  
Foster City, California

### Compliance

We have audited the City of Foster City Community Development Agency's (the "Agency"), a component unit of the City of Foster City and the Estero Municipal Improvement District, California (City/District) compliance with the California Health and Safety Code as required by Section 33080.1 for the year ended June 30, 2011. Compliance with the requirements referred to above is the responsibility of the Agency's management. Our responsibility is to express an opinion on the Agency's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and *Guidelines for Compliance Audits of California Redevelopment Agencies, June 2011*, issued by the State Controller and as interpreted in the *Auditing Procedures for Accomplishing Compliance Audits of California Redevelopment Agencies, August 2011*, issued by the Governmental Accounting and Auditing Committee of the California Society of Certified Public Accountants. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the compliance requirements referred to above that could have a material effect on the Agency has occurred. An audit includes examining, on a test basis, evidence about the Agency's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the Agency's compliance with those requirements.

In our opinion, the Agency complied, in all material respects, with the compliance requirements referred to above that are applicable for the year ended June 30, 2011.

### Internal Control Over Compliance

Management of the Agency is responsible for establishing and maintaining effective internal control over compliance with the compliance requirements referred to above. In planning and performing our audit, we considered the Agency's internal control over compliance to determine the auditing procedures for the purpose of expressing our opinion on compliance, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the Agency's internal control over compliance.

A *deficiency in internal control over compliance* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or combination of deficiencies in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a compliance requirement will not be prevented, or detected and corrected, on a timely basis.

CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
REDEVELOPMENT AGENCY ANNUAL HOUSING ACTIVITY REPORT  
FY ENDING: June 30, 2011

Agency Name and Address:

Foster City Comm Dev. Agency  
610 Foster City Blvd  
Foster City CA 94404

County of Jurisdiction:

SAN MATEO

Did the Agency pay SERAF from LMIHF?

Yes  No

Health & Safety Code Section 33080.1 requires agencies (RDAs) to annually report on their Low & Moderate Income Housing Fund and housing activities for the Department of Housing and Community Development (HCD) to report on RDAs' activities in accordance with Section 33080.6.

Please answer each question below. Your answers determine how to complete the HCD report.

- Check one of the items below to identify the Agency's status at the end of the reporting period:
  - New (Agency formation occurred during reporting year. No financial transactions were completed).
  - Active (Financial and/or housing transactions occurred during the reporting year)
  - Inactive (No financial and/or housing transactions occurred during the reporting year). ONLY COMPLETE ITEM 7
  - Dismantled (Agency adopted an ordinance and dissolved itself before start of reporting year). ONLY COMPLETE ITEM 7
- During reporting year, how many adopted project areas existed? 3 Of these, how many were merged during year? 0  
If the agency has one or more adopted project areas, complete SCHEDULE HCD-A for each project area.  
If the agency has no adopted project areas, DO NOT complete SCHEDULE HCD-A (refer to next question).
- Within an area outside of any adopted project area(s): (a) did the agency destroy or remove any dwelling units or displace any households over the reporting period, (b) does the agency intend to displace any households over the next reporting period, (c) did the agency permit the sale of any owner-occupied unit prior to the expiration of land use controls over the reporting period, and/or (d) did the agency execute a contract or agreement for the construction of any affordable units over the next two years?
  - Yes (any question). Complete SCHEDULE HCD-B.
  - No (all questions). DO NOT complete SCHEDULE HCD-B (refer to next question).
- Did the agency's Low & Moderate Income Housing Fund have any assets during the reporting period?
  - Yes. Complete SCHEDULE HCD-C.
  - No. DO NOT complete SCHEDULE HCD-C.
- During the reporting period, were housing units completed within a project area and/or assisted by the agency outside a project area?
  - Yes. Complete all applicable HCD SCHEDULES D1-D7 for each housing project completed and HCD SCHEDULE E.
  - No. DO NOT complete HCD SCHEDULES D1-D7 or HCD SCHEDULE E.
- Specify whether method A and/or B was used to report financial and housing activity information to HCD:
  - A. Forms. All required HCD SCHEDULES A, B, C, D1-D7, and E are attached.
  - B. On-line (<http://www.hcd.ca.gov/rda/>) "Lock Report" date: 12/7/11. HCD SCHEDULES not required.  
(lock date is shown under "Admin" Area and "Report Change History")
- To the best of my knowledge: (a) the representations made above and (b) agency information reported are correct.

12/13/11  
Date

James C Hardy  
Signature of Authorized Agency Representative  
City Manager/Executive Director  
Title  
650-286-3220  
Telephone Number

- IF NOT REQUIRED TO REPORT, SUBMIT ONLY A PAPER COPY OF THIS PAGE.
- IF REQUIRED TO REPORT, AND REPORTING BY USING PAPER FORMS (IN PLACE OF REPORTING ON-LINE), SUBMIT THIS PAGE AND ALL APPLICABLE HCD FORMS (SCHEDULES A-E) WITH A COPY OF AGENCY'S AUDIT.
- IF REPORTING ON-LINE, PRINT AND SUBMIT "CONFIRMATION LETTER" UPON LOCKING REPORT
- MAIL A COPY OF (a) CONFIRMATION LETTER (IF HCD REPORT WAS ELECTRONICALLY FILED) OR (b) COMPLETED FORMS AND (c) AUDIT REPORT TO BOTH HCD AND THE SCO:

Department of Housing & Community Development  
Division of Housing Policy  
Redevelopment Section  
1800 3<sup>rd</sup> Street, Suite 430  
Sacramento, CA 95814

The State Controller  
Division of Accounting and Reporting  
Local Government Reporting Section  
3301 C Street, Suite 500  
Sacramento, CA 95816

Confirmation of Redevelopment Agency On-Line Filing of Annual HCD Report

FY: Fiscal Year: 2010/2011

FM: Redevelopment Agency: FOSTER CITY

Agency Administrator: Donald Fraser

Date: 12/07/2011

Time: 09:56 am

TO: State Controller

Division of Accounting and Reporting

Local Government Reporting Section

P.O.Box. 942850

Sacramento, CA 94250

This notice is automatically generated by HCD's On-Line Reporting System. The purpose is to file with the State Controller's Office verification the redevelopment agency has complied with Health and Safety Code (H&SC) Section 33080(a) and submitted the annual HCD report required by H&SC Section 33080.1.

HCD Notification: For the Fiscal Year 2009-2010 Supplemental Education Revenue Augmentation Fund (SERAF) payment, the agency:

- Did use revenue/funds that reduced the amount available to the Housing Fund
- Did not use revenue/funds that reduced the amount available to the Housing Fund

To the best of my knowledge the representations made above and the agency information reported are correct.

12/13/11

Date

650-286-2200

Telephone Number

James C Hardy

Signature of Authorized Agency Representative

City manager/Executive Director

Title

California Redevelopment Agencies-Fiscal Year 2010/2011  
 Project Area Contributions to Low and Moderate Income Housing Funds  
 Sch A Project Area Summary Report  
 FOSTER CITY

Project Area	100% of Tax Increment	20% Set Aside Requirement	Tax Increment Allocated	Amount Exempted	Amount Suspended and/or Deferred	Tax Incr. Deposited to Hsng Fund	Percent of Tax Incr Dep	Repayment Deferrals	Other Income	Total Deposited to Housing
HILLSDALE/GULL	\$152,815	\$30,563	\$30,563	\$0	\$0	\$30,563	20%	\$0	\$0	\$30,563
MARLIN COVE	\$717,442	\$143,488	\$143,488	\$0	\$0	\$143,488	20.00%	\$0	\$0	\$143,488
PROJECT ONE	\$12,743,933	\$2,548,787	\$2,548,787	\$0	\$0	\$2,548,787	20.00%	\$0	\$5,911,386	\$8,460,173
<b>Agency Totals:</b>	<b>\$13,614,190</b>	<b>\$2,722,838</b>	<b>\$2,722,838</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,722,838</b>	<b>20%</b>	<b>\$0</b>	<b>\$5,911,386</b>	<b>\$8,634,224</b>

Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)



California Redevelopment Agencies- Fiscal Year 2010/2011  
 Project Area Contributions to Low and Moderate Income Housing Fund  
 Sch A Project Area Financial Information

<b>Project Area PROJECT ONE</b>							
<i>Type: Inside Project Area</i>		<i>Status: Active</i>					
<i>Plan Adoption: 1981</i>		<i>Plan Expiration Year: 2016</i>					
<u>Gross Tax Increment</u>	<u>Calculated Deposit</u>	<u>Amount Allocated</u>	<u>Amount Exempted</u>	<u>Amount Suspended and/or Deferred</u>	<u>Total Deposited</u>	<u>%</u>	<u>Cumulative Def.</u>
\$12,743,933	\$2,548,787	\$2,548,787	\$0	\$0	\$2,548,787	20.00%	\$0
				Repayment	\$0		
				<u>Category</u>			
				Interest Income	\$199,986		
				Loan Repayments	\$5,555		
				Rental/Lease Income	\$66,241		
				SERAF LOAN Repayments	\$5,639,604		
				Total Additional Revenue	\$5,911,386		
				Total Housing Fund Deposits for Project Area	\$8,460,173		

**Agency Totals For All Project Areas:**

<u>Gross Tax Increment</u>	<u>Calculated Deposit</u>	<u>Amount Allocated</u>	<u>Amount Exempted</u>	<u>Amount Suspended and/or Deferred</u>	<u>Total Deposited</u>	<u>%</u>	<u>Cumulative Def.</u>
\$13,614,190	\$2,722,838	\$2,722,838	\$0	\$0	\$2,722,838	20%	\$0
				Total Additional Revenue from Project Areas:	\$5,911,386		
				Total Deferral Repayments:	\$0		
				Total Deposit to Housing Fund from Project Areas:	\$8,634,224		

California Redevelopment Agencies - Fiscal Year 2010/2011  
Sch A/B Project Area Program Information  
**FOSTER CITY**

Project Area: **OUTSIDE PROJECT AREA**

*FUTURE UNIT CONSTRUCTION*

<u>Contract Name</u>	<u>Execution Date</u>	<u>Estimated Completion Date</u>	<u>Very Low</u>	<u>Low</u>	<u>Moderate</u>	<u>Total</u>
Pilgrim Triton Phase I	02/11/10	12/31/12	15	40	5	60

California Redevelopment Agencies - Fiscal Year 2010/2011  
 Status of Low and Moderate Income Housing Funds  
 Sch C Agency Financial Summary  
 FOSTER CITY

Adjusted Beginning Balance	Project Area Receipts	Agency Other Revenue	Total Expenses	Net Resources Available	Other Housing Fund Assets	Total Housing Fund Assets	Encumbrances	* Unencumbered Balance	Unencumbered Designated	Unencumbered Not Designated
\$11,948,187	\$8,634,224	\$0	\$20,582,411	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Expenses	Planning and Administration Costs	Property Acquisition	Subsidies	Transfers Out of Agency	Total
2010/2011	\$634,799	\$429,360	\$446,240	\$19,072,012	\$20,582,411

\*The Unencumbered Balance is equal to Net Resources Available minus Encumbrances

Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)

California Redevelopment Agencies - Fiscal Year 2010/2011  
 Status of Low and Moderate Income Housing Funds  
 Sch C Agency Financial and Program Detail  
 FOSTER CITY

	<i>Beginning Balance</i>	\$17,587,791
	<i>Adjustment to Beginning Balance</i>	-\$5,639,604
	<i>Adjusted Beginning Balance</i>	\$11,948,187
<i>Total Tax Increment From PA(s)</i> \$2,722,838	<i>Total Receipts from PA(s)</i>	\$8,634,224
	<i>Other Revenues not reported on Schedule A</i>	\$0
	<i>Sum of Beginning Balance and Revenues</i>	\$20,582,411

<u>Expenditure</u>	<u>Subitem</u>	<u>Amount</u>	<u>Remark</u>
<b>Planning and Administration Costs</b>			
Administration Costs		\$508,136	
Indirect Nonprofit Costs		\$47,394	
Professional Services		\$79,269	
	<b>Subtotal of Planning and Administration Costs</b>	<b>\$634,799</b>	
<b>Property Acquisition</b>			
Operation of Acquired Property		\$142,379	
Other		\$286,981	Developer Payments
	<b>Subtotal of Property Acquisition</b>	<b>\$429,360</b>	
<b>Subsidies from the LMIHF</b>			
Rental Subsidies		\$446,240	
	<b>Subtotal of Subsidies from the LMIHF</b>	<b>\$446,240</b>	
<b>Transfers Out of Agency</b>			
Other		\$19,072,012	Transfer to Housing Corporation
	<b>Subtotal of Transfers Out of Agency</b>	<b>\$19,072,012</b>	
	<b>Total Expenditures</b>	<b>\$20,582,411</b>	

**Net Resources Available** \$0

**Indebtedness For Setasides Deferred** \$0



California Redevelopment Agencies - Fiscal Year 2010/2011  
 Status of Low and Moderate Income Housing Funds  
 Sch C. Agency Financial and Program Detail  
 FOSTER CITY

Income Adjustment Factors

Requirements Completed

Home

\$

Hope

\$

Non Housing Redevelopment  
Funds Usage

Resource Needs

<b>LMIHF Deposits/Withdrawals</b>				
<u>Document Name</u>	<u>Document Date</u>	<u>Custodian Name</u>	<u>Custodian Phone</u>	<u>Copy Source</u>
General Ledger	30-JUN-11	Steve Tofer	(650) 286-3214	City Hall

**Achievements**

Description

# The Community Development Agency Of The City Of Foster City

## Redevelopment Agencies Financial Transactions Report

### General Information

Fiscal Year

#### Members of the Governing Body

	Last Name	First Name	Middle Initial
<b>Chairperson</b>	<input type="text" value="Koelling"/>	<input type="text" value="Linda"/>	<input type="text"/>
<b>Member</b>	<input type="text" value="Bronitsky"/>	<input type="text" value="Charles"/>	<input type="text"/>
<b>Member</b>	<input type="text" value="Frisella"/>	<input type="text" value="Pam"/>	<input type="text"/>
<b>Member</b>	<input type="text" value="Kiesel"/>	<input type="text" value="Art"/>	<input type="text"/>
<b>Member</b>	<input type="text" value="Wykoff"/>	<input type="text" value="Rick"/>	<input type="text"/>
<b>Member</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Member</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Member</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Member</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<b>Member</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>

#### Mailing Address

Street 1

Street 2

City  State  Zip

Phone   Is Address Changed?

#### Agency Officials

	Last Name	First Name	Middle Initial	Phone
<b>Executive Director</b>	<input type="text" value="Hardy"/>	<input type="text" value="James"/>	<input type="text" value="C"/>	<input type="text" value="(650) 286-3222"/>
<b>Fiscal Officer</b>	<input type="text" value="Toler"/>	<input type="text" value="Steve"/>	<input type="text"/>	<input type="text" value="(650) 286-3214"/>
<b>Secretary</b>	<input type="text" value="Palmer"/>	<input type="text" value="Doris"/>	<input type="text"/>	<input type="text" value="(650) 286-3253"/>

#### Report Prepared By

**Firm Name**

**Last**

**First**

**Middle Initial**

**Street**

**City**

**State**

**Zip Code**

**Phone**

#### Independent Auditor

**The Community Development Agency Of The City Of Foster City  
Redevelopment Agencies Financial Transactions Report**

**Achievement Information (Unaudited)**

Fiscal Year

**Indicate Only Those Achievements Completed During the Fiscal Year of this Report as a Direct Result  
of the Activities of the Redevelopment Agency.**

Please provide a description of the agency's activities/accomplishments during the past year.

*(Please be specific, as this information will be the basis for possible inclusion in the publication.)*

Affordable Housing Strategic Plan - established and implemented five programs to address the affordable housing requirements of the City and the Agency:

1. Existing Unit Purchase Program - 6 living units are in the Agency's inventory and are rented to very-low-income families.
2. First-Time Homebuyer Assistance - a total of 29 loans from \$50,000 to \$75,000 have been issued, with several homebuyers pre-qualified that are looking for homes to purchase.
3. New Project Development - A development and disposition agreement was completed with a developer that will add 730 housing units to the City, of which 146 will be affordable housing units which will be constructed in 2012. In addition, the City is in negotiations with another developer for its vacant 15-acre site that has the potential to provide over 400 housing units, of which nearly 80 will be dedicated to low- to moderate-income families.
4. Rental Assistance - rent assistance is provided to very-low-income families in various multi-family dwelling units in the City.
5. Rehabilitation Loan Program - loans from prior years continue to be services that allowed for rehabilitation of various residential properties serving low income families.

The Agency was required to pay nearly \$1.2 million in a supplemental ERAF payment to the State of California. These funds were taken from the Marlin Cove Project Area, thereby reducing funding for affordable housing needs in the project area and the City.

**Square Footage Completed**

Enter the amount of square footage completed this year by building type and segregated by new or rehabilitated construction.

	<b>New Construction</b>	<b>Rehabilitated</b>
--	-----------------------------	----------------------

Commercial Buildings	<input type="text"/>	<input type="text"/>
Industrial Buildings	<input type="text"/>	<input type="text"/>
Public Buildings	<input type="text"/>	<input type="text"/>
Other Buildings	<input type="text"/>	<input type="text"/>
<b>Total Square Footage</b>	<input type="text" value="0"/>	<input type="text" value="0"/>

Enter the Number of Jobs Created from the Activities of the Agency

Types Completed

A=Utilities B=Recreation C=Landscaping D=Sewer/ Storm E=Streets/ Roads  
F=Bus/Transit

**The Community Development Agency Of The City Of Foster City**

**Redevelopment Agencies Financial Transactions Report**

**Achievement Information (Unaudited)**

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The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Audit Information

Fiscal Year 2011

Was the Report Prepared from Audited Financial Data, and Did You Submit a Copy of the Audit?

Yes

If compliance opinion includes exceptions, state the areas of non-compliance, and describe the agency's efforts to correct.

Indicate Financial Audit Opinion

Unqualified

If Financial Audit is not yet Completed, What is the Expected Completion Date?

If the Audit Opinion was Other than Unqualified, State Briefly the Reason Given

Was a Compliance Audit Performed in Accordance with Health and Safety Code Section 33080.1 and the State Controller's Guidelines for Compliance Audits, and Did You Submit a Copy of the Audit?

Yes

Indicate Compliance Audit Opinion

Unqualified

If Compliance Audit is not yet Completed, What is the Expected Completion Date?

Empty box for compliance exceptions and corrective efforts.

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Project Area Report

Fiscal Year 2011

Project Area Name

Foster City Project Area

Please Provide a Brief Description of the Activities for this Project Area During the Reporting Year.

Activity Report

This project area, known as Project Area One, reached its tax increment cap in FY 2010-2011, five years prior to the original estimated timeline which is a testament to the growth in assessed valuation and, thus, the economic vitality within the project area. No further tax increment will be collected in this project area, and instead those funds will be redistributed to the taxing entities, including school districts. The Project Area continues to fund affordable housing initiatives, and remaining funding is intended to be used to support affordable housing obligations and public improvements as originally anticipated in the Project Area's redevelopment plan.

Forwarded from Prior Year ?

Yes

Enter Code for Type of Project Area Report

P

P = Standard Project Area Report

A = Administrative Fund

L = Low and Moderate Income Housing Fund

M = Mortgage Revenue Bond Program

O = Other Miscellaneous Funds or Programs

S = Proposed (Survey) Project Area

Does the Plan Include Tax Increment Provisions?

Yes

Date Project Area was Established (MM-DD-YY)

11/30/1981

Most Recent Date Project Area was Amended

9/22/2005

Did this Amendment Add New Territory?

No

Most Recent Date Project Area was Merged

Will this Project Area be Carried Forward to Next Year?

Yes

Established Time Limit :

Repayment of Indebtedness (Year Only)

2016

Effectiveness of Plan (Year Only)

2016

New Indebtedness (Year Only)

2004

Size of Project Area in Acres

1,208

Percentage of Land Vacant at the Inception of the Project Area

58.0

Health and Safety Code Section 33320.1 (xx.x%)

Percentage of Land Developed at the Inception of the Project Area

42.0

Health and Safety Code Section 33320.1 (xx.x%)

Objectives of the Project Area as Set Forth in the Project Area Plan

RICP

(Enter the Appropriate Code(s) in Sequence as Shown)

R = Residential I = Industrial C = Commercial P = Public O = Other

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Project Area Report

Fiscal Year 2011

Project Area Name

Hillsdale/Gull Project Area

Please Provide a Brief Description of the Activities for this Project Area During the Reporting Year.

Activity Report

The Hillsdale/Gull Project Area continues to provide affordable housing subsidies for the Miramar Apartment complex that was created through the redevelopment efforts of this project area.

Forwarded from Prior Year ?

Yes

Enter Code for Type of Project Area Report

P

P = Standard Project Area Report

A = Administrative Fund

L = Low and Moderate Income Housing Fund

M = Mortgage Revenue Bond Program

O = Other Miscellaneous Funds or Programs

S = Proposed (Survey) Project Area

Does the Plan Include Tax Increment Provisions?

Yes

Date Project Area was Established (MM-DD-YY)

1/4/1999

Most Recent Date Project Area was Amended

9/22/2005

Did this Amendment Add New Territory?

No

Most Recent Date Project Area was Merged

Will this Project Area be Carried Forward to Next Year?

Yes

Established Time Limit :

Repayment of Indebtedness (Year Only)

2044

Effectiveness of Plan (Year Only)

2029

New Indebtedness (Year Only)

2019

Size of Project Area in Acres

4

Percentage of Land Vacant at the Inception of the Project Area

0.0

Health and Safety Code Section 33320.1 (xx.x%)

Percentage of Land Developed at the Inception of the Project Area

100.0

Health and Safety Code Section 33320.1 (xx.x%)

Objectives of the Project Area as Set Forth in the Project Area Plan

R

(Enter the Appropriate Code(s) in Sequence as Shown)

R = Residential I = Industrial C = Commercial P = Public O = Other

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Project Area Report

Fiscal Year 2011

Project Area Name

Marlin Cove Project Area

Please Provide a Brief Description of the Activities for this Project Area During the Reporting Year.

Activity Report

The Marlin Cove Project Area continues to provide affordable housing subsidies to the Marlin Cove apartment complex that was created in this mixed-use development area. The shopping center which was redeveloped in this project area continues to thrive with near 100% occupancy and has become one of the two busiest shopping areas in Foster City.

Forwarded from Prior Year ?

Yes

Enter Code for Type of Project Area Report

P

P = Standard Project Area Report

A = Administrative Fund

L = Low and Moderate Income Housing Fund

M = Mortgage Revenue Bond Program

O = Other Miscellaneous Funds or Programs

S = Proposed (Survey) Project Area

Does the Plan Include Tax Increment Provisions?

Yes

Date Project Area was Established (MM-DD-YY)

1/4/1999

Most Recent Date Project Area was Amended

9/22/2005

Did this Amendment Add New Territory?

No

Most Recent Date Project Area was Merged

Will this Project Area be Carried Forward to Next Year?

Yes

Established Time Limit :

Repayment of Indebtedness (Year Only)

2044

Effectiveness of Plan (Year Only)

2029

New Indebtedness (Year Only)

2019

Size of Project Area in Acres

12

Percentage of Land Vacant at the Inception of the Project Area

0.0

Health and Safety Code Section 33320.1 (xx.x%)

Percentage of Land Developed at the Inception of the Project Area

100.0

Health and Safety Code Section 33320.1 (xx.x%)

Objectives of the Project Area as Set Forth in the Project Area Plan

RC

(Enter the Appropriate Code(s) in Sequence as Shown)

R = Residential I = Industrial C = Commercial P = Public O = Other

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Assessed Valuation Data

Fiscal Year 2011

Project Area Name	Foster City Project Area
Frozen Base Assessed Valuation	29,174,167
Increment Assessed Valuation	1,817,984,658
Total Assessed Valuation	1,847,158,825

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Assessed Valuation Data

Fiscal Year 2011

Project Area Name

Hillsdale/Gull Project Area

Frozen Base Assessed Valuation

3,252,476

Increment Assessed Valuation

11,791,267

Total Assessed Valuation

15,043,743

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Assessed Valuation Data

Fiscal Year 2011

Project Area Name

Marlin Cove Project Area

Frozen Base Assessed Valuation

10,238,357

Increment Assessed Valuation

61,268,331

Total Assessed Valuation

71,506,688

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Pass-Through / School District Assistance

Fiscal Year

Project Area Name

Amounts Paid To Taxing Agencies Pursuant To:	Tax Increment Pass Through Detail			Total	Other Payments	
	H & S Code Section 33401	H & S Code Section 33676	H & S Code Section 33607		H & S Code Section 33445	H & S Code Section 33445.5
County	2,929,262			\$2,929,262		
Cities				\$0		
School Districts			70,184	\$70,184		
Community College Districts		475,391	134,862	\$610,253		
Special Districts			12,661	\$12,661		
<b>Total Paid to Taxing Agencies</b>	\$2,929,262	\$475,391	\$217,707	\$3,622,360	\$0	\$0
<b>Net Amount to Agency</b>				\$5,849,057		
Gross Tax Increment Generated				9,471,417		

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Pass-Through / School District Assistance

Fiscal Year

Project Area Name

Amounts Paid To Taxing Agencies Pursuant To:	Tax Increment Pass Through Detail			Total	Other Payments	
	H & S Code Section 33401	H & S Code Section 33676	H & S Code Section 33607		H & S Code Section 33445	H & S Code Section 33445.5
County			6,593	\$6,593		
Cities				\$0		
School Districts			15,848	\$15,848		
Community College Districts			3,281	\$3,281		
Special Districts			1,066	\$1,066		
<b>Total Paid to Taxing Agencies</b>	\$0	\$0	\$26,788	\$26,788	\$0	\$0
<b>Net Amount to Agency</b>				\$126,027		
Gross Tax Increment Generated				152,815		

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Pass-Through / School District Assistance

Fiscal Year

Project Area Name

Amounts Paid To Taxing Agencies Pursuant To:	Tax Increment Pass Through Detail				Other Payments	
	H & S Code Section 33401	H & S Code Section 33676	H & S Code Section 33607	Total	H & S Code Section 33445	H & S Code Section 33445.5
County			30,182	\$30,182		
Cities				\$0		
School Districts			63,529	\$63,529		
Community College Districts			11,554	\$11,554		
Special Districts			7,224	\$7,224		
<b>Total Paid to Taxing Agencies</b>	\$0	\$0	\$112,489	\$112,489	\$0	\$0
<b>Net Amount to Agency</b>				\$604,953		
Gross Tax Increment Generated				717,442		

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Summary of the Statement of Indebtedness - Project Area

Fiscal Year 2011

Project Area Name	Foster City Project Area
Tax Allocation Bond Debt	
Revenue Bonds	
Other Long Term Debt	
City/County Debt	
Low and Moderate Income Housing Fund	
Other	
<b>Total</b>	\$0
Available Revenues	
<b>Net Tax Increment Requirements</b>	\$0

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Summary of the Statement of Indebtedness - Project Area

Fiscal Year 2011

Project Area Name	Hillsdale/Gull Project Area
Tax Allocation Bond Debt	
Revenue Bonds	
Other Long Term Debt	
City/County Debt	2,205,978
Low and Moderate Income Housing Fund	1,245,394
Other	3,963,410
<b>Total</b>	<b>\$7,414,782</b>
Available Revenues	451,077
<b>Net Tax Increment Requirements</b>	<b>\$6,963,705</b>

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Summary of the Statement of Indebtedness - Project Area

Fiscal Year 2011

Project Area Name	Marlin Cove Project Area
Tax Allocation Bond Debt	
Revenue Bonds	
Other Long Term Debt	
City/County Debt	1,693,398
Low and Moderate Income Housing Fund	2,323,655
Other	10,955,041
<b>Total</b>	<b>\$14,972,094</b>
Available Revenues	77,438
<b>Net Tax Increment Requirements</b>	<b>\$14,894,656</b>

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Agency Long-Term Debt

Fiscal Year

2011

Project Area Name

Foster City Project Area

Forward from Prior Year

Yes

Bond Type

City/County Debt

Year of Authorization

1981

Principal Amount Authorized

31,211,618

Principal Amount Issued

31,211,618

Purpose of Issue

Redevelopment Activities

Maturity Date Beginning Year

1981

Maturity Date Ending Year

2012

**Principal Amount Unmatured Beginning of Fiscal Year**

\$1,115,697

Adjustment Made During Year

Adjustment Explanation

Interest Added to Principal

Principal Amount Issued During Fiscal Year

Principal Amount Matured During Fiscal Year

1,115,697

Principal Amount Defeased During Fiscal Year

**Principal Amount Unmatured End of Fiscal Year**

\$0

Principal Amount In Default

Interest In Default

**Bond Types Allowed:**

Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State; Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Revenues

Fiscal Year

Project Area Name

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	Total
Tax Increment Gross <i>(Include All Apportionments)</i>	6,922,630		2,548,787		\$9,471,417
Special Supplemental Subvention					\$0
Property Assessments					\$0
Sales and Use Tax					\$0
Transient Occupancy Tax					\$0
Interest Income	108,003		199,986		\$307,989
Rental Income			66,241		\$66,241
Lease Income					\$0
Sale of Real Estate					\$0
Gain on Land Held for Resale					\$0
Federal Grants					\$0
Grants from Other Agencies					\$0
Bond Administrative Fees					\$0
Other Revenues			5,555		\$5,555
<b>Total Revenues</b>	<b>\$7,030,633</b>	<b>\$0</b>	<b>\$2,820,569</b>	<b>\$0</b>	<b>\$9,851,202</b>

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Revenues

Fiscal Year

Project Area Name

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	Total
Tax Increment Gross <i>(Include All Apportionments)</i>	122,252		30,563		\$152,815
Special Supplemental Subvention					\$0
Property Assessments					\$0
Sales and Use Tax					\$0
Transient Occupancy Tax					\$0
Interest Income	6,262				\$6,262
Rental Income					\$0
Lease Income					\$0
Sale of Real Estate					\$0
Gain on Land Held for Resale					\$0
Federal Grants					\$0
Grants from Other Agencies					\$0
Bond Administrative Fees					\$0
Other Revenues					\$0
<b>Total Revenues</b>	<b>\$128,514</b>	<b>\$0</b>	<b>\$30,563</b>	<b>\$0</b>	<b>\$159,077</b>

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Revenues

Fiscal Year

Project Area Name

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	Total
Tax Increment Gross <i>(Include All Apportionments)</i>	573,954		143,488		\$717,442
Special Supplemental Subvention					\$0
Property Assessments					\$0
Sales and Use Tax					\$0
Transient Occupancy Tax					\$0
Interest Income	12,390				\$12,390
Rental Income					\$0
Lease Income					\$0
Sale of Real Estate					\$0
Gain on Land Held for Resale					\$0
Federal Grants					\$0
Grants from Other Agencies					\$0
Bond Administrative Fees					\$0
Other Revenues					\$0
<b>Total Revenues</b>	<b>\$586,344</b>	<b>\$0</b>	<b>\$143,488</b>	<b>\$0</b>	<b>\$729,832</b>

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year

Project Area Name

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Administration Costs	384,386		257,314		\$641,700
Professional Services	109,283		75,219		\$184,502
Planning, Survey, and Design					\$0
Real Estate Purchases					\$0
Acquisition Expense					\$0
Operation of Acquired Property					\$0
Relocation Costs					\$0
Relocation Payments					\$0
Site Clearance Costs					\$0
Project Improvement / Construction Costs					\$0
Disposal Costs					\$0
Loss on Disposition of Land Held for Resale					\$0

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year

Project Area Name

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Decline in Value of Land Held for Resale					\$0
Rehabilitation Costs					\$0
Rehabilitation Grants					\$0
Interest Expense	156,685				\$156,685
Fixed Asset Acquisitions					\$0
Subsidies to Low and Moderate Income Housing			422,526		\$422,526
Debt Issuance Costs					\$0
Other Expenditures Including Pass-Through Payment(s)	1,160,099				\$1,160,099
<b>Debt Principal Payments:</b>					
Tax Allocation Bonds and Notes					\$0
Revenue Bonds, Certificates of Participation, Financing Authority Bonds					\$0
City/County Advances and Loans	1,115,697				\$1,115,697
All Other Long-Term Debt					\$0
<b>Total Expenditures</b>	\$2,926,150	\$0	\$755,059	\$0	\$3,681,209
<b>Excess (Deficiency) Revenues over (under) Expenditures</b>	\$4,104,483	\$0	\$2,065,510	\$0	\$6,169,993

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year

Project Area Name

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Administration Costs	33,082		125,412		\$158,494
Professional Services	6,941		8,117		\$15,058
Planning, Survey, and Design					\$0
Real Estate Purchases					\$0
Acquisition Expense					\$0
Operation of Acquired Property					\$0
Relocation Costs					\$0
Relocation Payments					\$0
Site Clearance Costs					\$0
Project Improvement / Construction Costs					\$0
Disposal Costs					\$0
Loss on Disposition of Land Held for Resale					\$0

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year

Project Area Name

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Decline in Value of Land Held for Resale					\$0
Rehabilitation Costs					\$0
Rehabilitation Grants					\$0
Interest Expense					\$0
Fixed Asset Acquisitions					\$0
Subsidies to Low and Moderate Income Housing			177,187		\$177,187
Debt Issuance Costs					\$0
Other Expenditures Including Pass-Through Payment(s)	26,788				\$26,788
<b>Debt Principal Payments:</b>					
Tax Allocation Bonds and Notes					\$0
Revenue Bonds, Certificates of Participation, Financing Authority Bonds					\$0
City/County Advances and Loans					\$0
All Other Long-Term Debt					\$0
<b>Total Expenditures</b>	\$66,811	\$0	\$310,716	\$0	\$377,527
<b>Excess (Deficiency) Revenues over (under) Expenditures</b>	\$61,703	\$0	(\$280,153)	\$0	(\$218,450)

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year

Project Area Name

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Administration Costs	33,082		125,411		\$158,493
Professional Services	131,016		5,900		\$136,916
Planning, Survey, and Design					\$0
Real Estate Purchases					\$0
Acquisition Expense					\$0
Operation of Acquired Property					\$0
Relocation Costs					\$0
Relocation Payments					\$0
Site Clearance Costs					\$0
Project Improvement / Construction Costs					\$0
Disposal Costs					\$0
Loss on Disposition of Land Held for Resale					\$0

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year

Project Area Name

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Decline in Value of Land Held for Resale					\$0
Rehabilitation Costs					\$0
Rehabilitation Grants					\$0
Interest Expense					\$0
Fixed Asset Acquisitions					\$0
Subsidies to Low and Moderate Income Housing			313,314		\$313,314
Debt Issuance Costs					\$0
Other Expenditures Including Pass-Through Payment(s)	1,161,095				\$1,161,095
<b>Debt Principal Payments:</b>					
Tax Allocation Bonds and Notes					\$0
Revenue Bonds, Certificates of Participation, Financing Authority Bonds					\$0
City/County Advances and Loans					\$0
All Other Long-Term Debt					\$0
<b>Total Expenditures</b>	\$1,325,193	\$0	\$444,625	\$0	\$1,769,818
<b>Excess (Deficiency) Revenues over (under) Expenditures</b>	(\$738,849)	\$0	(\$301,137)	\$0	(\$1,039,986)

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year

2011

Project Area Name

Foster City Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Proceeds of Long-Term Debt					\$0
Proceeds of Refunding Bonds					\$0
Payment to Refunded Bond Escrow Agent					\$0
Advances from City/County					\$0
Sale of Fixed Assets					\$0
Miscellaneous Financing Sources (Uses)	-3,113,935		-19,072,011		(\$22,185,946)
Operating Transfers In					\$0
Tax Increment Transfers In					\$0
Operating Transfers Out			2,103,889		\$2,103,889
Tax Increment Transfers Out					\$0
<i>(To the Low and Moderate Income Housing Fund)</i>					
<b>Total Other Financing Sources (Uses)</b>	<b>(\$3,113,935)</b>	<b>\$0</b>	<b>(\$21,175,900)</b>	<b>\$0</b>	<b>(\$24,289,835)</b>

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year

2011

Project Area Name

Foster City Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
<b>Excess (Deficiency) of Revenues and Other Financing Sources over Expenditures and Other Financing Uses</b>	\$990,548	\$0	(\$19,110,390)	\$0	(\$18,119,842)
Equity, Beginning of Period	(\$990,548)	\$0	\$19,110,390	\$0	\$18,119,842
Prior Period Adjustments					\$0
Residual Equity Transfers					\$0
<b>Equity, End of Period</b>	\$0	\$0	\$0	\$0	\$0

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year

2011

Project Area Name

Hillsdale/Gull Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Proceeds of Long-Term Debt					\$0
Proceeds of Refunding Bonds					\$0
Payment to Refunded Bond Escrow Agent					\$0
Advances from City/County					\$0
Sale of Fixed Assets					\$0
Miscellaneous Financing Sources (Uses)					\$0
Operating Transfers In			715,890		\$715,890
Tax Increment Transfers In					\$0
Operating Transfers Out					\$0
Tax Increment Transfers Out					\$0
<i>(To the Low and Moderate Income Housing Fund)</i>					
<b>Total Other Financing Sources (Uses)</b>	\$0	\$0	\$715,890	\$0	\$715,890

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year

2011

Project Area Name

Hillsdale/Gull Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
<b>Excess (Deficiency) of Revenues and Other Financing Sources over Expenditures and Other Financing Uses</b>	\$61,703	\$0	\$435,737	\$0	\$497,440
Equity, Beginning of Period	\$389,374	\$0	(\$435,737)	\$0	(\$46,363)
Prior Period Adjustments					\$0
Residual Equity Transfers					\$0
<b>Equity, End of Period</b>	\$451,077	\$0	\$0	\$0	\$451,077

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year

2011

Project Area Name

Marlin Cove Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Proceeds of Long-Term Debt					\$0
Proceeds of Refunding Bonds					\$0
Payment to Refunded Bond Escrow Agent					\$0
Advances from City/County					\$0
Sale of Fixed Assets					\$0
Miscellaneous Financing Sources (Uses)					\$0
Operating Transfers In			1,387,999		\$1,387,999
Tax Increment Transfers In					\$0
Operating Transfers Out					\$0
Tax Increment Transfers Out					\$0
<i>(To the Low and Moderate Income Housing Fund)</i>					
<b>Total Other Financing Sources (Uses)</b>	\$0	\$0	\$1,387,999	\$0	\$1,387,999

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year

2011

Project Area Name

Marlin Cove Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
<b>Excess (Deficiency) of Revenues and Other Financing Sources over Expenditures and Other Financing Uses</b>	(\$738,849)	\$0	\$1,086,862	\$0	\$348,013
Equity, Beginning of Period	\$805,518	\$0	(\$1,086,862)	\$0	(\$281,344)
Prior Period Adjustments					\$0
Residual Equity Transfers					\$0
<b>Equity, End of Period</b>	\$66,669	\$0	\$0	\$0	\$66,669

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Assets and Other Debits

Fiscal Year	2011	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
<b>Assets and Other Debits</b>								
Cash and Imprest Cash		520,147		501,691				\$1,021,838
Cash with Fiscal Agent								\$0
Tax Increments Receivable								\$0
Accounts Receivable								\$0
Accrued Interest Receivable								\$0
Loans Receivable								\$0
Contracts Receivable								\$0
Lease Payments Receivable								\$0
Unearned Finance Charge								\$0
Due from Capital Projects Fund								\$0
Due from Debt Service Fund								\$0
Due from Low/Moderate Income Housing Fund								\$0
Due from Special Revenue/Other Funds								\$0

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Assets and Other Debits

Fiscal Year	2011	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Investments								\$0
Other Assets								\$0
Investments: Land Held for Resale								\$0
Allowance for Decline In Value of Land Held for Resale								\$0
Fixed Assets: Land, Structures, and Improvements								\$0
Equipment								\$0
Amount Available In Debt Service Fund								\$0
Amount to be Provided for Payment of Long-Term Debt								\$0
<b>Total Assets and Other Debits</b>		\$520,147	\$0	\$501,691	\$0	\$0	\$0	\$1,021,838

*(Must Equal Total Liabilities, Other Credits, and Equities)*

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Liabilities and Other Credits

Fiscal Year	2011	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
<b>Liabilities and Other Credits</b>								
Accounts Payable		2,301		501,691				\$503,992
Interest Payable								\$0
Tax Anticipation Notes Payable								\$0
Loans Payable								\$0
Other Liabilities		100						\$100
Due to Capital Projects Fund								\$0
Due to Debt Service Fund								\$0
Due to Low/Moderate Income Housing Fund								\$0
Due to Special Revenue/Other Funds								\$0
Tax Allocation Bonds Payable								\$0
Lease Revenue, Certificates of Participation Payable, Financing Authority Bonds								\$0
All Other Long-Term Debt								\$0
<b>Total Liabilities and Other Credits</b>		\$2,401	\$0	\$501,691	\$0	\$0		\$504,092

The Community Development Agency Of The City Of Foster City

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Liabilities and Other Credits

Fiscal Year	2011	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
<b>Equities</b>								
Investment In General Fixed Assets								\$0
Fund Balance Reserved			0					\$0
Fund Balance Unreserved-Designated		517,746						\$517,746
Fund Balance Unreserved-Undesignated								\$0
<b>Total Equities</b>		\$517,746	\$0	\$0	\$0		\$0	\$517,746
<b>Total Liabilities, Other Credits, and Equities</b>		\$520,147	\$0	\$501,691	\$0	\$0	\$0	\$1,021,838

**The Community Development Agency Of The City Of Foster City**

**Redevelopment Agencies Financial Transactions Report**

**Statement of Income and Expenditures - Summary, Combined Transfers In/Out**

Fiscal Year 2011

Operating Transfers In \$2,103,889

Tax Increment Transfers In \$0

Operating Transfers Out \$2,103,889

Tax Increment Transfers Out \$0

**Leslie Carmichael**

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**From:** Curtis Banks  
**Sent:** Thursday, February 23, 2012 2:39 PM  
**To:** Leslie Carmichael; Mandelman, Rafael (rmandelman@bwslaw.com); JRamiza@bwslaw.com  
**Subject:** FW: Low Income Housing Covenant & Fair Housing  
**Attachments:** Govt Code 12955 (00246464).RTF; HUD Guidelines re Occupancy Standards (00246463).PDF

Jerry and Rafael,

I just got off the phone with Mary Nitschke with Miramar. They have reviewed our letter and agree with everything but the minimum and maximum occupancies. They have been advised that their tax credits would be in jeopardy if someone won a fair housing compliant against them. Their attorney has reviewed fair housing law and concurs and has provided the information below and attached for our review. Please let me know when we can speak next to discuss.

Thank you,

Curtis

*Curtis*

Curtis Banks, AICP  
Community Development Director  
City of Foster City  
610 Foster City Boulevard  
Foster City, CA 94404  
(650) 286-3239

---

**From:** Nitschke, Mary [mailto:MNitschke@prometheusreg.com]  
**Sent:** Thursday, February 23, 2012 2:28 PM  
**To:** Curtis Banks  
**Subject:** FW: Low Income Housing Covenant & Fair Housing

Hi Curtis,

As per our discussion, please see our attorney's comment below.

Yours,  
Mary

MARY NITSCHKE, SR. MANAGER OF ANCILLARY SERVICES, ERM, CGPM

PROMETHEUS REAL ESTATE GROUP  
1900 SOUTH NORFOLK ST. STE. 150 SAN MATEO, CA 94403 PHONE: 650.931.3484 FAX: 650.931.3684  
[WWW.PROMETHEUSREG.COM](http://WWW.PROMETHEUSREG.COM)

2011 BEST PROPERTY MANAGEMENT COMPANY AS NAMED BY NAHB  
2010 BEST PROPERTY MANAGEMENT COMPANY AS NAMED BY MHN

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**From:** Karen K. McCay [mailto:kmccay@pahl-mccay.com]  
**Sent:** Thursday, February 23, 2012 9:39 AM  
**To:** Nitschke, Mary  
**Subject:** RE: Low Income Housing Covenant & Fair Housing

Mary:

As we discussed, the City of Foster City's occupancy requirements set forth in its February 13, 2012, require the Miramar Apartments to violate both the California Fair Employment and Housing Act and the Federal Fair Housing Act, both of which are applicable to the property even though the property is not HUD subsidized. California Government Code Section 12955 makes it unlawful for the owner of any housing accommodation to discriminate against any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability or genetic information of that person. A copy of the relevant code section is attached.

While an occupancy standard can have both minimum and maximum occupancy requirements, the standards cannot violate fair housing laws either by overtly treating people differently based upon a protected classification or unintentionally treating people differently by having a policy that has a disparate impact on people falling within a protected classification. The minimum occupancy standard set forth in Paragraph 5 of the City's February 13, 2012 letter does both.

First, the exception to the three person per two-bedroom unit for a single parent with child is discriminatory on its face since the exception is based on marital status (single person) as well as familial status (must have a child). While the familial status protections were designed to preclude landlords from refusing to rent to children (which is the opposite of the proposed standard from the City), it would not be difficult for a fair housing advocate to argue the reverse is also true. Why should I and my adult son be able to rent a two-bedroom apartment, but I cannot rent the same apartment with an unrelated adult? As you know, I represent many subsidized apartment communities and I certainly understand the City's desire to avoid under-utilization of units; however, I have had numerous fair housing cases where both the DFEH and HUD have opined that such goals do not justify fair housing violations.

As to the exception that a resident requires a caregiver, I would not be so specific. While it is true that is the most common reason a single disabled individual will require a second bedroom, a second bedroom may be required if the disabled individual requires it for substantial medical equipment as well (a request that we are seeing more often than ever before). As a result, I would recommend changing that provision from requires a caregiver to a second bedroom is required as a reasonable accommodation.

Second, I would anticipate that a policy of three people for a two bedroom unit may have the impact of excluding unmarried adults or people without children. In order to see if it does have disparate impact, we would need to look at the make up of the households who have been occupying the 2-bedroom BMR units. Are they only married couples? If all of your 2-bedroom BMR units are occupied by married couples (the most common situation where two adults are willing to share a bedroom), then there may be an argument down the line that the policy has the impact of discriminating against individuals based upon marital status.

Occupancy standards should be objective and without regard to the relationships of the household members. If you want to require a minimum of 3 people in a two-bedroom, so long as it doesn't have a disparate impact on unmarried couples, you should be fine, but do not have standards that look at the relationship between the household members.

As further support for the above, I have attached the HUD Guidelines regarding occupancy standards for your review and consideration. I realize Miramar is not HUD-subsidized, but when evaluating occupancy standards and the like, it is good to look to the HUD Guidelines. If you are following the HUD Guidelines, then it is unlikely HUD will bring a fair housing claim against you. I have highlighted relevant provisions for your review. As you can see, HUD prohibits 1

person from occupying a 2-bedroom apartment (not two persons) and it also makes it clear that you should not make moral judgments as to whom should/could be sharing rooms – that is up to the household.

If you require anything further, please do not hesitate to contact me.

Karen



**PAHL & MCCAY**  
A Professional Law Corporation

**Karen K. McCay**

Pahl & McCay, a Professional Law Corporation  
225 West Santa Clara, Suite 1500, San Jose, California 95113  
Telephone: (408) 286-5100    Direct: (408) 918-2832  
General Fax: (408) 286-5722    Direct Fax: (408) 282-2032  
Email: [kmccay@pahl-mccay.com](mailto:kmccay@pahl-mccay.com)

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**Leslie Carmichael**

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**From:** Lopez, Ryan <RLopez@prometheusreg.com>  
**Sent:** Tuesday, February 21, 2012 5:26 PM  
**To:** Curtis Banks  
**Cc:** Nitschke, Mary; Leslie Carmichael  
**Subject:** RE: Moderate BMR Applicants

Thank you so much Curtis.

RYAN LOPEZ, PROPERTY MANAGER, *feels at home when he crosses the Alameda county line*

MIRAMAR | BEACH PARK  
PHONE: 650.287.4384  
[WWW.PROMETHEUSREG.COM](http://WWW.PROMETHEUSREG.COM)

2011 BEST PROPERTY MANAGEMENT COMPANY AS NAMED BY NAHB  
2010 BEST PROPERTY MANAGEMENT COMPANY AS NAMED BY MHN

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**From:** Curtis Banks [mailto:cbanks@fostercity.org]  
**Sent:** Tuesday, February 21, 2012 4:59 PM  
**To:** Lopez, Ryan  
**Cc:** Nitschke, Mary; Leslie Carmichael  
**Subject:** RE: Moderate BMR Applicants

Both parties may go ahead and move in.

*Curtis*  
Curtis Banks, AICP  
Community Development Director  
City of Foster City  
610 Foster City Boulevard  
Foster City, CA 94404  
(650) 286-3239

---

**From:** Lopez, Ryan [mailto:RLopez@prometheusreg.com]  
**Sent:** Tuesday, February 21, 2012 4:47 PM  
**To:** Curtis Banks  
**Cc:** Nitschke, Mary  
**Subject:** RE: Moderate BMR Applicants

Hi Curtis,

We called down the list in order of priority and made notes in the far right column. We waited more than a week for all those who were interested to come apply and no one did. We exhausted the moderate waitlist, and these were the only two families interested in our units.

There are 5 people in the Yamada household.

Thank you,

Ryan

RYAN LOPEZ, PROPERTY MANAGER, *feels at home when he crosses the Alameda county line*

MIRAMAR | BEACH PARK  
PHONE: 650.287.4384  
[WWW.PROMETHEUSREG.COM](http://WWW.PROMETHEUSREG.COM)

2011 BEST PROPERTY MANAGEMENT COMPANY AS NAMED BY NAHB  
2010 BEST PROPERTY MANAGEMENT COMPANY AS NAMED BY MFN

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**From:** Curtis Banks [<mailto:cbanks@fostercity.org>]  
**Sent:** Tuesday, February 21, 2012 3:03 PM  
**To:** Lopez, Ryan  
**Cc:** Nitschke, Mary  
**Subject:** RE: Moderate BMR Applicants

Ryan,

I am having some trouble being able to decipher the most recent correspondence to make sure people have been contacted that you are using the correct process of sending a notice to people on the wait list and accepting the highest priority individuals that reply in the specified time.

For the Yamada's how many people are in their household?

*Curtis*

Curtis Banks, AICP  
Community Development Director  
City of Foster City  
610 Foster City Boulevard  
Foster City, CA 94404  
(650) 286-3239

---

**From:** Lopez, Ryan [<mailto:RLopez@prometheusreg.com>]  
**Sent:** Tuesday, February 21, 2012 2:39 PM  
**To:** Curtis Banks  
**Cc:** Nitschke, Mary  
**Subject:** Moderate BMR Applicants  
**Importance:** High

Hi Curtis,

We currently have a 1 bedroom apartment and a 2 bedroom apartment available here at Miramar.

David Greene would like to move into our 1 bedroom apartment  
April and Kris Yamada would like to move into our 2 bedroom apartment. April and Kris have set their move in date for this Friday February 24<sup>th</sup>. We would like to seek approval from you and the city prior to their move in date.

I've attached our updated waitlist for your review. Please note that it took us quite a while to merge the data from our previous wait list to the new format.

Thank you,

Ryan

RYAN LOPEZ, PROPERTY MANAGER, *feels at home when he crosses the Alameda county line*

MIRAMAR | BEACH PARK  
PHONE: 650.287.4384  
[WWW.PROMETHEUSREG.COM](http://WWW.PROMETHEUSREG.COM)

2011 BEST PROPERTY MANAGEMENT COMPANY AS NAMED BY NAHB  
2010 BEST PROPERTY MANAGEMENT COMPANY AS NAMED BY MHN

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CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
REDEVELOPMENT AGENCY ANNUAL HOUSING ACTIVITY REPORT  
FY ENDING: June 30, 2011

Agency Name and Address:  
Foster City Comm Dev. Agency  
610 Foster City Blvd  
Foster City CA 94404

County of Jurisdiction:  
SAN MATEO  
Did the Agency pay SERAF from LMIHF?  
 Yes  No

Health & Safety Code Section 33080.1 requires agencies (RDAs) to annually report on their Low & Moderate Income Housing Fund and housing activities for the Department of Housing and Community Development (HCD) to report on RDAs' activities in accordance with Section 33080.6.

Please answer each question below. Your answers determine how to complete the HCD report.

- Check one of the items below to identify the Agency's status at the end of the reporting period:
  - New (Agency formation occurred during reporting year. No financial transactions were completed).
  - Active (Financial and/or housing transactions occurred during the reporting year)
  - Inactive (No financial and/or housing transactions occurred during the reporting year). ONLY COMPLETE ITEM 7
  - Dismantled (Agency adopted an ordinance and dissolved itself before start of reporting year). ONLY COMPLETE ITEM 7
- During reporting year, how many adopted project areas existed? 3 Of these, how many were merged during year? 0  
If the agency has one or more adopted project areas, complete SCHEDULE HCD-A for each project area.  
If the agency has no adopted project areas, DO NOT complete SCHEDULE HCD-A (refer to next question).
- Within an area outside of any adopted project area(s): (a) did the agency destroy or remove any dwelling units or displace any households over the reporting period, (b) does the agency intend to displace any households over the next reporting period, (c) did the agency permit the sale of any owner-occupied unit prior to the expiration of land use controls over the reporting period, and/or (d) did the agency execute a contract or agreement for the construction of any affordable units over the next two years?  
 Yes (any question). Complete SCHEDULE HCD-B.  
 No (all questions). DO NOT complete SCHEDULE HCD-B (refer to next question).
- Did the agency's Low & Moderate Income Housing Fund have any assets during the reporting period?  
 Yes. Complete SCHEDULE HCD-C.  
 No. DO NOT complete SCHEDULE HCD-C.
- During the reporting period, were housing units completed within a project area and/or assisted by the agency outside a project area?  
 Yes. Complete all applicable HCD SCHEDULES D1-D7 for each housing project completed and HCD SCHEDULE E.  
 No. DO NOT complete HCD SCHEDULES D1-D7 or HCD SCHEDULE E.
- Specify whether method A and/or B was used to report financial and housing activity information to HCD:  
 A. Forms. All required HCD SCHEDULES A, B, C, D1-D7, and E are attached.  
 B. On-line (<http://www.hcd.ca.gov/rda/>) "Lock Report" date: 12/7/11. HCD SCHEDULES not required.  
(lock date is shown under "Admin" Area and "Report Change History")
- To the best of my knowledge: (a) the representations made above and (b) agency information reported are correct.

12/13/11  
Date

James C Hardy  
Signature of Authorized Agency Representative  
City manager/Executive Director  
Title  
650-286-3220  
Telephone Number

- IF NOT REQUIRED TO REPORT, SUBMIT ONLY A PAPER COPY OF THIS PAGE.
- IF REQUIRED TO REPORT, AND REPORTING BY USING PAPER FORMS (IN PLACE OF REPORTING ON-LINE), SUBMIT THIS PAGE AND ALL APPLICABLE HCD FORMS (SCHEDULES A-E) WITH A COPY OF AGENCY'S AUDIT.
- IF REPORTING ON-LINE, PRINT AND SUBMIT "CONFIRMATION LETTER" UPON LOCKING REPORT
- MAIL A COPY OF (a) CONFIRMATION LETTER (IF HCD REPORT WAS ELECTRONICALLY FILED) OR (b) COMPLETED FORMS AND (c) AUDIT REPORT TO BOTH HCD AND THE SCO:

Department of Housing & Community Development  
Division of Housing Policy  
Redevelopment Section  
1800 3<sup>rd</sup> Street, Suite 430  
Sacramento, CA 95814

The State Controller  
Division of Accounting and Reporting  
Local Government Reporting Section  
3301 C Street, Suite 500  
Sacramento, CA 95816

Confirmation of Redevelopment Agency On-Line Filing of Annual HCD Report

FY: Fiscal Year: 2010/2011

FM: Redevelopment Agency: FOSTER CITY

Agency Administrator: Donald Fraser

Date: 12/07/2011

Time: 09:56 am

TO: State Controller

Division of Accounting and Reporting

Local Government Reporting Section

P.O.Box. 942850

Sacramento, CA 94250

This notice is automatically generated by HCD's On-Line Reporting System. The purpose is to file with the State Controller's Office verification the redevelopment agency has complied with Health and Safety Code (H&SC) Section 33080(a) and submitted the annual HCD report required by H&SC Section 33080.1.

HCD Notification: For the Fiscal Year 2009-2010 Supplemental Education Revenue Augmentation Fund (SERAF) payment, the agency:

- Did use revenue/funds that reduced the amount available to the Housing Fund
- Did not use revenue/funds that reduced the amount available to the Housing Fund

To the best of my knowledge the representations made above and the agency information reported are correct.

12/13/11  
Date

450-286-2200  
Telephone Number

James C Hardy  
Signature of Authorized Agency Representative

City manager/Executive Director  
Title

California Redevelopment Agencies - Fiscal Year 2010/2011  
 Project Area Contributions to Low and Moderate Income Housing Funds  
 Sch A Project Area Summary Report  
 FOSTER CITY

Project Area	100% of Tax Increment	20% Set Aside Requirement	Tax Increment Allocated	Amount Exempted	Amount Suspended and/or Deferred	Tax Incr. Deposited to Hsng Fund	Percent of Tax Incr Dep	Repayment Deferrals	Other Income	Total Deposited to Housing
HILLSDALE/GULL	\$152,815	\$30,563	\$30,563	\$0	\$0	\$30,563	20%	\$0	\$0	\$30,563
MARLIN COVE	\$717,442	\$143,488	\$143,488	\$0	\$0	\$143,488	20.00%	\$0	\$0	\$143,488
PROJECT ONE	\$12,743,933	\$2,548,787	\$2,548,787	\$0	\$0	\$2,548,787	20.00%	\$0	\$5,911,386	\$8,460,173
<b>Agency Totals:</b>	<b>\$13,614,190</b>	<b>\$2,722,838</b>	<b>\$2,722,838</b>	<b>\$0</b>	<b>\$0</b>	<b>\$2,722,838</b>	<b>20%</b>	<b>\$0</b>	<b>\$5,911,386</b>	<b>\$8,634,224</b>

Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)

California Redevelopment Agencies- Fiscal Year 2010/2011  
 Project Area Contributions to Low and Moderate Income Housing Fund  
 Sch A Project Area Financial Information

Agency **FOSTER CITY**  
 Address **610 Foster City Blvd.**  
**Foster City** CA **94404**

<b>Project Area HILLSDALE/GULL</b>							
<i>Type: Inside Project Area</i>		<i>Status: Active</i>					
<i>Plan Adoption: 1999</i>		<i>Plan Expiration Year: 2029</i>					
<u>Gross Tax Increment</u>	<u>Calculated Deposit</u>	<u>Amount Allocated</u>	<u>Amount Exempted</u>	<u>Amount Suspended and/or Deferred</u>	<u>Total Deposited</u>	<u>%</u>	<u>Cumulative Def.</u>
\$152,815	\$30,563	\$30,563	\$0	\$0	\$30,563	20%	\$0
				Repayment	\$0		
				Category			
				Total Additional Revenue	\$0		
				Total Housing Fund Deposits for Project Area	\$30,563		

<b>Project Area MARLIN COVE</b>							
<i>Type: Inside Project Area</i>		<i>Status: Active</i>					
<i>Plan Adoption: 1999</i>		<i>Plan Expiration Year: 2029</i>					
<u>Gross Tax Increment</u>	<u>Calculated Deposit</u>	<u>Amount Allocated</u>	<u>Amount Exempted</u>	<u>Amount Suspended and/or Deferred</u>	<u>Total Deposited</u>	<u>%</u>	<u>Cumulative Def.</u>
\$717,442	\$143,488	\$143,488	\$0	\$0	\$143,488	20.00%	\$0
				Repayment	\$0		
				Category			
				Total Additional Revenue	\$0		
				Total Housing Fund Deposits for Project Area	\$143,488		

California Redevelopment Agencies- Fiscal Year 2010/2011  
 Project Area Contributions to Low and Moderate Income Housing Fund  
 Sch A Project Area Financial Information

Project Area PROJECT ONE							
Type: <i>Inside Project Area</i>		Status: <i>Active</i>					
Plan Adoption: 1981		Plan Expiration Year: 2016					
<u>Gross Tax Increment</u>	<u>Calculated Deposit</u>	<u>Amount Allocated</u>	<u>Amount Exempted</u>	<u>Amount Suspended and/or Deferred</u>	<u>Total Deposited</u>	<u>%</u>	<u>Cumulative Def.</u>
\$12,743,933	\$2,548,787	\$2,548,787	\$0	\$0	\$2,548,787	20.00%	\$0
Repayment					\$0		
<u>Category</u>							
Interest Income					\$199,986		
Loan Repayments					\$5,555		
Rental/Lease Income					\$66,241		
SERAF LOAN Repayments					\$5,639,604		
Total Additional Revenue					\$5,911,386		
<b>Total Housing Fund Deposits for Project Area</b>					<b>\$8,460,173</b>		

**Agency Totals For All Project Areas:**

<u>Gross Tax Increment</u>	<u>Calculated Deposit</u>	<u>Amount Allocated</u>	<u>Amount Exempted</u>	<u>Amount Suspended and/or Deferred</u>	<u>Total Deposited</u>	<u>%</u>	<u>Cumulative Def.</u>
\$13,614,190	\$2,722,838	\$2,722,838	\$0	\$0	\$2,722,838	20%	\$0
Total Additional Revenue from Project Areas:					\$5,911,386		
Total Deferral Repayments:					\$0		
Total Deposit to Housing Fund from Project Areas:					\$8,634,224		

California Redevelopment Agencies - Fiscal Year 2010/2011  
Sch A/B Project Area Program Information  
**FOSTER CITY**

Project Area: **OUTSIDE PROJECT AREA**

**FUTURE UNIT CONSTRUCTION**

<u>Contract Name</u>	<u>Execution Date</u>	<u>Estimated Completion Date</u>	<u>Very Low</u>	<u>Low</u>	<u>Moderate</u>	<u>Total</u>
Pilgrim Triton Phase I	02/11/10	12/31/12	15	40	5	60

California Redevelopment Agencies - Fiscal Year 2010/2011  
 Status of Low and Moderate Income Housing Funds  
 Sch C Agency Financial Summary  
 FOSTER CITY

Adjusted Beginning Balance	Project Area Receipts	Agency Other Revenue	Total Expenses	Net Resources Available	Other Housing Fund Assets	Total Housing Fund Assets	Encumbrances	* Unencumbered Balance	Unencumbered Designated	Unencumbered Not Dsgntd
\$11,948,187	\$8,634,224	\$0	\$20,582,411	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Expenses	Planning and Administration Costs	Property Acquisition	Subsidies	Transfers Out of Agency	Total
2010/2011	\$634,799	\$429,360	\$446,240	\$19,072,012	\$20,582,411

\*The Unencumbered Balance is equal to Net Resources Available minus Encumbrances

Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)

California Redevelopment Agencies - Fiscal Year 2010/2011  
 Status of Low and Moderate Income Housing Funds  
 Sch C Agency Financial and Program Detail  
 FOSTER CITY

	<i>Beginning Balance</i>	\$17,587,791
	<i>Adjustment to Beginning Balance</i>	-\$5,639,604
	<i>Adjusted Beginning Balance</i>	\$11,948,187
<i>Total Tax Increment From PA(s)</i> \$2,722,838	<i>Total Receipts from PA(s)</i>	\$8,634,224
	<i>Other Revenues not reported on Schedule A</i>	\$0
	<i>Sum of Beginning Balance and Revenues</i>	\$20,582,411

<u>Expenditure</u> <u>Item</u>	<u>Subitem</u>	<u>Amount</u>	<u>Remark</u>
<b>Planning and Administration Costs</b>			
Administration Costs		\$508,136	
Indirect Nonprofit Costs		\$47,394	
Professional Services		\$79,269	
	<i>Subtotal of Planning and Administration Costs</i>	<b>\$634,799</b>	
<b>Property Acquisition</b>			
Operation of Acquired Property		\$142,379	
Other		\$286,981	Developer Payments
	<i>Subtotal of Property Acquisition</i>	<b>\$429,360</b>	
<b>Subsidies from the LMIHF</b>			
Rental Subsidies		\$446,240	
	<i>Subtotal of Subsidies from the LMIHF</i>	<b>\$446,240</b>	
<b>Transfers Out of Agency</b>			
Other		\$19,072,012	Transfer to Housing Corporation
	<i>Subtotal of Transfers Out of Agency</i>	<b>\$19,072,012</b>	
	<b>Total Expenditures</b>	<b>\$20,582,411</b>	

*Net Resources Available* \$0

*Indebtedness For Setasides Deferred* \$0

California Redevelopment Agencies - Fiscal Year 2010/2011  
 Status of Low and Moderate Income Housing Funds  
 Sch C Agency Financial and Program Detail  
 FOSTER CITY

<u>Other Housing Fund Assets</u>		
<u>Category</u>	<u>Amount</u>	<u>Remark</u>
SERAF Total Receivable	\$0	
<b>Total Other Housing Fund Assets</b>	<b>\$0</b>	

**Total Fund Equity** \$

2006/2007	\$3380893			
2007/2008	\$3694338			
2008/2009	\$3947269	<i>sum of 4 Previous Years' Tax Increment for 2010/2011</i>	<i>Prior Year Ending Unencumbered Balance</i>	<i>Excess Surplus for 2010/2011</i>
2009/2010	\$3987692	\$15010192	\$8,956,874	\$0

*Sum of Current and 3 Previous Years' Tax Increments* \$14,352,137

*Adjusted Balance* \$0

*Excess Surplus for next year* \$0

*Net Resources Available* \$0

*Unencumbered Designated* \$0

*Unencumbered Undesignated* \$0

*Total Encumbrances* \$0

*Unencumbered Balance* \$0

*Unencumbered Balance Adjusted for Debt Proceeds* \$0

*Unencumbered Balance Adjusted for Land Sales* \$0

*Excess Surplus Expenditure Plan* No

*Excess Surplus Plan Adoption Date*

<u>Site Improvement Activities Benefiting Households</u>				
<u>Income Level</u>	<u>Low</u>	<u>Very Low</u>	<u>Moderate</u>	<u>Total</u>
Construction	0	0	0	0
Rehabilitation	0	0	0	0
Health and Safety Hazard	0	0	0	0

<u>Land Held for Future Development</u>					
<u>Site Name</u>	<u>Num Of Acres</u>	<u>Zoning</u>	<u>Purchase Date</u>	<u>Estimated Start Date</u>	<u>Remark</u>

Use of the Housing Fund to Assist Mortgageors

California Redevelopment Agencies - Fiscal Year 2010/2011  
 Status of Low and Moderate Income Housing Funds  
 Sch C Agency Financial and Program Detail  
 FOSTER CITY

<i>Income Adjustment Factors</i>	<input type="text"/>	<i>Requirements Completed</i>	<input type="text"/>
<i>Home</i>	\$ <input type="text"/>	<i>Hope</i>	\$ <input type="text"/>

*Non Housing Redevelopment Funds Usage*

*Resource Needs*

<i>LMIHF Deposits/Withdrawals</i>				
<u>Document Name</u>	<u>Document Date</u>	<u>Custodian Name</u>	<u>Custodian Phone</u>	<u>Copy Source</u>
General Ledger	30-JUN-11	Steve Toler	(650) 286-3214	City Hall

*Achievements*

*Description*

RESOLUTION NO. 284

A RESOLUTION OF THE FOSTER CITY COMMUNITY DEVELOPMENT AGENCY  
APPROVING THE FISCAL YEAR 2010-2011 COMMUNITY DEVELOPMENT  
AGENCY BUDGET

FOSTER CITY COMMUNITY DEVELOPMENT AGENCY

WHEREAS, Agency staff has prepared a preliminary budget for fiscal year 2010-2011, a copy of which has heretofore been submitted to the Community Development Agency of the City of Foster City (the "Agency"). Said budget provides for the amount, as shown in the attached Exhibit A, to be expended by the Agency in the carrying out of the Plan for the Foster City Community Development Project One, Marlin Cove, and the Hillsdale / Gull Project Areas during said period; and,

WHEREAS, the Agency has adopted Redevelopment Plans (the "Redevelopment Plan") for the Foster City Community Development Project Area, the Marlin Cove Redevelopment Project, and the Hillsdale / Gull Redevelopment Project (the "Project") which includes provisions for the allocation of taxes from the Project Area to the Agency for the purposes of redevelopment; and,

WHEREAS, Section 3334.2 of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) requires that not less than twenty percent (20%) of all taxes so allocated be used by the Agency for the purpose of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost; and,

WHEREAS, Section 33334.2(g) of the Community Redevelopment Law provides that the Agency may use such funds outside the Project Area if a finding is made by resolution of the Agency and the City Council that such use will be of benefit to the Project.

NOW, THEREFORE, BE IT RESOLVED that the Foster City Community Development Agency does hereby find that the budget amounts on the attached Exhibit A for Fiscal Year 2010-2011 are necessary and appropriate expenditures to carry on the operational activities of the Community Development Agency.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the use of taxes allocated from the Project Area for the purpose of increasing, improving and preserving the community's supply of low- and moderate-income housing available at affordable housing cost outside the Project Area will be of benefit to the Project.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the proposed planning and administrative costs proposed for the Housing Funds are not only necessary, but proportionate to the amount proposed for actual housing assistance activities, as described in the memo to the Agency Executive Director dated June 10, 2010.

NOW, THEREFORE, IT IS DETERMINED AND ORDERED, as follows:

1. The Community Development Agency finds that the use of housing fund revenue for planning and administrative costs is necessary for the production, improvement and preservation of low- and moderate-income housing.
2. The budget for fiscal year 2010-2011 in the form of the Exhibit A, attached hereto, is hereby approved and adopted as the budget for this Agency for said fiscal year.
3. The Executive Director shall transmit to the City a copy of the approved budget.

PASSED AND ADOPTED as a resolution of the Foster City Community Development Agency at the regular meeting held on the 21st day of June, 2010, by the following vote:

AYES: Members Bronitsky, Frisella, Kiesel, Koelling, and Chair Wykoff

NOES: None

ABSENT: None

ABSTAIN: None

  
\_\_\_\_\_  
RICK WYKOFF, CHAIR

ATTEST:

  
\_\_\_\_\_  
DORIS L. PALMER, SECRETARY

**Community Development Agency**  
**Summary of Resources and Requirements by Funds**  
**For the Fiscal Year Ended June 30, 2011**

Fund	Available July 1, 2010	Estimated Revenues	Transfers In	Transfers Out	Total Available	Operating Expenditures	Capital Expenditures	Loan Repayment to City (2)	Total Requirements	Available June 30, 2011
311 General Fund - Project 1 <sup>(1)</sup>	\$ 3,640,000	\$ 7,359,000	\$ -	\$ 5,639,604	\$ 5,359,396	\$ 1,294,997	\$ -	\$ 1,227,676	\$ 2,522,673	\$ 2,836,723
312 Housing Fund - Project 1	\$ 9,674,000	\$ 2,538,000	\$ 5,639,604	\$ 645,016	\$ 17,206,588	\$ 1,683,183	\$ -	\$ -	\$ 1,683,183	\$ 15,523,405
316 Project Redevelopment Fund -- CIP	\$ 405,000	\$ 6,000	\$ -	\$ -	\$ 411,000	\$ -	\$ -	\$ -	\$ -	\$ 411,000
<b>Total Project 1</b>	<b>\$ 13,719,000</b>	<b>\$ 9,903,000</b>	<b>\$ 5,639,604</b>	<b>\$ 6,284,620</b>	<b>\$ 22,976,984</b>	<b>\$ 2,978,180</b>	<b>\$ -</b>	<b>\$ 1,227,676</b>	<b>\$ 4,205,856</b>	<b>\$ 18,771,128</b>
317 General Fund - Marlin Cove	\$ 1,093,000	\$ 588,000	\$ -	\$ -	\$ 1,681,000	\$ 1,483,652	\$ -	\$ -	\$ 1,483,652	\$ 197,348
318 Housing Fund - Marlin Cove	\$ -	\$ 147,000	\$ 353,705	\$ -	\$ 500,705	\$ 500,705	\$ -	\$ -	\$ 500,705	\$ -
<b>Total Marlin Cove</b>	<b>\$ 1,093,000</b>	<b>\$ 735,000</b>	<b>\$ 353,705</b>	<b>\$ -</b>	<b>\$ 2,181,705</b>	<b>\$ 1,984,357</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,984,357</b>	<b>\$ 197,348</b>
319 General Fund - Hillsdale/Gull	\$ 406,000	\$ 150,000	\$ -	\$ -	\$ 556,000	\$ 76,052	\$ -	\$ -	\$ 76,052	\$ 479,948
320 Housing Fund - Hillsdale/Gull	\$ -	\$ 38,000	\$ 291,311	\$ -	\$ 329,311	\$ 329,311	\$ -	\$ -	\$ 329,311	\$ -
<b>Total Hillsdale/Gull</b>	<b>\$ 406,000</b>	<b>\$ 188,000</b>	<b>\$ 291,311</b>	<b>\$ -</b>	<b>\$ 885,311</b>	<b>\$ 405,363</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 405,363</b>	<b>\$ 479,948</b>
<b>Totals - All Project Areas</b>		<b>\$ 10,826,000</b>				<b>\$ 5,367,900</b>	<b>\$ -</b>	<b>\$ 1,227,676</b>		

(1) The General Fund - Project 1 opening fund balance includes \$2,934,000 that is reserved for the repayment of the obligation to the San Mateo Union High School District.

(2) Loan Repayment to the City of Foster City includes \$1,115,676 in principal and \$112,000 in interest. The interest payment is shown as a City General Fund revenue.

With this payment, the loan is fully repaid as of June 30, 2011.

A RESOLUTION OF THE FOSTER CITY COMMUNITY DEVELOPMENT AGENCY  
APPROVING THE FISCAL YEAR 2011-2012 COMMUNITY DEVELOPMENT  
AGENCY BUDGET

FOSTER CITY COMMUNITY DEVELOPMENT AGENCY

WHEREAS, Agency staff has prepared a preliminary budget for fiscal year 2011-2012, a copy of which has heretofore been submitted to the Community Development Agency of the City of Foster City (the "Agency"). Said budget provides for the amount, as shown in the attached Exhibit A, to be expended by the Agency in the carrying out of the Plan for the Foster City Community Development Project Area One, Marlin Cove, and the Hillsdale / Gull Project Areas during said period; and,

WHEREAS, the Agency has adopted Redevelopment Plans (the "Redevelopment Plan") for the Foster City Community Development Project Area One, the Marlin Cove Redevelopment Project, and the Hillsdale / Gull Redevelopment Project (the "Project") which includes provisions for the allocation of taxes from the Project Area to the Agency for the purposes of redevelopment; and,

WHEREAS, Section 3334.2 of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) requires that not less than twenty percent (20%) of all taxes so allocated be used by the Agency for the purpose of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost; and,

WHEREAS, Section 33334.2(g) of the Community Redevelopment Law provides that the Agency may use such funds outside the Project Area if a finding is made by resolution of the Agency and the City Council that such use will be of benefit to the Project.

NOW, THEREFORE, BE IT RESOLVED that the Foster City Community Development Agency does hereby find that the budget amounts on the attached Exhibit A for Fiscal Year 2011-2012 are necessary and appropriate expenditures to carry on the operational activities of the Community Development Agency.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the use of taxes allocated from the Project Area for the purpose of increasing, improving and preserving the community's supply of low- and moderate-income housing available at affordable housing cost outside the Project Area will be of benefit to the Project.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the proposed planning and administrative costs proposed for the Housing Funds are not only necessary, but proportionate to the amount proposed for actual housing assistance activities, as described in the memo to the Agency Executive Director dated June 6, 2011.

NOW, THEREFORE, IT IS DETERMINED AND ORDERED, as follows:

1. The Community Development Agency finds that the use of housing fund revenue for planning and administrative costs is necessary for the production, improvement and preservation of low- and moderate-income housing.
2. The budget for fiscal year 2011-2012 in the form of the Exhibit A, attached hereto, is hereby approved and adopted as the budget for this Agency for said fiscal year.
3. The Executive Director shall transmit to the City a copy of the approved budget.

PASSED AND ADOPTED as a resolution of the Foster City Community Development Agency at the regular meeting held on the 20<sup>th</sup> day of June, 2011, by the following vote:

AYES: Members Frisella, Kiesel, and Chair Koelling

NOES: Members Bronitsky and Wykoff

ABSENT: None

ABSTAIN: None

  
LINDA KOELLING, CHAIR

ATTEST:

  
DORIS L. PALMER, SECRETARY

**Community Development Agency**  
**Summary of Resources and Requirements by Funds**  
**For the Fiscal Year Ended June 30, 2012**

Fund	Available July 1, 2011	Estimated Revenues	Transfers In	Transfers Out	Total Available	Operating Expenditures	Capital Expenditures	Total Requirements	Available June 30, 2012
311 General Fund - Project 1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
312 Housing Fund - Project 1	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
316 Project Redevelopment Fund - CIP	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Area One</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
317 General Fund - Marlin Cove	\$ -	\$ 586,000	\$ -	\$ 406,450	\$ 179,550	\$ 179,550	\$ -	\$ 179,550	\$ -
318 Housing Fund - Marlin Cove	\$ -	\$ 146,000	\$ 406,450	\$ -	\$ 552,450	\$ 345,194	\$ -	\$ 345,194	\$ 207,256
<b>Total Marlin Cove</b>	<b>\$ -</b>	<b>\$ 732,000</b>	<b>\$ 406,450</b>	<b>\$ 406,450</b>	<b>\$ 732,000</b>	<b>\$ 524,744</b>	<b>\$ -</b>	<b>\$ 524,744</b>	<b>\$ 207,256</b>
319 General Fund - Hillsdale/Gull	\$ -	\$ 125,000	\$ -	\$ 82,600	\$ 42,400	\$ 42,400	\$ -	\$ 42,400	\$ -
320 Housing Fund - Hillsdale/Gull	\$ 180,000	\$ 35,000	\$ 82,600	\$ -	\$ 297,600	\$ 141,900	\$ -	\$ 141,900	\$ 155,700
<b>Total Hillsdale/Gull</b>	<b>\$ 180,000</b>	<b>\$ 160,000</b>	<b>\$ 82,600</b>	<b>\$ 82,600</b>	<b>\$ 340,000</b>	<b>\$ 184,300</b>	<b>\$ -</b>	<b>\$ 184,300</b>	<b>\$ 155,700</b>
<b>Totals - All Project Areas</b>		<b>\$ 892,000</b>				<b>\$ 709,044</b>	<b>\$ -</b>		

Note 1: Project Area One reached its tax increment cap of \$170 million as of June 30, 2011. All remaining assets were transferred to the City of Foster City under the terms of a Public Improvements Reimbursement Agreement, an Affordable Housing Reimbursement Agreement, and/or a Cooperative Services Agreement, such that the City will provide services on behalf of the Agency and at the Agency's direction in accordance with the terms of those respective agreements.

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# Memo

**To:** James C. Hardy, Executive Director  
**Via:** Richard B. Marks, Community Development Director  
**From:** Curtis Banks, Planning Manager  
**Date:** June 10, 2010  
**Re:** Proportionality of Housing Fund Administrative and Planning Expense

---

Health and Safety Code Section 33334.3(d) expresses the Legislature's intent that low and moderate income housing fund (LMIHF) expenditures for the general planning and administrative activities not be disproportionate to actual costs for housing production, improvement, and preservation; and requires agencies to determine annually that planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing.

Although the Health and Safety Code does not specifically require a finding of proportionality, the State Department of Housing and Community Development recommended in their 2004 audit that the Agency annually determine in writing whether the proposed planning and administrative costs are proportionate to the amount proposed for actual housing assistance activities during the year.

The attached spreadsheet shows the Foster City Community Development Agency proposed FY 2010-2011 budget for the housing funds in the three project areas separated into planning and administrative vs. program expenses. Also indicated is the number of low- and moderate-income households directly assisted. The proposed budget includes 74% spent on program and 26% spent on planning and administrative expenses. There is a large program expense in the Project One budget of \$1,042,000 to purchase additional affordable housing unit(s). Even without this expense, the program expenses would still be more than 50% of the total budget.

The Agency assists more than 300 households annually through the programs funded from the LMIHF. Staff recommends that at the time the Agency Board adopts the FY 2010-2011 budget, the Agency determine that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing and that the expenditures for the general planning and administrative activities are not disproportionate to actual costs for housing production, improvement, and preservation.

Attachment:

CDA Housing Fund: Administration vs Program Expenses: FY 2010-2011

**CDA HOUSING FUND**  
**ADMINISTRATIVE VS PROGRAM EXPENSES: FY 2010-11**

<b>SUMMARY</b>			
	Program	Admin	TOTAL
Project One	1,386,000	297,183	1,683,183
Marlin Cove	325,794	174,911	500,705
Hillsdale/Gull	150,000	179,311	329,311
<b>TOTAL</b>	<b>1,861,794</b>	<b>651,405</b>	<b>2,513,199</b>
	Program	Admin	TOTAL
Project One	82%	18%	100%
Marlin Cove	65%	35%	100%
Hillsdale/Gull	46%	54%	100%
<b>TOTAL</b>	<b>74%</b>	<b>26%</b>	<b>100%</b>
<b>DETAIL</b>			
	Program	Admin	TOTAL
Project One			
Perm Salaries		193,789	193,789
Fringe Benefits		51,394	51,394
Audit Fee		1,400	1,400
Financial Consultant Fees		4,000	4,000
Homeshare Program	27,000		27,000
Attorney Fees		30,000	30,000
HEART dues		12,100	12,100
Travel, Conference, Meetings		500	500
Existing Unit Purchase	1,042,000		1,042,000
1st Time Homebuyers	100,000		100,000
Foster's Landing Subsidy	147,000		147,000
Housing Compliance Software		4,000	4,000
Rehab Loan Program	60,000		60,000
Senior Home Repair Program	10,000		10,000
Metro Senior Apartments			
Emerald Bay*			
<b>TOTAL</b>	<b>1,386,000</b>	<b>297,183</b>	<b>1,683,183</b>
Marlin Cove			
Perm Salaries		97,362	97,362
Fringe Benefits		28,049	28,049
Copy Expense		1,600	1,600
Postage Expense		800	800
General Office Supplies		800	800
Audit Fee		1,400	1,400
Financial Consultant Fees		14,400	14,400
Attorney Fees		30,000	30,000
Travel, Conference, Meetings		500	500
Affordable Housing Subsidy	175,000		175,000
Developer Grant Payment	109,794		109,794
Utility Subsidy	41,000		41,000
<b>TOTAL</b>	<b>325,794</b>	<b>174,911</b>	<b>500,705</b>
Hillsdale/Gull			
Perm Salaries		97,362	97,362
Fringe Benefits		28,049	28,049
Copy Expense		2,000	2,000
Postage Expense		1,000	1,000
General Office Supplies		1,000	1,000
Audit Fee		1,400	1,400
Financial Consultant Fees		18,000	18,000
Attorney Fees		30,000	30,000
Travel, Conference, Meetings		500	500
Developer Grant Payment	150,000		150,000
<b>TOTAL</b>	<b>150,000</b>	<b>179,311</b>	<b>329,311</b>
<b>GRAND TOTAL</b>	<b>1,861,794</b>	<b>651,405</b>	<b>2,513,199</b>

\*Emerald Bay no longer receives direct assistance, but monitoring costs are included in administrative expenses.

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Units Built or Approved in the Community Development Project Areas (1985-2010)

Household Need	Percent Required*	Project One 100% Market Rate Projects****	Foster's Landing (Rental) 1987	Marina Green (Owner)+ 1988	Emerald Bay (Owner) 1992	Metro Ctr Sr Hsng (Rental) 1996-97	CDA Acquired (Rental) 2005	Subtotal Project Area One	CDA Acquired** (Rental) 1997-09	Marfin Cove (Rental) 2002	Miramar (Rental) 2002	Pilgrim-Triton-Ph 1 (Rental) 2010++	Total Units	Percent of Total Units
<b>Very Low Income Units</b>														
Elderly	36%	0	11	0	1	54	0	66	0	0	0	0	66	34%
Families (4 or less)	53%	0	16	0	1	0	1	18	3	56	32	15	124	63%
Families (5 or more)	11%	0	3	0	0	0	0	3	4	0	0	0	7	4%
Subtotal	100%	0	30	0	2	54	1	87	7	56	32	15	197	100%
<b>Low Income Units</b>														
Elderly	36%	0	8	0	0	6	0	14	0	0	0	0	14	20%
Families (4 or less)	53%	0	11	0	2	0	0	13	0	0	0	40	53	76%
Families (5 or more)	11%	0	3	0	0	0	0	3	0	0	0	0	3	4%
Subtotal	100%	0	22	0	2	6	0	30	0	0	0	40	70	100%
<b>Moderate Income Units</b>														
Elderly	36%	0	8	0	0	0	0	8	0	0	0	0	8	11%
Families (4 or less)	53%	0	12	0	2	0	0	14	0	28	16	5	63	86%
Families (5 or more)	11%	0	2	0	0	0	0	2	0	0	0	0	2	3%
Subtotal	100%	0	22	0	2	0	0	24	0	28	16	5	73	100%
<b>Affordable Units</b>														
Subtotal	15%***	0	74	0	6	60	1	141	7	84	48	60	340	17%
<b>Market Rate Units</b>														
Subtotal		558	416	121	41	0	0	1,136	0	196	111	240	1,683	83%
<b>Total</b>		558	490	121	47	60	1	1,277	7	280	159	300	2,023	100%

Source: Community Development Agency

\* Percent required is as indicated in 1992 and 1997 Housing Elements and as referenced in Settlement Agreement with Legal Aid Society

\*\*7 of the 8 acquired units are not within CDA Project Area but are counted toward meeting housing needs

\*\*\*At least 15% of all new or rehabilitated dwelling units developed within the project area are to be affordable (H&S Code 33213(b)).

\*\*\*\*Alden Park (84), Bayfront Court (154), Cityhomes East & West (260), Martinique Cove (18), CityPark Townhomes (42) = 558

+In Marina Green, deed restrictions for all units expired by 11/8/09.

++ Pilgrim-Triton Development provided BMR units with housing funds -- Agreement dated February 11, 2010

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Past Housing Production and Affordable Housing Requirements

DEVELOPMENT	TOTAL # OF UNITS	15% Affordable		6% Very Low		Affordable Units Built		Total
		Required	Very Low	Required	Very Low	Moderate	Low and	
<b>WITHIN PROJECT AREAS:</b>								
Alden Park*	84	13	5	0	0	0	0	0
Bayfront Court*	154	23	9	0	0	0	0	0
Cityhomes (East & West)*	260	39	16	0	0	0	0	0
Emerald Bay* (1)	48	7	3	3	4	4	7	7
Foster's Landing*	490	74	29	30	44	44	74	74
Marina Green* (2)	138	21	8	0	0	0	0	0
Martinique Cove*	18	3	1	0	0	0	0	0
Metro Ctr. Sr. Homes* (3)	60	9	4	54	6	6	60	60
CityPark Townhomes*	42	6	3	0	0	0	0	0
Marlin Cove Project Area	280	42	17	56	28	28	84	84
Hillsdale/Gull Project Area	159	24	10	32	16	16	48	48
<b>SUBTOTAL - WITHIN PROJECT AREAS</b>	<b>1,733</b>	<b>260</b>	<b>99</b>	<b>175</b>	<b>98</b>	<b>175</b>	<b>98</b>	<b>273</b>
<b>OUTSIDE PROJECT AREAS:</b>								
EUP Units Outside Project Area (4)				4	0	4	0	4
<b>SUBTOTAL-CREDIT FOR OUTSIDE PA's</b>								
<b>TOTAL-THREE PROJECT AREAS</b>	<b>1,733</b>	<b>260</b>	<b>99</b>	<b>179</b>	<b>98</b>	<b>179</b>	<b>98</b>	<b>277</b>

\* Located in Project Area One

(1) One of these units was acquired for the Existing Unit Purchase Program

(2) Deed restrictions have expired on 17 affordable units therefore none are included

(3) Affordable units as required by Tax Credit Agreement

(4) The 7 units in the Existing Unit Purchase Program that have been built or acquired outside of any Project Area have been counted on a 2 for 1 basis.

RESOLUTION NO. 292

RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF FOSTER CITY APPROVING AND MAKING FINDINGS REGARDING THE AGGREGATION OF AFFORDABLE HOUSING UNITS WITHIN PROJECT AREA NO. 1 AND THE MARLIN COVE AND HILLSDALE/GULL PROJECT AREAS FOR THE AGENCY'S INCLUSIONARY HOUSING PROGRAM

FOSTER CITY COMMUNITY DEVELOPMENT AGENCY

WHEREAS, the Community Development Agency of the City of Foster City ("Agency") is vested with the responsibility to carry out in the City of Foster City ("City") three currently active Community Development Plans, specifically for the Project Area No. 1, Marlin Cove and Hillsdale/Gull Community Development Plans; and

WHEREAS, the Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*) states that one of the fundamental purposes of redevelopment is to increase, improve and preserve the community's supply of low and moderate income housing; and

WHEREAS, Health and Safety Code Section 33413 requires that not less than certain specified percentages of all new and substantially rehabilitated dwelling units developed within a redevelopment project area shall be available at affordable housing cost to, and occupied by, persons and families of very-low, low and moderate income levels ("Agency's Inclusionary Housing Requirement"); and

WHEREAS, Health and Safety Code Section 33413(b)(2)(A)(v) provides that, to satisfy the Agency's Inclusionary Housing Requirement, the Agency may aggregate new or substantially rehabilitated dwelling units in one or more project areas, if the Agency finds, based on substantial evidence, after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation; and

WHEREAS, the Agency held a public hearing on January 18, 2011, to review demographic and socio-economic data applicable to the three existing Community Development Project Areas, and to receive testimony from staff and the general public relating thereto.

NOW THEREFORE, BE IT RESOLVED, BY THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF FOSTER CITY, AS FOLLOWS:

Section 1. The Agency has reviewed the ethnic, racial and economic data applicable to the Project Area No. 1, Marlin Cove and Hillsdale/Gull Project Areas, including demographic and socio-economic data using several significant indicators, including race, income, gender, age, and housing, all of which information and data was obtained from sources which gather data from the 2000 Census and other sources, and which information and data was gathered and presented by Agency staff. A copy of all

such information and data is attached to the Staff Report, dated January 18, 2011, and is currently on file with the Agency Secretary. Further, the Agency has received testimony from Agency staff and the general public relating to such information and data. Based on this information and data, the Agency determined that it may satisfy the Agency's Inclusion Housing Requirement by aggregating new and substantially rehabilitated dwelling units developed within the Project Area No. 1, Marlin Cove and Hillsdale/Gull Project Areas, which are available at affordable housing cost to, and occupied by, persons and families of very-low, low and moderate income.

Section 2. The Agency hereby finds and determines that the aggregation of new and substantially rehabilitated dwelling units developed within the Project Area No.1, Marlin Cove and Hillsdale/Gull Project Areas, and which are available at affordable housing cost to, and occupied by, persons and families of very-low, low and moderate income levels in compliance with the Agency's Inclusionary Housing Requirement, will not cause or exacerbate racial, ethnic, or economic segregation. This finding is based on the information and data presented to the Agency, a copy of which is attached to the Staff Report referenced in Section 1, above, and is currently on file with the Agency Secretary. This finding is further based upon the testimony received by the Agency from Agency staff and the general public at the public hearing, and all other matters of record presented before the Agency.

PASSED AND ADOPTED as a resolution of the Community Development Agency of the City of Foster City at the regular meeting held on the 18<sup>th</sup> day of January, 2011, by the following vote:

AYES: Members Bronitsky, Frisella, Kiesel, Wykoff, and Chair Koelling

NOES: None

ABSENT: None

ABSTAIN: None

  
LINDA KOELLING, CHAIR

ATTEST:

  
DORIS L. PALMER, SECRETARY

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METRO CENTER SENIOR HOUSING  
MANAGEMENT REPORT  
NOVEMBER 14, 2011

Occupancy/Move-Ins /Waitlist

Currently Metro is 100% occupied with no notices to vacate. We experienced only one vacancy in 2011. The apartment was quickly filled by an applicant from the wait list. We currently have 55 names remaining on the waitlist. The waitlist was last opened in September 2010.

Resident Activities/Issues

Sandra Aguilar, the Resident Manager has re-established regular office hours at both buildings. This has been well received by residents. Sandra has held several events and informational sessions. A highlight was a visit from a Foster City Fire Marshall to each building for a discussion with the residents on fire and life safety, emergency response, alarms and building evacuation in the event on a genuine alarm. Sandra enrolled residents to translate at each meeting. The annual holiday party in 2010 was a resounding success. Sandra has begun to establish a real sense of community at the property with occasional coffee hours, regular contact with residents, family members and friends and posting (with permission) photographs of residents celebrating birthdays, anniversaries, family visits. This year's annual holiday event will be postponed until January when the rehab repairs are completed.

Resident Programs

In addition to activities organized by the Resident Manager, BRIDGE's Resident Programs Department held six social hours this year for the residents. This included a performance by musicians provided by Recreation Plus, who played songs on their keyboard and sang along with the residents. One of the social hours was also a community meeting, allowing residents the opportunity to ask questions or provide comments. The Resident Manager reviewed special events and issues coming up within the property at the meeting. Food and refreshments were served as well during the performance. There is one social hour remaining before year end.

Maintenance/Property Issues Completed in 2011

At no cost to the property, Resident Manager Sandra Aguilar significantly improved recycling at the property and instituted green waste recovery by working with a new waste hauler Recology. A representative of Recology and Sandra held an instructional meeting to lay out the plan and distribute recycling materials. Blue and Green collection totes are now kept in each trash chute room and each resident has been provided with a small single stream blue can for paper, bottles and cans and a green can for food waste and compostable items. The residents are very actively involved in and appreciate the program. They now recycle even in the community kitchen and at social events. As a result of the recycling program the yardage and cost for pickup of remaining trash has been greatly reduced. Ongoing recycling will help offset rising waste disposal and landfill costs.

The loop detector and radio signal device for the west garage gate of 100 was repaired in spring in conjunction with a small area of paver and concrete repairs at the garage floor and driveway.

New shrubs were planted along the entire front of the apartment side-100 and 101 to replace exhausted original plantings at a very moderate cost.

### In Progress for 2011 and 2012

Repairs to driveway pavers, parking bollards and sunken concrete vaults for clean out access to surface drainage system will also begin shortly by Goularte Masonry. Three competitive bids were obtained for this work. There will be no need to coordinate work at Village lane, except with residents, trash pickup and other vendors. The Metro Tower has also been advised of this work and the concrete work which will occur on the sidewalks covered by the Joint Maintenance Agreement next to the park.

The loop detector at the west side of the 101 Garage will be repaired after the exterior rehab work has been completed repairs are complete.

In an effort to relieve abuse of the four (only) 10 minute parking spaces in the driveway and cut down on dangerous parking in the fire lanes the Resident Manager has been testing a permit system with tags for vehicle mirrors to identify relatives, friends, caregivers and other regular visitors to the residents to permit parking in the spaces leased in the 950 West parking Garage by Metro Senior Homes. The tags will see a vehicle with a permit in the 10 minute parking or fire lane she can easily check her list and contact the resident or guest to see if the parking is short term or there is an emergency or urgent matter. There are some issues like registration and insurance, which our residents and guests are happy to provide, that have yet to be worked out with Equity Office. If this is successful with will increase fire lane signage and provide a plan in the short term spaces showing the short route to long term parking. We also hope to enroll the Townhomes in this practice since some of the frequent violators are guests or residents of the townhomes.

### Relations with City Park HOA

As a result of a change of association managers and Board Members there were some delays in getting things accomplished this year with the Association, such as the delay in approving the concrete and paver work approval of the most recent budget. A call was set up with BRDIGE's Asset Manager to help the new members understand the budget, statements and invoice. The issue of how reserves expenditures were handled was also addressed.

A previously unreported noise problem created by our generator exercising late at night was brought to our attention by the association. The circuitry in the 15 year old timer was previously diagnosed by more than one service as not cost effective to repair. The timer could not be reset to a more appropriate hour and has been disconnected and the Maintenance Janitor continues to test the generators on a weekday in the late morning once a week.

Welfare Exemptions & Inspections

BRIDGE has applied for and received a Welfare Exemption for Metro in the amount of 100% with respect to the tenant portion. The portion related to the common area is billed back to the City Park HOA annually; with City Park and Metro sharing in this cost equally.

There was a TCAC (Tax Credit) inspection on October 18. We do not have the results of the audit, but do not expect findings. We will report back at the next Board Meeting.

GENERAL INFORMATION				RENTAL INFORMATION				HOUSEHOLD INFORMATION				LEASE INFORMATION											
TENANT NAME	SQ. FT.	MOBILITY	HEARING	VISION	FUNDING	ACCESS	INCOME DESIG.	SUBSIDY PAID RENT	TENANT PAID RENT	TOTAL PAID RENT	UTILITY ALLOWANCE	GROSS RENT	HH SIZE	ANNUAL INCOME	% OF AMI	INITIAL MOVE-IN	CURRENT		INCOME RECEIPT	LEASE START	LEASE END		
																	BEEDROOMS	BATHROOMS				ANNUAL INCOME	% OF AMI
TAFF (Sandra Aguilar (Manager))	873	0	0	0	Tax Credit		0	941	941	941	941	941	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
FOR BUILDING (100 Village Lane)	873	0	0	0	Tax Credit		0	941	941	941	941	941	1	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
In Service Date:																							
	595	1	1	1	Tax Credit		0	488	488	488	29	517	1	12,072	1524%	12,072	1524%	11,940	15.85%	07/01/11	07/16/07	07/15/11	
	669	1	1	1	Tax Credit		626	374	1,000	1,000	65	1,065	2	16,165	3139%	16,165	3139%	16,888	11.29%	11/01/10	11/14/87	11/30/12	
	616	1	1	1	Tax Credit		0	639	639	639	65	704	1	18,597	2347%	18,597	2347%	29,639	37.69%	07/01/10	07/09/04	07/31/11	
	665	1	1	1	Tax Credit		779	221	1,000	1,000	65	1,065	2	23,294	4523%	23,294	4523%	25,470	45.23%	02/01/11	02/03/87	02/29/12	
	595	1	1	1	Tax Credit		355	215	570	635	65	635	2	12,169	2363%	12,169	2363%	10,380	19.63%	12/01/10	12/27/96	12/31/11	
	595	1	1	1	Tax Credit		1,010	50	1,060	1,125	65	1,125	1	15,610	2843%	15,610	2843%	10,140	19.47%	04/01/11	04/10/98	04/30/12	
	669	1	1	1	Tax Credit		626	374	1,000	1,000	65	1,065	2	10,272	1287%	10,272	1287%	10,140	12.97%	02/01/11	02/16/07	02/15/12	
	616	1	1	1	Tax Credit		0	639	639	639	65	704	2	13,669	2525%	13,669	2525%	16,887	25.26%	11/01/10	11/06/88	11/30/11	
	616	1	1	1	Tax Credit		686	374	1,060	1,060	65	1,125	2	13,720	15116%	13,720	15116%	16,886	15.19%	02/01/11	02/11/05	02/29/12	
	669	1	1	1	Tax Credit		677	171	848	65	913	65	913	2	18,288	2021%	18,288	2021%	10,140	19.64%	10/01/11	10/27/08	10/26/12
	595	1	1	1	Tax Credit		0	639	639	639	65	704	1	12,890	2880%	12,890	2880%	20,111	28.80%	01/01/11	01/17/97	01/31/12	
	873	2	1	1	Tax Credit		630	50	680	770	90	770	2	17,244	1805%	17,244	1805%	16,886	19.64%	09/01/11	09/01/05	09/30/12	
	669	1	1	1	Tax Credit		0	762	762	762	90	852	2	20,862	4016%	20,862	4016%	25,154	40.16%	11/01/11	11/03/87	11/31/12	
	668	1	1	1	Tax Credit		865	135	1,000	65	704	65	704	1	15,554	1964%	15,554	1964%	18,960	25.18%	12/01/10	12/15/08	12/4/11
	616	1	1	1	Tax Credit		0	639	639	639	65	704	2	13,466	2749%	13,466	2749%	16,885	27.48%	12/01/10	12/20/88	12/31/11	
	616	1	1	1	Tax Credit		0	639	639	639	65	704	2	33,547	4121%	33,547	4121%	50,607	58.85%	03/01/11	03/26/02	03/31/12	
	669	1	1	1	Tax Credit		182	377	559	65	624	65	624	2	20,375	39156%	20,375	39156%	17,068	36.56%	12/01/10	12/31/06	12/31/11
	595	1	1	1	Tax Credit		1,072	160	1,232	42	1,274	42	1,274	2	16,788	1855%	16,788	1855%	15,886	19.64%	11/01/10	11/05/04	11/30/12
	873	2	1	1	Tax Credit		1,182	50	1,232	90	1,322	90	1,322	2	18,288	2021%	18,288	2021%	10,140	20.11%	06/01/11	06/18/02	06/30/12
	595	1	1	1	Tax Credit		0	488	488	488	38	553	2	20,892	2444%	20,892	2444%	16,886	19.64%	03/01/11	03/26/10	03/25/12	
	616	1	1	1	Tax Credit		0	488	488	488	65	553	2	30,578	3673%	30,578	3673%	20,882	24.44%	10/01/11	10/01/11	09/30/12	
	616	1	1	1	Tax Credit		0	488	488	488	65	553	1	18,199	2263%	18,199	2263%	21,128	28.06%	10/01/11	10/19/06	01/31/12	
	669	1	1	1	Tax Credit		0	639	639	639	65	704	2	11,285	2502%	11,285	2502%	11,880	25.02%	12/01/10	12/31/06	12/31/11	
	595	1	1	1	Tax Credit		0	488	488	488	65	553	2	26,963	3404%	26,963	3404%	25,419	33.76%	07/01/11	07/31/08	07/30/12	
	873	2	1	1	Tax Credit		939	206	1,145	584	90	674	2	14,322	1583%	14,322	1583%	11,052	14.68%	12/01/10	12/16/11	12/16/11	
	873	2	1	1	Tax Credit		0	584	584	584	90	674	2	11,733	2278%	11,733	2278%	13,208	22.78%	03/01/11	03/16/04	03/31/12	
AL FOR BUILDING 1 (101 Town Green Lane)	20,278	0	0	0	Tax Credit		9,629	13,195	22,824	1,989	24,813	50	42	11,733	2278%	11,733	2278%	13,208	22.78%	12/01/10	12/31/96	12/31/11	
ed In Service Date: 10/1/1986																							
	595	1	1	1	Tax Credit		0	488	488	488	29	517	1	13,740	1647%	13,740	1647%	11,505	15.28%	10/01/11	10/01/10	09/30/12	
	669	1	1	1	Tax Credit		0	639	639	639	65	704	1	13,058	3044%	13,058	3044%	17,516	30.44%	11/01/10	11/19/96	11/30/11	
	616	1	1	1	Tax Credit		1,038	212	1,250	65	1,315	65	1,315	1	10,380	1311%	10,380	1311%	10,380	13.11%	12/01/10	12/18/09	12/17/11
	669	1	1	1	Tax Credit		636	212	848	65	704	65	704	2	16,448	3244%	16,448	3244%	10,858	14.42%	04/01/11	04/17/89	04/30/12
	585	1	1	1	Tax Credit		617	363	1,000	1,065	65	704	2	10,298	2102%	10,298	2102%	10,858	21.02%	11/01/10	11/15/96	11/30/11	
	595	1	1	1	Tax Credit		0	639	639	639	65	704	2	13,214	2657%	13,214	2657%	16,886	19.75%	11/01/10	11/09/96	11/30/12	
	669	1	1	1	Tax Credit		906	154	1,060	65	1,125	65	1,125	2	13,214	2657%	13,214	2657%	10,141	13.32%	11/01/10	11/22/96	11/30/12
	616	1	1	1	Tax Credit		465	383	848	65	913	65	913	2	11,105	2266%	11,105	2266%	16,886	19.64%	11/01/10	11/01/96	11/30/12
	616	1	1	1	Tax Credit		0	750	750	750	65	815	2	17,244	1905%	17,244	1905%	16,886	19.64%	01/01/11	01/01/06	01/31/13	
	669	1	1	1	Tax Credit		673	387	1,060	65	1,125	65	1,125	2	13,869	2525%	13,869	2525%	16,886	19.64%	04/01/11	04/25/88	04/30/12

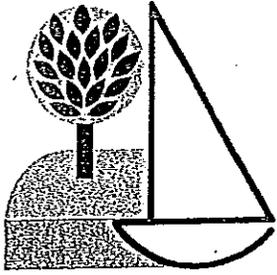
Name: Metro Center Senior Apartments  
 y Address: 100 Village Lane Foster City, CA 94404

AS OF: PROJECT RENT ROLL  
 October 31, 2011

NUMBER OF UNITS OCCUPIED: 60  
 NUMBER OF UNITS VACANT: 0  
 TOTAL UNITS IN PROJECT: 60

TENANT NAME	GENERAL INFORMATION				RENTAL INFORMATION				HOUSEHOLD INFORMATION				LEASE INFORMATION									
	BEDROOMS	BATHROOMS	SQ. FT.	VISION	MOBILITY	HEARING	ACCESS	FUNDING	SUBSIDY PAID RENT	TENANT PAID RENT	UTILITY ALLOWANCE	GROSS RENT	HH SIZE	ANNUAL INCOME	% OF AMI	INITIAL MOVE-IN	ANNUAL INCOME	% OF AMI	INCOME RECEIPT	LEASE START	LEASE END	
	1	1	595					Tax Credit	617	383	1,000	65	1,065	2	13,869	25.25%	13,869	25.25%	05/01/11	05/04/98	05/31/12	
	2	1	873					Tax Credit	1,042	103	1,145	90	1,235	3	14,863	26.62%	14,863	26.62%	11/01/10	11/22/86	11/30/12	
	1	1	595					Tax Credit	0	639	639	65	704	2	26,254	48.86%	26,254	48.86%	02/01/11	02/20/08	02/19/12	
	1	1	595					Tax Credit	0	750	750	65	815	2	22,240	40.46%	22,240	40.46%	10/01/11	10/31/86	10/31/12	
	1	1	616					Tax Credit	0	488	488	29	517	1	19,438	33.31%	19,438	33.31%	11/11/10	11/11/10	11/10/11	
	1	1	616					Tax Credit	885	374	1,060	65	1,125	2	15,524	22.85%	15,524	22.85%	12/01/10	12/31/01	12/31/11	
	1	1	669					Tax Credit	0	488	488	65	553	1	13,170	23.70%	13,170	23.70%	10/01/10	10/31/85	10/31/11	
	2	1	595					Tax Credit	0	639	639	65	704	1	16,544	30.70%	16,544	30.70%	01/01/11	01/03/03	01/31/12	
	2	1	873					Tax Credit	0	762	762	90	852	2	10,140	18.18%	10,140	18.18%	10/01/11	10/30/86	10/31/12	
	2	1	873					Tax Credit	824	194	1,018	90	1,108	2	33,820	61.36%	33,820	61.36%	11/01/10	11/23/88	11/30/11	
	1	1	595					Tax Credit	0	639	639	65	704	1	10,140	18.18%	10,140	18.18%	11/01/10	11/23/88	11/30/11	
	1	1	595					Tax Credit	0	488	488	65	553	1	7,464	13.23%	7,464	13.23%	11/01/10	11/30/85	11/30/11	
	1	1	618					Tax Credit	0	839	839	65	704	1	20,741	30.30%	20,741	30.30%	11/01/10	11/15/86	11/30/11	
	1	1	618					Tax Credit	0	488	488	65	553	1	10,387	13.79%	10,387	13.79%	05/01/11	05/31/08	05/31/12	
	1	1	669					Tax Credit	0	639	639	65	704	1	10,980	13.17%	10,980	13.17%	11/01/10	11/22/86	11/30/11	
	1	1	595					Tax Credit	844	216	1,060	85	1,125	2	20,724	33.70%	20,724	33.70%	11/01/10	11/15/86	11/30/11	
	2	1	873					Tax Credit	0	584	584	90	674	2	10,571	19.15%	10,571	19.15%	11/01/10	11/22/86	11/30/11	
	2	1	873					Tax Credit	951	194	1,145	90	1,235	2	16,775	34.24%	16,775	34.24%	11/01/10	11/20/86	11/30/11	
	19,405	0	0	0	0	0	0	9,299	13,593	22,892	1,938	24,830	46	10,140	18.18%	10,140	18.18%	11/01/10	11/22/86	11/30/11		
FOR BUILDING 2 (100 Village Lane):								9,299	13,593	22,892	1,938	24,830	46	10,140	18.18%	10,140	18.18%	11/01/10	11/22/86	11/30/11		
In Service Date: 12/03/1986																						
FOR BUILDING 1 (100 Village Lane):								0	941	941			1									
FOR BUILDING 1 (101 Town Green Lane):								9,629	13,195	22,824	1,989	24,813	50									
FOR BUILDING 2 (100 Village Lane):								9,299	13,593	22,892	1,938	24,830	46									
AVERAGES FOR BUILDINGS 1-2:								18,928	27,729	46,957	3,927	50,664	97	16,072	26.23%		17,720	23.91%				

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*City of Foster City*

ESTERO MUNICIPAL IMPROVEMENT DISTRICT

610 FOSTER CITY BOULEVARD  
FOSTER CITY, CA 94404-2222  
(650) 286-3200  
FAX (650) 574-3483

*Original letter mailed w/c. ✓*

May 18, 2011

Ms. Linda Peyton  
BRE Properties  
5815 Shellmound Way, Suite A  
Emeryville, CA 94608

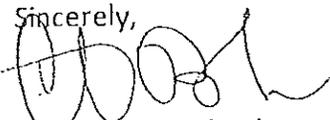
Subject: Final Housing Subsidy Payment for Fosters Landing

Dear Ms. Peyton:

Attached please find the final housing subsidy payment for Fosters Landing. The Foster City Community Development Agency's Project Area One reached the \$170 Million revenue cap for this Project Area in the 2010-11 fiscal year. Pursuant to Section 4.02 of the Affordable Housing Covenant for Fosters Landing, "...the duty of the Agency to pay the Reimbursement to the Developer shall be reduced or eliminated proportionately to any reduction or elimination of the Tax Increment that has been allocated and paid to the Agency for whatever reason." BRE Properties also acknowledged this provision in Section 3 of the First Amendment to the Affordable Housing Covenant approved in 2007.

The elimination of the housing subsidy payment does not, in any way, alter the obligations of BRE Properties to provide affordable housing units in compliance with the Affordable Housing Covenant.

Sincerely,

  
So Leslie J. Carmichael  
Consulting Planner

cc: James C. Hardy, City Manager  
Richard B. Marks, Community Development Director  
Curtis Banks, Planning Manager  
Gerald Ramiza, Agency Counsel

# Memo

To: James C. Hardy, City Manager  
Via: Richard B. Marks, Community Development Director  
Curtis Banks, Planning Manager  
From: Leslie J. Carmichael, Consulting Planner  
Copy: Hilary Croker, BRE Properties  
Lynda Peyton, BRE Properties  
Date: May 9, 2011  
Re: Review of Foster's Landing Annual Report for 2010

---

## Summary

The Fosters Landing Affordable Housing Agreement requires Fosters Landing to submit an annual report for Agency review to confirm compliance with the Agreement and also obligates the Agency to make a payment to the Developer in the amount of 20% of the Tax Increment.

This memo reviews the annual report submitted on April 4, 2011 for the 2010 calendar year. I have reviewed the annual report and have determined that the Developer is not in default under the Affordable Housing Agreement, as amended. Staff has concluded that all of the prerequisites have been met and the payment to the Developer should be made.

As indicated in the attached table, the payment amount for 2010 is \$121,487.

### 1. Comparison of Actual Rents to Rent Limits

The rent amounts for Foster's Landing are calculated for each individual household to not exceed 30% of their gross income, except that, per Section 3.04(d) the moderate income rents may be reduced to an amount equal to 20% of the tenant's gross income. These amounts are contained in the annual report. In addition, minimum rents have been established of \$300 for a one-bedroom unit and \$500 for a two-bedroom unit. Staff has checked the amounts and they have been appropriately calculated.

Utility allowances are deducted from the rent, based on the utility allowance table issued by HUD for San Mateo County. A new set of utility allowance tables were issued by HUD in 11/2010 which have been used to establish new utility allowances as tenants were recertified since then. The older utility allowances are being phased out as recertifications take place. The utility allowances have been appropriately deducted from the allowed rent.

### 2. Comparison of Affordable Units Required and Provided

I have reviewed the annual report for 2010 submitted by Foster's Landing. Pursuant to the Affordable Housing Agreement dated April 7, 1986, as amended, the development is obligated to provide units in various income and size categories, as noted in the table below.

**Foster's Landing Comparison of Affordable Units Required and Provided**

Unit type	Number Required	Number Provided 2010
Very Low: Elderly	11	16
Very Low: Families (4 or less)	16	14
Very Low: Large Families (5 or more)	3	0
<b>SUBTOTAL VERY LOW</b>	<b>30</b>	<b>30</b>
Low-Moderate: Elderly	16	1
Low-Moderate: Families (4 or less)	23	40
Low-Moderate: Large Families (5 or more)	5	3
<b>SUBTOTAL LOW-MODERATE</b>	<b>44</b>	<b>44</b>
<b>TOTAL</b>	<b>74</b>	<b>74</b>

Section 1.04 of the Affordable Housing Agreement states "...Developer should not be held to the rigid application of the above allocations at any point in time, but Developer shall apply its best efforts to achieve the specified allocations throughout the term of this Agreement." Section 3.04c allows the Tax Increment payment to be reduced and the term of the Agreement to be extended if the Developer fails to provide the required number of affordable units.

As indicated in the table above, Foster's Landing has provided 74 BMR units, the number required. This includes 30 very low-income units compared to the 30 very low-income units required and 44 moderate income units compared to the 44 moderate income units required. The number of large families is lower than the target amount, but the number of very low-income elderly households is higher than the target. It was anticipated that the specific allocations would vary from time to time, which would be considered acceptable if the overall number and income level of units is in compliance. The number and type of units provided is in compliance with the Agreement.

**3. Comparison to Income Limits**

The households have been correctly assigned to income categories based on the 2010 income limits issued by the California Department of Housing and Community Development. Because the 2010 income limits are lower than the 2009 income limits, Agency Counsel has advised that a tenant should not be disqualified simply because the income limit was lowered and therefore should use the 2009 income limits for categorizing existing tenants. Staff has reviewed the report and found that the tenants have been placed into the appropriate categories in accordance with the income limits.

#### 4. Use of Waiting List

Foster's Landing maintains separate waiting lists for very low-income, low-income and moderate. The previous waiting lists were reviewed to determine if new tenants had come from the waiting lists. Staff is satisfied that the waiting list is being used appropriately.

#### 5. Minimum Occupancy Standards

The minimum occupancy standards have been the subject of discussion over the past two years, and were the primary reason for the Second Amendment to the Affordable Housing Covenant approved by the Community Development Agency on October 5, 2009. The previous Foster's Landing Affordable Housing Program Guidelines dated February 5, 1996 had higher minimum number of residents required for various types of units; however, these Guidelines were not consistent with the minimum occupancy standards used in the Marlin Cove and Miramar developments. Over time, many of the units had become occupied by smaller households and were not in compliance with the Guidelines. The Guidelines were amended as part of the Second Amendment as follows:

Foster's Landing Occupants and Required Unit Sizes

Number of Occupants	Required Unit Size	Plan
Apparatus dependent occupants	Large 1 bedroom	Plan D
1 or 2	1 bedroom	Plan A
3 or more – or – Fewer than 3 if the units was occupied by fewer than 3 as of 8/1/08 – or – 2 if a parent and child – or – 2 if tenant requires a caregiver	1 bedroom with den	Plan E
3 or more –or – Fewer than 3 if the units was occupied by fewer than 3 as of 8/1/08 – or – 2 if tenant requires a caregiver 2 if approved by the Community Development Director pursuant to Second Amendment	2 bedrooms	Plan G

The Second Amendment basically "grandfathers" those households in the 1-bedroom with den or 2-bedroom units that were occupied as of 8/1/08 and will apply the new occupancy standards to all new tenants. The review of the 2010 report included a review the tenants who began occupancy after 8/1/08 for conformance with the minimum occupancy standards in the Second Amendment.

#### **7. Tax Increment**

Section 4.02 of the Affordable Housing Agreement states that the "Tax Increment" is the taxes to be allocated and paid to the Agency pursuant to subsection (b) of Section 33670 of the California Health and Safety Code. As indicated in the attached table, the Tax Increment for paid to the Agency in FY 2010-11 was: \$607,433.

#### **8. Payment to Developer**

Section 4.02 of the Affordable Housing Agreement states that the Agency shall pay to Developer an amount equal to 20% of the Tax Increment derived from the Subject Property. As indicated in the attached table, 20% of the Tax Increment for FY 2010-11 equals \$121,487.

Section 4.03 limits the reimbursement to be no more than the "Total Rent Differential," meaning the difference between the fair market rent and the Affordable Rent for that year. The property manager has provided the comparable market rents for the units. As reported on the Annual Report, the Total Rent Differential was \$1,044,498.

Since the Total Rent Differential is far more than the Tax Increment, I recommend that the payment be made to the developer in the amount of 20% of the Tax Increment, which is \$121,487.

#### **Attachments:**

2010-11 Calculation of Affordable Housing Subsidy

Tax Statement for Tax Year 2010

2010 Annual Report (with confidential information removed)

**FOSTER'S LANDING  
METHOD FOR DETERMINING 20% AGENCY AFFORDABLE HOUSING SUBSIDY**

**2010-11** Fiscal Year

**\$796,167** Foster's Landing General (or Composite Tax Total (1.0255%))

**\$733,389** General Tax Rate @ 1%

\$158,247	County waived	0.215774418
\$23,068	Library waived	0.031454156
\$6,138	Peninsula Hospital waived	0.008369682
\$1,281	Mosquito Abatement waived	0.001747244
<hr/>		
\$188,734	Total Waived	
\$607,433	Total Tax Bill Less Waived	
\$0	Base Year AV (\$0) X Composite Rate (1.0153%) - Waived (24.745%)	
<hr/>		
\$607,433		

20.00% Amount per Agreement Pledged to Foster's Landing as Reimbursement

**\$121,487** Affordable Housing Subsidy to Foster's Landing

**100%** percentage of required units actually provided

**yes** Annual Report Submitted: yes/no

**yes** Copy of Paid Tax Bill submitted: yes/no

**\$1,044,498** Amount of Rent Differential per Submitted Report (Subsidy may not exceed this)

**yes** Number/type of units provided per agreement



**County of San Mateo  
Treasurer-Tax Collector**

Website: [www.sanmateo.ca.gov](#)

Monday, May 09, 2011 10:42:17 AM PST

Tax History    Secured Property Tax    Manufactured    View It

[Printer Friendly View](#)

For Directions or Maps: [MAPQUEST](#) [Google maps](#)  
[Zillow.com](#)

**TAX BILL PAID**

**Secured Property Tax**

**2010**

Note: Penalties only apply to late payments

Parcel	Tax Rate Area	Assessment Year	Roll Year	General Tax	Installment 1	Installment 2	Total
094-980-070	20-013	2010	2010		398,083.29	398,083.29	\$796,166.58
<b>Owner Address</b>				<b>Total Special Charges</b>	529.51	529.51	\$1,059.02
*Name private per CA AB2238				<b>Total Taxes</b>	398,612.80	398,612.80	\$797,225.60
525 MARKET ST FL 4				<b>Penalty &amp; Cost Fee</b>	0.00	0.00	\$0.00
SAN FRANCISCO CA 94105-2712				<b>Total Amount</b>	<b>\$398,612.80</b>	<b>\$398,612.80</b>	<b>\$797,225.60</b>
<b>Property Location</b>				<b>Due Date</b>	Nov 01, 2010	Feb 01, 2011	
700 BOUNTY DR				<b>Late After</b>	Dec 10, 2010	Apr 11, 2011	
FOSTER CITY				<b>PAID DATE</b>	<b>DEC 10, 2010</b>	<b>APR 10, 2011</b>	
<b>Values</b>				<b>Detail Special Charges</b>		<b>Phone Contact</b>	<b>Amount</b>
				SMC Mosquito Abate Dis		(650) 344-8592	3.74
<b>Improvements</b>				FedCA&NPDES Storm Fee		(650) 363-4100	750.48
51,215,045				<b>More Special Charges</b>			
<b>Land</b>				<b>Composite Rate</b>	1.0856	<b>Penalty Rate</b>	10.0%
21,954,709							
<b>Exemptions</b>							

\$73,338,853

LOTS 1 THRU 6 TRACT 118-85 FOS TER LANDING RSM

Be aware that during peak periods, it may take up to **10 days** to receive and process your payments.

**Your Taxes Have Been Paid. Thank You**

[Return to Search](#) [Back to List](#)

[Payment History](#)

OCUS™ Compliance Reporting System

Property Status Report (PSR)

RDA Program

Report Period: April 2011

Print Date: 05/08/2011

Property ID: 22251  
 Property Name: Foster's Landing  
 AKA:  
 Property Address: 700 Bounty Drive  
 Foster City, CA 94404

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number in Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number in Household (Move-In)	Move-In Date* / Vacancy Date	Move-In Annual Income	Current Annual Income	Last Recertification Date
120	706	604D	1	1	\$831.17	\$148.00	\$980.17		2	01/02/1992	\$28,280.00	\$39,206.64	04/01/2011
50	716	1603E	1	3	\$867.15	\$136.00	\$1,003.15		3	01/05/2008	\$88,706.81	\$40,126.07	04/01/2010
I → Move-In Income (\$88,706.81) Exceeds 50% AMGI (HUD Limit = \$50,900.00 @ 3)													
50	716	1608B	1	1	\$288.80	\$149.00	\$435.80		1	01/05/2010	\$5,376.00	\$17,436.00	04/01/2011
120	716	1605A	1	1	\$892.67	\$149.00	\$1,041.67		1	01/18/1995	\$16,512.00	\$41,924.22	04/01/2011
120	728	2808B	1	2	\$1,017.67	\$149.00	\$1,166.67		1	01/22/2006	\$63,199.92	\$70,500.08	04/01/2011
50	718	1805A	1	1	\$410.33	\$149.00	\$559.33		1	02/09/1993	\$24,635.00	\$22,373.00	04/01/2011
I → Move-In Income (\$24,635.00) Exceeds 50% AMGI (HUD Limit = \$20,450.00 @ 1)													
120	730	3008B	1	4	\$1,351.00	\$149.00	\$1,500.00		3	02/18/2006	\$70,000.00	\$79,238.88	05/01/2011
120	738	3819E	1	3	\$1,221.50	\$136.00	\$1,357.50		3	03/07/2010	\$86,203.58	\$96,203.58	03/07/2010
I → Last ReCert Date is Older Than 1 Year(s)													
120	724	2411A	1	1	\$892.62	\$149.00	\$1,041.62		1	03/13/2010	\$52,292.77	\$56,492.80	04/01/2011
50	710	1006B	1	2	\$884.35	\$149.00	\$1,033.35		2	03/18/2010	\$47,241.45	\$41,333.83	04/01/2011
L → Move-In Income (\$47,241.45) Exceeds 50% AMGI (HUD Limit = \$45,250.00 @ 2)													
120	738	3801E2x1	2	3	\$1,221.50	\$136.00	\$1,357.50		3	03/23/2010	\$100,000.00	\$100,000.00	03/23/2010
L → Last ReCert Date is Older Than 1 Year(s)													
120	718	1819E	2	2	\$1,017.67	\$149.00	\$1,166.67		3	03/25/1998	\$59,360.09	\$79,450.70	04/01/2011
50	724	2407A	1	1	\$151.00	\$149.00	\$300.00		2	03/25/2000	\$10,512.00	\$10,522.86	04/01/2011
120	726	2803E	2	3	\$1,406.45	\$149.00	\$1,555.45		3	03/25/2009	\$81,297.00	\$93,326.85	04/01/2011
120	728	2808B	1	3	\$1,412.41	\$149.00	\$1,561.41		2	03/25/2010	\$90,599.86	\$93,684.67	05/01/2011
120	716	1602E	1	3	\$1,184.33	\$149.00	\$1,333.33		3	03/27/2010	\$57,533.13	\$67,306.74	04/01/2011
120	738	3818E	1	3	\$1,197.33	\$136.00	\$1,333.33		3	03/27/2010	\$64,820.88	\$64,820.88	03/27/2010
L → Last ReCert Date is Older Than 1 Year(s)													
120	712	1214B	1	1	\$892.67	\$149.00	\$1,041.67		1	03/30/2008	\$63,800.00	\$66,929.54	04/01/2011
120	730	3014B	1	1	\$892.67	\$149.00	\$1,041.67		1	04/08/2010	\$43,480.00	\$58,510.40	04/08/2011
50	712	1207A	1	1	\$239.80	\$149.00	\$388.80		1	04/15/1999	\$14,364.00	\$15,552.00	04/01/2011
120	716	1616E	1	1	\$892.67	\$49.00	\$941.67		5	04/17/1998	\$48,286.00	\$52,774.28	04/01/2011
120	760	6001G	2	5	\$1,445.00	\$180.00	\$1,625.00		5	04/21/2010	\$81,100.00	\$73,520.34	05/01/2011
120	734	3417E	1	5	\$1,476.00	\$149.00	\$1,625.00		4	04/23/2007	\$68,244.00	\$100,725.72	05/01/2011

\*Move-In Date should be the date the tenant was placed on the RDA Program

FOCUS™ Compliance Reporting System

Property Status Report (PSR)

RDA Program

Report Period: April 2011

Print Date: 05/08/2011

Property ID: 22251  
 Property Name: Foster's Landing  
 AKA:  
 Property Address: 700 Bounty Drive  
 Foster City, CA 94404

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number in Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number in Household (Move-In)	Move-In Date* / Vacancy Date	Move-In Annual Income	Current Annual Income	Last Recertification Date
	732	3216B	1	1	\$919.83	\$136.00	\$1,055.83		1	04/29/2009	\$68,251.86	\$70,365.64	05/01/2010
	720	2018E	1	1	\$164.00	\$136.00	\$300.00		1	05/17/2000	\$10,880.00	\$10,379.00	05/01/2010
	712	1213A	1	1	\$905.67	\$136.00	\$1,041.67		1	05/31/2001	\$47,735.06	\$55,919.81	06/01/2010
	736	3618E	1	2	\$817.45	\$136.00	\$953.45		1	06/01/1988	\$17,055.96	\$38,137.80	01/05/2010
I - Last Recert Date is Older Than 1 Year(s)													
Move-In Income (\$17,055.96) Exceeds 50% AMGI (HUD Limit = \$16,700.00 @ 1)													
	718	1802E2X1	2	4	\$506.99	\$136.00	\$642.99		3	06/19/1999	\$9,000.00	\$25,719.54	06/01/2010
	718	1816B	1	1	\$278.88	\$136.00	\$414.88		2	08/20/2006	\$81,698.24	\$16,595.00	06/01/2010
L - Move-In Income (\$81,698.24) Exceeds 50% AMGI (HUD Limit = \$45,250.00 @ 2)													
	712	1209A	1	1	\$919.83	\$136.00	\$1,055.83		1	06/22/2006	\$68,992.00	\$78,331.27	06/01/2010
	724	2405A	1	1	\$358.00	\$136.00	\$494.00		2	06/29/2006	\$33,505.05	\$19,760.00	06/01/2010
	720	2008B	1	3	\$1,089.94	\$136.00	\$1,225.94		3	07/01/2010	\$49,037.64	\$49,037.64	07/01/2010
	724	2401E2X1	2	2	\$1,005.67	\$161.00	\$1,166.67		3	07/11/1998	\$66,838.00	\$53,521.76	07/01/2010
	752	5201G	2	4	\$1,338.00	\$161.00	\$1,500.00		4	07/14/2005	\$88,762.02	\$75,455.02	07/01/2010
	726	2611A	1	1	\$369.62	\$136.00	\$505.62		1	07/15/1989	\$17,964.00	\$20,224.80	08/01/2010
L - Move-In Income (\$17,964.00) Exceeds 50% AMGI (HUD Limit = \$17,350.00 @ 1)													
	716	1617E2X1	2	2	\$315.40	\$136.00	\$451.40		2	07/15/2000	\$10,440.00	\$18,055.92	08/01/2010
	726	2605A	1	2	\$1,030.67	\$136.00	\$1,166.67		1	07/15/2006	\$60,000.00	\$68,503.70	09/01/2010
	710	1011A	1	1	\$1,030.71	\$136.00	\$1,166.71		1	07/20/2005	\$60,008.00	\$70,002.34	09/01/2010
	736	3616B	1	1	\$1,183.88	\$136.00	\$1,319.88		1	07/21/2006	\$72,868.66	\$79,192.73	09/01/2010
	730	3011A	1	1	\$185.92	\$136.00	\$301.92		1	07/23/1988	\$18,009.05	\$12,076.00	08/01/2010
I - Move-In Income (\$18,009.05) Exceeds 50% AMGI (HUD Limit = \$16,700.00 @ 1)													
	702	201G	2	3	\$904.49	\$161.00	\$1,065.49		3	07/31/1990	\$20,000.00	\$42,819.75	09/01/2010
	722	2208A	1	1	\$905.67	\$136.00	\$1,041.67		1	08/01/2010	\$60,000.00	\$60,000.00	08/01/2010
	722	2207A	1	1	\$164.00	\$136.00	\$300.00		2	08/09/1999	\$8,124.00	\$8,592.00	09/01/2010
	726	2615A	1	2	\$1,030.67	\$136.00	\$1,166.67		2	08/11/2010	\$57,485.73	\$57,485.73	08/11/2010
	726	2614B	1	1	\$1,191.38	\$136.00	\$1,327.38		1	08/20/2010	\$79,642.86	\$79,642.86	08/20/2010
	718	1806B	1	1	\$164.00	\$136.00	\$300.00		1	08/29/2000	\$10,476.00	\$1,340.00	08/01/2010
	718	1810B	1	2	\$640.77	\$136.00	\$976.77		2	08/31/2008	\$70,301.00	\$39,090.75	08/01/2010

\*Move-In Date should be the date the tenant was placed on the RDA Program

OCUS™ Compliance Reporting System

Property Status Report (PSR)

RDA Program

Report Period: April 2011

Print Date: 06/08/2011

Property ID: 22261  
 Property Name: Foster's Landing  
 AKA:  
 Property Address: 700 Bounty Drive  
 Foster City, CA 94404

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number in Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number in Household (Move-in)	Move-in Date* / Vacancy Date	Move-in Annual Income	Current Annual Income	Last Recertification Date
120	744	440TG	2	4	\$1,347.33	\$161.00	\$1,508.33		5	09/01/2002	\$16,411.00	\$106,677.64	10/02/2010
50	716	1601E	1	2	\$656.58	\$136.00	\$792.58		2	10/01/2006	\$27,601.60	\$31,703.16	10/01/2010
120	718	1820E	1	2	\$976.24	\$136.00	\$1,112.24		3	09/13/1994	\$41,140.00	\$44,489.72	09/01/2010
120	712	1218B	1	1	\$814.29	\$136.00	\$950.29		1	09/15/2010	\$38,011.58	\$38,011.58	09/15/2010
120	720	2005A	1	1	\$905.67	\$136.00	\$1,041.67		1	06/01/2008	\$48,000.00	\$47,388.66	11/01/2010
120	738	3806B	1	1	\$883.81	\$136.00	\$1,019.81		1	10/10/2010	\$40,792.37	\$40,792.37	10/10/2010
50	722	2205A	1	1	\$164.00	\$136.00	\$300.00		1	10/13/1998	\$10,440.00	\$10,200.00	10/01/2010
120	768	6606D	1	1	\$1,008.27	\$135.00	\$1,143.27		1	10/14/2004	\$65,000.00	\$68,596.08	10/01/2009
L-Last Recert Date is Older Than 1 Year(s)													
120	720	2018E	1	3	\$1,197.33	\$136.00	\$1,333.33		3	10/23/2007	\$55,226.21	\$72,233.21	10/01/2010
50	712	1208B	1	2	\$942.32	\$136.00	\$1,078.32		2	11/01/1998	\$41,164.00	\$43,132.89	11/01/2010
L- Move-In Income (\$41,164.00) Exceeds 50% AMGI (HUD Limit = \$27,450.00 @ 2)													
50	718	1811A	1	1	\$163.00	\$149.00	\$312.00		1	11/01/1999	\$4,500.00	\$12,480.00	04/01/2011
120	744	4406G	2	4	\$1,339.00	\$151.00	\$1,500.00		5	11/01/2000	\$48,606.06	\$68,630.42	11/01/2010
120	710	1020E	1	3	\$1,147.85	\$136.00	\$1,283.85		3	11/01/2010	\$51,353.97	\$51,353.97	11/01/2010
50	730	3013A	1	1	\$521.94	\$136.00	\$657.94		1	11/03/1995	\$34,070.00	\$26,317.52	11/01/2010
L- Move-In Income (\$34,070.00) Exceeds 50% AMGI (HUD Limit = \$20,850.00 @ 1)													
50	708	801G	2	2	\$870.22	\$180.00	\$1,050.22		3	11/07/2008	\$19,512.00	\$42,008.80	05/01/2011
50	716	1611A	1	2	\$164.00	\$136.00	\$300.00		2	11/10/1998	\$7,512.00	\$8,400.00	11/01/2010
50	712	1212B	1	1	\$654.13	\$136.00	\$790.13		1	11/20/2008	\$42,348.00	\$31,605.00	11/01/2010
L- Move-In Income (\$42,348.00) Exceeds 50% AMGI (HUD Limit = \$39,600.00 @ 1)													
50	706	602G	2	3	\$600.37	\$161.00	\$761.37		3	11/23/2002	\$77,453.00	\$30,454.84	10/01/2010
L- Move-In Income (\$77,453.00) Exceeds 50% AMGI (HUD Limit = \$45,800.00 @ 3)													
50	726	2608B	1	1	\$164.00	\$136.00	\$300.00		1	11/28/2009	\$10,140.00	\$10,140.00	11/01/2010
L- WARNING: Current Income is equal to Move-In Income													
120	708	808G	2	5	\$1,464.00	\$161.00	\$1,625.00		5	11/29/2008	\$70,784.16	\$77,744.86	11/01/2010
120	734	3407A	1	1	\$905.67	\$136.00	\$1,041.67		1	11/30/2002	\$34,320.00	\$48,859.87	11/01/2010
120	730	3006B	1	1	\$905.67	\$136.00	\$1,041.67		1	12/03/2008	\$66,085.00	\$61,301.32	12/01/2010
50	732	3206B	1	1	\$477.65	\$136.00	\$613.65		1	12/09/2010	\$24,545.52	\$24,545.52	12/09/2010

\*Move-in Date should be the date the tenant was placed on the RDA Program

FOCUS™ Compliance Reporting System

Property Status Report (PSR)

RDA Program

Report Period: April 2011

Print Date: 05/08/2011

Property ID: 22251  
 Property Name: Foster's Landing  
 AKA:  
 Property Address: 700 Bounty Drive  
 Foster City, CA 94404

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number in Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number in Household (Move-In)	Move-In Date / Vacancy Date	Move-In Annual Income	Current Annual Income	Last Recertification Date
50	716	1612B	1	1	\$164.00	\$136.00	\$300.00		1	12/25/2000	\$10,272.00	\$8,400.00	12/05/2010
120	728	2606B	1	1	\$905.67	\$136.00	\$1,041.67		1	12/30/2008	\$65,000.16	\$65,043.98	12/01/2010
50	732	3205A	1	1	\$164.00	\$136.00	\$300.00		1	12/30/2009	\$9,000.00	\$9,366.00	12/30/2010
120	726	2602E	1	4	\$1,544.20	\$149.00	\$1,693.20		4	04/01/2011	\$101,592.00	\$101,592.00	04/01/2011

Report Summary: Not In Compliance

Total Property Units: 480

30 Affordable Units (50% AMGI); 19 unit(s) In Compliance, 30 unit(s) Required  
 44 Affordable Units (120% AMGI); 40 unit(s) In Compliance, 44 unit(s) Required  
 0 Exempt Units; 0 unit(s) Allowed

Prepared By: Hillary Croker  
 Phone Number: 650-674-3060

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FIRST-TIME HOMEBUYER PROGRAM STATUS

Loan No.	Property Address	Purch Price	First Mort	Other Lns	Down Pmt	City Loan Amount	Amount Re-Paid	Loans Outstanding	Date Closed	1st Pmt Due	Work	Live	Income	Hold Size	File returned to City																	
FC98-001	278 Bonita Lane	260,000	197,000		19,000	50,000	376,323	50,000	1/25/1996	1/1/2004	E	N	61,248	2	7/1/2009																	
FC98-002	1151 Compass Ln., #111	265,000	212,000		3,000	50,000	50,000	50,000	11/18/1998	PAID	Y	Y	63,350	3																		
FC98-003	815 Sea Spray Ln., #206	250,000	200,000			50,000	50,000	50,000	12/7/1998	PAID	Y	Y	54,264	3																		
FC98-004	1170 Foster City Blvd., #206	269,000	210,930		18,070	50,000	50,000	50,000	12/28/1998	PAID	Y	Y	72,919	3																		
FC99-005	815 Sea Spray Ln., #314	232,000	182,000			50,000	50,000	50,000	7/8/1999	PAID	Y	Y	54,000	1																		
FC99-006	840 Sea Spray Ln., #105	303,000	237,850		15,150	50,000	50,000	50,000	7/17/1999	8/1/2004	N	Y	78,021	3																		
FC99-007	1151 Compass Ln., #101	284,000	205,600		28,400	50,000	50,000	50,000	7/8/1999	PAID	Y	Y	68,563	1																		
FC99-008	840 Erickson Ln.	284,000	287,500		37,500	50,000	50,000	50,000	7/21/1999	PAID	Y	Y	77,395	3																		
FC99-009	1031 Beach Park Blvd., #303	232,500	159,250		23,250	50,000	50,000	50,000	6/31/1999	PAID	Y	Y	59,496	1																		
FC99-010	1017 Shell Blvd., #3	229,000	133,200		45,600	50,000	50,000	50,000	8/31/1999	PAID	Y	Y	60,000	1																		
FC99-011	282 Bonita Ln., #H202	312,000	230,800		31,200	50,000	50,000	50,000	10/21/1999	PAID	Y	Y	42,647	2																		
FC99-012	800 Sea Spray Ln., #214	246,000	183,700		12,300	50,000	50,000	50,000	10/29/1999	12/1/2004	N	Y	66,500	1																		
FC00-013	920 Beach Park Blvd., #37	342,900	274,000		18,500	50,000	50,000	50,000	1/29/2000	5/1/2006	N	Y	85,784	4																		
FC00-014	2102 Admiralty Ln.	265,000	185,500		24,500	55,000	50,000	50,000	7/9/2002	PAID	Y	Y	56,087	3																		
FC02-015	35 Commodore Ln.	520,000	412,000		53,000	55,000	50,000	50,000	8/8/2002	PAID	Y	Y	73,236	3																		
FC03-016	1131 Compass Ln., #395	366,500	283,250		23,250	50,000	50,000	50,000	1/28/2003	3/1/2008	E	N	68,608	1																		
FC05-017	820 Sea Spray Ln., #103	549,500	501,091		8,909	50,000	50,000	50,000	4/29/2005	6/1/2010	N	Y	98,872	3																		
FC06-018 PLUS	220 Bonita Ln	480,000	375,600	70,000	27,500	80,000	80,000	80,000	1/11/2006	2/1/2011	N	Y	73,944	4																		
FC06-019	1067 Shell Blvd., #3	432,000	292,000	29,400		75,000	75,000	75,000	3/17/2006	4/1/2011	N	Y	80,448	2																		
FC06-020	1111 Compass Ln., #107	519,000	423,430	65,000		75,000	75,000	75,000	5/29/2006	8/1/2011	Y	Y	78,966	1																		
FC06-021 PLUS	1214 Admiralty Ln.	432,000	345,010	15,570		75,000	75,000	75,000	10/27/2006	12/1/2011	Y	Y	82,680	4																		
FC06-022	1111 Compass Ln., #104	536,000	464,320	16,980		75,000	75,000	75,000	1/30/2006	1/1/2012	N	N	91,524	4																		
FC07-23	780 Sea Spray Ln., #104	433,000	345,010	12,990		75,000	75,000	75,000	1/31/2007	3/1/2012	N	N	74,400	1																		
FC07-24	1214 Admiralty Ln.	540,000	465,000	81,050		75,000	75,000	75,000	8/31/2007	10/1/2012	N	N	102,000	3																		
FC07-25	1111 Compass Ln., #306	535,000	378,950	75,000		75,000	75,000	75,000	8/31/2007	10/1/2012	Y	Y	79,296	2																		
FC07-26	5213 Admiralty Ln.	485,000	410,000	75,000		75,000	75,000	75,000	9/27/2007	11/1/2012	N	N	95,172	4																		
FC07-27	1051 Beach Park Blvd., #204	395,000	233,150	75,000	11,850	75,000	75,000	75,000	3/28/2008	5/1/2013	N	N	73,911	2																		
FC08-28	1111 Compass Ln., #210	418,000	334,400	20,040		75,000	75,000	75,000	5/14/2008	7/1/2013	N	Y	83,640	2																		
FC08-29 PLUS	1049 Shell Dr., #11	363,000	269,850		18,150	80,000	80,000	80,000	10/1/2008	11/1/2013	N	N	67,942	3																		
FC09-30	820 Sea Spray Ln., #316	398,000	309,070		13,930	75,000	75,000	75,000	6/29/2009	7/1/2014	N	Y	91,500	4																		
FC09-31	860 Meridian Bay Ln #237	575,000	417,000	83,000		75,000	75,000	75,000	10/20/2010	10/1/2015	N	N	91,532	4																		
FC10-32	818 Riggs Ln.	294,500	220,875			73,625	73,625	73,625	11/17/2010	11/1/2015	N	N	84,984	2																		
FC010-033	1911 Compass Ln., #210	642,000	411,070	75,000		75,000	75,000	75,000	3/22/2011	4/1/2016	N	N	110,316	2																		
FC011-034	1055 Galley Ln.,																															
Totals:															12,926,500	9,827,396		500,259	2,073,625	1,026,323	1,358,625									75,710	2.5	
Averages:															391,712	297,800		23,822														

Foster City Community Development Agency  
 First Time Home Buyer Program Account Activity and Balance

Date		Funds Provided	Loans	Loans Repaid	Balance
07/01/98	FY 98/99 Budget (Note 1)	\$100,000.00			\$100,000.00
07/01/98	Loan No. FC98-001		\$50,000.00		\$50,000.00
11/25/98	Loan No. FC98-001				\$0.00
11/18/98	Loan No. FC98-002		\$50,000.00		\$50,000.00
12/07/98	Loan No. FC98-003		\$50,000.00		-\$100,000.00
12/28/98	Loan No. FC98-004		\$50,000.00		\$0.00
07/01/99	FY 99/00 Budget (Note 1)	\$100,000.00			-\$50,000.00
07/08/99	Loan No. FC99-005		\$50,000.00		-\$100,000.00
07/12/99	Loan No. FC99-006		\$50,000.00		-\$150,000.00
07/08/99	Loan No. FC99-007		\$50,000.00		-\$200,000.00
07/21/99	Loan No. FC99-008		\$50,000.00		-\$250,000.00
08/31/99	Loan No. FC99-009		\$50,000.00		-\$300,000.00
08/31/99	Loan No. FC99-010		\$50,000.00		-\$350,000.00
10/02/99	Loan No. FC99-011		\$50,000.00		-\$400,000.00
10/29/99	Loan No. FC99-012		\$50,000.00		-\$450,000.00
04/29/00	Loan No. FC00-013		\$50,000.00		-\$350,000.00
07/01/00	FY 00/01 Budget	\$100,000.00		\$50,000.00	-\$300,000.00
10/11/00	Loan No. FC98-004			\$50,000.00	-\$250,000.00
10/13/00	Loan No. FC99-005				\$210,000.00
06/30/01	Budget Adjustment (Note 2)	\$460,000.00			\$310,000.00
07/01/01	FY 01/02 Budget	\$100,000.00			\$410,000.00
07/01/02	FY 02/03 Budget	\$100,000.00			\$355,000.00
07/09/02	Loan No. FC02-014		\$55,000.00		\$300,000.00
08/09/02	Loan No. FC02-015		\$55,000.00	\$50,000.00	\$350,000.00
12/05/02	Loan No. FC99-011			\$50,000.00	\$400,000.00
01/16/03	Loan No. FC99-008		\$50,000.00		\$350,000.00
01/27/03	Loan No. FC03-016			\$50,000.00	\$400,000.00
02/28/03	Loan No. FC98-002				\$500,000.00
07/01/03	FY 03/04 Budget	\$100,000.00		\$50,000.00	\$550,000.00
08/08/03	Loan No. FC99-010			\$50,000.00	\$600,000.00
08/18/03	Loan No. FC99-009			\$112.11	\$600,112.11
01/01/04	Loan No. FC98-001			\$112.39	\$600,224.50
02/01/04	Loan No. FC98-001			\$50,000.00	\$650,224.50
02/02/04	Loan No. FC98-003			\$112.67	\$650,337.17
03/01/04	Loan No. FC98-001			\$112.95	\$650,450.12
04/01/04	Loan No. FC98-001			\$113.24	\$650,563.36
05/01/04	Loan No. FC98-001			\$113.52	\$650,676.88
06/01/04	Loan No. FC98-001				\$750,676.88
07/01/04	FY 04/05 Budget	\$100,000.00		\$2,420.33	\$753,097.21
FY 04/05	Loan No. FC98-001			\$1,133.80	\$754,231.01
FY 04/05	Loan No. FC99-006			\$676.88	\$754,907.89
FY 04/05	Loan No. FC99-012			\$50,000.00	\$804,907.89
FY 04/05	Loan No. FC99-007			\$50,000.00	\$854,907.89
FY 04/05	Loan No. FC02-015			\$50,000.00	\$904,907.89
FY 04/05	Loan No. FC02-014		\$50,000.00		\$854,907.89
FY 04/05	Loan No. FC05-017		\$100,000.00		\$854,907.89
07/01/05	FY 05/06 Budget	\$100,000.00	\$80,000.00		\$674,907.89
01/10/06	Loan No. FC05-018		\$75,000.00		\$799,907.89
03/17/06	Loan No. FC06-019		\$75,000.00		\$724,907.89
06/19/06	Loan No. FC06-020			\$50,000.00	\$774,907.89
03/22/06	Loan No. FC00-013			\$48,743.22	\$823,651.11
12/08/05	Loan No. FC99-012			\$579.90	\$824,231.01
FY 05/06	Loan No. FC99-012			\$2,142.62	\$826,373.63
FY 05/06	Loan No. FC98-001			\$1,410.64	\$827,784.27
FY 05/06	Loan No. FC99-006				\$927,784.27
07/01/06	FY 06/07 Budget	\$100,000.00			\$847,784.27
10/26/06	Loan No. FC06-021		\$80,000.00		\$772,784.27
11/29/06	Loan No. FC06-022		\$75,000.00		\$697,784.27
01/30/07	Loan No. FC07-023			\$1,836.55	\$699,620.82
FY 06/07	Loan No. FC98-001			\$1,191.22	\$700,812.04
FY 06/07	Loan No. FC99-006				\$800,812.04
FY 07/08	FY 07/08 Budget	\$100,000.00	\$75,000.00		\$725,812.04
08/31/07	Loan No. FC07-24		\$75,000.00		\$650,812.04
08/31/07	Loan No. FC07-25		\$75,000.00		\$575,812.04
09/27/07	Loan No. FC07-26		\$75,000.00		\$500,812.04
03/28/08	Loan No. FC08-27		\$75,000.00		\$425,812.04
05/14/08	Loan No. FC08-28			\$2,649.45	\$428,461.49
FY 07/08	Loan No. FC98-001			\$1,716.15	\$430,177.64
FY 07/08	Loan No. FC99-005			\$330.63	\$430,508.27
FY 07/08	Loan No. FC03-016				\$530,508.27
FY 08/09	FY 08/09 Budget	\$100,000.00	\$80,000.00		\$450,508.27
10/01/08	Loan No. FC08-29		\$75,000.00		\$375,508.27
06/29/09	Loan No. FC09-30			\$40,075.49	\$415,583.76
FY 08/09	Loan No. FC98-001			\$1,517.75	\$417,101.51
FY 08/09	Loan No. FC99-006			\$1,374.04	\$418,475.55
FY 08/09	Loan No. FC03-016				\$518,475.55
FY 09/10	FY 09/10 Budget	\$100,000.00		\$198.68	\$518,674.23
FY 09/10	Loan No. FC98-001			\$1,559.16	\$520,233.39
FY 09/10	Loan No. FC99-006			\$1,415.81	\$521,649.20
FY 09/10	Loan No. FC03-016				\$621,649.20
FY 10/11	FY 10/11 Budget	\$100,000.00	\$75,000.00		\$546,649.20
10/18/10	Loan No. FC10-32		\$73,625.00		\$473,024.20
11/16/10	Loan No. FC10-33		\$75,000.00		\$398,024.20
03/31/11	Loan No. FC11-34			\$1,248.74	\$399,272.94
FY 10/11	Loan No. FC05-017			\$1,335.63	\$400,608.57
FY 10/11	Loan No. FC99-006			\$1,464.62	\$402,073.19
FY 10/11	Loan No. FC03-016			\$505.74	\$402,578.93
FY 10/11	Loan No. FC05-018			-\$74,000.00	\$328,578.93
FY 10/11	Loan No. FC06-019				

Note 1: Incomplete Budget Document

Note 2: Adjustment made according to Memo Dated May 1, 2001  
 from Rick Marks & Diane McGrath to Ricardo Santiago

**PROPERTIES PURCHASED BY THE COMMUNITY DEVELOPMENT AGENCY THROUGH THE EXISTING UNIT PURCHASE PROGRAM**

	<b>833 Gull Ave.</b>	<b>631 Comet</b>	<b>633 Comet</b>	<b>705 Emerald Bay</b>	<b>920 Beach Park #37</b>
Date of purchase	9/8/97	11/18/97	11/18/97	2/23/05	1/3/06
Year built	1965	1964	1964	1992	1972
APN	094-160-010	094-041-260	094-041-260	109-940-120	105-270-010
Purchase Price	\$405,000	\$510,000 for duplex	\$510,000 for duplex	\$232,597*	\$475,000
Construction type	Wood/stucco single-family	Wood/stucco duplex	Wood/stucco duplex	Wood townhouse	Wood/stucco Condominium
Size	5 bedr/2 bath	2 bedr/2 bath	3 bedr/2 bath	2 bedr/2 bath	2 bedr/2 bath
Sq. ft.	1920 sq. ft.	1800 sq. ft.	2000 sq. ft.	1702 sq. ft.	1000 sq. ft.
Fire protection	Non-sprinklered	Non-sprinklered	Non-sprinklered	Automatic fire sprinklers	Non-sprinklered

\*sales price was restricted; market price approx. \$660,000

	<b>833 Comet</b>	<b>835 Comet</b>	<b>398 Chesapeake</b>
Date of purchase	9/08	9/08	6/5/09
Year built	1964	1964	1971
APN	094-090-150	094-090-150	094-604-050
Purchase Price	\$1,400,000 for duplex	\$1,400,000 for duplex	\$750,000
Construction type	Wood/stucco duplex	Wood/stucco duplex	Wood/stucco
Size	2 bedr/2 bath	3 bedr/2 bath	3 bedr/2 bath
Sq. ft.	1800 sq. ft.	2000 sq. ft.	1280 sq. ft.
Fire protection	Non-sprinklered	Non-sprinklered	Non-sprinklered

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July 18, 2011

Mr. Curtis Banks  
Planning Manager  
Community Development Department  
City of Foster City  
610 Foster City Blvd.  
Foster City CA 94404

Dear Mr. Banks:

We thank the City of Foster City for its on-going support of our housing programs and would like to provide a summary of the activities achieved during the fiscal year.

During FY 10-11, the Home Sharing Program interviewed 1,427 households (representing 1,895 persons). There was a 6 percent increase in the number of clients who applied to the program in FY 10-11. Ninety-five percent of the clients interviewed were low-income, 28% were seniors, 34% had a disability and 34% were homeless or at-risk of homelessness. There were an additional 2,789 calls received during the year from persons inquiring about HIP Housing's programs or how to apply for affordable/subsidized housing. These persons received information that helped them establish a plan to address their affordable housing needs. During FY 10-11, 317 persons were placed in shared housing arrangements.

The Self-Sufficiency Program for Families with Children provided housing and case-management services to 89 families who are working toward career and educational goals. There were 12 Life Skills workshops conducted during the year including topics related to budgeting, credit, financial coaching, renters' rights, home buyer education, IRA and personal investing, nutrition, auto financing, money management, vision boards, and an alumni panel. My New Red Shoes donated 69 pairs of shoes and 69 \$50 gift cards for our school-age kids in July 2010, a Donation from St. Luke's Church in Foster City of 25 backpacks with school supplies was received in August 2010 and we received Halloween costumes for children from South Hillsborough School. A new matched savings program called "Start to Save" is being offered to low-income families in San Mateo County. Family Service Agency is the lead agency, and HIP Housing has partnered with them to offer this program to our clients. EARN in San Francisco is now offering financial coaching services to low-income families in San Mateo County. HIP Housing has partnered with EARN to provide office space for meetings. The Housing Authority provides bi-monthly financial education workshops to families in their housing programs. HIP Housing also offers monthly Life Skills workshops to our clients, which include financial education topics. We decided to work together rather than duplicate services, and have piloted combining a workshop. Housing Authority provides meeting space, saving HIP Housing money, and HIP Housing provides

childcare staff, which the Housing Authority was not able to provide before.

**Foster City Statistics**

Number of residents interviewed for the home sharing program:	41
Number of residents placed in shared housing:	6
Number of residents who called regarding services:	38
Number of families accepted into Self Sufficiency Program:	0

**HIP Housing's Outreach efforts during the year included:**

Strategic Planning Session/Visioning Retreat Fall 2010  
2011 Calendar celebration  
Brainstorming session on collaborating with 211  
Student from NDNU volunteered with Home Sharing Program  
Collaboration with Peninsula Family Service to hire Older Adult Worker to assist with outreach projects  
Trained new volunteer to help with contacting home sharing clients

**Presentations conducted:**

Commission on Aging, San Carlos Adult Community Center, Senior Roundtable, Twin Pines Senior Center, Peninsula Educational Organization, City of San Mateo Community Relations Committee, various City Council meetings, Rebuilding Together Peninsula Homeowner workshops, First Step for Families quarterly presentations, SAMCAR, Human Services Agency, National Association of Hispanic Realtors, Job Train employees and students, United Way 211 staff, Redwood City Housing and Human Concerns committee, Adolescent Long Term Foster Care

**Fairs/Meetings attended:**

Disabilities Awareness, San Mateo County New Employee Welcome (monthly), Pacifica Farmers Market, Thrive, San Mateo Downtown Association, San Mateo Chamber Business Expo, San Mateo Senior Center health fair, North Fair Oaks Festival, Department of Rehab Spanish Resource fair, Homeless Providers(quarterly), RWC Interagency Forum (quarterly), Sequoia Hospital Homecoming Project, San Mateo County Employee Health fair, Homeless Connect, Broadmoor Presbyterian Church Resource Fair, Foster City Senior Health Fair, Seniors on the Move, Housing Leadership Day, Community Gatepath fundraiser, Samaritan House fundraiser, Daly City Peninsula Partnership, HEART fundraiser, Foreclosure prevention resource fair, Pacifica Resource fair, Jobs for Youth breakfast, Senior day at the SMC fair, Peninsula Works resource fair, Serenity Senior Support Services workshop, Coastside Collaborative (monthly)

**Mailings sent during the year:**

City clerks, senior centers, coastside organizations/businesses, distribution of CDBG marketing flyer, churches, business and organizations in Colma, Millbrae, Daly City, South San Francisco, Belmont and San Carlos, Homeowner Associations, libraries, downtown businesses and medical professionals

**Media outreach:**

North Central San Mateo homeowner association newsletter, Millbrae TV ad, PSAs sent quarterly to local media outlets, eblasts to City residents, 1710am radio interview, Klipinger's Retirement report article, Beresford Hillsdale Neighborhood Association article, Columbia school of journalism student article about homesharing. Public Service Announcements were sent quarterly to local radio and television stations. Some radio stations also placed information on their website about HIP Housing's programs.

**Rooms for rent flyer email addresses added: 457**

Each month a flyer about some of HIP Housing's available housing opportunities is emailed to over 1,500 NonProfit organizations, churches and religious affiliates, libraries, Housing Staff, School Districts, small businesses, Homeowner Associations, San Mateo County employees, Senior Centers, City Clerks and other local organizations.

**Technical Assistance provided:**

Committee on the Shelterless, NCRAA, Alliance on Aging, Catholic Charities/Disability Resource Center, Marin Housing Authority, Pima Council on Aging, Elder Help of San Diego, Housing Authority of Tarpon Springs, City and County of SF Budget and Legislative Department, Home Share of Ventura

**Committee participation:**

Housing Leadership Council, Older Adults Multicultural Committee, Daly City Peninsula Partnership and the RWC Interagency Forum, National Shared Housing Resource Center and the Coastside Collaborative.

During the year HIP Housing completed a new marketing project to increase awareness of the home sharing program. Funds were secured by the County of San Mateo, a marketing flyer was created and 4 part-time outreach workers were hired to distribute the materials throughout the County. Nearly 10,000 marketing flyers were distributed. While the funds used to pay for the salaries of the 4 outreach workers was exhausted, HIP Housing staff and volunteers continue to use the marketing materials and distribute them throughout the community.

HIP Housing also participated in the San Mateo County Works program which ended in September. The program allowed HIP Housing to hire a database designer who converted all of our databases to a more current version as well as an outreach worker who helped with marketing projects.

In April 2011, HIP Housing collaborated with Peninsula Family Service by placing an Older Adult worker at HIP Housing 18 hours each week. The employee helps with outreach projects and client contact.

HIP Housing continues to collaborate with many service providers throughout San Mateo County. During the year we facilitated 4 presentations to First Step for Families Shelter in San Mateo and also conducted presentations during the Homeowner orientation meetings for Rebuilding Together Peninsula. CORA and HIP Housing also have an MOU regarding having HIP Housing assess home sharing and self-sufficiency clients for domestic violence and then refer them to CORA for assistance. Each month a flyer outlining some of the available home sharing opportunities is emailed to over 1,200 service providers in San Mateo County.

We look forward to another year of providing affordable housing resources to the residents of Foster City and we thank you again for your on-going support.

Sincere regards,

Laura Fanucchi  
Associate Director

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## Memorandum

To: James C. Hardy, City Manager

Via: Richard B. Marks, Community Development Director  
Curtis Banks, Planning Manager

From: Leslie Carmichael, Consulting Planner *LC*

Copy: Rita Chafee, Vice President, M.H. Podell Company

Date: July 14, 2011

Re: Review of Marlin Cove Apartments Annual Report for May 1, 2010-April 30, 2011

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### Summary

The Marlin Cove Disposition and Development Agreement (DDA) and Housing Covenant require various payments to be made to the Developer. Sections 602 and 604 of the DDA require the following in order to obtain the payments:

- Developer has obtained a Certificate of Completion from the Agency (recorded 4/3/03)
- Developer had provided the Agency by April 15 of each year written evidence that the Developer has paid all real property taxes and assessments then due (see attached letter from Rita Chafee (of M.H. Podell Company) dated April 11, 2011).
- Developer has delivered the annual housing report required under the Affordable Housing Covenant and is not otherwise in default under the Affordable Housing Covenant (see attached Property Status Report dated April 2011).
- No later than April 15, the Developer shall provide a written accounting of the rents detailing the fair market rental rates for each of the Affordable Units and the actual amount of affordable rent paid by the tenants during the 12 month period commencing May 1 and ending April 30 (provided by email, 6/7/11)

This memo reviews the annual report, which covers the time period of May 1, 2010 to April 30, 2011, as well as the other prerequisites to receiving the payments provided by the DDA and Affordable Housing Covenant.

Staff has concluded that all the prerequisites have been met and that the payments to the Developer should be made. This would result in the following payments:

Tax Increment Subsidy:	\$ 160,498
Utility Subsidy:	\$ 43,022
Agency Grant:	\$ 109,794
<b>TOTAL</b>	<b>\$ 313,314</b>

### 1. Comparison of Actual Rents to Rent Limits

The 2009 and 2010 rents limits (after deduction of the utility allowance from the rent limit) are compared below to the actual rents charged. The utility allowances that Marlin Cove has used were issued on 11/1/08. A new utility allowance table was issued on 11/1/10. Pursuant to the Agency's BMR Administrative Procedures and Guidelines, the property manager may opt to: 1) implement the new allowances immediately, 2) make adjustments as tenants are recertified, or 3) make adjustments when the new HCD income limits are published and rents are reset. Staff has confirmed with the property manager that they are waiting for the new income limits to be released and then will recalculate the rents to be applied upon tenant recertifications. The rents charged are within the allowable limits.

	2010 Rent Limit	2010 Rent-actual	Market Rent
VL One bedroom	\$962	\$962	\$2150
VL Two bedroom	\$1066	\$1066	\$2695
Moderate One bedroom	\$2073	\$1525-\$1800	\$2150
Moderate Two bedroom	\$2316	\$1900-\$2100	\$2695

In future years, verification of the market rent may be required by the City if the total rent differential comes close to the 30% of the Net Tax Increment pledged to the Tax Increment Subsidy. Market rent will include amortization of any incentives, such as initial free rent.

### 2. Comparison of Affordable Units Required and Provided

Pursuant to the First Amendment to the Affordable Housing Covenant dated June 4, 2001, the development is obligated to provide units in various income and size categories, as noted in the table below. The number of units actually provided as documented in the annual report is also shown. The number of units provided is in compliance with the Affordable Housing Covenant.

Unit Type	Number Required	Number Provided	Deviation
VL One bedroom	28	28	0
VL Two bedroom	28	28	0
M One Bedroom	14	14	0
M Two Bedroom	14	14	0
Total	84	84	+0

### 3. Rent Differential

Section 8.C of the Affordable Housing Covenant and Section 604 of the Disposition and Development Agreement require that the Developer provide the Agency with "a written accounting detailing the fair market rental rates for each of the Affordable Units and the actual amount of affordable rent paid by the tenants of the Affordable Units." The fair market rents have been submitted by the Developer. Staff has calculated the approximate rent differential. The sum of the rent differential for the 12-month period is \$1,144,764.

### 4. Comparison to Income Limits

The Agency uses the income limits as published by the California Housing and Community Development Department. The income limits are released in the spring of each year. The income limits for 2010 are shown in the table below. The income limits for 2010 were lower than those issued for 2009. New tenants are evaluated against the income limits in effect when they are screened, but existing tenants will not be disqualified because the income limits were reduced.

### Income Limits: 2010

	Number of Persons in Household				
	1	2	3	4	5
Very low-income	37,650	43,000	48,400	53,750	58,050
Moderate income	83,500	95,450	107,350	119,300	128,850

Staff has compared the incomes of the new tenants to the income limits at the time they began their tenancy and found that they were appropriately qualified for their income category.

The question of what to do when a household's income grows to exceed the income limit for a very low-income unit has been the subject of discussion with the Developer. The Developer reads the Agency's regulatory covenant to allow a "buffer zone" (similar to the buffer zone recognized under the bond covenant - between 50% of AMI and 70% of AMI) into which a previously very low-income household's income can rise without triggering an obligation on the part of the Developer to create a new very low-income unit. Although the Agency disagrees with that reading, for the moment, the Agency has concluded that the most sensible course is to continue to allow the Developer buffer zone flexibility equivalent to that authorized by the bond covenants. In other words, unless HCD or another regulatory agency takes a position that precludes the Agency granting the Developer this flexibility, households that initially qualify for occupancy of Very Low Income Units with incomes below 50% of AMI will be allowed to continue to occupy such units and be counted towards meeting the Very Low Income Unit requirements of the Agency covenant so long as their incomes do not increase to a level above 140% of the HUD HERA very low income limit (i.e. 70% of AMI). For purposes of making initial tenant screening decisions, the Agency expects the Developer to continue to use HCD income limits, rather than HUD HERA income limits. The Agency has also informed the Developer that if at any point, the State takes an enforcement action against the City or Agency to create additional very low income units, the Agency would insist upon strict compliance with the letter of the Agency covenant without recognition of a "buffer zone" and absent such strict compliance the Agency would refuse to make further disbursements of financial assistance.

#### 5. Other Semi-Annual and Annual Reporting and Use of Waiting list

Staff has also requested and reviewed a copy of the waiting list as of April 2011 to ensure that the City's Preference Categories are being used to order the waiting list. The waiting list was checked to see that new very low-income tenants since that time had come from the waiting list. Many of the people on the waiting list were contacted and offered vacant units but for various reasons, declined to take the units but requested to stay on the list.

#### 6. Minimum Occupancy Standards

Marlin Cove has been subject to an annual agreement to relax the Agency's minimum occupancy standards for the moderate-income two bedroom units to allow a household of 2 people to occupy these units rather than the otherwise required minimum of 3 people. The Agency has relaxed this standard on a year-to-year basis for only the moderate-income two bedroom units because in the current housing market, these units were very difficult to fill. Staff approved a renewal of this agreement for 2010. This agreement is not being renewed for 2011.

#### 7. Net Tax Increment

Net Tax Increment is defined in Section 604 of the DDA as "gross tax increment revenue allocated and paid to the Agency from the Site pursuant to California Health and Safety Code Section 33670(b) attributable to assessed values of the Site in excess of the values for the Site as of the date of this Agreement, before deducting the twenty percent (20%) housing set-aside, but after deducting payments to taxing agencies pursuant to Health and Safety Code Sections 33607.5 and/or 33676."

### Calculation of the Net Tax Increment

Total Assessed Value	\$ 78,786,143
Less: Base Year Value	10,197,147
Incremental Value	68,588,996
Total Tax Increment @ 1%	685,890
Less: Property Tax Admin Fee	-13,718
AB 1290 Pass Through Payments	-137,178
Net Tax Increment (1)	534,994
Payments required per DDA:	
Tax Increment Subsidy (3)	160,498
Agency Grant (4)	109,794
Utility Subsidy (5)	43,023
Total Payment Due Developer (2)	313,315

- (1) Net tax increment is defined as total tax increment less property tax administrative fees and AB 1290 pass through payments.
- (2) The total required payments cannot exceed net tax increment.
- (3) Amount equals 30 percent of net tax increment.
- (4) Fixed amount per provisions of DDA.
- (5) Utility subsidy has been escalated 2% per DDA.

#### 8. Tax Increment Subsidy

Section 604 of the DDA, as amended, in paragraph 1 contains the Agency's pledge of thirty percent (30%) of the Net Tax Increment generated from the Site. Paragraph 2 states that the "Tax Increment Subsidy shall be paid to the Developer on an annual basis on May 1 of each year in an amount equal to the difference between the fair market rents of the Affordable Units and the "affordable rent" for the Affordable units... but not more than the Tax Increment Subsidy." This means that the Tax Increment Subsidy is equal to the rent differential, but cannot be more than the 30% of the Net Tax Increment pledged by the Agency. As indicated above, the Rent Differential far exceeds 30% of the Net Tax Increment, so therefore the Tax Increment Subsidy will be 30% of the Net Tax Increment.

#### 9. Payments to Developer

The total payments to the Developer are limited by the amount of the Net Tax Increment by the following language in paragraph D.2. of the DDA: "If in any year ... the sum of the Tax Increment Subsidy, the "Utility Subsidy" (as defined herein) and the Amortized Portion of the Agency Grant exceed Net Tax Increment, the Tax Increment Subsidy shall be reduced for that year such that the total amount paid to the Developer for the Tax Increment Subsidy, the Utility Subsidy and the Amortized Portion of the Agency Grant does not exceed Net Tax Increment for the applicable year." The Net Tax Increment is substantially higher than the sum of the payments, so the Tax Increment Subsidy is not required to be reduced.

Tax Increment Subsidy:	\$ 160,498
Utility Subsidy:	\$ 43,023
Agency Grant:	<u>\$ 109,794</u>
<b>TOTAL</b>	<b>\$ 313,315</b>

#### Attachments:

- Letter from Rita Chaffee (of M.H. Podell Company), dated 4/11/11
- Project Status Report, dated April 2011
- Affordable Housing Rent Limits-Marlin Cove - 2010

April 11, 2011

Ms. Leslie J. Carmichael  
Planning Division  
City of Foster City  
610 Foster City Blvd.  
Foster City, CA 94404

**RE: ANNUAL TAX INCREMENT SUBSIDY TO PWM RESIDENTIAL  
VENTURES LLC**

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Dear Ms. Carmichael:

Please find attached the analysis calculating the amount due now from the Agency to PWM Residential per the DDA for the 2010/2011 tax year.

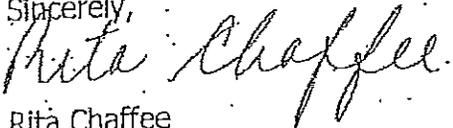
In addition, attached are print outs from the San Mateo County Tax Collector's web page, showing the 2009/2010 Secured Property Taxes paid on parcels 094-330-180 & 094-330-190.

For your reference, the web site's address is:

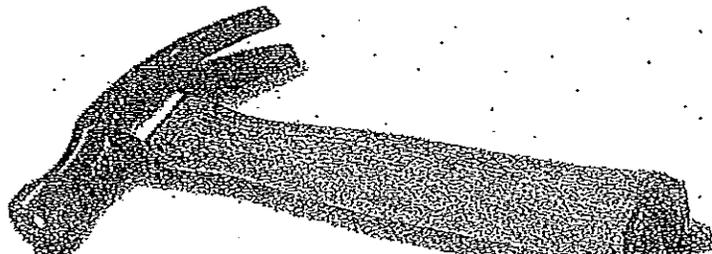
<http://www.sanmateocountytaxcollector.org>

Please send us the tax increment subsidy, made payable to "PWM Residential Ventures LLC" in the amount of **\$313,315** at your earliest opportunity. Please don't hesitate to call me if you have any questions.

Sincerely,



Rita Chaffee  
Vice President



PWM RESIDENTIAL: MARLIN COVE REDEVELOPMENT  
AGENCY PAYMENTS PER DDA DUE PWM RESIDENTIAL

TAX INCREMENT SUBSIDY ANALYSIS

Parcel 094-330-180 2010/2011 Value	61,486,143
Parcel 094-330-190 2010/2011 Value	<u>17,300,000</u>
Total, Assessed Value	78,786,143
Less: Base Year Value	10,197,147
Incremental Tax Value	68,588,996
Total Tax Increment @ 1%	685,890
Less:	
Property Tax Admin Fee @ 2%	(13,718)
Other Taxing Agencies @ 20%	(137,178)
Net Tax Increment	<u>534,994</u>

PAYMENTS REQUIRED PER DDA

Tax Increment Subsidy @ 30% of net tax increment	160,498
Agency Grant (fixed amount per provisions of DDA)	109,794
Utility Subsidy (Increased by 2% from prior year per DDA)	43,022
Payment due to PWM Residential for 2010-2011 tax year	<u>313,315</u>

**County of San Mateo**  
**Tax Collector/Treasurer**  
 Friday April 01, 2011, 08:39:07 AM PDT

TAX BILL PAID

Secured Property Tax			2010	Note: Penalties only apply to late payments			
Parcel	Tax Rate Area	Assessment Year	Roll Year		Installment 1	Installment 2	Total
094-330-190	20-021	2010	2010	General Tax	93,904.40	93,904.40	\$187,808.80
Owner Address				Total Special Charges	.210.44	.210.44	\$420.88
*Name private per CA AB2238				Total Taxes	94,114.84	94,114.84	\$188,229.68
390 BRIDGE PKWY # C				Penalty + Cost + Fee	0.00	0.00	\$0.00
REDWOOD CITY CA 94065-1061				Total Amount	\$94,114.84	\$94,114.84	\$188,229.68
Property Location				Due Date	Nov 01, 2010	Feb 01, 2011	
1070 FOSTER CITY BLVD				Late After	Dec 10, 2010	Apr 11, 2011	
FOSTER CITY				PAID DATE	DEC 06, 2010	MAR 28, 2011	
Values				Detail Special Charges		Phone Contact	Amount
Improvements		7,600,000		SMC Mosquito Abate Dis		(650) 344-8592	3.74
Land		9,700,000		FedCA&NPDES Storm Fee		(650) 363-4100	112.34
Total Values:		17,300,000		SMCCCD 2010-2013		(800) 273-5167	34.00
Exemptions				SMFC SD Measure A 2010		(650) 312-7777	180.84
				SM FCSD 1991&2003 Plat		(650) 312-7777	89.96
				Total Special Charges:			420.88
				Taxing Agency		Tax Rate	Amount
				GENERAL TAX RATE		1.0000	173,000.00
				SM FC EL BD REFUND SER 03		.0341	5,899.30
				SAN MATEO HIGH BD SER 2002 B		.0322	5,570.60
				SM JR COLLEGE BD 2002		.0193	3,338.90
				General Tax Total		1.0856	187,808.80
Net value		\$17,300,000		Composite Rate	1.0856	Penalty Rate	10.0%
Legal Description		4.463 AC MOL PTN OF PARCEL B, PM VOL 15/49 + PTNS OF PARCELS 2 + 3 , PM VOL 14/19					
Be aware that during peak periods, it may take up to 10 days to receive and process your payments.							

Your Taxes Have Been Paid. Thank You.

**County of San Mateo**  
**Tax Collector/Treasurer**  
 Monday April 11, 2011. 11:17:51 AM PDT

TAX BILL PAID

Secured Property Tax			2010	Note: Penalties only apply to late payments			
Parcel	Tax Rate Area	Assessment Year	Roll Year		Installment 1	Installment 2	Total
094-330-180	20-021	2010	2010	General Tax	333,746.78	333,746.78	\$667,493.56
Owner Address				Total Special Charges	250.34	250.34	\$500.68
*Name private per CA AB2238				Total Taxes	333,997.12	333,997.12	\$667,994.24
1201 HOWARD AVE STE 300				Penalty + Cost + Fee	0.00	0.00	\$0.00
BURLINGAME CA 94010-4224				Total Amount	\$333,997.12	\$333,997.12	\$667,994.24
Property Location				Due Date	Nov 01, 2010	Feb 01, 2011	
1000 1066 FOSTER CITY BLVD				Late After	Dec 10, 2010	Apr 11, 2011	
FOSTER CITY				PAID DATE	DEC 08, 2010	APR 08, 2011	
<b>Values</b>				<b>Detail Special Charges</b>		<b>Phone Contact</b>	<b>Amount</b>
Improvements		48,247,221		SMC Mosquito Abate Dis	(650) 344-8592	3.74	
Land		13,205,644		FedCA&NPDES Storm Fee	(650) 363-4100	192.14	
Personal Property		33,278		SMCCCD 2010-2013	(800) 273-5167	34.00	
Total Values:		61,486,143		SMFC SD Measure A 2010	(650) 312-7777	180.84	
<b>Exemptions</b>				SM FCSD 1991&2003 Ptax	(650) 312-7777	89.96	
				Total Special Charges:		500.68	
				<b>Taxing Agency</b>		<b>Tax Rate</b>	<b>Amount</b>
				GENERAL TAX RATE	1.0000	614,861.43	
				SM FC EL BD REFUND SER 03	.0341	20,966.78	
				SAN MATEO HIGH BD SER 2002 B	.0322	19,798.53	
				SM JR COLLEGE BD 2002	.0193	11,866.82	
				General Tax Total	1.0856	667,493.56	
Net value		\$61,486,143	Composite Rate	1.0856	Penalty Rate	10.0%	
Legal Description	7.609 AC MOL PTN OF PARCEL B, PM VOL 15/49 + PTNS OF PARCELS 2 + 3, PM VOL 14/19						
Be aware that during peak periods, it may take up to 10 days to receive and process your payments.							

**Your Taxes Have Been Paid. Thank You.**

US™ Compliance Reporting System

Property Status Report (PSR)  
RDA Program  
Report Period: April 2011

Property ID: 22252  
Property Name: Marlin Cove

Property Address: 1000 Foster City Boulevard  
San Mateo, CA 94404

Print Date: 07/07/2011

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number In Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number In Household (Move-In)	Move-In Date / Vacancy Date	Move-In Annual Income	Current Annual Income	Last Recertification Date
50			2	2	\$1,066.00	\$144.00	\$1,210.00		1	06/26/2010	\$49,108.00	\$46,166.00	02/07/2011
50			2	2	\$962.00	\$139.00	\$1,075.00		2	02/17/2010	\$6,036.00	\$8,196.00	02/07/2011
1 WARNING: Current Income at to Move-In Income													
50			2	2	\$962.00	\$113.00	\$1,075.00		2	06/03/2009	\$35,876.00	\$23,977.00	01/07/2010
50			2	2	\$1,066.00	\$144.00	\$1,210.00		3	2/9/2009	\$90,862.00	\$19,864.00	12/07/2010
50			2	2	\$1,066.00	\$144.00	\$1,210.00		3	01/18/2009	\$45,768.00	\$61,861.00	01/07/2011
50			2	3	\$1,066.00	\$144.00	\$1,210.00		3	10/29/2010	\$29,096.00	\$29,000.00	
50			2	3	\$992.00	\$139.00	\$1,155.00		3	03/07/2009	\$29,440.00	\$8,999.00	09/07/2010
1 WARNING: Current Income Exceeds 140% of 50% AMGI (140% HUD Limit = \$2,710.00 @ 1)													
50			2	2	\$1,066.00	\$144.00	\$1,210.00		2	04/27/2009	\$29,000.00	\$16,667.00	01/20/10
50			2	2	\$1,066.00	\$144.00	\$1,210.00		2	10/01/2009	\$13,987.00	\$8,866.00	01/20/10
50			2	2	\$1,066.00	\$144.00	\$1,210.00		3	09/09/2008	\$93,602.00	\$25,440.00	09/07/2010
50			2	3	\$1,066.00	\$144.00	\$1,210.00		3	01/19/2010	\$81,237.00	\$61,665.00	01/13/2011
50			2	3	\$1,066.00	\$144.00	\$1,210.00		3	05/06/2010	\$6,068.00	\$45,068.00	
50			2	2	\$1,066.00	\$144.00	\$1,210.00		2	12/27/2008	\$21,200.00	\$28,699.00	12/07/2010
50			2	2	\$1,066.00	\$144.00	\$1,210.00		2	04/09/2009	\$28,745.00	\$25,446.00	04/07/2011
50			2	2	\$1,066.00	\$144.00	\$1,210.00		2	05/07/2009	\$29,013.00	\$25,872.00	03/07/2011
50			2	2	\$962.00	\$139.00	\$1,075.00		1	01/20/2006	\$8,999.00	\$45,207.00	11/07/2010
50			2	2	\$962.00	\$139.00	\$1,075.00		1	07/15/2010	\$29,710.00	\$22,081.00	01/07/2011
50			2	2	\$1,066.00	\$144.00	\$1,210.00		1	04/14/2009	\$9,877.00	\$57,096.00	12/15/2010
50			2	2	\$1,066.00	\$144.00	\$1,210.00		3	02/28/2009	\$22,000.00	\$44,100.00	11/07/2010
50			2	2	\$1,066.00	\$144.00	\$1,210.00		1	05/19/2011	\$70,333.00	\$79,989.00	
50			2	2	\$962.00	\$139.00	\$1,075.00		3	08/27/2002	\$29,888.00	\$32,721.00	01/20/10
50			2	2	\$1,066.00	\$144.00	\$1,210.00		3	06/27/2002	\$24,200.00	\$55,496.00	11/07/2010
50			2	2	\$962.00	\$139.00	\$1,075.00		1	02/10/2010	\$7,847.00	\$81,832.00	02/10/2010
50			2	2	\$962.00	\$139.00	\$1,075.00		1	07/15/2010	\$8,282.00	\$8,282.00	
50			2	2	\$962.00	\$139.00	\$1,075.00		2	01/27/2009	\$67,863.00	\$29,746.00	11/07/2010
50			2	2	\$1,066.00	\$144.00	\$1,210.00		3	10/20/2011	\$49,288.00	\$49,288.00	

US™ Compliance Reporting System

Property Status Report (PSR)

RDA Program

Report Period: April 2011

Property ID: 22252  
 Property Name: Marlin Cove  
 CA:

Property Address: 1000 Foster City Boulevard  
 San Mateo, CA 94404

Print Date: 07/07/2011

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number in Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number In Household (Move-in)	Move-In Date* / Vacancy Date	Move-In Annual Income	Current Annual Income	Last Recertification Date
50	4	4	2	2	\$2,000.00	\$144.00	\$2,244.00		2	09/28/2009	\$39,467.00	\$39,467.00	05/07/2010
50	4	4	2	2	\$962.00	\$113.00	\$1,075.00		1	03/18/2011	\$39,436.00	\$39,436.00	
50	4	4	2	2	\$962.00	\$113.00	\$1,075.00		1	08/10/2010	\$10,673.00	\$10,673.00	
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		3	02/20/2010	\$24,565.00	\$24,565.00	03/20/2011
50	4	4	2	2	\$2,000.00	\$144.00	\$2,244.00		3	10/07/2010	\$42,152.00	\$42,152.00	
50	4	4	2	2	\$2,000.00	\$144.00	\$2,244.00		4	07/06/2010	\$19,892.00	\$19,892.00	
50	4	4	2	2	\$962.00	\$113.00	\$1,075.00		1	07/17/2010	\$26,028.00	\$26,028.00	07/17/2011
L -> WARNING: Current Inco													
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		1	07/14/2011	\$68,975.00	\$68,975.00	
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		1	03/09/2010	\$44,234.00	\$44,234.00	01/10/2011
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		2	02/17/2010	\$41,572.00	\$41,572.00	
50	4	4	2	2	\$1,123.2009	\$144.00	\$1,267.20		2	11/23/2009	\$32,494.00	\$32,494.00	12/01/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		3	02/07/2010	\$95,555.00	\$95,555.00	02/07/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		2	09/01/2009	\$68,118.00	\$68,118.00	03/07/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		3	07/17/2010	\$39,000.00	\$39,000.00	
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		2	08/27/2002	\$23,400.00	\$23,400.00	12/15/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		1	07/19/2008	\$30,468.00	\$30,468.00	07/17/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		2	08/14/2010	\$28,888.00	\$28,888.00	
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		2	09/07/2007	\$37,200.00	\$37,200.00	05/01/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		4	01/15/2011	\$89,200.00	\$89,200.00	
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		3	07/07/2007	\$26,113.00	\$26,113.00	07/07/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		3	02/21/2011	\$45,451.00	\$45,451.00	
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		4	08/06/2002	\$31,574.00	\$31,574.00	06/17/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		2	07/29/2009	\$31,243.00	\$31,243.00	01/28/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		3	01/17/2003	\$7,880.00	\$7,880.00	12/01/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		1	08/14/2010	\$49,739.00	\$49,739.00	
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		1	04/24/2003	\$17,650.00	\$17,650.00	06/07/2010
50	4	4	2	2	\$1,068.00	\$144.00	\$1,212.00		3	06/22/2005	\$43,862.00	\$43,862.00	06/07/2010



iCUS™ Compliance Reporting System

Property Status Report (PSR)

RDA Program

Report Period: April 2011

Print Date: 07/07/2011

Property ID: 22252  
 Property Name: Marlin Cove  
 AKA:

Property Address: 1000 Foster City Boulevard  
 San Mateo, CA 94404

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number in Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number in Household (Move-In)	Move-In Date / Vacancy Date	Move-In Annual Income	Current Annual Income	Last Recertification Date
20	18	1	2	2	\$1,390.00	\$113.00	\$1,503.00		1	07/18/2010	\$6,956.00	\$6,266.00	
20	18	2	2	2	\$1,535.00	\$113.00	\$1,708.00		1	12/31/2010	\$4,800.00	\$4,890.00	
20	18	3	2	2	\$1,535.00	\$113.00	\$1,668.00		1	01/21/2011	\$5,336.00	\$4,335.00	

Report Summary: In Compliance

Total Property Units: 280

56 Affordable Units (50% AMGI); 56 unit(s) In Compliance, 56 unit(s) Required  
 28 Affordable Units (120% AMGI); 28 unit(s) In Compliance, 28 unit(s) Required  
 0 Exempt Units; 0 unit(s) Allowed

Prepared By: Michael Arpafo  
 Phone Number: 650-931-8085

**FOSTER CITY**  
**AFFORDABLE HOUSING RENT LIMITS - MARLIN COVE**  
**2010**

2010 San Mateo County Median Income = \$99,400

*Per State Health & Safety Code Sections 50052.2 & 50053*

<b>Very Low Income</b>	
<b>ONE BEDROOMS -- FAMILIES OF 1 or 2</b>	
Very low income limit for family of 2	43,000
/12 months * 30%	1,075
less Marlin Cove utility allowance	<u>113</u>
<b>TOTAL MARLIN COVE RENT</b>	<b>\$ 962</b>

<b>TWO BEDROOMS -- FAMILIES OF 3 or 4</b>	
Very low income limit for family of 3	48,400
/12 months * 30%	1,210
less Marlin Cove utility allowance	<u>144</u>
<b>TOTAL MARLIN COVE RENT</b>	<b>\$ 1,066</b>

<b>Moderate Income</b>	
<b>ONE BEDROOMS -- FAMILIES OF 1 or 2</b>	
110% x median income for family of 2	\$ 87,450
/12 months * 30%	2,186
less Marlin Cove utility allowance	<u>113</u>
<b>TOTAL MARLIN COVE RENT</b>	<b>\$ 2,073</b>

<b>TWO BEDROOMS -- FAMILIES OF 3 or 4</b>	
110% of median income for family of 3	\$ 98,395
/12 months * 30%	2,460
less Marlin Cove utility allowance	<u>144</u>
<b>TOTAL MARLIN COVE RENT</b>	<b>\$ 2,316</b>

Note: moderate rents are often set lower than the rent limits so that they are below market rate rents

For Low-Income units in transition from very low to moderate:

<b>Low Income</b>	
<b>ONE BEDROOMS -- FAMILIES OF 1 or 2</b>	
Low income limit for family of 2	68,800
/12 months * 30%	1,720
less Marlin Cove utility allowance	<u>113</u>
<b>TOTAL MARLIN COVE RENT</b>	<b>\$ 1,607</b>

<b>TWO BEDROOMS -- FAMILIES OF 3 or 4</b>	
Low income limit for family of 3	77,400
/12 months * 30%	1,935
less Marlin Cove utility allowance	<u>144</u>
<b>TOTAL MARLIN COVE RENT</b>	<b>\$ 1,791</b>

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## Memorandum

To: James C. Hardy, City Manager

Via: Richard B. Marks, Community Development Director  
Curtis Banks, Planning Manager

From: Leslie J. Carmichael, Consulting Planner

Copy: Mary Nitschke, Operations and Special Projects Manager  
Clay Parker, Chief Financial Officer, Prometheus, 1900 S. Norfolk St., Suite 150, San Mateo, CA 94402

Date: July 21, 2011

Re: Review of Miramar Apartments Annual Report for May 1, 2010-April 30, 2011

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### Summary

The Miramar Apartments Disposition and Development Agreement (DDA) and Affordable Housing Covenant require the annual payment of the amortized portion of the Agency Grant to be made to the Developer in return for the provision of affordable housing. Section 601 of the DDA requires the following in order to obtain the payments:

- Developer has obtained a Certificate of Completion from the Agency (recorded 4/3/03)
- Developer had provided the Agency by April 15 of each year written evidence that the Developer has paid all real property taxes and assessments then due (see attached letter from Clay Parker dated June 28, 2011).
- Developer has delivered the annual housing reports required under the Affordable Housing Covenant and is not otherwise in default under the Affordable Housing Covenant (submitted May 2011 via [www.housingcompliance.org](http://www.housingcompliance.org) and attached as Property Status Report dated May 2011)

This memo reviews the annual report, which covers the time period of May 1, 2010 to April 30, 2011, as well as the other prerequisites to receiving the payments provided by the DDA and Affordable Housing Covenant.

I have reviewed the annual reports submitted by Miramar Apartments for May 1, 2010-April 30, 2011 and have determined that the Developer is not in default under the Affordable Housing Covenant. There are some items that have been under discussion, specifically conflicts between the Developer's Tax Credit requirements and the Agency's requirements, as well as minimum household size requirements for two-bedroom units, which are explained in more detail later in this memo.

As indicated in the tables later in this memo, the \$233,659 payment amount specified in the DDA is limited by the amount of the Net Tax Increment. As indicated in the tables later in this memo, the \$233,659 payment amount would exceed the Net Tax Increment for FY 2010-11, making the required payment the amount of the Net Tax Increment. Staff has therefore initiated the required payment on this basis. This would result in the payment of \$177,187.

1. Comparison of Actual Rents to Rent Limits:

The 2010 rents limits (after deduction of the utility allowance from the rent limit) are compared below to the actual rents charged. The utility allowances issued in November 2008 are used to review the report for 2010-11. The utility allowances issued in November 2010 will be used in the next reporting period. The utility allowances are at the allowed amounts (allowances included: electric heating, gas cooking, other electric and gas water heating).

A review of the rent limits compared to the rents charged indicates that the rents charged are within the allowable limits. Several different rent amounts are being used for the very low-income units because some of the rents have been discounted due to inconveniences caused by repairs being made. The rents will all eventually return to standard rates after the renovations are completed.

Comparison of Actual Rents to Rent Limits including Utility Allowances: 2010-11

	2010 Rent Limit (moderates without utilities)	2010-11 Rent-actual (moderates without utilities)	Market Rent
VL One bedroom	1033	950-1035	2302-2337
VL Two bedroom	1156	1068-1203	2892-3083
L Three-bedroom	2083	1344	3512
Moderate One bedroom*	2186	1425-1675	2302-2337
Moderate Two bedroom*	2460	1581-1850	2892-3083

2. Comparison of Affordable Units Required and Provided:

One household was found to be over the very low-income limit when they moved into a one-bedroom unit (on 7/28/10) and so are counted as a moderate-income household in the table below. As of the writing of this report, they have moved into a two-bedroom unit, bringing the number of moderate income units to 8 one-bedroom and 8 two-bedroom.

Two units were shown as vacant in the report provided. This is reflected in the table below. As of the writing of this report, two new tenants have been added: one of the 1-bedroom units was rented to a moderate income household, bringing the number of those units to 10; one of the 1-bedroom units was rented to a very low-income household. This did not, however, address the deficiency in the very low-income units. The next available unit will need to be rented to a very low-income household in order to bring the number of units provided back into compliance.

Comparison of Affordable Units Required and Provided

Unit Type	Number Required	Number Provided as of May 2011	Deviation
VL One bedroom	16	15**	-1
VL Two bedroom	15	14	-1
L Three bedroom	1	1	0
M One Bedroom	8	9**	+1
M Two Bedroom	8	7	-1
Total	48	46	-2

\*\* One of the 1 bedroom very low-income units is reclassified as moderate-income because they were over the income limit at move-in.

**Comparison of Affordable Units Required and Provided**

Unit Type	Number Required	Number Provided as of July 2011	Deviation
VL One bedroom	16	16**	0
VL Two bedroom	15	14	-1
L Three bedroom	1	1	0
M One Bedroom	8	8	0
M Two Bedroom	8	8**	0
<b>Total</b>	<b>48</b>	<b>47</b>	<b>-1</b>

\*\* One of the 1 bedroom very low-income units is reclassified as moderate-income because they were over the income limit at move-in.

**3. Rent Differential**

Section 1.D. of the Affordable Housing Covenant requires that the Developer provide an accounting of the fair market rental rates for each unit and the actual amount of affordable rent paid by the tenants of the affordable units. The amount of rent paid by tenants, the market rent reported by the Developer and the resulting Rent Differential is shown in the table below.

**Rent Differential for Below Market Rate Rents: 2010-11**

Unit Type	No. Units	Average Tenant Rent	BMR Rental Income	Average Market Rent	Market Rental Income	Rent Differential
VL-1 bedr	16	1,001	16,016	2,320	37,120	21,104
VL-2 bedr	15	1,030	15,450	2,988	44,813	29,363
L-3 bedr	1	1,344	1,344	3,512	3,512	2,168
M-1 bedr	8	1,471	11,768	2,320	18,560	6,792
M-2 bedr	8	1,911	15,288	2,988	23,900	8,612
<b>TOTAL</b>						<b>68,039</b>

**4. Comparison to Income Limits**

The Agency uses the income limits as published by the California Housing and Community Development Department. The income limits are released in the spring of each year. The income limits for 2010 are shown in the table below.

**Income Limits: 2010**

	Number of Persons in Household			
	1	2	3	4
Very low-income	37,650	43,000	48,400	53,750
Moderate income	83,500	95,450	107,350	119,300

Staff has compared the incomes of the new tenants to the income limits at the time they began their tenancy and found that they were appropriately qualified for their income category, with two exceptions. As noted above, one household of 3 with an income of \$51,600 at move-in was above the income limit of \$48,400 for very low-income and staff has reclassified that household as a moderate income unit. In addition one other 2-person household with an income of \$45,686 at move-in was over the very low-income limit of \$43,000, but their current income is now \$16,886, which is back in compliance with the income limit.

The question of what to do when a household's income grows to exceed the income limit for a very low-income unit has been the subject of discussion with the Developer. The Developer reads the Agency's regulatory covenant to allow a "buffer zone" (similar to the buffer zone recognized under the bond covenant - between 50% of AMI and 70% of AMI) into which a previously very low-income household's income can rise without triggering an obligation on the part of the Developer to create a new very low-income unit. Although the Agency disagrees with that reading, for the moment, the Agency has concluded that the most sensible course is to continue to allow the Developer buffer zone flexibility equivalent to that authorized by the bond covenants. In other words, unless HCD or another regulatory agency takes a position that precludes the Agency granting the Developer this flexibility, households that initially qualify for occupancy of Very Low Income Units with incomes below 50% of AMI will be allowed to continue to occupy such units and be counted towards meeting the Very Low Income Unit requirements of the Agency covenant so long as their incomes do not increase to a level above 140% of the HUD HERA very low income limit (i.e. 70% of AMI). For purposes of making initial tenant screening decisions, the Agency expects the Developer to continue to use HCD income limits, rather than HUD HERA income limits. The Agency has also informed the Developer that if at any point, the State take an enforcement action against the City or Agency to create additional very low income units, the Agency would insist upon strict compliance with the letter of the Agency covenant without recognition of a "buffer zone" and absent such strict compliance the Agency would refuse to make further disbursements of financial assistance.

#### 5. Other Semi-Annual and Annual Reporting Including Use of Waiting List

Miramar is also required to submit a semi-annual report. The next semi-annual report is due in November 2011.

Staff has also requested and reviewed a copy of the waiting lists to ensure that the City's Preference Categories are being used to order the waiting list. Staff reviewed the new tenants against the previous waiting list and concluded that the Preference Categories are being used appropriately.

#### 6. Minimum Occupancy Standards

Minimum occupancy standards of three people for a two-bedroom unit were established at the time of the initial lottery. Section 1.B.(5) of the Affordable Housing Covenant states that "no less than one (1) person per bedroom shall be allowed, and no more than four (4) persons shall be permitted to occupy a two (2) bedroom Affordable Unit, and the adjustment for household size may be based upon such maximum occupancy assumptions." This would equate to a minimum of 2 people in a two-bedroom unit. In addition to this standard, at the time of the initial lottery, the Agency and the Developer had agreed that a minimum of three people would be required for the two-bedroom units, unless a special accommodation was required for disability or other reason. Miramar was subject to an annual agreement to relax the Agency's minimum occupancy standards for the moderate-income two bedroom units to allow a household of 2 people to occupy these units rather than the otherwise required minimum of 3 people. The Agency did not renew this agreement in June 2010.

There are two issues related to minimum occupancy:

1. Two people in two-bedroom very low-income units. The annual report indicates that there are seven very low-income two bedroom units that are occupied by two people. None of these are the result of a special accommodation. The developer has asserted that the bond covenants prohibit the use of a 3-person household minimum. Staff has requested an opinion from the bond counsel. In the interim while waiting for an opinion from the bond counsel, staff has determined that the annual payment should be made.

2. Two people in a two-bedroom moderate income unit allowed under previous annual agreement. Staff believes that with the more healthy rental market, the property owner should be able to find moderate income tenants using a further reduction in the amount of rent from present levels, if necessary, and that the reduction in the minimum occupancy is no longer necessary. The existing two-person households in two-bedroom moderate income units will be allowed to remain, but no new two-person households will be allowed in two-bedroom moderate income units.

## 7. Net Tax Increment

Net Tax Increment is defined in Section 601 of the DDA as "gross tax increment revenue allocated and paid to the Agency from the Site pursuant to California Health and Safety Code Section 33670(b) attributable to assessed values of the Site in excess of the values for the Site as of the date of this Agreement, before deducting the twenty percent (20%) housing set-aside, but after deducting payments to taxing agencies pursuant to Health and Safety Code Sections 33607.5 and/or 33676." The Agency Grant is to be paid exclusively from the Net Tax Increment.

### Calculation of the Net Tax Increment – 2010-11

Total Assessed Value	\$25,575,000
Less: Base Year Value	2,858,757
Incremental Value	22,716,243
Total Tax Increment @ 1%	227,162
Less: Property Tax Admin Fee	-4,543
AB 1290 Pass Through Payments	-45,432
Net Tax Increment (1)	177,187
Payments required per DDA (2):	
Agency Grant (3)	233,659

- (1) Net tax increment is defined as total tax increment less property tax administrative fees and AB 1290 pass through payments.
- (2) The total required payments cannot exceed net tax increment.
- (3) Fixed amount per provisions of DDA.

## 8. Payments to the Developer

The Agency Grant payment of \$233,659 is due to the developer on July 1<sup>st</sup> of each year, provided the following:

- a. The Agency has issued a Certificate of Completion (issued 4/3/03).
- b. Developer has provided evidence of payment of all real property taxes and assessments (see letter from Clay Parker dated June 28, 2011).
- c. Developer has delivered the annual report and is not otherwise in default under the DDA or the Affordable Housing Covenant.
- d. The payment does not exceed the Net Tax Increment.

As indicated in the tables above, the \$233,659 amount would exceed the Net Tax Increment for FY 2010-11, making the required payment the amount of the Net Tax Increment. Staff has therefore initiated the required payment on this basis. This would result in the payment of \$177,187 for FY 2010-11.

### Attachments:

- Letter from Clay Parker dated June 28, 2011
- Property Status Report dated May 2011 (confidential info removed)
- Affordable Housing Rent Limits – Miramar – 2010



FOSTER CITY  
RECEIVED

JUL 05 2011

PLANNING/  
CODE ENFORCEMENT

June 28, 2011

Mr. Curtis Banks  
Planning Manager  
Community Development Agency of the  
City of Foster City  
610 Foster City Blvd.  
Foster City, CA 94404

Subject: Agency Grant for Miramar Apartments

Dear Mr. Banks:

In accordance with the terms and conditions set forth in Section IV, Paragraph A.1 of the Disposition and Development Agreement (DDA), by and between the Community Development Agency of the City of Foster City and Miramar Apartments, a California Limited Partnership, we hereby request the release of the ninth installment of the "Amortized Portion" of the City of Foster City grant for \$233,659.00. We understand that this installment payment amount is limited by the amount of the Net Tax Increment as defined in Section 601 of the DDA. We request the payment be transferred on July 31, 2011 in accordance with the attached wiring instructions.

Attached is the evidence of payment of real estate taxes and assessments due. The 2011 Annual Project Status Report and the updated BMR waiting lists were previously submitted to your office. Please let us know if you need us to re-submit these documents.

If you should have any questions regarding this request, please call Gigi Cervero at (650) 931-3441 or Liane Hui at (650) 931-3530. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Clay Parker".

Clay Parker  
Chief Financial Officer

FOCUS™ Compliance Reporting System

Property Status Report (PSR)

RDA Program  
Report Period: May 2011

Property ID: 22253  
Property Name: Miramar Apartments  
AKA:  
Property Address: 1288 E. Hillside Boulevard  
Foster City, CA 94404

Print Date: 07/21/2011

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number in Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number in Household (Move-In)	Move-In Date*	Move-In Annual Income	Current Annual Income	Last Recertification Date
50	A		1	1	\$1,035.00	\$42.00	\$1,077.00		1	10/10/2007	\$36,913.00	\$36,482.00	10/10/2010
I Monthly Gross Rent (\$1,075.00 @ 2)													
120	A		1	2	\$1,500.00	\$0.00	\$1,500.00		2	03/16/2008	\$62,936.00	\$60,377.18	11/13/2010
50	A		2	2	\$979.00	\$42.00	\$1,021.00		2	06/01/2007	\$44,513.00	\$58,727.00	09/01/2010
50	A		2	2	\$979.00	\$42.00	\$1,021.00		2	06/02/2002	\$15,984.00	\$16,886.00	08/02/2010
50	A		2	5	\$1,068.00	\$54.00	\$1,122.00		4	05/01/2004	\$52,155.00	\$38,096.29	05/01/2011
50	A		2	2	\$1,097.00	\$54.00	\$1,151.00		2	07/26/2007	\$37,389.00	\$36,879.00	07/25/2010
50	A		1	1	\$1,035.00	\$42.00	\$1,077.00		1	06/15/2003	\$20,950.00	\$27,626.00	08/15/2010
I Monthly Gross Rent (\$1,075.00 @ 2)													
120	A		1	0	\$0.00	\$0.00	\$0.00		0	04/30/2011	\$0.00	\$0.00	
50	A		1	2	\$1,035.00	\$42.00	\$1,077.00		2	12/08/2010	\$29,580.93	\$29,580.93	12/08/2010
I Monthly Gross Rent (\$1,075.00 @ 2)													
50	A		1	1	\$979.00	\$42.00	\$1,021.00		1	08/13/2007	\$23,448.00	\$27,965.00	08/13/2010
50	A		2	3	\$1,153.00	\$54.00	\$1,207.00		3	01/09/2011	\$44,383.87	\$44,383.87	01/09/2011
120	A		2	2	\$1,350.00	\$0.00	\$1,350.00		3	05/31/2003	\$92,044.00	\$25,475.00	05/31/2010
120	A		2	3	\$1,350.00	\$0.00	\$1,350.00		3	12/23/2008	\$62,301.00	\$65,099.87	12/23/2010
50	A		2	3	\$1,068.00	\$54.00	\$1,122.00		3	09/01/2007	\$47,217.00	\$51,964.00	06/16/2010
120	A		2	3	\$1,900.00	\$0.00	\$1,900.00		3	05/01/2004	\$60,151.00	\$52,040.00	05/01/2011
50	A		2	2	\$1,143.00	\$54.00	\$1,197.00		2	11/27/2007	\$25,838.00	\$18,249.21	11/27/2010
120	B		2	3	\$1,925.00	\$0.00	\$1,925.00		3	01/15/2011	\$98,464.10	\$96,484.10	01/15/2011
50	B		2	2	\$1,097.00	\$54.00	\$1,151.00		3	07/13/2002	\$37,787.00	\$58,497.00	07/13/2010
50	B		1	1	\$950.00	\$42.00	\$992.00		1	07/15/2002	\$17,895.00	\$22,278.00	07/15/2010
50	B		1	2	\$1,035.00	\$42.00	\$1,077.00		2	09/15/2007	\$39,141.00	\$63,017.00	09/15/2010
I Monthly Gross Rent (\$1,075.00 @ 2)													
50	B		1	1	\$979.00	\$42.00	\$1,021.00		2	06/06/2004	\$42,709.00	\$30,601.00	08/06/2010
50	B		1	1	\$950.00	\$42.00	\$992.00		1	06/02/2006	\$29,244.00	\$32,328.00	06/02/2010
120	B		1	2	\$1,033.00	\$0.00	\$1,033.00		2	02/15/2011	\$37,104.82	\$37,104.82	02/15/2011
120	B		1	2	\$1,425.00	\$0.00	\$1,425.00		1	05/26/2009	\$56,434.00	\$50,945.00	05/26/2010
50	B		2	3	\$1,068.00	\$54.00	\$1,122.00		3	03/25/2006	\$39,484.00	\$60,744.87	03/15/2011

\*Move-In Date should be the date

is placed on the RDA Program

FOCUS™ Compliance Reporting System

Property Status Report (PSR)

RDA Program

Report Period: May 2011

Print Date: 07/21/2011

Property ID: 22253  
 Property Name: Miramar Apartments  
 AKA:  
 Property Address: 1288 E. Hillside Boulevard  
 Foster City, CA 94404

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number in Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number in Household (Move-In)	Move-In Date / Vacancy Date	Move-In Annual Income	Current Annual Income	Last Recertification Date
50	B		2	2	\$1,097.00	\$54.00	\$1,151.00		2	07/08/2010	\$36,896.00	\$36,896.00	07/08/2010
80	B		3	4	\$1,344.00	\$67.00	\$1,411.00		4	04/05/2003	\$40,101.00	\$78,532.00	04/05/2011
120	B		1	1	\$1,675.00	\$0.00	\$1,675.00		1	09/03/2002	\$45,710.00	\$70,799.00	08/03/2010
50	B		1	1	\$1,030.00	\$42.00	\$1,072.00		1	12/12/2007	\$24,881.00	\$20,498.00	12/12/2010
50	B		1	2	\$1,035.00	\$42.00	\$1,077.00		2	10/09/2009	\$32,133.00	\$31,410.00	10/09/2010
ceeds 1/12 of 30% of 50% AMGI (\$1,075.00 @ 2)													
50	B		2	2	\$1,097.00	\$54.00	\$1,151.00		2	09/12/2008	\$40,704.00	\$25,656.00	09/12/2010
50	B		2	2	\$1,068.00	\$54.00	\$1,122.00		2	06/29/2002	\$36,494.16	\$48,749.00	06/29/2010
120	C		2	4	\$1,875.00	\$0.00	\$1,875.00		4	12/10/2010	\$100,287.40	\$100,287.40	12/10/2010
120	C		2	3	\$2,114.00	\$0.00	\$2,114.00		4	09/09/2010	\$90,054.00	\$90,054.00	09/09/2010
50	C		2	3	\$1,068.00	\$54.00	\$1,122.00		3	11/22/2008	\$47,139.00	\$43,663.00	12/06/2010
120	C		2	2	\$1,860.00	\$0.00	\$1,860.00		2	07/01/2009	\$78,076.00	\$77,461.00	08/24/2010
120	C		1	2	\$1,550.00	\$0.00	\$1,550.00		2	02/05/2011	\$62,332.40	\$62,332.40	02/05/2011
120	C		1	1	\$1,540.00	\$0.00	\$1,540.00		1	05/05/2008	\$56,297.00	\$69,348.00	05/05/2011
50	C		2	0	\$0.00	\$0.00	\$0.00		0	05/03/2011	\$0.00	\$0.00	
50	C		2	4	\$1,068.00	\$54.00	\$1,122.00		3	05/19/2002	\$28,200.00	\$56,366.00	05/19/2010
50	C		1	2	\$950.00	\$42.00	\$992.00		2	05/19/2002	\$28,246.00	\$29,380.00	05/19/2010
50	C		2	2	\$1,035.00	\$42.00	\$1,077.00		2	02/13/2010	\$45,686.40	\$16,886.00	02/13/2011
ceeds 50% AMGI (HUD Limit = \$45,250.00 @ 2)													
ceeds 1/12 of 50% of 50% AMGI (\$1,075.00 @ 2)													
50	C		2	3	\$1,153.00	\$54.00	\$1,207.00		3	01/07/2006	\$30,275.00	\$52,088.00	01/07/2011
50	C		1	3	\$979.00	\$42.00	\$1,021.00		1	07/28/2010	\$51,600.00	\$51,600.00	07/28/2010
ceeds 50% AMGI (HUD Limit = \$37,650.00 @ 1)													
120	C		1	2	\$1,500.00	\$0.00	\$1,500.00		2	09/22/2006	\$78,312.00	\$46,881.00	07/21/2010
50	C		2	2	\$1,153.00	\$54.00	\$1,207.00		2	01/29/2007	\$39,027.00	\$34,486.00	01/29/2011
50	C		1	3	\$1,035.00	\$42.00	\$1,077.00		3	01/12/2008	\$41,669.00	\$28,707.00	01/12/2011
ceeds 1/12 of 30% of 50% AMGI (\$1,075.00 @ 2)													
120	C		1	1	\$1,542.00	\$0.00	\$1,542.00		1	04/20/2010	\$61,236.00	\$63,964.00	04/20/2011
MARKET			0	0	\$0.00	\$0.00	\$0.00		0		\$0.00	\$0.00	

\*Move-In Date should be the date placed on the RDA Program  
 I - WARNING: Duplicate  
 Page 2 of 3

Property Status Report (PSR)

RDA Program

Report Period: May 2011

Print Date: 07/21/2011

Property ID: 22253  
 Property Name: Miramar Apartments  
 AKA:  
 Property Address: 1288 E. Hillside Boulevard  
 Foster City, CA 94404

Income Restriction (%)	Bldg #	Unit #	Number of Bedrooms	Number In Household (Current)	Tenant Paid Rent	Utility Allowance	Gross Rent	Tenant Name	Number In Household (Move-In)	Move-In Date* / Vacancy Date	Move-In Annual Income	Current Annual Income	Last Recertification Date
MARKET	0	0	0	0	\$0.00	\$0.00	\$0.00		0		\$0.00	\$0.00	
MARKET	0	0	0	0	\$0.00	\$0.00	\$0.00		0		\$0.00	\$0.00	
I *WARNING: Duplicate Unit													
MARKET	0	0	0	0	\$0.00	\$0.00	\$0.00		0		\$0.00	\$0.00	
I *WARNING: Duplicate Unit													
MARKET	0	0	0	0	\$0.00	\$0.00	\$0.00		0		\$0.00	\$0.00	
L *WARNING: Duplicate Unit													
MARKET	0	0	0	0	\$0.00	\$0.00	\$0.00		0		\$0.00	\$0.00	
L *WARNING: Duplicate Unit													
MARKET	0	0	0	0	\$0.00	\$0.00	\$0.00		0		\$0.00	\$0.00	
I *WARNING: Duplicate Unit													

Report Summary: Not In Compliance

Total Property Units: 159

- 31 Affordable Units (50% AMGI); 23 unit(s) In Compliance, 31 unit(s) Required
- 1 Affordable Units (80% AMGI); 1 unit(s) In Compliance, 1 unit(s) Required
- 16 Affordable Units (120% AMGI); 16 unit(s) In Compliance, 16 unit(s) Required
- 0 Exempt Units; 0 unit(s) Allowed

Prepared By: Mary Nitschke  
 Phone Number: 650-331-3484

\*Move-in Date should be the date the tenant was placed on the RDA Program

**County of San Mateo**  
**Tax Collector/Treasurer**  
 Tuesday June 28, 2011. 12:52:34 PM PDT

TAX BILL PAID

Secured Property Tax			2010	Note: Penalties only apply to late payments			
Parcel	Tax Rate Area	Assessment Year	Roll Year		Installment 1	Installment 2	Total
094-193-270	20-020	2010	2010	General Tax	97,174.77	97,174.77	\$194,349.54
<b>Owner Address</b>				Total Special Charges	206.67	206.67	\$413.34
*Name private per CA AB2238				Total Taxes	97,381.44	97,381.44	\$194,762.88
1900 S NORFOLK ST STE 150				Penalty + Cost + Fee	0.00	0.00	\$0.00
SAN MATEO CA 94403-1161				<b>Total Amount</b>	<b>\$97,381.44</b>	<b>\$97,381.44</b>	<b>\$194,762.88</b>
Property Location				Due Date	Nov 01, 2010	Feb 01, 2011	
1288 E HILLSDALE BLVD				Late After	Dec 10, 2010	Apr 11, 2011	
FOSTER CITY				<b>PAID DATE</b>	<b>DEC 08, 2010</b>	<b>APR 08, 2011</b>	

Values				Detail Special Charges		Phone Contact	Amount
Improvements		16,575,000		SMC Mosquito Abate Dis		(650) 344-8592	3.74
Land		9,000,000		FedCA&NPDES Storm Fee		(650) 363-4100	104.80
Total Values:		25,575,000		SMCCCD 2010-2013		(800) 273-5167	34.00
<b>Exemptions</b>				SMFC SD Measure A 2010		(650) 312-7777	180.84
Unknown Exemption:		7,672,500		SM FCSD 1991&2003 Ptax		(650) 312-7777	89.96
Total Exemptions:		7,672,500		Total Special Charges:			413.34

Taxing Agency		Tax Rate	Amount
GENERAL TAX RATE		1.0000	255,750.00
SM FC EL BD REFUND SER 03		.0341	8,721.08
SAN MATEO HIGH BD SER 2002 B		.0322	8,235.15
SM JR COLLEGE BD 2002		.0193	4,935.97
General Tax Total		1.0856	277,642.20
Less: Exemption			83,292.66
Sub-Total			194,349.54

<b>Net value</b>	\$17,902,500	Composite Rate	1.0856	Penalty Rate	10.0%
<b>Legal Description</b>	4.15 AC MOL AT SWLY COR OF E HILLSDALE BLVD + GULL ST BEING PARCEL F FOSTER CITY NEI				

Be aware that during peak periods, it may take up to 10 days to receive and process your payments.

**Your Taxes Have Been Paid. Thank You.**

**FOSTER CITY  
AFFORDABLE HOUSING RENT LIMITS - MIRAMAR**

2010

2010 San Mateo County Median Income = \$99,400

Miramar will use the more restrictive, i.e. lower rent, of the two calculation methods shown below.

Method A: Uses income limits published by HCD and calculations per State H & S Code Section 50052.2 & 50053\*

Method B: Uses HUD HERA income limits published by HUD with different imputed household size per Tax Credit requirements based on current HCD law and policy, agencies can choose to use either median income or income limits as the base for rent calculations; this is subject to change if law or HCD policy is changed

METHOD A  
per H. & S. Code regs.      per Tax Credit Regs.

<b>ONE BEDROOMS -- FAMILIES OF 1 or 2</b>		<b>METHOD B</b>
Very low income limit (A=family of 2; B=family of 1.5)	43,000	43,550
/12 months * 30%	1,075	1,089
less Miramar utility allowance	42	42
<b>TOTAL MIRAMAR RENT</b>	<b>\$ 1,033</b>	<b>\$ 1,047</b>

**TWO BEDROOMS -- FAMILIES OF 3 or 4**

Very low income limit (A=family of 3; B=family of 3)

/12 months \* 30%

less Miramar utility allowance

**TOTAL MIRAMAR RENT**

	48,400	52,250
	1,210	1,306
	54	54
<b>TOTAL MIRAMAR RENT</b>	<b>\$ 1,156</b>	<b>\$ 1,252</b>

**THREE BEDROOMS -- FAMILIES OF 4 to 6**

Income limit (A=low-family of 4; B=low-family of 4.5)

/12 months \* 30%

less Miramar utility allowance

**TOTAL MIRAMAR RENT**

	86,000	99,160
	2,150	2,479
	67	67
<b>TOTAL MIRAMAR RENT</b>	<b>\$ 2,083</b>	<b>\$ 2,412</b>

**ONE BEDROOMS -- FAMILIES OF 1 or 2**

110% x median income for family of 2

/12 months \* 30%

less Miramar utility allowance

**TOTAL MIRAMAR RENT**

	\$ 87,450	
	2,186	
	42	
<b>TOTAL MIRAMAR RENT</b>	<b>\$ 2,144</b>	

**TWO BEDROOMS -- FAMILIES OF 3 or 4**

110% x median income for family of 3

/12 months \* 30%

less Miramar utility allowance

**TOTAL MIRAMAR RENT**

	\$ 98,395	
	2,460	
	54	
<b>TOTAL MIRAMAR RENT</b>	<b>\$ 2,406</b>	

Note: moderate rents are often set lower than the rent limits so that they are below market rate rents.

Income limits used in calculations

	1 person	2 person	3 person	4 person
<b>HCD</b>				
very low	37650	43000	48400	53750
low	60200	68800	77400	86000
median	69600	79500	89450	107350
moderate	83500	95450	107350	119300
<b>HUD HERA</b>				
VL 50%	40650	46450	52250	58050
VL 140%	56910	65030	73150	81270
<b>L 80%</b>				95360
<b>L 140%</b>				133504

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## CDA AGREEMENTS FOR PROFESSIONAL SERVICES

Item	Vendor	Agreement	Status	Comments
Legal Services	Burke, Williams & Sorenson	Agreement approved 10/18/10	May be terminated at any time	Fees charged on hourly basis; rates updated each year
Legal Services	Best Best & Krieger	Agreement approved 10/18/10	May be terminated at any time	Fees charged on hourly basis; rates updated each year
Financial	Fraser & Associates	Agreement dated 2/1/99;	May be terminated with 30 days notice	
Audit	Caporicci & Larson	Agreement dated 4/16/08; authorized by Resolution 264	For FY's ending June 30, 2007, 2008 & 2009, with an option to extend to 2011	
Bond Counsel	Jones Hall			
Bond Underwriter	Stone & Youngberg			
First Time Homebuyer	San Mateo County Housing	Agreement with Independent Contractor,	Term: 11/1/09 to 11/1/11	Fees = \$125/hr plus expenses plus borrower's fees
First Time Homebuyer	Calif. Housing Finance Agency (CalHFA)	Subordinate Lender Agreement	No expiration	
Rehabilitation Loans	San Mateo County Housing	Agreement dated 3/1/03	3 year term renews automatically unless cancelled. Term extended to 6/30/13.	Funding for loans after CDBG money is used up
Community Development Block Grant	San Mateo County Housing	Cooperation Agreement dated 7/9/96	3 year term renews automatically unless cancelled. Term extended to 6/30/13.	Allows CDBG funds to be used for rehabilitation loan program
Existing Unit Purchase Program	HIP Human Investment Project	Property Management and Leasing Agreement, 1/126/97; Amendments to lease guidelines approved by Resolution 164, 2/17/98; Preferences adopted on 10/20/03	One year initial term, then month-to-month	Management fees = \$200/mo/unit = \$2400/yr/unit
Homeshare Project	HIP Human Investment Project	Agreement for Professional Services dated 4/4/05	Term: FY 2004-05 then automatically renews unless terminated	Quarterly reports required for quarterly payments