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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Case No. 12-32118 D.C. No. OHS-15 Chapter 9 **COMPENDIUM OF MATERIAL CITED IN FRANKLIN'S POST-TRIAL BRIEF** <u>Continued Confirmation Hearing</u> Date: October 1, 2014 Time: 10:00 a.m. Dept: C, Courtroom 35 Judge: Hon. Christopher M. Klein

In connection with the filing of *Franklin's Post-Trial Brief* (the "Brief") on September 3, 2014, Franklin High Yield Tax-Free Income Fund and Franklin California High Yield Municipal Fund submit this compendium of certain materials cited in the Brief. The materials compiled as exhibits to this compendium are limited to relevant portions of the trial exhibit, hearing transcript, statute, legislative history, or other authority, as the case may be, cited in the Brief.

Compendium Exhibit	Description	Compendium Pages
A	March 25, 2013 Transcript (Vol. I – A.M.)	1-9
B	March 26, 2013 Transcript (Vol. II – P.M.)	10-14
C	March 27, 2013 Transcript	15-17
D	April 1, 2013 Transcript	18-20
E	May 12, 2014 Transcript	21-37
F	May 13, 2014 Transcript	38-63
G	May 14, 2014 Transcript	64-127
H	May 15, 2014 Transcript	128-136
I	June 4, 2014 Transcript	137-148
J	July 8, 2014 Transcript	149-155
K	Trial Ex. 109	156-160
L	Trial Ex. 410	161-162
M	Trial Ex. 712	163-168
N	Trial Ex. 713	169-173
O	Trial Ex. 719	174-181
P	Trial Ex. 723	182-187
Q	Trial Ex. 1376	188-191
R	Trial Ex. 2006	192-203
S	Trial Ex. 2016	204-220
T	Trial Ex. 2017	221-231

Compendium Exhibit	Description	Compendium Pages
U	Trial Ex. 2021	232-237
V	Trial Ex. 2023	238-240
W	Trial Ex. 2045	241-245
X	Trial Ex. 2052	246-250
Y	Trial Ex. 2065	251-255
Z	Trial Ex. 2070	256-268
AA	Trial Ex. 2071	267-269
BB	Trial Ex. 2610	270-273
CC	Trial Ex. 2613	274-275
DD	Trial Ex. 2628	276-278
EE	Trial Ex. 2642	279-285
FF	Trial Ex. 2727	286-288
GG	Trial Ex. 2728	289-291
HH	Trial Ex. 2967	292-310
II	Trial Ex. 2968	311-321
JJ	Trial Ex. 2970	322-325
KK	Trial Ex. 2971	326-327
LL	Trial Ex. 2973	328-329
MM	Trial Ex. 2974	330-331
NN	Trial Ex. 3050	332-334
OO	Trial Ex. 3056	335-339
PP	Trial Ex. 3067	340-342
QQ	Trial Ex. 4015	343-353
RR	Cal. Civ. Code § 2882	354-355
SS	Cal. Gov't Code § 20460	356-357

Compendium Exhibit	Description	Compendium Pages
TT	Cal. Gov't Code § 20482	358-359
UU	Cal. Gov't Code § 20485	360-361
VV	Cal. Gov't Code § 20487	362-363
WW	Cal. Gov't Code § 20570	364-365
XX	Cal. Gov't Code § 20571	366-367
YY	Cal. Gov't Code § 20572	368-369
ZZ	Cal. Gov't Code § 20574	370-371
AAA	Cal. Gov't Code § 20576	372-373
BBB	Cal. Gov't Code § 20577	374-375
CCC	Cal. Gov't Code § 53760 (2011)	376-378
DDD	Cal. Gov't Code § 53760 (2012)	379-381
EEE	Cal. Gov't Code § 53760.1	382-384
FFF	Legislative History of Cal. Gov't Code § 20487	385-392
GGG	Legislative History of Cal. Gov't Code § 20574	393-405
HHH	Legislative History of Cal. Gov't Code § 53760	406-407
III	Legislative History of 2002 Amendments to Cal. Gov't Code § 53760	408-416
JJJ	Legislative History of 2011 Amendments to Cal. Gov't Code § 53760	417-431
KKK	Senate Report 89-1159 (1966)	432-434
LLL	House of Representatives Report 94-686 (1976)	435-438
MMM	Tim Reid, California City Looks To Quit Calpers, Fears It Can't Afford To, REUTERS (Aug. 27, 2014)	439-440

EXHIBIT A

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

---oOo---

In re:	)Case No. 12-32118-C-9
CITY OF STOCKTON, CALIFORNIA,	)Chapter 9
Debtor.	)

---oOo---

BEFORE THE HONORABLE CHRISTOPHER M. KLEIN, JUDGE OF THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF CALIFORNIA, AND ON MARCH 25, 2013.

REPORTER'S TRANSCRIPT OF DAILY PROCEEDINGS

TRIAL (VOLUME I - A.M.)
(Pg. 1-105)

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APPEARANCES:

(See pg. 2)

Reported by: VICKI L. BRITT, RPR, CSR No. 13170

A. I am.
Q. Based on the City's own projections, the City can't afford to pay CalPERS, can it?
A. The City, under our projections, will have to pay CalPERS. It's a benchmark retirement program. In order for us to be a viable employer, we're going to have to pay CalPERS.
Q. Prior to filing for chapter 9 relief, the City did not explore whether there was an alternative, less expensive defined benefit plan for its employees, did it?
A. Could you repeat that question, please?
Q. Certainly. Prior to seeking chapter 9 relief, the City did not explore whether there was an alternative, less expensive defined benefit plan for its employees?
A. I would say that's factually correct. We discussed some options to reduce the costs. In fact, we negotiated and implemented reduced retirement benefits for future employees. We discussed -- in fact, I think we applied for a request to consider reducing the cost of living increase that was embedded in our contract. And then we didn't ask, but we discussed briefly the pros and cons of asking PERS for a hardship request in order to reamortize the unfunded liability.
Q. And, sir, I will get to your requests of CalPERS, but you agree that you did not look to any non CalPERS-based

system or creating an independent system, correct?

A. That's correct. Because the position that CalPERS has taken with respect to terminating their contract, it would be financially unviable for us.

Q. They have asserted about a $1 billion termination liability, right, in the event of termination?

A. That's correct. And, in fact, it has special status from their perspective. It's front in line compared to all of our other creditors.

Q. By virtue of having a lien on all the City's assets in the event of termination, right?

A. Right.

Q. Are you aware of any cities that have left the CalPERS system?

A. I'm not familiar with them, no.

Q. Did you look to see if any cities had left the CalPERS system prior to your City filing for chapter 9 relief?

A. Prior to chapter 9, no.

Q. Prior to filing for chapter 9 relief, did you, the City, hire a pension expert to help you explore other pension alternatives?

A. We did not.

Q. Have you spoken with CalPERS about transferring the assets and liabilities of the City's CalPERS plan to another defined benefit plan prior to filing chapter 9?

A. I have not.

Q. Why not?

A. During that period of time leading up to filing chapter 9, there were a lot of things going on. We were in the midst of the prebankruptcy, or what you refer to as the AB 506 mediation. We were trying to stay solvent for the rest of the fiscal year. We were trying to put a budget together for the next fiscal year. We had a flurry of auditors in the finance department. We simply didn't have the resources to pursue options prior to the chapter 9 filing.

And we knew what CalPERS' stated position would be anyways. And then, finally, the concern also I had in the back of my mind is if the word got out that we were pursuing a different retirement plan, I ran the risk of a mass exodus of my employees. And at the time, we were in crises. The crime rate was out of control. I could not take the risk of having more police officers leave my city when we couldn't staff a shift.

Q. Now, Chief Eric Jones, he's the Chief of Police for the City of Stockton?

A. Correct.

Q. He was concerned about losing 20 to 40 experienced police officers, right?

EXHIBIT B

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

---oOo---

In re:)Case No. 12-32118-C-9
)
CITY OF STOCKTON, CALIFORNIA,)Chapter 9
)
Debtor.)
)

---oOo---

BEFORE THE HONORABLE CHRISTOPHER M. KLEIN, JUDGE OF THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF CALIFORNIA, AND ON MARCH 26, 2013.

REPORTER'S TRANSCRIPT OF DAILY PROCEEDINGS

TRIAL (VOLUME II - P.M.)
(Pg. 330-377)

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APPEARANCES:

(See pg. 2)

Reported by: APRIL GASKINS, CSR No. 13618

Q Thank you. You include as Exhibit D to your reply declaration a listing of three police officers and reductions in their paychecks; is that right?

A Yes.

Q And the 24 percent reduction that's set forth in Exhibit D largely reflects where those employees were over the labor market, doesn't it?

A It reflects reductions in their paychecks.

Q Yes. And to the extent that you have now sought to establish wages that are at or near the median, the fact that they have been reduced 24 percent indicates that that reduction relates to how much they were paid over the market at the time, doesn't it?

A Well, since the City based its recommendations on areas of compensation where the City was over the labor market and to the extent that those changes were made, based on that, then yes, it would indicate that their salaries were over the labor market prior to these adjustments.

Q Okay. I'm going to ask you to take a look at Exhibit 1373, the supplemental declaration, if you would, please.

A I'm sorry, will you state that again?

Q Sure. Exhibit 1373, please, the supplemental declaration.

life of the contract that goes to June of 2014. And with both those things as incumbents leave the City's employment, that pay goes away and new employees are no longer eligible for it.

Q Do you have a general understanding of how many, approximately what proportion of the police department currently qualifies for longevity pay?

A I'm not familiar -- prior to the first decrease, 75 percent of the employees, the police officers, did receive longevity pay. But there's been so many resignations and retirements, so I'm not aware of how many current POA members still receive longevity pay.

Q And does the fact that certain employees of the City of Stockton continue to receive or are still eligible to receive longevity pay because they've been grandfathered, does that change any of the opinions you've expressed in your declaration regarding whether the City of Stockton is currently paying its employees below or above market compensation?

A No. I still believe that with the result of all the compensation reductions that have occurred over the last few years and based on the most recent survey information that the City obtained from Doug Johnson from the Andersen Firm, that the salaries are at or below the labor market for all the majority of the classifications, particularly when you go to total compensation. And the longevity is being -- will be phased out as the incumbents leave and is no longer a current pay practice of the City.

Q Well, you just referred to "total compensation." How does that relate to your belief that the City is paying at or below market levels, even including longevity pay?

A The survey results, which were attached if you look, the instructions to the person who did the survey was to, you know, develop median or averages at the key points -- base salary, all cash, cash plus benefits, cash plus benefits plus leave pay, total compensation, and then with and without, you know, retirement because that was a City benefit at the time the Pendency Plan but was being phased out as part of the Pendency Plan. So if you look at those numbers for the majority of the classifications, the City is -- the classification is below across the board, in particular in the total compensation area.

MR. RIDDELL: The City has nothing further, Your Honor.

THE COURT: I have no questions. The witness may step down.

EXHIBIT C

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

---oOo---

In re:) Case No. 12-32118-C-9
)
CITY OF STOCKTON, CALIFORNIA,) Chapter 9
)
Debtor.)
__________________________________)

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BEFORE THE HONORABLE CHRISTOPHER M. KLEIN, JUDGE OF THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF CALIFORNIA, AND ON MARCH 27, 2013.

REPORTER'S TRANSCRIPT OF DAILY PROCEEDINGS

TRIAL (VOLUME III - A.M/P.M.)
(Pg. 378-542)

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APPEARANCES:

(See pg. 2)

Reported by: APRIL GASKINS, CSR No. 13618 that was before the Court was that when the City asked for a hardship exemption, it was denied.

The Objectors do not refute the City's showing that unilateral impairment of CalPERS through failing to make payments would have resulted in a 1 million -- sorry, 1 billion with a "B" -- dollar termination liability for the City, and the City would have faced that. That is in my declaration, Exhibit R and Exhibit S.

As you heard from Bob Deis, the Stockton City Manager, CalPERS really isn't technically a creditor. It is a trustee for the City's employees. CalPERS holds money for those employees in trust having been deposited for their retirement payments when they retire. And Mr. Deis's testimony about that is on the Monday transcript, page 55. So if CalPERS were to be impaired, whatever that means, it is the employees who would suffer, not CalPERS. CalPERS does not have a big fund from other cities that it can use to backfill a breach by the City of Stockton. The funds it has are held in trust.

Now, you've heard the testimony -- this is in Teresia Haase's reply declaration.

THE COURT: I just want to make sure I understand the problem in your argument.

EXHIBIT D

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

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In re:	)Case No. 12-32118-C-9
CITY OF STOCKTON, CALIFORNIA,	)Chapter 9
Debtor.	)

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BEFORE THE HONORABLE CHRISTOPHER M. KLEIN, JUDGE OF THE UNITED STATES BANKRUPTCY COURT, EASTERN DISTRICT OF CALIFORNIA, AND ON APRIL 1, 2013.

REPORTER'S TRANSCRIPT OF PROCEEDINGS
(FINDINGS OF FACT AND CONCLUSIONS OF LAW)

TRIAL - VOLUME IV (A.M.)
(Pg. 544-596)

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APPEARANCES:

(See pg. 2)

Reported by: VICKI L. BRITT, RPR, CSR No. 13170 difficult questions of law that I could see out there on the horizon, but no plan of adjustment can be confirmed unless -- no plan of adjustment can be confirmed over the rejection by a particular class unless that plan does not discriminate unfairly and is fair and equitable with respect to each class of claims that is impaired under or has not accepted a plan. That's section 1129(b)(1) of the Bankruptcy Code, which, by virtue of section 901, applies in chapter 9 cases.

So the protection for the Capital Market Creditors is in the plan confirmation process. If a plan is proposed that does not deal with CalPERS and if the Capital Market Creditors reject their treatment under the proposed plan, then I will have to focus on the question of unfair discrimination.

And the gravamen of the argument that the Capital Markets Creditors make is one of unfair discrimination. But that is not an eligibility question to be a problem at this stage of the case. To the contrary, it is a plan confirmation problem. And the City is going to have a difficult time confirming a plan over an objection and claim of unfair discrimination without being able to explain that problem away. And that problem is probably going to require me to get down into the nitty-gritty of the CalPERS situation. And I, at this point, have no clue how that's

EXHIBIT E

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

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HON. CHRISTOPHER M. KLEIN
COURTROOM THIRTY-FIVE
DEPARTMENT C

In re: CITY OF STOCKTON, CALIFORNIA,	)	Bankruptcy No. 12-32118-C-9
Debtor.	)	
WELLS FARGO BANK NA,	)	
Plaintiff,	)	Adversary No. 13-2315
v.	)	
CITY OF STOCKTON, CALIFORNIA,	)	**AMENDED TRANSCRIPT**
Defendant.	)	

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REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

held on

Monday, May 12, 2014

9:30 a.m.

Reported by: ERIC L. THRONE, CSR No. 7855, RPR, RMR, CRR
DEBBIE MAYER, CSR No. 9654, RPR, CRR, CRP, CLR

Q. Okay, got it.

A. -- some number like that.

Q. Now are the bankruptcy fees, like Mr. Levinson's fees, part of the future infrastructure projects that you testified about?

A. No, but it's part of the costs of this bond issue, as it related to the prior infrastructure costs that were constructed.

Q. So your testimony is that the bankruptcy fees are a cost of the 2009 lease revenue bonds because we're here in court today talking about them?

A. Correct. And those funds were used to finance the capital so it's the costs of building out that capital.

Q. So the bankruptcy fees today in your opinion are a cost of building out the fire station?

A. As if it was a cost of issuance, it's a cost of restructuring the debt.

Q. Okay. So while the PFF's can be used to help pay for a plan that proposes to eliminate the bonds, your testimony is they can't actually be using it now to pay any part of Franklin's claim?

MR. HILE: Objection. No foundation that there's a plan to eliminate the bonds.

THE COURT: Well, sustained. And also it strikes me as heading into a legal opinion. I'm not sure the witness is competent to talk about that.

MR. HILE: I'll add that objection, Your Honor.

THE COURT: Which I will sustain.

MR. JOHNSTON: All right. Let me break it down.

Q. Your testimony is that the City is able to use PFF's to pay for legal fees incurred in connection with a plan that seeks to discharge the 2009 bond; correct?

A. Let me clarify. When it issued the debt, it incurred legal fees to actually issue the debt to pay for the capital infrastructure as a cost of issuance. That was charged to the PFF funds.

Now we have a situation where we have a troubled debt where we're incurring legal fees to restructure the debt in some fashion as the Court may decide as a cost of that troubled debt restructuring.

Q. Well we're not talking about the fees that were occurred at issuance; correct?

A. We're not at this moment.

Q. At this moment we're talking about the fees that are being incurred right now by the lawyers in court; correct?

A. Correct.

Q. While we're on the subject of fees, the City had as of April 22nd of this year, paid approximately 12 million in legal consulting fees in connection with the bankruptcy; is that right?

Q. Thank you for that clarification.

Now if you go back to the letter we were looking at, 2065, the letter says that "the goods and services you provide are critical to the everyday operations of the City," correct?

A. Correct.

Q. Before it sent that letter, the City didn't undertake to determine whether the vendors and service providers who received it actually were critical to the City's operations, did it?

A. On an individual vendor-by-vendor basis?

Q. Yes?

A. Not that I'm aware of.

Q. The City intended to send the letter to every vendor and service provider of which it was aware, correct?

A. That we could reach.

Q. And the City didn't determine whether any of those vendors and service providers could have been replaced at a comparable rate, did it?

A. Between the 25th and the 28th when we filed for bankruptcy, no.

Q. Has the City done so subsequently?

A. We evaluate all of our vendors on a competitive bid basis when we enter into contracts over a certain dollar special value.

Q. But the City didn't refrain from paying a pre-petition debt on account of the fact that the goods or services provided by a particular vendor could have been replaced, correct?

A. We couldn't go through a proposal in that amount of time, but all of our vendors we bid out under a competitive bid which is in our Charter.

Q. Please answer my question.

But the City did not refrain from paying a pre-petition claim held by a vendor or service provider on the grounds that the City could replace the service or goods provided by the vendor or service provider, correct?

A. It wouldn't have known that at that time.

Q. And the City made the determination that all vendors and service providers would be paid because the focus of the bankruptcy case was restructuring of above-market pay and benefits and unsustainable long-term debt, right?

A. That's in the letter.

Q. That's what the letter says.

But you don't know why the City wanted to limit its restructuring efforts to those two categories of debt, do you?

A. At this time, I was the Assistant Director, so I was not involved in the confidential negotiations that were ongoing.

Q. You just know the City decided to spare some creditors and impair others, right?

A. I was aware.

MR. JOHNSTON: I have nothing further, Your Honor.

THE COURT: Redirect? How much redirect do you anticipate, Mr. Hile?

MR. HILE: Very little, Your Honor. I'm as hungry as everyone else.

THE COURT: We will exploit that.

MR. HILE: First, let me offer into evidence Exhibit 1376, which was the Ask, which the witness was asked to identify as a City exhibit.

MR. JOHNSTON: It's already in evidence, Your Honor.

MR. HILE: It is in evidence in the eligibility case, Your Honor. But since the witness was asked about it, we offer it into evidence.

THE COURT: For purposes of this trial, I will note it is admitted in evidence, I agree. It was also -- well, yes, 1376 was in evidence in the evidentiary -- in the prior trial as well.

MR. JOHNSTON: For the record, Your Honor, your Scheduling Order provides that everything -- everything admitted into evidence -- that eligibility is in now evidence, Your Honor, in this proceeding.

THE COURT: Right. But from the standpoint of because about is the downside. And so we are certainly putting numbers together that are both realistic, given the growth factors that we see, and producing an outcome that we believe we can live with over that long period of time.

Q. So is it an accurate statement that variances are somewhat more likely to be good news than bad news? That's a yes-or-no question.

A. That's the way we felt at that particular point in time. We're now finding that some of the factors that we expected to be leading to a more rapid recovery than has been the case, that hasn't materialized. Growth is still slow, unemployment is still high.

One of the things about a forecast is that it's an iterative process. You're constantly taking in new information which you may have felt was true at one point in time, but as circumstances change, you realize you have to adapt to those changing circumstances. I think if I were rephrasing this today, it would not be such an optimistic spin, that we're slightly more likely to be optimistic than pessimistic.

Q. So is the Long-Range Financial Plan no longer reliable?

A. The Long-Range Financial Plan is a living document. It's not a static set of numbers that remain immutable over time. We're constantly getting new information, and as that comes in, we will periodically update. That's what you want the City to do, is respond to changing circumstances over time.

Q. Well, my question is about Exhibit 2006 which is a static document, static set of numbers. Is that set of projections reliable?

A. In fact, any forecast at a particular point in time is just that, in that slice in time, if those numbers are true. You can take a look at it three months from now, they might still be true, or you might have some more information that pushes the impact higher or lower, but that's what you have to stay open to is the new information.

Q. And this document was released in March. As we sit here today in May, the document was released in March --

A. Yeah.

Q. -- is no longer reliable?

A. Ah --

Q. That is a yes or no question.

A. We will get new information in June, when the City proposes in a new budget, we'll get new information in the fall. When the new 2013 valuation comes out, we'll get new information in the fall when the property tax for the coming year comes together. Based on what we know right now, this is an accurate forecast.

Q. Okay. That was the answer I was trying to elicit.

than one cent on the dollar. Do you know that?

A. I had read that in your brief.

Q. And there are no revenues received in future years to be used to pay Franklin; correct?

A. There are no payments budgeted within the General Fund forecast. So the Long-Range Financial Plan does not have a specific item in it to pay the 2009 bonds.

Q. Ever again; right?

A. At this point in time, it does not have a specific item in it.

Q. Are you aware of any plans to change the Long-Range Financial Plan to make payments to Franklin in the future?

A. I assumed that that could be influenced by any kind of mediation negotiations that occur, but at this point in time it reflects the current plan of adjustment that was filed.

Q. And the current plan of adjustment that was filed in your current Long-Range Financial Plan provides that revenues in excess of plan will be used for additional mission critical spending; right?

A. Yes, any amount that is in excess of the 16.7 percent reserve level is identified as a mission critical expenditure and we would reach that level in about 19 years when the reserve hits 16.7 percent, amounts that accrue in excess of that reserve level, which we assume would be maintained over time at 16.7, would be able to be used for the types of things I mentioned earlier, a newer accounting system, improved services in areas other than police, even expanding police, meeting deferred maintenance needs, that sort of thing.

Q. And mission critical spending, as you define it, is basically anything not otherwise specified in the forecast; right?

A. Well, it's our unmet needs.

Q. Well, didn't you testify at deposition that mission critical spending is in fact anything not otherwise specified in the forecast?

A. Anything the forecast starts out with a baseline budget which is what's being done right now and we have the future costs of those baseline services built in. And we have the Marshall Plan on crime which is added, and that adds 164 positions that is built in, and there's no increase in any other positions.

So those are the amounts that we have in the budget, and so anything in excess of reserve is then available to pay for other services and other needs that are unmet.

Q. All right. And so the Long-Range Financial Plan doesn't place any limit on the amount of mission critical spending, does it?

A. On the amount that can accrue?

Q. And the expenses?

A. Yeah, it depends on the health of the revenue base as to what those amounts wind up being.

Q. So if the revenue base is very healthy, it could be half a billion dollars; right?

A. Well at some point you are going to get such a healthy base that Measure A ceases to be in existence, and at that point then you would have to deal with the loss of money that's otherwise built into the plan.

Q. Right. But then the City continues to recover and you've got a billion dollars that could go to mission critical spending; right?

A. Well I think that's a hypothetically very large number that would be in excess of anything that we would be looking at.

Q. Uh-huh. Now in the Long-Range Financial Plan, while you describe what would happen if revenues were half a percent greater than forecast, you didn't describe what would happen if revenues were half or a percent less than forecasted; right?

A. Well, they would be in deficit.

Q. You didn't include any downside model or scenario at all; right?

A. No. The City was interested in showing what would happen if things got better and the focus from the City was they were certainly hoping things would get better and that

Q. And if you go out to the final decade, you revised the forecast so that property tax revenues are now $40 million lower than than in the original Long-Range Financial Plan, right?

A. Right. We felt the original out-year estimate for property tax gross was overly optimistic in the original. And so we revised it so that the annual increase is -- diminishes below the level that we had in the original plan so that the brunt of the change for property taxes is felt in the last ten-year period.

Q. And the sum total of those changes is that you now actually forecast about $26 million less in property taxes in the revised Long-Range Financial Plan than you did in the original, right?

A. Right. We felt that was the more realistic approach.

Q. Despite the fact the first decade shows a $17 million increase?

A. Well, see, you have to appreciate, one of the things fueling the higher rate of growth in the near term is Proposition 8. Parcels whose value in true market terms has dropped below what their Prop 13 restricted value would be are termed "Prop 8 parcels," and those parcels, the value can increase without limit. Prop 13, the limitation is the California Consumer Price Index of 2 percent, whichever is greater.

And so in the near term, the City has this large chunk of parcels that are Prop 8, and they are going to be contributing more growth in the near term. But as the growth gets them to the point where they graduate back to the Prop 13 category, then they're stuck at the 2 percent growth a year.

So what this model does is focus the growth on when it's really going to be occurring. More of it's going to be occurring in the short-term because of Prop 8, but once those parcels are no longer subject to Prop 8, but they're back under the 2 percent cap of Prop 13, then you're going to get lower ongoing contributions.

Also, the new construction, if you're stuck with 700 units a year, then that new construction element of growth is going to contribute a slightly lesser percent each year as the tax base gets larger, but it's still just 700 units.

So by parsing the calculation of the property tax growth in these four categories, you really come up with more reasonable components, and they lead to higher money in the near term, higher rate of growth, but lesser growth in the long-term, and we wanted to be realistic when building that in.

Q. You didn't know that when you prepared the original Long-Range Financial Plan?

A. Well, we had a lot on our plate, and that's something

I wanted to do for the last year or so. So we finally got some time to do that in the last few months.

Q. In the original Long-Range Financial Plan, did you write anywhere you were going to do that?

A. No, I didn't write I was going to do it. I got the opportunity to do it, and in doing some additional research, we found some additional information from HDL that would help us make those types of estimates.

Q. So you knew you were going to do it, you just didn't say so?

A. No, I didn't know I was going to do it. Like I said, it's an iterative process. As inspiration strikes, you can find ways to improve the model, and hopefully it will continue to be improved every year for the next 30 years.

Q. So, and the model as it currently exists assumes an overall growth of 3.7 percent in fiscal year 14, 15, rises to just over 4 and a half percent in fiscal years '15, '16, and then declines slowly thereafter toward 3 percent by fiscal year '34, '35?

A. Sounds about right.

Q. And that 3 percent growth rate is substantially lower than the City's average rate of growth for property taxes for over the past 15 years, right?

A. Yes, but those past 15 years include that irrational exuberance I mentioned in the housing market. You don't have

A. That's correct.

Q. And you received a projection of new units from Steve Chase, the City's Director of Community Development Department, right?

A. Yes. So the first few years of that forecast, he significantly discounted the units likely to be built under the assumption that the -- that we would not -- the EPS study assumed an ongoing level of 700 units a year, but in the initial years they were assuming that we would build up to a period where some backlog would be realized in terms of growth. It would be more like 1100 to 1400 units a year.

And we're into the period now where we should be, under their forecast, be in the 800 units or more, and we're at 64. So clearly, the recovery is not occurring as rapidly, and the City has still got 15.8 percent unemployment, the new construction isn't happening, home sales have been on a fairly steady decline over the last five years. So clearly, the recovery has not kicked in yet.

Q. And so Mr. Chase gave you a significant -- I think your word was "discounted" -- projection of new units discounted from what the EPS study provided; right?

A. That's correct, for about a four-year period.

Q. But you didn't just adopt Mr. Chase's forecast, did you?

A. No, I actually used something a little more conservative than that, 90 percent.

Q. You made it even more conservative than the conservative forecast that Mr. Chase gave you?

A. Yes.

Q. And you, yourself, did that in order to be on the safe side; correct?

A. Yes.

Q. All right. So where Mr. Chase forecasted 100 new units, your model used the figure of 90 new units; correct?

A. Correct.

Q. Your model also has an input for the rate of growth in the value of new construction housing; right?

A. Yes.

Q. And you used 4 percent; correct?

A. Correct.

Q. And you used 4 percent because that, too, is a conservative number; correct?

A. Well, we assumed that the costs of new housing would be in excess of normal CPI and so we picked 4 percent.

Q. And you picked it because it's a conservative number?

A. Well, I think I picked it because it's a fairly realistic number.

Q. So let's look at your transcript of your deposition. And we'll put it up on the screen.

So in your deposition I was questioning you about this

EXHIBIT F

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

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HON. CHRISTOPHER M. KLEIN
COURTROOM THIRTY-FIVE
DEPARTMENT C

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	)	Bankruptcy No. 12-32118-C-9
WELLS FARGO BANK NA, Plaintiff, v. CITY OF STOCKTON, CALIFORNIA, Defendant.	)	Adversary No. 13-2315

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REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

held on

Tuesday, May 13, 2014

9:30 a.m.

Reported by: ERIC L. THRONE, CSR No. 7855, RPR, RMR, CRR
DEBBIE MAYER, CSR No. 9654, RPR, CRR, CRP, CLR

Assured and NPFG settlements; right?

A. I'm sorry. Certain values of what?

Q. Of leased properties underlying the Assured and NPFG settlements?

A. Okay.

Q. That's your testimony?

A. Yes.

Q. All right. What value does the chart assume for Class 2 the NPFG SEB bonds?

A. I'm sorry. Class two is what?

Q. It's listed at the is SEB bonds.

A. I don't see that here.

Q. So the chart doesn't assume values for leased properties underlying that aspect of the NPFG settlement, does it?

A. I don't see the values in this chart.

Q. Okay.

A. Whether there's an assumption or not, I can't tell you.

Q. So when you testified that Franklin's chart assumed certain values for the leased properties underlying the Assured and NPFG settlements, were you referring to that aspect of this chart?

And by that, I mean the characterization of Class 2.

A. If there's an assumption of value here the properties weren't appraised, so there's not a value to assume here.

Q. And so when you testified that the chart is based on flawed assumptions regarding the value of the property underlying each settlement, were you referring to the description of Class 2?

A. The value of this building has to do with the value of the building to the City. This is an essential services building. The value of that building to the City is not an easily replaceable building. So when you -- I recall my assumption here was that the fact that we're paying for this building reflects that it has a value to the City.

And my understanding of the assumption was that somehow this building should be valued lower by the City and not referred to or not and the City shouldn't want this building, this building can't be replaced without an equal expenditure.

So what I was referring to is that the flaw in the assumption that somehow the City doesn't value this building at 100 percent of what it costs.

Q. So your take-away from this chart that lists the recovery for Class 2 at 100 percent was an assumption that Franklin was saying the City shouldn't want this building?

A. Or shouldn't want it at 100 percent because if the City hadn't had to replace this building, that's what it would cost. It would cost the same as what the recovery was.

Q. And that's not written there anywhere, is it?

A. This is recovery is 100 percent. My, my projection, as I look at these properties, is that it costs that much to replace the building.

Somehow there's an objection to the fact that we have this building and we're paying 100 percent for it when it's the building we need. If we didn't pay 100 percent for it, we'd have to go build it someplace else. That's the problem here.

Q. That's the problem with listing the recovery at 100 percent. You testified the City never appraised the building; right?

A. That's correct. But we know how much it would cost to replace it because we know how much it costs to build.

Q. Right. And regardless of what the property costs under the plan, the holder of that Class 2 claim is going to get paid 100 percent; right?

A. If this chart is correct, I assume that is correct.

Q. Do you have any reason to believe the chart is incorrect?

A. I don't.

Q. So moving down a row for the NPFG Arena bonds.

What value does the chart assume for the properties that underlie those bonds?

A. 96.7 percent.

Q. And your testimony is that that description is based on a flawed assumption regarding the value of the property underlying the settlement?

A. I think it's a problem with the assumption of the value to the City.

Q. Uh-huh.

A. You know, this is a City asset, it's not going to get used for anything besides arena events. That's what it's worth.

Q. And regardless of the value of the property NPFG is going to receive $0.96 on the dollar, won't it?

A. Because that's what the property is worth.

Q. But the City has never appraised the property, has it?

A. We know how much it would cost to build and we know how much it would cost to replace it.

Q. Right. But you have never appraised it; correct?

A. That's correct.

Q. What value does the chart assume for Class 5 of the Assured office building bonds?

A. It is assumes 103.5 percent.

Q. Class 5?

A. I'm sorry, Class 5 of 53.9 percent.

Q. And is the chart speaking as to Class 5 based on a flawed assumption regarding the value of the property?

A. What I know about that building is that it -- I know record is clear -- that PFF revenues are now spoken for and that there's not a single dollar of PFF revenues that are available to make a payment on the 2009 police revenue bonds, whether it's a dollar or hundred dollars or $2.9 million.

Is that your testimony?

A. The answer to that is yes because they are contracted through by the reimbursement agreements and development agreements that I referred to.

Q. Right. And notwithstanding those reimbursement agreements and development agreements, some of the PFFs can be used to pay bankruptcy professional fees.

Is that your testimony?

A. That is my testimony.

Q. Speaking of those contracted improvements for the redevelopment agreements and development agreements, I believe it was your testimony that there's about $17 million in infrastructure that's anticipated by those contracts; is that right?

A. The City currently has $17 million plus some obligations.

Q. And at the current level of PFF fees, that would be roughly 340 single family resident permits; is that right?

A. Correct.

Q. By the way, I saw in your declaration that some of the PFF funds that, at least originally were anticipated could be

2011, right?

A. That's right.

Q. And you were identified under Rule 30(b)(6) of the Federal Rules of Civil Procedure to testify at deposition as the City's representative regarding the nature, amount, calculation, methodology, factual and legal basis of the retiree health benefit claims, right?

A. That's right.

Q. And the plan of adjustment defines retiree health benefit claims as:

"**Q.** "A claim by a former City employee or dependent on account of, or in any way related to, the City's post petition reduction of its contribution to health benefit payments to former City employees and dependents."

Is that your understanding?

A. Yes, it is.

Q. Now, the City has listed in its list of creditors a total amount of retiree health benefit claims of approximately 545.9 million dollars, right?

A. That's right.

Q. And the City does not dispute those claims, correct?

A. The City calculated those amounts.

Q. And so the City does not dispute them?

A. No.

Q. And the amount listed for the retiree health benefit claims is not a compromise or settlement amount, right?

A. The City hired Segal Company, who are enrolled actuaries, to calculate the claims amounts that would have been otherwise provided to the 1100 retirees and their dependents, so the calculations were done by the City and its agent, the Segal Company. So I'm not sure what your terminology is to a settlement. It wasn't an agreed-upon number, it was the City's number, and the retirees accepted it.

Q. It was not a negotiated number?

A. No.

Q. How many people hold retiree health benefit claims?

A. Approximately 1100.

Q. And so, given the total, that works out to an average of about 500,000 dollars per retiree?

A. If you take the total amount, you divide it, math exercise, that's about right.

Q. And in general terms, the retiree health benefit claim represents the calculation of the expected amounts of healthcare costs that a retiree would claim over his or her lifetime, right?

A. Uh, it's more complicated than that. It represents the calculation based on the projected lifetime of the individual retirees, and it includes, if they have, you know, a dependent, spouse, which the vast majority of them did, so it's generally calculating those costs out for two people each, less certain subtractions.

For example, the City's under-65 retiree benefit has a limit of 15 years. So for several retirees that retired in their 30s and 40s, there will be a period of time when their under-65 benefit would be eliminated and then they would subsequently receive their benefit once they hit 65.

So we subtracted out those years they would not be eligible, we adjusted the claims based on benefit changes that occurred in 2012, and we took into account co-pays, and we also took into account when people turn 65 and would be covered by Medicare, and Medicare would be the primary first insurer that City's claims costs would be reduced.

So we took that all into account and calculated it, with the standards of medical inflation over the, you know, some net 60 years.

Q. And all of that is an attempt to calculate what the City's liability would have been had it not terminated the retiree health benefits?

A. That's right.

Q. And retiree health benefits are often called "OPEB," right?

A. Other Post Employment Benefits.

Q. Other Post Employment Benefits?

A. (Nods head.)

Q. And I believe you testified it was Segal Company who calculated the amount of the retiree health benefit claims for the City, right?

A. Right, because the -- you're trying to calculate a lifetime benefit, there is no way other than having an actuary do projections and calculations based on the standard actuarial methods to calculate out, not only life expectancy of the individuals and their spouses, but the medical inflation and cost of claims over a very long period of time.

Q. And Segal Company is made up of actuaries?

A. Yes, their people that work on this are enrolled professional actuaries, using professional actuarial standards in calculation of claims.

Q. And to calculate the amount of the retiree health benefit claims, Segal used claims made against the City in the previous three years to generate a benchmark from which it then extrapolated costs over the lifetime of a retiree and/or his dependents, right?

A. Right. That's a typical and normal professional actuarial standard, to take three years worth of data; then they did make adjustments for benefits, changes that occurred right before that, to lower the projection costs.

Q. And once those costs were calculated, Segal did not discount the amount of the cost to present value, right?

A. No, they did not.
Q. In its audited financial statements prior to the bankruptcy, the City discounted to present value of the total amount of its liability for retiree healthcare, right?
A. Under GASB standards, Government Accounting Standards and Practices, the OPEB liabilities are discounted. But in our understanding, the calculation of claims for bankruptcy purposes in that discounting was not appropriate.
Q. Who made that determination?
A. It was a legal interpretation. We were advised that -- an attorney was advised that the standards are different than bankruptcy.
Q. So Segal didn't make that determination?
A. No.
Q. And you didn't make that determination?
A. No.
Q. And in fact prior to the bankruptcy case, Segal prepared for the City a report entitled "actuarial valuation and review of other post employment benefits," OPEB, as of June 30, 2011, in accordance with GASB 43 and 45, in which they discounted the liability of present value, right?
A. GASB requirements of jurisdictions have to post an actuarial report every two years. That was the required period of time for the City to post their last report.
Q. And in that report, Segal calculated the total

projected health benefits for current retirees and their beneficiaries and dependents to be in the ballpark of $261 million, right?

A. Well, the total liability at that point was around 430 million, something like that, because, at that point in time, the current employees had not given up their retiree medical benefits. So the actuarial report at that period of time calculated not only the future OPEB liability of the retirees but the current employees as well.

Q. And the portion that was attributable to current retirees was about $261 million, right?

A. That's right.

Q. And you've never seen another municipality to record its OPEB liability in a way that does not discount to present value, correct?

A. I'm not familiar with other jurisdictions that are in bankruptcy.

Q. So it's your understanding that the calculation is really bankruptcy-specific?

A. Yes.

Q. And by "that calculation," I mean in discounting the present value.

A. That's correct.

Q. And for the fiscal year which ended June 30, 2012, the City's audited financial statements reflected liability for health care of $261 million; right?

A. I believe so, yes.

Q. And that June 30, 2012, intake, that's just two days after the bankruptcy petition date; right?

A. Yes.

Q. So the amount of retiree health benefit claims to which the City has stipulated in the bankruptcy case is nearly double that of the liability reflected in the City's audited financial statements for the period that ended two days after the petition date; right?

A. It's my understanding that in the bankruptcy that we're supposed to calculate the amount of money or claims that the retirees will have received for their lifetime medical benefit, and that's what we calculated and negotiated with the retirees.

The OPEB report is calculating -- other post-employment benefits, "O-P-E-B," is calculating the City's liability as of a point in time.

Q. And so the way that the City has calculated it for bankruptcy purposes, a hundred dollar liability projected to be paid in the year 2050 is a hundred dollar claim as of the bankruptcy petition date?

A. Well it is calculating the full amount of the projected claims over the hypothetical life expectancy of the individuals and their spouses.

Q. And when the City had Segal perform that calculation the City actually instructed Segal to do it without discounting present value; right?

A. Well, we didn't instruct them to discount it.

Q. Let's take a look. Let's take a look at your deposition testimony on page 39.

In your deposition, I asked you "Did the City instruct Segal to use a different methodology for purposes of calculating the claim under the plan," and you said "Yes," was that accurate testimony?

A. Can I see the whole --

Q. Sure.

A. -- page or the whole document?

Q. The place to start is probably on page 38 of your deposition transcript at line 13.

A. I guess it's a matter of semantics, you know. We didn't direct them to do it and so I guess we directed them not to do it.

Q. And you testified you actually directed them not to do it; right?

A. Okay.

Q. Was that accurate testimony?

A. Yes.

Q. And the reason why you did that is because it's your -- the bankruptcy lawyers made the determination that was how the claims should be calculated for bankruptcy purposes; right?

A. I'm not answering.

MR. BOCASH: Objection. Calls for attorney/client privilege communications.

MR. JOHNSTON: She testified to that already, Your Honor.

THE COURT: I'm going to sustain the objection.

MR. JOHNSTON: Okay.

THE COURT: She's already testified, simple enough.

MR. JOHNSTON: Simple enough, I agree.

Q. Under the retiree settlement that's incorporated into the plan, the City will pay the retirees a total of $5.1 million; right?

A. That's right.

Q. And that amount doesn't change or vary depending on the allowed amount of the retiree health benefit claims; right?

A. No. We agreed to the $5.1 million before the final calculation of the $545 million was completed so we had a general idea of what the claims amounts were.

Q. So under the settlement, the City would pay $5.1 million if it was ultimately determined that the retiree health benefit claims should be allowed in the amount of $100 million; right?

A. Yes.

Q. And it would still pay $5.1 million if it was ultimately determined that the amount of the retiree health benefit claims were allowed in the amount of $1 billion?

A. That's right.

Q. And under the City's plan of adjustment, the City actually benefits from as high an allowed amount of retiree health benefit claims as possible, doesn't it?

MR. BOCASH: Objection. Calls for a legal conclusion.

MR. JOHNSTON: It does not call for a legal conclusion, Your Honor, it calls for a simple math exercise. The percentage payments on the claims into which Franklin's claim, a class into Franklin's claim as we classified, relate to the allowed amount of retiree health benefit claims, specifically a calculation that's determined by dividing $5.1 million into the allowed amount of claims. The higher the claim amount, the lower my client gets paid.

THE COURT: Have you already established the base of what he --

MR. JOHNSTON: Yes.

THE COURT: You have already established there's discounting in retiree health?

MR. JOHNSTON: I have. This is a different line of inquiry.

THE COURT: So what are you after now?

MR. JOHNSTON: I'm after the fact that in fact the City has an incentive to make the amount of retiree health benefit claims as large as possible under the plan.

THE COURT: I think that's more argument and I can't help there. You can certainly make that argument to me.

MR. JOHNSTON:

Q. One of the terms of the retiree settlement is that the City agreed not to impair retiree pensions; right?

A. That is one of the provisions which the City already made with the employer organizations prior to the settlement with the retirees.

Q. But in fact the settlement with the retirees specifically says that pension shall not be impaired for retirees; correct?

A. That's right, the agreement with the City had with the unions. And I use the agreement with the employer organization unions has similar language in your agreements that their pension, that any kind of adjustment will be consistent with their memorandum of understanding, which includes their pension benefits.

Q. Right, but I'm asking you a question about the retiree settlement.

A. You can see for itself. It says that the pension benefits will not be impaired.

Q. So under the retiree settlement, standing on its own,

Q. The boil down of the question is, did the City make a decision not to impair pensions before or as part of its settlement with retirees?

A. Before. As I said, the City made that decision as part of its AB-506 preparation, and part of its agreements with the employer organizations at that time.

Q. And would the City continue to -- strike that.

Was the City's decision to maintain pensions in any way affected by the retirees settlement?

A. No.

MR. BOCASH: Thank you. That's all, Your Honor.

MR. JOHNSTON: Nothing further.

THE COURT: I have no questions. You may step down. Thank you for your testimony. It's a good time for a break.

Ten minutes and then we'll proceed on.

(Recess.)

THE COURT: Okay. Impairment pensions, agreeing not to impair.

MR. HILE: Yes, Your Honor. At this point, the City has presented its testimony through the witnesses that it has proposed for its case in chief and we have also submitted to the Court for introduction into evidence the exhibits the City has prepared for its case in chief.

The only exhibit declaration that the Court has reserved ruling on is Susan Wren's declaration in lieu of law on Chapter 11 and Chapter 13.

Now in Chapter 9, we have a different kind of reorganization in the sense that the Court's powers are considerably more limited in terms of the day-to-day management of the case.

We went through that right at the outset of the case where when the retirees wanted an injunction against the City's unilateral imposition of reduction of retiree health benefits.

And that leaves a situation in which there is somewhat less for the adversary process to deal with in a Chapter 9 case, and perhaps the great duty on the court at the time of confirmation to scrutinize whether all of the essential elements of confirmation have been satisfied, the problem being that there's so many other people that are not at the table.

Yes, we have retirees, we have representatives some organized labor groups, we have bond holders. There's a couple of hundred thousand citizens out there who are not in the courtroom, and I'm not in a position to be able to advance their positions.

And so with that, my sense is that the duty of the Court to be independently persuaded of all essential elements of confirmation actually is somewhat amplified in Chapter 9. Something more importantly is Chapter 11.

Although it makes some sense to me, it seems to me right at the threshold that I have to consider whether the fact that the pension provider here is not X, Y, Z Pension Insurance Company that's just out there on the American marketplace.

Whether there's a difference between that and the fact that the pension provider is CalPERS. Just last week in this case, we had people from Sonoma County in here trying to interject themselves -- I suppose I want to say intermeddle in this confirmation. And one of the points that CalPERS made and the City made was Sonoma County does not contract with CalPERS, they have their own pension system.

So I don't know the details of the overall pension situation in California. But the first thing I think I've got to get clear about is what's the relation of the City, how is the relation of the City with CalPERS any different than the relation of the City if it contracted with just some other pension provider in the American marketplace?

And then if it is different as a matter of law, why is it different and is that a difference that would be honored under the United States Bankruptcy Law?

Keeping in mind, if you go back and read the retired employees case, that there's a published decision in it that laid out the constitutional aspects that the bankruptcy clause of the constitution trumps the California statutes to the contrary. I should say the combination of the bankruptcy clause in the constitution and the supremacy clause of the constitution trump California law to the contrary, be that California common-law, California statutory law, or the California Constitution.

Those are all issues that were raised and resolved in the retiree employees case. Of course in that decision they cited a case called Mission Independent School District in which the state of Texas had said "Well, you can, the school district, you can file a Chapter 9 case -- and this is under the Bankruptcy Act -- but you cannot impair certain obligations to us." And that was summarily rejected by the Fifth Circuit.

Mr. Gearin, on behalf of CalPERS, tried to get me to reconsider the decision because he wanted to persuade me that Mission Independent School District was either wrong or no longer applicable. And I told him that he'd get his day. I think that day is here today or tomorrow.

And I told him that since CalPERS was not a party to the retired employees adversary procedure from me, that with respect to CalPERS my determination would stick, and that it wasn't directly binding on CalPERS.

But we have gotten to the point where I have to figure out whether the State of California can get away with passing a law that says "Oh, by the way, you cannot reject the --

this is a contract, but you cannot reject this contract under Section 365 of the Bankruptcy Code." And by the way, if you do, we have a lien that's going to suddenly and magically jump up." Those are pretty interesting questions to someone who understands bankruptcy.

So, you know, I think we probably need to recognize that we got a festering sore here and we have to get in there and excise it and figure out what the story is. You know, maybe CalPERS is correct, maybe not.

But then if I conclude that CalPERS is not really in any different position than some other pension provider in the marketplace, then the question would still, regarding impairment, would still be regarding whether the decision not to impair pensions in this case, assuming that the pension provider is not CalPERS.

But it's whoever else provides private pensions, whether that decision still makes sense, it perfectly well might make sense, but I have to figure out that context.

So that's how my brain is thinking. It's thinking about a series of hurdles that we have to get over. So it's conceivable that I could conclude that the CalPERS contract is a contract that could be impaired and the plan is not confirmed because it should have taken that into account or it might include that the CalPERS contract can be impaired, but under the facts of this case the decision not to do so quote, contract, and then municipalities that are in CalPERS if, and only if they, quote, contract with CalPERS.

I could see where the situation is quite different as between them. And so I need to flush that out and form some understanding there. And there are a bunch of other related questions.

MR. GEARIN: Well, Your Honor, I'll take another stab at it, as you try to unravel why we need to get to those issues, because I do think there's a bit of the cart before the horse there.

And I do think what's happening here and that we are in jeopardy of is embroiling the City in this large messy problem that the City really doesn't want to be embroiled in, and I think the City has made a reasonable business decision based upon, I guess, more than 80 years of relationship with CalPERS.

The more than billion dollars in contributions that its employees, it's retirees, and the City itself has made into a pension system over that period of time. That is the result and functioning system for which the pension benefits are delivered for the constituents of the City.

That functions very well for the State of California, and there are not cities out there that are trying to run away from their relationship with CalPERS. Even the cities that have been in bankruptcy have not sought to terminate their relationship with CalPERS.

Even the city of San Bernardino, that's been in the papers a fair amount, has not sought to terminate this relationship with CalPERS. So there's a reason for that, and I think the City made a reasonable business decision to retain that relationship.

And the plan they have brought forward is premised on that decision and it seems to me the Court ought to look at that plan. I don't think it's appropriate.

THE COURT: Well, I am looking at that plan. The question is whether that plan squares with what meets the confirmation standards for that plan, when one figures out what the actual legal situation is regarding CalPERS.

MR. GEARIN: So the question I have for Your Honor is "Why is it necessary to address that"? Because the City has put a case on that says it's a plan that's feasible, it's workable, it's presented a case financial case to you, it's presented a rationale as to why it's treated different creditors and different mechanisms, why it's classified people in different areas.

It seems to me the way to go out at that would be to rule on that plan. And I don't think it's appropriate. Franklin has raised the argument that they should be able to propose an alternative plan. And their alternative plan is --

THE COURT: Well, no --

MR. GEARIN: -- to modify payments.

THE COURT: -- I think only the City can modify the plan. I think everybody agrees with that.

MR. GEARIN: So it's not appropriate to --

THE COURT: Well, I don't agree with that. When I decide, among other things, whether to confirm the plan, I need to think about what are the alternatives. Otherwise, I'd just mindlessly be rubber-stamping a plan. You might as well hire a potted palm to preside in the courtroom.

MR. GEARIN: Your Honor, in terms of if you are directing us asking us to have Mr. Lamoureux testify, we're perfectly willing to do that. We have been willing to do that all along.

THE COURT: Well, it would be helpful to. Otherwise I'll read the evidence and see how persuaded I am. And I might not be all that persuaded that the California Legislature can say "Oh, well, we declare pensions to be a governmental function," you know. Who says it's a governmental function?

MR. GEARIN: Well, Your Honor, if that's the direction we're going to go, we need to have an opportunity to brief those issues and we would ask the Court for opportunities to fully lay out the full-fledged constitutional briefing, and that's where you want to address those issues with respect to

EXHIBIT G

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

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HON. CHRISTOPHER M. KLEIN
COURTROOM THIRTY-FIVE
DEPARTMENT C

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Bankruptcy No. 12-32118-C-9
WELLS FARGO BANK NA, Plaintiff, v. CITY OF STOCKTON, CALIFORNIA, Defendant.	Adversary No. 13-2315

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REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

held on

Wednesday, May 14, 2014

9:30 a.m.

Reported by: ERIC L. THRONE, CSR No. 7855, RPR, RMR, CRR
DEBBIE MAYER, CSR No. 9654, RPR, CRR, CRP, CLR

conservative, using words such as realistic.

But clearly as the LRFP indicates this is conservative and as it relates to one item that I heard which is that it's conservative, relative to assumptions that may have been used in the past.

Clearly that does not jive with what I see here in the LRFP, which is again I'll just read the conservative modeling assumptions and I'll skip ahead of the parenthetical, meaning that on balance we can expect that variances are somewhat more likely to be good news than bad news.

So clearly that's conservative in relation to what is in this forecast, not in comparison to what may have been developed years ago.

Q. Are there other facts that support your view that the forecast is conservative?

A. There are items that I have looked at to support the City's characterization of the forecast as being conservative, yes.

One item that I have looked at is historical growth rates as compared to growth rates for certain items that the City has included in its forecast.

Q. Can you give me an example?

A. It may be easiest to use some demonstratives at this point.

Q. Okay. Mr. Moore, I just handed you a three-page document. Did you prepare those?

A. Yes.

Q. Can you please walk us through the charts there?

A. As you indicated, there are three pages and I'd like to start with the one that is labeled at the top City of Stockton property tax revenue, 96/97 to 40/41. What this demonstrative shows is on the left of the chart.

The red line is the actual growth rate of property taxes that the City of Stockton experienced during those years.

The blue line represents what the City is forecasting for its growth rates in property taxes going through the end of the LRFP.

The green line reflects the compounded annual growth rate of those actual property taxes in the historical period and then rolls that forward such that as you can see if the compounded annual growth rate that was experienced during this historical period was used in the LRFP, that in the final year of the LRFP alone property tax revenue would be $27.4 million higher than what the City has forecasted.

And to put the numbers in perspective, the compounded annual growth rate based on the historical period is approximately 4.2 percent, whereas the City's compounded annual growth rate in the forecast for this future period is approximately 3.1 percent.

There's a similar graph that is done for sales tax revenue. What I will point out on this that exists on all of these charts that I did not discuss on the previous demonstrative is that I have also highlighted here the two periods where there were recessions, and these are recessions as defined by the National Bureau of Economic Research.

With sales tax revenue, the compounded annual growth rate in the past was 3.8 percent. The City has forecasted a compound annual growth rate for the future period of 3.2 percent, in the last year of the forecast, that would result in $16 million higher revenue if that historical period was used. And then on the utility user tax, the same information in this regard. The compounded annual growth rate historically was 2.2 percent versus 1.4 percent in the City's LRFP.

Q. And that data is set forth in your report; right?

A. Yes.

Q. And I note from these charts for the sales tax chart and you utility users tax chart for the historical period you end in the Fiscal Year 12/13, but for the property tax revenue chart you end in Fiscal Year 11/12, why did you do that?

A. That's an important point to make. The City indicated that in receipt of the one time refund related to property tax revenue in Fiscal Year 13, which is 12/13.

And so as a result of that, I backed my analysis up to not include that year in the compounded annual growth rate. As a result, as I indicated, the compounded annual growth rate is 4.2 percent. If I had included Fiscal Year 13, that would have been 4.3 percent.

Q. And where did you get the data for these charts?

A. This data was actually in contained in the soft copy, I refer to the soft copy as the Excel version of the Long-Range Financial Plan that was provided by the City.

MR. JOHNSTON: Okay. At this time, Your Honor, I would like to move this demonstrative into evidence.

MR. HILE: No objection, Your Honor. All three pages, as I understand it?

MR. JOHNSTON: Correct.

MR. HILE: Yes. No objection.

THE COURT: Do we have a number on it?

MR. JOHNSTON: We will mark it as Exhibit 2970.

THE COURT: All right. Without objection, Exhibit 2970 will be admitted for its full probative value.

(Franklin's Exhibit 2970 was received in evidence.)

THE COURT: I do have one question I'd like you to explore with the witness.

MR. JOHNSTON: Sure.

THE COURT: On this chart starts in 1996/1997, and the red lines are, of course, things that we have associated with the bubble or two bubbles that occurred in the economy.

What is the compounded annual growth rate if somebody looks at a start date like 1980, 1970, in other words, a longer long-term.

MR. JOHNSTON: I think the best way to approach that is to ask Mr. Moore.

Q. Why did you start your 15 -- your historical look-back in the year 1996/97?

A. This was the extent of the information that I had received from the City. So it did not go back any further than 96/97.

Q. Were you able to get data, older than 96/97?

A. I was not.

MR. JOHNSTON: I know that's not a wholesome answer to Your Honor's question, but I think that's the best we can do at this point.

Q. Mr. Moore, did you hear Mr. Leland's testimony criticizing you for suggesting that the City's historical results should serve as a basis for a projection of future results?

A. I did.

Q. Do you have a response to that criticism?

A. Certainly. I have never suggested that the City should use the historical compounded annual growth rate in its LRFP.

Q. If you could just read the headline article there above the --

MR. HILE: Your Honor, I object. It's hearsay, there's no foundation, this is just a newspaper article.

MR. JOHNSTON: I'm just asking him about what he head this morning.

THE COURT: Mr. Hile has a good objection.

MR. JOHNSTON: Fair enough.

THE COURT: With all respect, the Court will sustain it. I'm not sure I should be deciding this case based on headlines in the Wall Street Journal.

MR. JOHNSTON:

Q. Another way the City approaches this is that in fact they said that the last 15 years had been so extreme they should be discarded for purposes of forecasting do you agree with that?

A. No, I don't think that you can ignore especially that long of a period of time.

Q. You testified earlier that the Long-Range Financial Plan was first released in October more than six months ago. Has there been any data released since then that impacts your view of the forecast at a conservative point?

A. Yes. A couple of other points. The City completed its actual results for Fiscal Year 13 and I will commonly refer to a Fiscal Year 13 based on the 12/13 year. So whatever, whenever the year ends I refer to that as the Fiscal Year.

So actual results for Fiscal Year 13 were significantly ahead of the original budget for Fiscal Year 13, specifically revenues were approximately $6.2 million higher than the budget and expenditures were approximately nine and a half million dollars lower than the budget and this was indicated in Mr. Leland's testimony on Monday, that combines for a net favorable variance to the budget of approximately $15.7 million for Fiscal Year 13 the most recent year-end had.

Q. And does the revised long-range financial plan take those results into account?

A. Yes. This version I indicated that I used in my analysis does.

Q. And what's your opinion of the changes that the City made to the long-range financial plan from the original in October of last year to the revised one in March?

A. Well, it probably is easiest to address these through a demonstrative as well.

Q. I have that right on top of my stack.

Is this document that I've handed you something that you prepared?

A. Yes.

Q. Could you please walk us through what it is.

A. This is referred to as a "bridge analysis," and it attempts to show the changes from one point to another point.

I'll start off with the far left column which is labeled "original LRFP ending cash." So this is the projected ending cash balance that the City had in the long-range financial plan that was attached to this disclosure statement that was approved by the Court. So this is as of fiscal year '41, and the balance there is 58.3 million dollars.

On the far right, the ending cash balance in the revised LRFP, the document from around the second of this year, was 58.4 million dollars. So essentially, the cash balance between these two forecasts is essentially the same. However, there were a number of swings, both up and down, to get to that point.

I'll just walk through a few of these items. As you can see the second column to the left, property taxes were increased in the first ten years of the forecast by approximately 18.4 million dollars. However, after that, for the rest of the period, property taxes were reduced by 45 million dollars. So there was a net reduction in property tax revenue of approximately 27 million dollars from one version to the next.

The City showed higher revenue from both sales taxes as well as charges for services such as it indicated in the nuisance abatement.

And then the rest of the revenues essentially resulted in a 6 million dollars variance.

On the other side, salaries and benefits were lowered by 33 million dollars, services and supplies -- I should say salaries and benefits were increased which resulted in cash balance coming down. Same thing with service and supplies. The actual expenditure was increased, resulting in cash coming down.

I'm going to skip over mission critical and come back in a minute. But the last item, although there was a transfer to bankruptcy fund just under 8 million dollars, and then various other expense adjustments of 5 and a half which essentially offset the other revenues.

Now the way that the City constructs its long-range financial plan is that any time the cash balance exceeds the top end of what it defines as its prudent range, all cash goes to mission-critical spending, what's defined as mission-critical spending.

In this instance, because of these other items, there was 17 million dollars less that was available to mission-critical spending. So really, in this instance, mission-critical spending serves as a plug, and that's where we wind up then, at the same cash balance.

So overall, mission-critical spending declined by 17 million dollars from the original to the ending in the LRFP that I used.

Q. What's your reaction to the City using mission-critical spending as you described it, as a "plug number"?

A. Well, this is one area of criticism that I have in the LRFP. I think that the City was very comprehensive in how it projected its revenues and expenditures. There were really two areas in the LRFP that I thought were lacking details, and one was mission-critical spending. As I indicated, really what happens here is that the City has set up a construct whereby every dollar above when the City reaches the top of its prudent cash range goes into this undefined bucket of mission-critical spending.

This may be best shown with another demonstrative if we can look at that.

Q. Before we move off the bridge, where did you get the data for the demonstrative you were just discussing?

A. This comes from the City's long-range financial plans.

MR. JOHNSTON: Your Honor, I'd like to move this particular demonstrative into evidence as well.

MR. HILE: No objection, Your Honor.

THE COURT: Without objection, this I take it will be exhibit, what --

MR. JOHNSTON: 2971.

THE COURT: -- 2971?

MR. JOHNSTON: Yes.

THE COURT: Exhibit 2971 is a demonstrative exhibit comparing the two versions of the City's long-range financial plan is admitted for its full probative value.

(Franklin's Exhibit 2971 was received in evidence.)

MR. JOHNSTON:

Q. Is what I just handed you the demonstrative you referenced?

A. Yes.

Q. Could you explain to us what this shows.

A. Yes. As I was referring to, the City's LRFP is constructed whereby excess cash above a threshold goes toward mission-critical spending.

The column on the left is the baseline LRFP from March 2nd. And in that, the ending cash balance, as we just saw from the bridge, is 58.4 million dollars. So this is the projected cash balance at the end of fiscal year '41.

Above that in red, there's 56 million dollars in cumulative contingency. I will come back to that and discuss that separately.

But then there's approximately 236 million dollars in mission-critical spending that exists in that long-range financial plan. With that baseline plan, as you can see to the right there, Franklin's recovery is approximately

$350,000.

Moving then further to the right, there's another tall column where the ending cash, against 58.4 million dollars, the cumulative contingency is still 56 million dollars. But what this represents is the scenario that the City included in its projections that is referred to as the "upside scenario," or at least I refer to it as the "upside scenario," where revenue is .5 percent higher. And the City specifies, under that scenario, mission-critical spending would grow to 712 million dollars.

And then further to the right, Franklin's recovery would still be at 350,000. So the bottom line in this is that based on how the LRFP has been constructed, any cash above the top of the prudent range that the City has defined goes towards this undefined bucket of mission-critical spending.

Q. Where did you get the data for that chart?

A. This comes directly from the City's long-range financial plan.

MR. JOHNSTON: Your Honor, we'd like to move that into evidence as well.

THE COURT: That's Exhibit 2972?

MR. HILE: No objection, Your Honor.

THE COURT: All right. Without objection, Exhibit 2972 is admitted for full probative value.

(Franklin's Exhibit 2972 was received in evidence.)

MR. JOHNSTON:

Q. Now, you said you returned to the cumulative contingency that you listed there; can you explain that to us.

A. Yes. The City has put together this construct in its LRFP that incorporates two items as it relates to reserves. Number one: The City has defined in the LRFP a prudent fund balance range of 5 to 15 percent of general fund expenditures. Now, I will point out, I certainly have heard Mr. Leland indicate about the change by inference that now, the City is looking to have a threshold of 16 and two-thirds percent. I'm going off of the analysis that I conducted that is in the LRFP, which is 15 percent of that top range.

So the City's fund plans will exist basically between the 5 and 15 percent range. But then once it gets above 15 percent, money is spent.

There's a second area though of reserves that I mentioned, which is -- and it's important to point out that fund balance is measured as of a point in time. The second area of reserves that the City has included is referred to as a contingency. And the City has included approximately 2 million dollars per year in its long-range financial plan as contingency.

So over the course of the long-range financial plan, that totals 56 million dollars.

Q. Mr. Leland testified that the minimum cash balance and the contingency serve different purposes. I believe he said that the cash balance is intended to act as a one-time resource to address short-term crises or unexpected expenditures while the annual contingency provides a long-term buffer against economic fluctuations. Did you hear that testimony?

A. I did.

Q. And do you disagree with it?

A. I do disagree with it.

Q. Why?

A. Based on how Mr. Leland himself described it. Until the City reaches the top of that prudent range for fund balance, I actually agree that having a contingency can be a good thing. But as Mr. Leland indicated, after the top of the prudent fund balance range is reached, then any additional cash can go towards mission-critical spending, which is defined as anything else.

So that means that if the City achieves its 15 percent or perhaps 16 and two-thirds percent, if it changes that goal, and there's an excess variance, that contingency can be used.

So if that top fund balance is reached and the contingency is not needed, then that contingency would essentially, or could be used, and that would not do anything to protect against longer term.

So I think it's important to point out prior to the City achieving its top end of is minimal fund balance, I understand the contingency, after that, as Mr. Leland himself indicated, that money can be spent. And so it, to me, doesn't do anything for longer-term protection.

Q. We've gone through a lot of data here. Have you also prepared a demonstrative that kind of wrapped it all together?

A. Yeah. I think that there's one other important way to look at that which I have included in my report, and I have a demonstrative for.

Q. Is the document I just handed you something that you prepared?

A. Yes.

Q. Can you please explain to us what it shows.

A. What I've done here is to really make the point -- I've used the far-left column that was just on the previous demonstrative, which is the City's LRFP, and at fiscal year '41, the projected cash balance, the cumulative contingency, and then what is going towards mission-critical spending. So we've already talked about those numbers.

I rolled the forecast forward for an additional period of time and I went through fiscal year '53. And based on some assumptions that I've made you see that the cash balance would grow to 179 million, the cumulative contingency would, at that point then be 80 million, and the mission-critical spending would be 824 million. And that would still leave Franklin with a recovery of only $350,000.

Q. And why did you pick the year 2052, '53, for the column on the right?

A. Based on my understanding, that is the furthest point that some of -- or at least one of the other creditors' payment stream goes through.

Q. And you mentioned earlier you had to make some assumptions to get to the data in the column on the right. Can you describe what those are.

A. Yes. I took the last ten years of the LRFP, again, the LRFP ends in fiscal year '41, and I took the average growth rate for each of the line items, and I extended it forward -- I extended the forecast forward based on those average growth rates.

I also kept the contingency in at 2 million dollars per year, and I added 2 million dollars of mission-critical spending each year in the extension of the forecast from where it was at the end. Now I will point out there was one line item that I did not take the average of the growth rate during that ten-year period, and that related to pension contributions.

By that point in the City's long-range financial plan, pension contributions are going down. So rather than continuing to have those go down, since the unfunded liability has been repaid or presumably will be repaid at that point, I actually held it steady, based on where it was at the end of the long-range financial plan.

And so as you can see, the City would then have these balances under those assumptions.

MR. JOHNSTON: Your Honor, I'd like to move this demonstrative in evidence as well.

THE COURT: That would be Exhibit 2973.

MR. JOHNSTON: Correct.

MR. HILE: No objection, Your Honor.

THE COURT: Without objection 2973 is admitted for its full probative value.

(Franklin's Exhibit 2973 was received in evidence.)

MR. JOHNSTON:

Q. And what's your take away from the vision we just went through?

A. Well certainly if there's a willingness to pay there is cash in the forecast to be able to pay Franklin more than $350,000 on its claim. There are again a few points that I think are important, this is based on not modifying any of the City's assumptions regarding the LRFP. So I'm not suggesting that revenues should be increased in order to generate cash for Franklin nor expenses decreased.

Again, the key point here is willingness to pay and that's really highlighted by the way that the mission critical spending is set up such that there will never be any excess cash that could go towards Franklin if any excess cash is going to go into an undefined bucket called mission critical spending.

Q. And your report depicts this graphically, doesn't it?

A. It does.

Q. If you could take a look at page 9 of your report in the tables listed there.

Could you please walk us through what these tables show and in if I can explain the column on the left of each that has the 5 percent, 10 percent, 15 percent and 16.67 percent numbers?

A. Yes. Tables 2A and 2B in my report. Again, the point that I was just making and per your question, Mr. Johnston, on the left column what I have done is I've established four different scenarios.

And the scenarios are what the threshold is whereby the City would have an excess cash to go towards mission critical spending or payments to Franklin.

The reason why I've used these four, there is significance the first one 5 percent is based on the average fund balance that the City had in recent historical years going back approximately ten years, just over ten years.

The City's own policy is 10 percent. The City included in its LRFP a top range of 15 percent and then the City has recently indicated. However, I used based on the GFOA guidelines, 16.67 percent.

So what I have done here is I have assumed that when cash is available or when it exceeds this threshold, whether it's five, ten, 15, or 16.67 percent that that cash could go towards paying Franklin. Now I have not reduced any amounts to mission critical spending, so there is still $236 million going to mission critical spending.

I have given the City credit for developing its conservative forecast and by that conservative forecast, again, how the City has defined it. That good variances should be good news rather than bad news. If that's the case, then the amount that is put into the contingency should be available for cash payments.

So based on that, in Table 2A, where I have it going out through the Fiscal Year 41 period, you can see that at those various cash or fund balance thresholds Franklin can be paid a substantially greater recovery than the 1 percent. This is based on a very important assumption, which is no payments ever go to Franklin unless the City has cash in excess of its threshold.

So I'm not suggesting in any way that there be a set

A. That is not my testimony.

Q. Let's take a look at table 4 of your report. If you can explain what this depicts, I would appreciate it.

A. Table 4 is a little involved, so I'll have to spend a little bit of time on this.

At the top of Table 4, you see the four funds that we just mentioned and the applicable fee related to each of those funds along with the percentage. So this is the information that we just discussed from Table 3.

Now on the far right where it says cap, there's an amount $2.9 million, $923,119. That's the annual amortization or debt service for the Franklin bonds.

Based on the allocation that we discussed before, the cap refers to the amount from those PFFs that can go towards servicing Franklin from each of those funds. So at most, $995,322 can go from the streets funds to go to servicing Franklin's debt service.

What I have calculated here below that line units to meet cap is basically a calculation that says if we are getting $6,068 per permit and there's a cap of $995,000 that can go towards Franklin that at 150 units you have reached the cap in terms of the maximum amount of funds that can go towards Franklin. This assumes that all of those funds would go towards Franklin.

Now I am not saying that all funds have to go towards

Franklin. This is just pointing out that calculation assumes that. Below that, then the second half of the table indicates a variety of scenarios. At different permitting levels per year what the revenue would potentially be that's available to go towards the Franklin debt service.

I start off with 100 permits per year, because as the City has indicated that seems to be the pace at which it's operating right now, and I go up in 100-unit increments and I have a final number which is 651.

Q. Thank you. And what's the significance of the 651 number?

A. The 651 number is the cap or the number of permits when all of the funds have reached their cap. Some reach their cap -- earlier up above, I indicated for the streets fund -- it reaches the cap at only 150 units.

But the fire fund, because the applicable fee is only $781 and we're building up to potentially 507,000 of debt service, it would take 651 permits to reach the cap for fire.

Q. Now you touched a little bit on this earlier but I'd like to you react to another statement that the City made in its brief which is that they say you have argued that quote the City's PFF funds can be expected to generate at least 600 to 700 new units annually and essentially all of the PFFs from new development can be used to pay Franklin rather than to invest in new infrastructure for that new development.

Is that your opinion?

A. No. I will point out I think that's pretty serious mischaracterization. I have never indicated what I believe the level of permits will be I certainly have made note of what the City's adviser had indicated the level of absorption is expected to be and that's approximately 700 units per year. I also never indicated that the PFF revenue can only go towards servicing Franklin.

Q. There was an indication in the City's brief and some testimony yesterday that PFFs can only be used to repay principal on Franklin bonds and not interest.

Is that relevant to your opinion?

A. Not for my analysis. I can't make that legal determination as to whether just principal or principal and interest can be paid. But certainly what I have focused in on is, this is an additional source of available cash to put towards the Franklin debt service.

Q. Moving on, your report also mentions other sources, potential sources of funds that could be used to pay Franklin more than one percent of its claim. Can you summarize your opinion in that regard?

A. Yes. Earlier in my testimony I indicated -- well, I think that the City has been very detailed in putting together its long-range financial plan. There were two areas that I felt that detail was lacking significantly. We've talked about one of those which is on mission-critical spending.

The other area relates to what is referred to as contingent -- I'm sorry, efficiencies in the long-range financial plan. The City has built in 3 million dollars of contingencies into the long range -- I'm sorry, efficiencies in the long-range financial plan which essentially are meant to be cost savings that the City of Stockton will realize.

I think that the -- first of all, the 3 million dollars, there's no detail behind that. Secondly, 3 million dollars over this time period is noteworthy in its size, being very small.

At a minimum, you would think that because of the way that inflation is built into the long-range financial plan that that 3 million dollars would grow with inflation. If all the City did was grow the efficiencies with inflation, there would be an additional 21 million dollars during the course of the long-range financial plan, and obviously that would be additional cash that could go towards Franklin.

Q. Anything else that you've touched upon in your report that would be an additional potential source of funds that could pay Franklin?

A. One other area that I pointed out which I just made note of is that the City has indicated that it does not have money to pay Franklin. However, there is an ongoing subsidy that the City of Stockton plans to make from its general fund related to some entertainment venues. That amount is approximately 2.7 million dollars per year which grows as time goes on so it gets to north of 3 million dollars per year.

Q. And you show that in table 5 of your report?

A. Yes, that's correct. If you look at table 5, which is on page 13, the second line from the bottom, which is the general fund transfer, this is the amount of subsidy that comes from the general fund towards supporting these entertainment venues. As I indicated it's approximately 2.7 million dollars. That amount grows during the course of the long-range financial plan.

Q. Let's move now to your second opinion in your report, which is the differing treatment among creditors. If you could take a look at page 3 of the report and just briefly summarize what your opinion is in that regard.

A. Yes. My second opinion relates to the fact that the City is paying other creditors with rights similar to those held by Franklin, recoveries that dramatically exceed the proposed de minimis recovery to Franklin in respect of the Franklin bonds.

Q. And you've summarized those differing recoveries in your report, right?

A. I have, yes.

Q. You mentioned earlier that in addition to your comparison of recoveries of the so-called capital markets creditors, you also compared recoveries of retirees, right?

A. Yes.

Q. Can you explain that aspect of your opinion, please.

A. What I did is, I looked at retirees together, those holding pension claims as well as OPEB claims. And this is probably best addressed through one of my exhibits in my report.

Q. And you are referring to Exhibit 8 of your report.

A. Correct, Exhibit 8.

Q. Could you explain what Exhibit 8 shows with respect to retirees.

A. Yes. Approximately two-thirds of the way down in that top table there is a section called "pro forma treatment of retirees," and again as I mentioned it combines pension and retiree health.

The numbers that I have used here have claims of 551 million dollars and recovery of 294 million for a recovery of just over 53 percent. And that compares to Franklin's proposed treatment which again, when this report was developed, the Franklin claim was still proposed at 10 million dollars. Now we see that Franklin recovery would be just under one percent.

Q. And in your report, you touch upon the claim of the retirees for OPEB or other post employment benefits. And you discuss the City's calculation of that claim in the amount of 400 -- 545 million?

A. Correct. The City has put forward a claim for OPEB in the amount of 545.9 million dollars.

Q. And do you agree with that calculation?

A. I do not.

Q. Why not?

A. There are two reasons. The first one is that the City changed its methodology for calculating the OPEB liability for claims purposes, compared to how it has done in its audited financial statements.

The City, for claims purposes, took historical average amounts for three fiscal years, fiscal years 9, 10, and 11, and came up with an average per participant, this is just related to retirees, and then rolled that forward each year, based on assumptions for healthcare, inflation, mortality, as well as Medicare becoming available at age 65 if they're eligible for Medicare.

That is significantly different than the approach used by the City's actuary in an actuarial report for the OPEB liability which projects future healthcare costs and then discounts those to a present value.

So item number 1, and the reason why I don't agree with it, is because of the change in methodology for projecting those future expenses.

Q. And what's wrong with the backward-looking methodology?

A. Well, one item in particular I had seen first-hand is, when an entity is in distress, which certainly there was no secret that the City of Stockton was in distress prior to its bankruptcy petition filing, very often you'll see run-up in certain expenses. Employees in particular can become concerned that they will lose access to a benefit. And so you can see some spikes in actual activity.

So by using those very recent years, that could include information that would then be rolled forward through the course of the next 80 years.

Q. You said you had two issues with the way the City calculated the claim amount. What's the other one?

A. The first item I mentioned which is the change in methodology is one item. But by far, the much bigger issue that I have with calculation of the claim for OPEB relates to the lack of discounting for those future anticipated costs.

The City, as I indicated, rolled forward the anticipated OPEB payments and did not do any sort of discounting of those amounts.

Q. And why do you believe that's not appropriate?

A. Well, certainly again it goes back to how the City has calculated this in its information included in its audited financial statements, as well as based on standards for reporting these liabilities.

Q. And in your experience, have you ever seen a calculation of OPEB liability that was not discounted to present value?

A. I have not.

Q. Going back to -- well, I'll stop there for a second. Going back to your first criticism of a calculation about claim amount, Mr. Leland criticized you for being inconsistent. He indicated that when you're looking at projections of future revenues for the long-range financial plan, we talked about earlier, you "advocate a backward-looking approach, but in the context of retiree healthcare claims, you demand only forward-looking assumptions." Is that an accurate assessment of what you're doing?

A. No.

Q. Can you explain why not?

A. Yes, there are a few things. Number one, as it relates to the charts and calculations that I'd done for the revenue, again, that is a data point. I was not suggesting that the City change its long-range financial plan. But with that clarification aside, one of the most important items is, I looked at a 15-year period. A 15-year period represents a full economic cycle.

Looking back just three years, especially in light of what may have been going on with activity, I don't think is well-founded to then use that, going forward.

And then lastly, as I indicated, this is completely different than what the City's methodology has been in the past for calculating its OPEB liability.

Q. And going back to Exhibit 8 in your calculation of the total claim amount for retirees, Mr. Leland again says that you're being inconsistent in using an apples and oranges comparison. He says, in two respects, your numbers are from different time periods while you valued the retiree health liability in 2011, you valued the pension liability at year 30, 2012. And secondly, your retiree health calculation was valued using the unfunded actuarially accrued liability calculation whereas the CalPERS figures you cite for pension are for market value calculation. Did you look at Mr. Leland's criticism in that regard?

A. I did.

Q. And what's your reaction to it?

A. There's a lot of technical information that you asked for there, so I'll walk through it slowly, hopefully.

The first item is that in my calculation of recovery, the 53 percent for retirees, I used the most recent information available for both pension and OPEB. The most recent actuarial valuation reports, or the pension plans, is as of 6-30 of 2012. The most recent valuation for the OPEB liability is as of June 30th of 2011.

Now, the way that I satisfied myself that using the 2011 information for OPEB would be consistent here is that the amount related to retirees, from the June 30th, 2011 actuarial valuation report for OPEB, is approximately 261 million dollars. If you take the amount that is included in the City's calculation of its claim for future OPEB costs, back to the petition date, which is two days away from June 30th of 2012, at that four and a half percent discount rate which is used in the OPEB valuation, the amount is 271 million dollars.

So the present value of the liability is essentially right on, between 6-30 and 2011 and 6-30 of 2012. That's the first item.

The second item that I think Mr. Leland may have been mistaken about is when we talk about using the unfunded actuarial accrued liability, which is based on the actuarial value of assets, versus the market value of assets. Actuarial value of assets is based on a smoothing of gains and losses. So the asset value can be different under UAAL versus the market value of assets.

With OPEB -- first of all, as it relates to pension, certainly based on my own experience, using -- it's most appropriate to use market value of assets in calculating claims. That's been my experience in every bankruptcy case that I've been in and also is consistent with not only what CalPERS itself is moving towards but also the direct testimony declaration I saw of Mr. Lamoureux.

So I think the market value is the appropriate way to look at that, and obviously that's based on consistency with the other items that I've indicated.

But as it relates to the OPEB claim, there's no -- there are no assets. So the actuarial value of the assets is zero. And the market value of the assets is zero. So there's no difference between UAAL as it relates to OPEB, and market value.

Now, the last item that I will point out is -- so that's how I calculated 53 percent composite recovery. The City, in the long-range financial plan, actually cites the 70 percent number as a composite recovery.

Now I certainly understand what has been written that the OPEB claim really stands on its own and has no relation to the City's decision to not impair the pensions. That didn't make sense to me before.

And based on what I saw yesterday, and specifically from the retiree committee about how they would view the settlement on OPEB if something happened on pension, I think it's clear that these two items are tied together. So there's a basis to look at this as a composite recovery.

Mr. Moore is going to be done in 15 minutes, but we have another witness after that and we would like to put him on, Your Honor.

THE COURT: We're going to go to noon, I'll let you do that.

MR. JOHNSTON: Thank you.

THE COURT: As to speeches from witnesses and so on, there's a certain amount that falls into the category of "How to control a witness, particularly a hostile witness."

MR. JOHNSTON:

Q. Mr. Moore, let's turn to your third opinion, please.

Can you summarize what your opinion is with respect to the City's pension liabilities?

A. Yes. Quite simply that the City's pension obligations, particularly for the safety plan, are very high, growing, and unpredictable.

Q. And what are the bases for that opinion?

A. Well, certainly when you look at the contributions for the employer, which is what the City of Stockton would be making, compared to peers they are very high and that separation is growing.

Also, the contributions themselves, as you look out over time grow very high. And then lastly the final determination of what the City's contributions are going to be are out of the City's hands and that is determined by

CalPERS.

Q. So let's take those in turn.

Your comparison to peer cities is based on Exhibit 12 of your report?

A. Right.

Q. Can you briefly walk us through what Exhibit 12 shows?

A. Exhibit 12 has a few pieces of information that I would just describe.

At the top, there are comparisons using the June 30, 2011, information from actuarial valuation reports for these cities that fall within population of 200,000 to 500,000. On the left we have the safety plan, on the right we have the miscellaneous plan.

Down below we have the information as of the June 30, 2012, valuation reports; again the left being the safety, the right being miscellaneous.

If we go back to the bottom left quadrant which is the comparison of safety plans for these peer cities, the very bottom row reflects what CalPERS has projected as its long-term -- or at least over the next several years -- employer contribution rates.

If you look at Fiscal Year 14, which is the year that we're in right now, the very bottom row, the City of Stockton has an employer contribution rate of 34.6 percent of payroll. That compares to the average of those peer cities above of

30.9 percent.

If you move forward to the final year for which CalPERS' projected contributions are provided for, you can see that the City's all have grown in contribution levels. However, the spread between Stockton and the average actually widens even further.

So Stockton was ahead of the average back in the current year. Now when you look at Fiscal Year 20, Stockton is at 57 percent of payroll for its employer contribution and the average would be 45 percent.

Q. So Mr. Leland criticized this comparison and said that you seemed to assume that employer rates are the determining factor in the magnitude of City retirement costs, and then in his declaration he listed eight different things that he described impact retirement costs.

Did that testimony change your opinion?

A. No.

Q. Okay. Why not?

A. This chart is merely meant to compare employer rates for the CalPERS plan. There may be other costs that certain cities have. I noted that Mr. Leland made a number of hypotheticals, but he did not provide any actual information on that. Even with that said, this is purely comparing for those cities that fall in that same population range, what the employer contribution rate is projected to be.

Q. Thank you.

And the second basis for your pension opinion was that the City's pension obligations are forecasted to grow very rapidly, I think you said, at unprecedented levels. Can you explain the basis for your opinion in that regard?

A. Yes. There are two items that I would like to use in that regard. First in the body of my report table -- and I'll get to it here in just a second -- Table VII on page 19.

Q. Okay. What is Table VII?

A. What Table VII represents is a comparison of the projected contribution rates, employer contribution rates, from CalPERS based on the last three valuations.

And what this represents, if you look at Fiscal Year 2016/17, Stockton, based on the 2010 valuation report, was going to have a 34.6 percent employer contribution rate that year. One year later, the valuation report from CalPERS indicated that that employer contribution rate had grown to 40.6 percent.

Now with the next year, which is the most recent actuarial valuation report that has been published, that employer contribution rate for the same year is now up to 47.7 percent of payroll.

So as you can see these have been growing quite significantly, and as has been indicated both publicly as well as in testimony that was provided earlier this week.

There are still additional items that CalPERS plans to look at in determining employer rates.

I mentioned that there's two parts to how I want to look at this. The other part is if we look at Exhibit -- and I believe it's Exhibit 13 to my report.

What Exhibit 13 represents is the contribution rates that City's actuary has developed which are used in the Long-Range Financial Plan as was indicated before, CalPERS is the body that determines what the City's actual contribution rate is going to be.

The City prudently asked its actuary to develop a forecast of anticipated contributions, and you see here the safety plan and the miscellaneous plan.

The employer contribution is made up of two primary elements: The normal costs which is meant to reflect benefits that are being accrued at that point, and then the unfunded level or the unfunded amount which pays for previously accrued benefits.

What's noteworthy here, if we scroll to the right, as time goes on obviously the level of contribution or the employer contribution rate grows quite significantly and sort of stabilizes in that mid-50 percent range for the safety plan. But what's very important is that the mix of what goes into that employer contribution changes pretty significantly.

So the normal costs where we are right now is approximately 20 percent of payroll and that declines down to by 2027-28, 14.3 percent, and that's as a result of the various measures that have already been incorporated.

But as you can see, there the amount that goes towards the unfunded liability, which is for the previously accrued benefits, continues to grow and that grows just on this page to north of 40 percent of payroll.

A similar situation exists as it relates to the miscellaneous plan down below, where we see normal costs declining as a result of the measures that have been taken. But the unfunded element of the employer contribution grows quite significantly, and it's that unfunded amount which relates to previously accrued benefits that drive the City's contributions for pensions.

If we go to the next page that extends on further, you can see here that it really is, when we get out to the periods of essentially 2041-42, which is after the City's Long-Range Financial Plan where the unfunded amount starts to decline.

Now I certainly have no issues with how the City's actuary has calculated these contributions. What I am noting is that it's a very long time to pay for these previously accrued benefits in the unfunded portion.

And while the contribution, the employer contribution eventually gets to be a somewhat lower amount as you can see down to all the way down to 7 percent, that is a very long time from now.

Q. Reacting to your opinion in this regard, Mr. Leland in the declaration called you "Chicken Little." And he says that the fact that CalPERS rates are increasing is not cause to assume that these costs are anymore unpredictable than the multitude of other expenditures and revenues about which the City must make assumptions, and he said "That is life in the budget world." Do you agree with that?

A. No, I don't.

Q. Why not?

A. As I indicated, this is a different animal. It doesn't matter what the City thinks or wants its employer contribution to be. In the end, CalPERS will determine what its contributions will be.

And so it is out of the hands of the City of Stockton, whereas with the other budgetary items the City actually has some level of control over managing those aspects.

Q. The City has also described your opinion in this regard as being an opinion that because a projection cannot be 100 percent accurate it cannot be dependable.

And the City's rebuttal expert, Ms. Nicholl testified that you would assume that, quote, any City could perfectly project what its contribution rate will be years in into the future. Is that your testimony?

A. No, certainly not.

Q. What is your opinion in that regard?

A. Again I think the primary point, first of all, I have never used anywhere close to those words and I don't know how anyone could make that assumption based on my report.

Secondly, Ms. Nicholl, in her rebuttal report, I think actually right after that sentence, pretty much goes on to confirm my point, which is this is out of the City's control.

And I don't have Ms. Nicholl's rebuttal report up here, but that essentially goes on to confirm that there are numerous factors that go into contributions, and in the end CalPERS would be the one making those determinations.

Q. We've heard a lot from the City in this case about its belief that it has no alternative but to assume the pension liabilities. Do you have an opinion about that?

A. I do.

Q. All right. Can you please explain it?

A. Well, I'm living with it firsthand right now in the City of Detroit bankruptcy. The City of Detroit made a decision that after years of not putting money towards services and investment because it had to devote so much towards pension and OPEB liabilities, that it needed to get those under control, and in order to put adequate funding towards services and investment that residents and businesses expect it needed to adjust those accrued benefits for both pension and OPEB.

What I saw in that process, certainly I'm hearing a lot of here, based on comments yesterday, there was a strong belief that if anyone tried to touch accrued benefits, especially pension benefits, that all of the employees would leave. We have not seen that.

As has been publicly reported, the City's plan does come up to the plate in adjustment to accrued pension benefits, there are numerous organizations or parties that are impacted by that, that have actually supported that, including the retiree committee for the City of Detroit, and we have not seen any impact from an employment standpoint.

And the reason why is because I think that similar to a lot of situations when you are in distress, there's an emotional aspect; however, leaving is not going to change anything.

And what we have done specifically with the City of Detroit, is we have made sure that we have a package that is going to attract employees going forward, and certainly in this regard I understand there are a lot of elements that would go into adjusting or impairing accrued pension benefits.

My experience, my firsthand experience with the situation that's going on right now, where this is happening, has not resulted in what has been expressed.

MR. JOHNSTON: We were unaware he had been designated as such, Your Honor.

THE COURT: I think there was an attempt to designated designate him right now.

MR. JOHNSTON: Yes.

THE COURT: No one can quarrel or quibble that CalPERS is not a party.

MR. JOHNSTON: No objection.

MR. RYAN: Thank you.

THE COURT: In either event, it's okay for him to be in the courtroom.

With that, Mr. Hile, you may proceed.

MR. HILE: Thank you, Your Honor.

CROSS-EXAMINATION (Resumed)

BY MR. HILE:

Q. Good afternoon, Mr. Moore.

A. Good afternoon.

Q. Do you have your report there?

A. I do, yes.

Q. Okay. I'd like to start talking about what you characterize as your opinion number 1 in your report, which I think begins at page 3. Can you take that out, please?

A. Yes.

Q. And as I read it, it says: Based on the projections in the City's revised Long-Range Financial Plan, the City can afford to pay Franklin a significant percentage, if not all of the City's obligations in respect to the bonds.

That's your first opinion; correct?

A. Yes.

Q. And the first stated basis for this opinion in your report is that the City's Long-Range Financial Plan represents a conservative forecast; is that correct?

A. That's part of it, yes.

Q. Okay. And now I want to ask you some questions about this term "conservative."

As you said here and as the City has said in its Long-Range Financial Plan, is it fair to say the opposite of "conservative" is, in your parlance, "aggressive"?

A. I believe that I testified to that in my deposition, that that's a common use of the term opposite, yes.

Q. So by conservative, in this instance, what you are saying is that the plan itself is more likely than an aggressive plan to succeed as far as being able to meet the financial requirements of the City; correct?

A. I have not defined conservative. I've actually just pointed to the City's definition of or how it described conservative in a Long-Range Financial Plan.

Q. And you're agreeing that the plan itself is conservative; correct?

A. I pointed to a few items, yes, that I believe support

Q. And you mentioned -- if I use the term "PERL," would you understand that?

A. Yes.

Q. And I believe you have a copy of that with you?

A. Right here.

Q. And is this the most recent copy of the PERL?

A. Correct. That's the 2014 version.

MR. RYAN: Your Honor, yesterday we did provide a courtesy copy to the Court of the PERL. I believe it was actually still in the shrink wrap.

BY **MR. RYAN:**

Q. So does CalPERS administer benefits for state employees?

A. Yes, we do.

Q. And again, we just looked at Exhibit 8, which is the contract -- well, the document labeled "contract" with Stockton. And does a similar document like that exist for CalPERS' relationship with the state?

A. No, it does not. For the state, the contract per se would be this little book here, the PERL. Basically the PERL states, in the case of the State, all of the benefits that apply to the State employees. So by law, the State employees of the State of California participate in CalPERS, and the PERL dictates what the benefits are.

When it comes to the local agencies, the PERL dictates the menu of benefits that's available to them, and the employers can select them.

Q. And how does the State determine how certain benefits are given for various bargaining units or various groups of actual State employees?

A. So the way it works usually is, in bargaining, the State will agree to the bargaining unit as to the level of benefit of contributions that apply to these members. And then they have the Legislature ratify this agreement and put it in the law. So over the years, if you look at the PERL, as the State and bargaining units have agreed to different benefits, they have changed the law accordingly.

THE COURT: That's talking about State employees, right?

THE WITNESS: Yes.

BY **MR. RYAN:**

Q. And so it's the Legislature who enacts those specific sections of the PERL to reflect what the collective bargaining units have come up with?

A. Correct.

Q. And do State employees have the same menu of options or menu of benefits that municipal employers have -- I'm sorry, State employers have that same menu of options that municipal employers have?

A. No, they don't. They're subject to what's been agreed upon and put into the -- in the PERL.

Q. And does CalPERS administer the benefits for State employees any differently than it does for municipal employees?

A. No, we don't.

Q. Are the funds collected from the State and those collected from non State member employers in separate pools?

A. No, they're in the same trust fund. They're all commingled for investment purposes.

Q. Now, we've heard a lot about -- or there's been a lot of discussion at least today about some actuarial terms. And one of the things we've talked about was contribution rates. Can you explain, in actuarial terms, what a contribution rate is and how it's determined?

A. So first of all, just to get some background. When you look at a pension plan, if you had a brand-new employer contacting CalPERS today and say I would like to join CalPERS, and they tell us we would like these members to be subject to a certain benefit level, let's say it's what we call the 2 percent at 60 formula, and they hire someone that's age 25. As actuaries, our role is to try to set a contribution schedule to help that employer make sure that over the career of the individual, we put enough money in the pension plan so that when that person retires, there's enough funds to pay the benefits.

one 75 percent, and the other one 95. So that's kind of we express it in terms of that way.

Q. Are the assumptions you make as an actuary, are they based on an assumption that payments will be timely made?

A. Yes. This is one of the critical part of any -- the funding of any pension plan. It is based on the premise that you will be able to collect the contributions from both the employers and the members.

Q. If an employer does not make its contributions to CalPERS, is CalPERS still obligated to administer the benefits for that employer?

A. Yes. But at CalPERS, in an event where an employer is not making their contributions, we have the ability and the right to what we call it "terminate their contract."

Q. And could you tell me a little bit about termination, or how can a contract or an arrangement with CalPERS be terminated?

A. Okay. So there are really two ways that an arrangement with CalPERS could be terminated. The first one would be a voluntary termination on the part of the employer. So that would first require an election by the governing body of the employer to what we call an "intent to terminate."

So once CalPERS received the intent of termination, we would then perform with what we call a "preliminary termination actuarial evaluation," where we would provide the be called the "unfunded liability at termination."

And this is really the only time where the unfunded liability would become owing and due at that time. When a member terminates their contract, the unfunded liability is due at that time.

Q. And does anything else occur at that time that you are aware of in terms of when the unfunded liability amount comes due, any other things you are arise at that time, once the termination occurs?

A. So basically once the termination occurs and the amount is due, we normally -- we ask the employer to pay it. This is also by law. So once an employer terminates a contract, they go into what we call a "CalPERS Terminated Agency Pool." It is a pool that we administer for all of the terminated agency.

The key to remember is when an agency terminates their contract with CalPERS, CalPERS now becomes the guarantor of the benefits, CalPERS is on the hook to pay the benefits.

Once termination is passed and -- let's say an employer wanted to terminate and we estimated that -- we calculated their liabilities were $12 million, we had $11 million in assets and we told them you owe us $1 million, once they pay us that $1 million we move them to the terminated agency pool.

And from the employer's perspective they are done with their plan, they no longer have any need to make any payments, CalPERS is now responsible to pay for the dependents, and CalPERS will pay the benefits.

An issue that could arise in this case is let's say 20 years later the assumptions didn't pan out as we expected when we collected the money at termination. CalPERS has no recourse but to go back to the employer afterward.

If we were in the situation where -- and hopefully we never get there -- where there's not enough money in the terminated agency pool to pay the benefits, we most likely would have to take the money from the Public Employee Retirement Fund where all the other assets are.

So you could make an argument that there could be a situation where other employers participating in CalPERS may have to chip in to help pay for the benefits of the members in the terminated agency pool.

THE COURT: I want to see if I understand what you just said. Let's say that hypothetically there's a termination liability of $1,007,000,000, and the market value of assets on hand is $431 million, leaving about $576 million in unfunded termination liability.

If I understand what you said correctly the entity could get a bill for $576 million and if that amount was paid then CalPERS would, in effect, act as guarantor of complete payments, they would pay the full pension plan and take the risk, that longer term, investment returns, and that would be adequate to cover it?

THE WITNESS: That's a correct statement. You have a good understanding, which I would like to point out, which is also one of the reason the matter in which the assets are invested for the terminated agency pool, it's invested in a much more conservative fashion than it is for some of the other plans at CalPERS.

THE COURT: Now, let's change one fact. If the terminating agency does not pay the $576 million, then what happens?

THE WITNESS: So again in accordance with the PERL it would require our chief actuary to bring a decision in front of our board. The PERL basically provides authority to the CalPERS Board to reduce the members benefits in an event when an employer cannot fully fund the unfunded liability at termination, so there's a decision that our board would have to make.

So in this case, the board would be faced with the decision to potentially reduce the benefits by an amount of 57.2 percent, and again that's a decision the board would have to make.

THE COURT: So the accurate statement is in that situation, if the termination liability is not paid, the CalPERS board has the authority to reduce pension benefits, I take it, across the board by a pro rata amount equally, approximately equal to the amount that was not paid --

THE WITNESS: Correct.

THE COURT: -- or the proportions thereof.

Okay, go ahead.

MR. RYAN: Thank you.

Q. I wanted to talk to you a little bit about there's another way that an employer can be terminated, other than them opting out.

A. Correct, and that's the situation we were talking about before. The law provides that if an employer does not -- if you obey by the rules set out in the PERL, which is one of them, once they agree to have CalPERS administer their retirement benefits they are required to pay what we believe is the necessary amount to fund the benefits.

So if an employer was unable to make the contribution or refused to make the contributions, CalPERS would have the ability to step in and tell the employer "As a result of you not, you know, following the rules of your agreement with us, we are terminating our agreement." And in such cases the termination date would be effective 60 days after we have informed them of our wish to terminate that agreement.

Q. And just real quick, since you mentioned it, I wanted you to take a look at Exhibit 8 which is the Stockton contract.

office about a month ago or so, I did not have. It was much easier to read than on this photocopy. So we can try to provide to try to better photocopy.

Q. Sometimes it happens with 70 or 80-year-old documents.

A. Correct.

Q. Now, does CalPERS require strict compliance with the statutes that govern its relationship with its member employers, whether those employers be state or municipal employers?

A. Yes, we do.

Q. Why?

A. Again it goes to the fundamental premise of funding a pension plan, you know. In order to insure that the benefits are properly funded, we need a constant flow of contributions.

So each year when we, you know, look at the plan to see whether or not it's on schedule or not and we adjust that requirement, it is very important that we collect that contribution and it is necessary for the proper funding of benefits.

MR. RYAN: Your Honor, I have no further questions at this time.

THE COURT: Instead of contracting with CalPERS, you said that -- at least 1937 Act can set up their own pension plan. Is it possible for an entity to have no pension plan?

THE WITNESS: It is. It's an employer decision, whether or not they want to provide pension benefits to their employees or not.

THE COURT: And is it possible for a California City to contract for, to arrange a pension plan with a private pension plan?

THE WITNESS: I would say yes, I'm aware of one such City in California.

THE COURT: Which City is that?

THE WITNESS: City of San Clemente in Southern California.

And just for your information, the reason I'm aware is that City recently made the decision to join CalPERS. So they have not yet joined CalPERS, but they are looking to transfer from their private plan to CalPERS. So that's how I became knowledgeable about their current arrangement.

THE COURT: I see that there are references to -- again I'm looking here at pages 312 and 313 of your exhibit which is actually part of Exhibit 8, it's about 72, 73 pages into that exhibit -- I see the reference to Social Security and the periods of Social Security have been -- page 314 -- Social Security benefits have been applied in Stockton. So that happened and then it was effective for a period of years.

What's the relation of Social Security with CalPERS?

change in those benefits is within the contours of the PERL itself; correct?

A. Correct.

MR. RYAN: Okay, thank you.

MR. JOHNSTON: May I begin?

THE COURT: You may.

CROSS-EXAMINATION

BY MR. JOHNSTON:

Q. Mr. Lamoureux, the City of Stockton's contribution rates for its payments to CalPERS are set by CalPERS; correct?

A. Yes.

Q. And those payments, those contribution rates are based on things like investment returns; correct?

A. In part, it's one of the many assumptions we use.

Q. And also in part on mortality rates?

A. Yes.

Q. And projected retirement patterns?

A. And salary increases, and so on and so on.

Q. And demographic assumptions, including assumptions about the percentage of employees who may die or become disabled or retire in the future; right?

A. Correct.

Q. And those are all things that are outside the control of the City of Stockton; correct?

A. Correct. All assumptions are set and adopted by the CalPERS board.

Q. And returning to investment returns CalPERS investment returns, in fact, can be very volatile, can't they?

A. It depends on how you define "volatile." But ....

Q. That's a fair answer. I think it makes sense to look at Exhibit 4 to your declaration.

What does Exhibit 4 represent?

A. It represents the actual investment return earned by CalPERS every year since 1983-84. So about 30 years worth of investment returns.

Q. And by really volatile, I was observing that sometimes these investment returns can swing more than 20 percent in a single year; correct?

A. Correct.

Q. And there have been a couple of occasions where they have swung by even 30 percent in a single year; right?

A. Yes.

Q. And those both up and down?

A. Correct.

Q. And CalPERS changes its assumptions that go into the contribution rates from time to time; correct?

A. Yes, we review our assumptions once every four years to see if they need to be changed.

Q. And, for example, CalPERS has lowered its investment rate assumption in the recent past; correct?

A. Yes. Back in 2012, we lowered it from 7 and three-quarters to 7 and a half.

Q. And that change had the effect of increasing the required contributions of CalPERS members; correct?

A. Yes. Generally the lower the discount rate, it's going to have the effect of raising contributions.

Q. And as CalPERS asset allocations changed, the investment return assumptions are revised; right?

A. Correct. We went through one such revision this year, the board made some minor corrections or minor adjustment to the asset allocation, we looked at our discount rate assumption and recommended to the board that we keep it at 7 and a half.

Q. And those changes in asset allocations are something that are within the exclusive province of CalPERS; correct?

A. Yes.

Q. And in February of this year, CalPERS changed some of its demographic assumptions; correct?

A. Yes.

Q. You assume that people would be living longer; correct?

A. Now we do, that's correct.

Q. And that change had the effect of increasing the required contributions of CalPERS members; correct?

A. Or it will in the future. It has yet to effect the local agencies.

Q. Thank you for that clarification.

And a member City has no way of challenging the assumptions used by CalPERS; correct?

A. Correct. The agencies have the ability to voice their opinion, which we did this year. We reached out to all of the local agencies, presented some of the options that our board was facing, and even we had the cities, the California cities that asserted its membership -- and I forgot if it was 80 or 90 percent of its members -- who supported the decision that the board eventually took.

So we try to get inputs from our cities, but it is correct that ultimately the board can listen to the input, but the final vote is with them, it's with the CalPERS board.

Q. And CalPERS also made a change to its amortization and rate-smoothing policies last year; right?

A. Yes, in 2013.

Q. And it switched from a policy of using an actuarial value of assets to a market value of assets calculation; correct?

A. I would say that's a simple way to put it. The simplest way to put it is our board decided that the old amortization schedule which resulted in any unfunded liability to be paid over a period exceeding 50 years, that

50 years was too long, and they went with the recommendation of our chief actuary to lower that to a 30-year period. So basically they agreed to sort of front load some of the payments.

Q. And that policy will create a quicker movement toward funded status for those cities that currently have an unfunded liability; correct?

A. Correct. And also savings over time, because they are going to be paying less in interest over time.

Q. And that will have the effect of increasing near term contributions by entities like the City of Stockton that have an unfunded liability; correct?

A. Yes, it will raise short-term contribution and lower long-term contributions.

Q. And in fact due to those changes, the employer contribution rates are expected to increase over the next 7 years because employers are being asked to contribute more money to fund the unfunded liability that resulted from CalPERS investment losses seven to eight years ago; correct?

A. Yes.

Q. And it's your testimony that the recent changes in the CalPERS assumptions will result in higher employer contributions for about the next 25 years; correct?

MR. RYAN: Objection. Misstates the testimony. He didn't say 25 years.

MR. JOHNSTON:

Q. Let's take a look at the testimony. If you would take a look at paragraph 36 of your declaration.

MR. RYAN: I thought you meant the testimony actually said today.

MR. JOHNSTON: No, I'm looking at his written testimony.

Q. In particular, on page 12 of your declaration, I was referring to the sentence that starts on line 3.

A. Correct, on page 12.

Q. Right.

A. So just to be just to correct, your question, this statement has nothing to do with the change in assumption that the board did in February. This was a statement related to the change that was made last year by the board to change the amortization.

Like I said, we used to have a funding schedule that had the unfunded liability paid over a period of 50 years and now it's going to be paid over 30 years instead, which will result in a higher payments for at least about the next first 25 years and it will be lower after that, compared to what it would have been under the old schedule.

MR. JOHNSTON: Thank you. I have nothing further.

THE COURT: I have a couple more questions.

Tell me about the difference between employee years, so --

THE COURT: So these are like side agreements?

THE WITNESS: Side agreements, correct.

THE COURT: All right. Questions based on my question? Mr. Hile is at the lectern.

CROSS-EXAMINATION (Resumed)

BY MR. HILE:

Q. Mr. Lamoureux, if an employee who works for a CalPERS agency fears that the agency, employer, is going to default or terminate the CalPERS contract, under reciprocity, can the employee move to another CalPERS agency to preserve CalPERS benefits?

A. I just want to make sure I understand your question properly. So I'll try to clarify it as I answer. If someone were to leave the City of Stockton, let's say today, to go work somewhere else, and they have been working in Stockton for 20 years, nothing they do going forward will change their benefits. If the benefits they accrue with Stockton is 20 years, and if they're subject to the 2 percent at 50 formula, that is what they'll get, 20 years, 2 at 50. Reciprocity will then dictate what calculation will be used for that benefit, but it still -- it remains 20 years under the City of Stockton.

Q. And how long does the employee have to make that change before they might be subject to the reduced amount as a result of a default in the situation that we discussed where the unfunded liability is not paid by the agency?

A. So you're referring to the termination process that was discussed earlier?

Q. Yes.

A. In the event that our board were to decide, they would reduce the benefits in that case so they can afford to not pay the amount due at termination. In the event the employer does not pay the amount due at termination.

In this case, let's say hypothetical, if the benefits have to be reduced by 10 percent, then anyone that's ever worked with Stockton -- and again, it's all hypothetical here -- we don't know what the terms would be.

But let's say a decision was made that everyone's benefit has to be reduced by ten percent. Then even if someone left City of Stockton 15 or 20 years ago, that benefit would be subject to a reduction.

So the amount of time -- even if they left -- I guess the advantage of leaving today versus leaving five years from now would be that, at least the benefits earned between now and five years from now, would not be subject to any reduction because it would be under a new employer. But anything that accrued up to the date they leave City of Stockton or the employer for which benefit are reduced, those benefits would be reduced.

Q. Can an agency, a CalPERS agency, change benefits retroactively for benefits already accrued?

A. Not under current law.

Q. Can a CalPERS agency move new employees to a lower tier?

A. Yes, it can. And the City of Stockton has done so.

MR. HILE: Thank you.

THE COURT: I just want to make sure I understand what your answers were to Mr. Hile. Let me see if I can put a hypothetical. You have two agencies, two contracting agencies. Somebody would qualify for 20-year retirement and worked for exactly 10 years for agency 1 and then moved to agency 2, and agency 1 became a terminated agency that did not pay its unfunded -- its termination liability, and the CalPERS board made a decision with respect to that terminated agency that a 20 percent across-the- board cut was appropriate.

The person who worked 10 years for that agency, and then 10 years for another entity that is in good standing with CalPERS, would get, in effect, a 10 percent reduction by virtue of having worked half of the time for an entity that had a 20 percent reduction?

THE WITNESS: Correct. But in reality, they'll get a full benefit from the second employer and 80 percent from the first one, you're correct, for a total of 10 percent reduction.

THE COURT: All right, Mr. Rios is at the stand.

CROSS-EXAMINATION (Resumed)

BY MR. RIOS:

Q. Good afternoon, Mr. Lamoureux. I'm Jason Rios. I'm attorney for the retirees' committee. I think Mr. Hile's question essentially covered mine.

You testified that the City has changed levels of retirement benefits that have been offered to City employees in the past, is that right?

A. Yes.

Q. And you clarified that those changes could only be made in accordance with PERL, correct?

A. Correct.

Q. I wanted to clarify that those changes cannot be made retroactively to apply to benefits that have already been earned; is that correct?

A. Correct, unless it's a benefit improvement, then it applies retroactively as well. But a benefit reduction can only apply to new employees hired from the date the amendment is made.

Q. So a benefit reduction could not apply to either existing employees or retirees of the City of Stockton, correct?

A. Not under current law, correct.

EXHIBIT H

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

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HON. CHRISTOPHER M. KLEIN
COURTROOM THIRTY-FIVE
DEPARTMENT C

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Bankruptcy No. 12-32118-C-9
WELLS FARGO BANK NA, Plaintiff, v. CITY OF STOCKTON, CALIFORNIA, Defendant.	Adversary No. 13-2315

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REPORTER'S DAILY TRANSCRIPT OF PROCEEDINGS

held on

Thursday, May 15, 2014

9:30 a.m.

Reported by: ERIC L. THRONE, CSR No. 7855, RPR, RMR, CRR
DEBBIE MAYER, CSR No. 9654, RPR, CRR, CRP, CLR

regarding the golf course industry, comparable sales information, and other information that I relied on to formulate my opinions of value.

Q. Okay. I see a section in your report starting on page 24 entitled "economic overview." Given our time constraints, I don't want to go into detail regarding that, but could you please tell us why you included an economic overview section in your report.

A. It is very important to understand the economic environment in which the properties are located and in which they are competing. The health of the economic environment, whether it is healthy or it's in a distressed situation, has a bearing in terms of its value, in terms of its desirability, as well as its investment appeal to third parties.

Q. And in a sentence or two, can you describe your opinion of the economic environment in the City of Stockton.

A. Currently and prospectively, the economic environment of Stockton is improving.

Q. And in particular, how is the residential real estate market performing?

A. Most notably, the housing market in Stockton has been exceptional in terms of its performance with respect to the housing crises and the rate of increase that has occurred relative to other metropolitan areas.

Q. And have you compiled some data that depicts this?

A. I have.

MR. JOHNSTON: Your Honor, if I may approach?

THE COURT: You may.

MR. JOHNSTON:

Q. Is what I just handed you the data that you compiled?

A. Yes.

Q. Could you briefly summarize what this depicts, please.

A. This exhibit shows the relative price changes for both the Stockton area as well as for the accumulation of 220-plus metropolitan areas located throughout the United States.

THE COURT: Could you clarify something for me? I keep hearing "Stockton area, Stockton area." Are you talking about a standard statistical metropolitan area, or are we talking about the City limits of Stockton.

MR. JOHNSTON:

Q. Mr. Chin?

A. This is the Stockton MSA, metropolitan statistical area.

THE COURT: So does that go beyond the City limits of Stockton?

THE WITNESS: Correct.

MR. JOHNSTON:

Q. So I see on here a period, in terms of appreciation rate, a very substantial decline followed by a leveling out and then what appears to be a period of very substantial increase in appreciation. What's your takeaway from that?

A. Well, after experiencing very significant property declines in 2008, there has been a clear and upward trend, very notable trend in housing prices in the Stockton MSA for housing prices.

Q. Where did you get the data for this graphic?

A. This data comes from the combined efforts of Wells Fargo and the National Association of Home Builders where they publish statistics on housing prices, housing affordability for over 200 metropolitan areas since 1990s.

Q. Is that a reliable source of data for the housing market?

A. It is.

Q. Have you relied upon it before?

A. I have.

MR. JOHNSTON: Your Honor, I'd like to move this demonstrative into evidence.

COURTROOM DEPUTY: 2975.

THE COURT: Mr. Hermann?

MR. HERMANN: Your Honor, there's no foundation for this. A demonstrative usually is something that illustrates the witness's testimony. This illustrates what Wells Fargo and the NAHB have put together in some unknown context. On that basis, I think the witness can refer to it, but it doesn't need to go into evidence.

MR. JOHNSTON: Your Honor, the witness has testified that the economic condition of the City of Stockton and City of Stockton area is relevant to his opinions. He's testified that this is a reliable source of data that he regularly relies upon and it informs his opinion.

MR. HERMANN: And I would simply point out, Your Honor, that the expert has a right to rely on inadmissible evidence.

THE COURT: An expert does have a right to rely on inadmissible evidence and even disclose the basis for the opinion, and the expert's use does not make the, whatever that basis is, formally admissible evidence, Mr. Hermann is correct.

With respect to an exhibit for identification, I have no doubt that you can find in an admissible form, the appreciation data for at least some of those years relating to the metropolitan statistical area.

So I will not admit the exhibit at this time, and the witness is entitled to talk about it.

MR. JOHNSTON: And you will retain that for identification purposes?

THE COURT: Yes, it's Exhibit 2975 for identification.

MR. JOHNSTON: Very good.

THE COURT: It just has not been formally admitted.

MR. JOHNSTON: Very good.

Q. Mr. Chin, you were here on Tuesday with when Mr. Chase testified that the increased home prices had not resulted in new development and residential real estate; correct?

A. Yes.

Q. And what's your reaction to that testimony?

A. That is not what I was experiencing in other metropolitan areas. A rise in home prices usually precedes a rise in building permit activity.

Q. And have you prepared a chart that demonstrates that?

A. I have.

Q. Please describe the document we're now looking at?

A. This particular chart shows housing prices denoted by blue and residential permits noted by the black or green line here.

This is a sample looking at Las Vegas, which is has also experienced a precipitous decline in housing prices in the 2008 period, and recovery land prices as well as correlated to the upper rise in building permits.

Q. Okay. And, Your Honor, for the same reason as before we will mark this as Exhibit 2976 for identification purposes. Two more items by way of background before we get to your opinion of value.

Did you read the declaration of Ms. Laurie Montes, the City's deputy manager?

A. I did.

Q. Ms. Montes says that the City's real property market remains weak and she attached a chart to demonstrate that. We'll put it up on the screen so you don't have to find it. This is Exhibit 3062, Your Honor.

Take a look at the screen and tell me what your reaction is to that chart.

A. This chart, in my opinion, has two fundamental problems. The first problem is that the timeline on the X axis is in reverse order and normally shown when somebody is giving a time series. So, in other words, it's newer to older, from 2013 to 2008. Usually, it's the opposite way.

The other fundamental problem is that there are two data sources that comprise the line that's depicted on the graph from 2008-2012, that data source is the County of San Joaquin showing the foreclosures and then adding in a separate data source for 2012, I mean, 2013, which shows foreclosures from a totally different data source.

Q. And have you prepared a chart that corrects what you believe to be the misleading nature of Ms. Montes' chart?

A. Yes.

Q. Has what I just handed you, is what I just handed you that chart?

A. It --

Q. And could you please just very briefly explain what this shows?

A. So two adjustments. One is reversing the order to show a normal time series from 2007 to 2013 on the X axis, the second is overlaying two different data sources and using the discrete data sources that were available both from the County of San Joaquin as well as the information from Realty Track Data. The Realty Track Data tracks foreclosures from 2008 to 2013, whereas the County of San Joaquin only tracks information from 2007 to 2012.

I use both of these pieces of information to show the correlation between the time and the amount of foreclosures that have been in the market which show a steadily decreasing trend, especially when you look at 2013.

MR. JOHNSTON: Very good. Thank you. We will mark this one as 2977 for identification purposes.

(Franklin's Exhibit 2977 was marked for identification.)

THE COURT: All right.

MR. JOHNSTON:

Q. All right. One more piece of background information. When you were -- strike that.

Have you done any research on the state of the golf course investment market currently?

A. I have.

Q. And what have you found?

EXHIBIT I

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

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HON. CHRISTOPHER M. KLEIN
COURTROOM THIRTY-FIVE
DEPARTMENT C

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Bankruptcy No. 12-32118-C-9
WELLS FARGO BANK NA, Plaintiff, v. CITY OF STOCKTON, CALIFORNIA, Defendant.	Adversary No. 13-2315 **SECOND AMENDED TRANSCRIPT**

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REPORTER'S TRANSCRIPT OF PROCEEDINGS (EXPEDITED)

held on

Wednesday, June 4, 2014

9:30 a.m.

Reported by: ERIC L. THRONE, CSR No. 7855, RPR, RMR, CRR unless they immediately shifted over to another plan.

Q. All right. Thank you. You mentioned one option that I just want to ask you one or two questions about for the City as an alternative being a defined contribution plan.

Would it be possible for the City to establish a defined contribution plan?

A. Yes, it would.

Q. How would that compare to what the City now has through CalPERS?

A. Well, a defined contribution plan is different than a defined benefit plan, and it's all in the name.

In a defined benefit plan, the benefit is defined and then the contribution changes depending upon how the benefit needs to be funded. So the contribution is not fixed, but if it is ....

In a defined contribution plan the contribution is fixed, but the benefit is not. So in a defined contribution plan, you get what your comp out is worth.

And basically in a defined contribution plan, all the risks of the plan have been shifted from the employer to the employee and those risks include investment risks. So the employee in a defined contribution plan is responsible for investing his or her individual assets.

The mortality risk in a plan like CalPERS where mortality is pooled and the plan is funded, because we know that certain people are going to die sooner than other people, so we can advance funds for that and in fact take credit for the dollars that we save by people dying early to pay for those who will live longer.

In a defined contribution plan, as an individual, you don't know how long you are going to live. So you will have to basically assume that you will achieve maximum life expectancy and you manage your money that way, which as you can imagine would be a challenge.

Q. How do investment returns typically compare between defined contribution plans and defined benefit plans?

A. Well, defined benefit plans are generally invested and managed by professionals. And so there have been a number of studies that have been undertaken regarding investment returns in defined contribution versus defined benefit.

And generally there's a 1 to 2 percent spread difference between investment returns long-run, between the two plans, with defined benefit plans earning 1 to 2 percent more each year on average than defined contribution plans do.

Q. Taking into consideration all of the differences that you've just discussed, would Stockton be able to set up a separate pension plan of any kind that was equivalent to CalPERS in your opinion?

A. I don't think so. And the reason is, as I mentioned, all the administrative costs associated with the new

MR. JOHNSTON: I'm happy to go forward now, Your Honor. I just thought this would be a convenient place for a break.

THE COURT: All right. We'll take a recess right now.

(Recess.)

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. JOHNSTON:

Q. Good morning, Ms. Nicholl.

A. Good morning.

Q. Your expert report is a rebuttal to portions of Mr. Moore's report; correct?

A. Yes, it is.

Q. And your report didn't attempt to rebut the entirety of Mr. Moore's opinions; right?

A. Correct.

Q. You focused on portions of what are called "opinion three" in Mr. Moore's report?

A. Yes.

Q. That's the opinion that the City's pension obligations, particularly the safety plan, are very high-growing and unpredictable; right?

A. Yes.

Q. And one of your conclusions is that Mr. Moore failed to acknowledge that Segal, your firm, properly projected the

Did you hear that testimony?

A. Yes. And he also said he can't opine on the accuracy or how Segal has gone about preparing its calculations as part of that statement.

Q. Right, that's exactly what he testified.

Let's turn to the City's actual contribution rates as forecast in the CalPERS valuation reports.

You agree that the CalPERS 2000 -- that the City's estimated contribution rates to CalPERS, as established in the CalPERS valuation reports, increased from the 2010 report to the 2011 report; right?

A. Yes.

Q. And they increased again from the 2011 valuation report to the 2012 valuation report; right?

A. Yes.

Q. And you've testified that numerous factors outside the City's control affect annual changes in the contribution rate and that includes investment, performance, active retirement, turnover experience, and mortality experience of retirees; right?

A. Yes.

Q. And you also testified that CalPERS itself may affect the contribution rates by changing economic assumptions, demographic assumptions, or unfunded liability amortization methods; right?

A. Yes.

Q. And all of that makes it impossible for the City to perfectly project its future contribution rates to CalPERS; right?

A. No City could perfectly project its contribution rates to any entity.

Q. And that's why your report criticizes Mr. Moore for assuming that the City could perfectly project contribution rates, isn't it?

A. Yes.

Q. But again, Mr. Moore doesn't actually say that the City should be able to perfectly project contribution rates, does he?

A. Mr. Moore implies that the contribution rates are -- there's an implied status that the contribution rates are out of control, and I read his report to say, to indicate that he thought the City ought to be able to perfectly project what the contribution rates are.

Q. Again that's your inference; right?

A. That's my interpretation of his report.

Q. Right.

But you can't point me to anything in his report where he says the City should be able to perfectly project contribution rates, can you?

A. That's the inference that I had from all the

Q. Right, for a new hire.
So we're only talking about an existing Stockton employee, not someone who might be recruited to come in; correct?
A. Well, it's not showing on the chart here; but if somebody were recruited to Stockton and the CalPERS contracts were impaired, then the new employee would not be covered by Stockton -- I'm sorry -- would not be covered by CalPERS.
Q. Right. And in particular, your example where you are talking about someone who has worked for ten years for Stockton, and who, on the safety plan, was going to work for 15 more years; right?
A. Yes.
Q. And one of your major assumptions listed at the bottom is that Stockton will lack the resources to offer a substitute retirement plan if CalPERS is impaired.
That's the second one up from the bottom?
A. Yes.
Q. Okay. So the loyal employee with ten years of service, who decides to stay with Stockton for 15 years after termination of the CalPERS plan, gets absolutely no retirement benefits and no additional compensation or benefits; right?
A. That's not what this chart says. This chart is looking at the CalPERS pension and it specifically says that

in the assumption it does not include Social Security pensions, retiree medical or deferred contribution benefits that the employee might receive.

Q. So that employee actually might receive more than what you are showing on your chart with respect to retirement benefits?

A. Ah --

Q. There might not be a zero for that employee; correct?

A. -- again, this chart is very clear and it says this is the CalPERS pension for Stockton.

It doesn't include any pension, unknown pension or defined contribution plan that might be put into place if the CalPERS contract were impaired.

Q. And in fact the Long-Range Financial Plan for the City forecast, that over the course of the forecast period the City would have to make approximately $1.3 billion in payments to CalPERS; right?

A. I don't have that committed to memory.

Q. Does that sound like an approximately correct figure?

A. Ah, I'll take your word for it.

Q. If that money weren't paid to CalPERS, it would be available for the City to spend in other ways, wouldn't it?

A. The, ah -- yes, Stockton would be able to contribute toward another benefit program, if it were contributing towards CalPERS, and they also testified that employees would need to be covered by Social Security if the CalPERS contract were impaired. So part of that would go toward Social Security coverage.

Q. And Social Security is a retirement benefit for employees; right?

A. That's supposedly. But Social Security is not like a retirement benefit really, realistically.

Q. And that 1.3 billion dollars could be used to defray the costs of setting up a new plan; right?

A. It could be used to set up a new plan. But as I testified earlier, this new plan would not provide benefits that would be comparable to CalPERS just for all the reasons that I stated earlier.

Q. Right. But the City would have a substantial amount of money to play around with there.

In fact, Stockton might even be able to offer a more lucrative plan, if it was freed from the burden of paying for pension-spiking and the sins of the past that had been the subject of this case, wouldn't it?

A. I don't necessarily agree with that. I don't have any basis for that conclusion.

Q. And your analysis also doesn't take into account the fact that the Stockton employee, who stayed on with Stockton, might have higher take-home pay because he's not paying into CalPERS; correct?

a half, and some years when they have the assumption of 7 and a half. But, you know, looking over a long period of history they have been able to achieve that 7 and a half return on average.

Q. And you heard Mr. Lamoureux testify that in some years there can be a swing of 30 percent or more in investment returns; right?

A. Ah, I don't remember if he said 30 percent or more, but he did testify that there can be swings and there are, we have seen that.

Q. And he showed us his Exhibit 4 to his declaration, which was historical CalPERS returns, and you can see those swings there; right?

A. Yes.

Q. If the City's current plan with CalPERS is impaired, there's nothing that a Stockton employee can do with respect to the impairment of benefits earned to the date of impairment; right?

A. No. Although I suspect that if the contract, if the CalPERS contract were impaired, I would suspect that the employees would probably get together and sue someone over that.

Q. Okay. Setting that aside, there's nothing they can do with respect to the impaired CalPERS benefit; right?

A. Setting that aside, there's nothing they can do about it.

Q. So a rational employee's only consideration regarding retirement benefits would be what future opportunity offers the best overall compensation for that employee, whether it's in Stockton or some other City.

Do you agree with that?

A. Can you say it again?

Q. Sure. Given that upon termination there's nothing that an employee can do with respect to benefits earned through the date of termination, a rational employee looking at the situation at the time of termination would consider what future job opportunity offers the best, call it, compensation package to the employee going forward?

A. Yes. If you are an employee whose CalPERS contract has been impaired and you are looking at what your total compensation would be, including retirement benefits, then clearly -- it's obvious to me, at least, that you would want, that an employee would want to get into a job quickly to be in the CalPERS classic tier so that at least they could, for future service, have a higher, have a comparable benefit to what they had been earning at the City of Stockton before the impairment.

Q. And thus the City of Stockton could offer them a better package?

A. Well, I think that -- I don't think the City of

EXHIBIT J

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

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In Re:

CITY OF STOCKTON, CALIFORNIA,

No. 12-32118-C-9

Debtor,

_______________________________________/

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

Before the Honorable CHRISTOPHER M. KLEIN

Tuesday, July 8, 2014

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Reported by: PHYLLIS MANK, CSR No. 5093

of public agencies as well as municipalities.

The City participates in CalPERS as a matter -- by virtue of contract and the City does not have to do that. The City can join a county system. There are county retirement systems authorized under California law, as Mr. Lamoureux put it, the 1937 act, and pointed to several counties that have their own county system. And there can be just a local system. The City could have its own system and the City can contract with a private pension provider. Recalling back to Mr. Lamoureux's testimony, he used as an example the City of San Clemente, California has apparently a private pension.

Well, in that aspect, it looks like CalPERS is merely a pension provider like other pension providers that is competing with the private sector to -- given the fact that if you go to any private pension system. And then there are other conjoined -- joined with the local system or have its own system and can join a county system.

And when I look at the various provisions here, it looks like there's a number of situations that are provided for whereby an entity, public agency, municipality, a city can move from one to another, move from a county system to a private, from a private to under-funding. 2077.5 provides a lesser consequence if the board thinks that it will be able to go ahead and pay the pensions without impairing the actuarial soundness of the terminated agency pool.

Of course, that gets me back to the terminated agency pool. I said the general funds of CalPERS appear to be just part of the general investment pool and that's -- Mr. Lamoureux testified that was about assuming a return in the seven percent range, but he pointed out that the terminated agency pool -- approximately 70 terminated agencies in the pool, all of which he said are relatively small -- he said that pool fund is invested in a much more conservative basis, so assume a return of about three percent. That means that the shortfall is even greater because that's what the actuarial analysis of the need for additional contributions is at the time of termination and that pool is a relatively small amount of money.

So the standard solution appears to be that CalPERS, to the extent it does not have accumulated contributions, reduces pensions by that amount. That leads to the interesting question of, well, what is CalPERS then in relation to a case like this? Who is the real creditor? It seems to me that, if you're going to take an individual's pension or part of an individual's pension, the individual employee is the creditor and CalPERS is, in effect, kind of a servicing agency. Kind of like in the mortgage world we have the owner of the note and deed of trust and the mortgage servicer who collects a very small fee for collecting the money and passing it on to the owner of the note and deed of trust.

It looks to me like CalPERS does not bear the financial risk of a shortfall in payments. Instead, the structure of the Public Employee Retirement law places that risk on the employee. So if I'm getting that wrong, I need to know that as well. I do see under Section 20577.5 the board could elect to pay more than it's obligated to pay but, again, subject to the limitation that it would not impact the actuarial soundness of the terminated agency pool.

If a large California city were to go into that pool, the gravamen of Mr. Lamoureux's testimony would lead to the inference that it might affect the actuarial of the terminated agency pool. That's another puzzle running around in my brain.

Another puzzle running around in my brain is with respect to this lien on assets. Section 20574, it's a pretty interesting provision, and this is the so-called $1.5 billion lien. I mean, everybody has assumed this lien is valid. I don't know if everybody has assumed it, statutes of 1996. And when we look at the legislative statements in support of that, which also have been provided as exhibits in evidence here, it says, well, that was to prevent CalPERS from losing any money in the event of a future case like the Orange County case -- which had already occurred at that point and that dovetails -- which would cause me to think back to that question that I asked a few minutes ago about who bears the financial risk of the loss here, the financial risk of nonpayment if there's a terminated agency and the contributions in CalPERS' hands are not sufficient to pay the pensions?

The answer under the California Public Retirement law, if I'm reading it correctly, is that it's the employee who is bearing that risk. So I kind of wonder whether -- who was pulling the wool over the eyes of the California Assembly and State Senate. That wasn't -- I don't think CalPERS bears the risk.

In any event, I would need a pretty good explanation what authority the California legislature has to revise or condition the application of the United States Bankruptcy Code, and my usual answer to that question is none, unless specifically provided in the Bankruptcy Code.

There is such a provision in the Bankruptcy Code when you get into exemptions, and the California legislature has taken over exemptions in individual bankruptcy cases, but that's specifically authorized by the Bankruptcy Code.

I look at this and I just am in wonderment. Does anybody think this is valid and why? So that's another question that I need answered. Okay. So that's from 50,000 feet my summary of the picture that's emerging as I put the pieces in this puzzle together.

Now, one of the implications is that I might very well conclude that, in fact, the CalPERS contract could be rejected, that I might conclude that the $1.5 billion lien is not enforceable, and then -- but that does not necessarily mean that this plan of adjustment which is proposed without any adjustment -- without any change to pensions is necessarily not confirmable. It might be perfectly well be confirmable even if we accept that this is the state of the California Public Employee law.

So it might be helpful if the City provided somewhat more focused analysis on why I should be confirming this plan in its current form if one assumes that what I've been hearing about CalPERS -- about the viability of the CalPERS contract and the lien and all that is actually not accurate.

EXHIBIT K

CITY OF STOCKTON

OFFICE OF THE CITY MANAGER
City Hall • 425 N. El Dorado Street • Stockton, CA 95202-1997 • 209 / 937-8212 • Fax 209 / 937-7149
www.stocktongov.com

August 15, 2012

Honorable Jerry M. Brown, Governor
Honorable John A. Perez, Speaker of the Assembly
Honorable Darrell Steinberg, Senate President pro Tem
Honorable Bob Huff, Senate Minority Leader
Honorable Connie Conway, Assembly Minority Leader
State Capital Building
Sacramento, CA 95814

REFORM OF PUBLIC PENSION LAW AND PRACTICES

I write to you as leaders in the State of California making you aware of the potential for cities such as Stockton to slip into municipal chaos if the State does not take a leadership role in reforming public pension law and practices. The reasons are somewhat complicated, as will be explained below, but the bottom line is simple: If true public pension reform that produces real cost savings is not initiated by the State, insolvent municipalities like Stockton, having cut everything else, may be compelled by others to reduce their financial support for pensions. Absent state-level legislation leveling the playing field, cities like Stockton will then find themselves at a massive competitive disadvantage in recruiting and retaining employees. This is particularly true in the case of police officers, who are critical to maintaining the fragile fabric of Stockton's community and who almost certainly will leave in increasing numbers if Stockton is forced to reduce its pension obligations while other cities do not or cannot make similar adjustments. Already, well-funded out-of-state capital markets creditors in our bankruptcy case are attacking pensions as a way of freeing up dollars to fund their claims. While we will vigorously defend ourselves, if the bankruptcy court agrees with their legal arguments, because federal law generally trumps state law, Stockton may have no other choice but to unilaterally reduce its financial support for existing and future retirees' pensions, potentially sparking a mass exodus of experienced police officers in one of the state's most violence prone cities.

Stockton's Situation

As you are no doubt aware, due to a "perfect storm" of poor decisions made by previous City leaders, coupled with the long and deep recession that has plagued the central valley, the City of Stockton filed for bankruptcy protection in late June. This action was taken for one reason only: to avert a municipal service delivery melt-down, in which the City would not have the resources to provide the minimal level of services necessary to support public safety in a large city suffering from one of the highest crime rates in the State and the Nation. Simply put, we could not afford to keep paying for millions of dollars in ill-conceived debt obligations, millions more to cover City retirees (and dependents) with health coverage for life and still millions more to cover judgments and settlements of lawsuits against the City, without unacceptable further cuts to basic core services like police protection, which would cross the threshold from lean to dangerous.

The bankruptcy Rubicon was crossed by the City only after relentless cost cutting for several years, which left the City and its citizens with extremely modest service levels. We have cut police officer staffing by 25%, fire department staffing by 30% and all other General Fund staffing by 43%. At last check, Oakland had 42% more police officers per capita than Stockton, with a similar crime rate. Meanwhile our employees' pay has been reduced by 9% to 23%; additionally, most employees are subject to unpaid furloughs and pay a greater share of employee healthcare. In order to provide room in the budget to fund basic operations and the growing CalPERS cost, we will be required to phase out retiree medical subsidies entirely over the next year.

Due to these reductions, we have already stressed the service delivery system. Stockton's Police Chief has described in the attached memo how acute the challenge is and what it may become in the future.

Retirement Reform Through The Courts

Even more importantly, our capital markets creditors are taking dead aim at CalPERS. Substantial objections to our bankruptcy filing have been filed against the City because we have not unilaterally reduced our pension payments to CalPERS or negotiated such reductions with CalPERS. The City has not expressed any intention of rejecting its CalPERS obligations in bankruptcy court because of our need to provide public safety services. While these objections reflect a deep misunderstanding of what it takes to actually operate a municipal corporation in California, they are being prosecuted by experienced, well-funded and aggressive creditors who are looking to establish precedents that will impact other California cities to which they have potential exposure. They also have much to lose, and will take their best shot at convincing a bankruptcy judge that it is unfair for the City to impair them and other creditors while leaving pension obligations untouched. In spite of the fact that under current circumstances, the City's business judgment is that it cannot impair pensions unilaterally without significant if not irreparable damage to its core operations, it would be a mistake not to take the objections, or their attack on CalPERS, seriously.

Stockton is not interested in defending CalPERS for CalPERS's sake. Like it or not though, a CalPERS defined-benefit pension or some equivalent is a given in nearly all California cities. Our worry is that if the City chose to attempt to take money from pension obligations to pay other creditors, it suddenly will find itself playing on a tilted playing field, on which neighboring cities offering traditional CalPERS pensions will be able to out-compete the City in attracting and retaining qualified employees, especially police officers and other highly skilled workers. This is of particular concern because of the deep cuts to employee compensation and benefits in recent years, which have left Stockton, for the most part, at the labor market average.

The Need For State Leadership

The only realistic alternative to this scenario is systemic reform applicable to all CalPERS participants, either internally in CalPERS or at the legislative level. We are in favor of fundamental reforms that produce real costs savings in the near term but treat our employees with the sustainability and dignity they deserve. CalPERS should be allowed to collaborate with cities who, along with their employee groups, wish to reduce costs in a managed but sensitive way. However, such reforms cannot be achieved piecemeal. The bottom line is that Stockton, especially in its currently fragile state, cannot be the lone vanguard for pension reform. Our competitive disadvantage in hiring and retaining qualified skilled employees is already daunting, and abrogating existing pension obligations through our bankruptcy process, without action by the State to level the playing field so that we can stay competitive as an employer, would be devastating to our core mission and obligation: to provide the necessary services to support the health, safety and welfare of our citizens.

It is not in the State's interest to sit on the sidelines when it has the power to take a proactive approach to shaping CalPERS pensions to a more sustainable level. We urge you to do so, and time is of the essence. Stockton is prepared to support reforms that produce these results without leaving the City, and possibly others, as an undesirable outlier in a competitive labor market, and we hope the State will be willing to cooperate in that effort.

BOB DEIS
CITY MANAGER

BD:ndm

Attachment

cc: Stockton Mayor and City Council
Honorable Lois Wolk, Senator, 5th District
Honorable Bill Berryhill, Assemblymember, 26th District
Honorable Cathleen Galgiani, Assemblymember, 17th District

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MEMORANDUM

August 14, 2012

TO: Bob Deis, City Manager
City Manager's Office

FROM: Eric Jones, Chief of Police
Police Department

SUBJECT: **POLICE OFFICER RETENTION AND RECRUITMENT**

We have reached the point where we struggle to retain and recruit qualified employees for police as well as other City departments. Currently within the Police Department, we have more than 45 newly hired police officer trainees due to attrition. These 45 newly hired police officer trainees, hired within the past six months, account for 14% (approximately 1 of 7) of our entire police officer force. We expect to lose another 20 to 40 police officers to other law enforcement agencies over the next year; these positions will have to be filled by additional trainees unless we can attract qualified experienced police officers. The Police Department has had difficulty attracting interested experienced police officers from other agencies, and in fact, has not located a qualified experienced officer from another agency in the past several years. This is not a good situation in a City which is already ranked as one of the ten most dangerous cities in the United States, and which will almost certainly set a record in 2012 for the highest number of murders and other violent crimes. Further, a mid-year review showed assaults on our police officers have increased by 100% this year.

If forced by the capital markets creditors and the court to reject our CalPERS contract and reduce pensions for existing and/or future retirees, it is possible, perhaps even likely, that we may face an employee mass exodus, and a dramatic increase in the number of trainee officers. This would be extremely dangerous given our rising violence rates, including assaults on officers. In fact, we simply may not be able to fill our positions at all, given the potential handicap in the marketplace. I understand capital markets creditors have asserted in court filings that our concerns about retention and recruitment are overblown because of the 20% unemployment rate in Stockton. This assertion completely overlooks the fact that there is a very competitive market for many qualified public employees such as police officers and senior managers. We cannot simply fill these positions from the ranks of the unemployed citizens of Stockton without regard to their qualifications. Very few police officer applicants make it through the testing process, hiring background process, and police training program.

ERIC JONES
CHIEF OF POLICE

EJ:pkh

EXHIBIT L

Stockton Bankruptcy Part 1 – How Did This Happen?	
Kathy Miller	Hi, I'm Kathy Miller, Vice Mayor of the City of Stockton, California. On Tuesday, June 26, our city council made the heart-wrenching decision to seek protection for our city under Chapter 9 of the Bankruptcy Code. None of us wanted to take this step. In fact, for the last three-and-a-half years, we've taken extraordinary measures to keep our city solvent and not have to do this. But facing another $26 million deficit in the fiscal year that begins July 1, we had no other choice but to take this step to protect the safety and the welfare of the residents of Stockton. Most of us in Stockton are still wondering, how could this have happened? There's no easy answer, there's no single villain. Instead, a cast of characters played Monopoly with our city's future. They rolled the dice and they lost. In the 1990s, Stockton granted its employees some of the most generous and unsustainable labor contracts in the State of California. They included things like earlier retirement. Safety employees could now retire at the age of 50, and other public employees at the age of 55. They also included larger pensions. Many safety retirees today earn 90 to 100% of what they made when they were still on the job. Stockton went even further than most other cities and granted things like unlimited vacation and sick time that could be cashed out when an employee retired, and added pay categories for almost everything imaginable. If you drove the front of a fire truck, if you drove the back of a fire truck, if you got a degree or certificate, even if it was for something that had nothing to do with your job. And longevity pay was granted that began after only three years on the job. These are things that most of us take for granted as part of our job, and we don't receive any extra compensation for them. Gradually these ad-pays resulted in some of our employees earning more than 25% over the statewide job market. Our public safety employees were costing us on average more than $150,000 a year each. That's three times more than most of us in Stockton make in a year. And in Stockton, employees made what's known as pension spiking into an art form, using overtime and add-pays in their final working years to secure much larger pensions for the rest of their lives. During these same years, Stockton granted its employees retirement health benefits. This was free medical care for a retiree and a dependent for rest of their lives. No co-pays, no generic requirements, no HMOs, and no premiums. See any doctor, stay in any hospital, purchase any drug, and just send the bill to the City of Stockton. This was not a Cadillac plan. It was a Lamborghini plan, with luxurious benefits that the average hard-working Stockton resident, who pays for those benefits with their taxes, will never have. And the system was destined to crash because the city never set aside the money to pay for the program. They just paid the bills as they came in. Medical inflation and new retirements add to the cost of this each year at a staggering rate, and today there's a $417 million unfunded liability for this benefit alone. In the early 2000s, the city rolled the dice again and went on a borrowing binge, banking that the super-hot economy would go on indefinitely. Stockton racked up $319 million in debt. Most of this debt was back-end loaded with small

EXHIBIT 410 11.9.12 Miller

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EXHIBIT M

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT
SACRAMENTO DIVISION

In re:

CITY OF STOCKTON, CALIFORNIA, No. 12-32118
Debtor. Chapter 9
/

Deposition of
LAURIE MONTES
Thursday, November 1, 2012

Reported by:
SANDRA BUNCH VANDER POL, CSR #3032
Certified Merit Reporter
Certified Realtime Reporter
Realtime Systems Administrator credentialed
Fellow, Academy of Professional Reporters
Job No. 38859

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maintain what? I couldn't hear you.
THE WITNESS: A workforce.
BY MR. NEAL:
Q. Has the City performed any analysis or commissioned any study from an outside consultant as to what the impact would be if it did not offer a CalPERS plan or an equivalent plan like a 37 Act Plan?
MR. HILE: Objection. Vague and ambiguous.
THE WITNESS: Not that I recall.
BY MR. NEAL:
Q. Turn to page 6 of Exhibit 50. There's a heading, "Labor Contracts." First sentence, "In previous years, the City approved labor contracts that were neither transparent nor sustainable."
Do you see that sentence?
A. Yes.
Q. How are the labor contracts neither transparent nor sustainable?
A. We talk about this in our -- I believe it was in our February 28 staff report or even in our June 5th staff report. The labor contracts had -- they weren't really clear about the different kinds of elements or the different kinds of benefits that City employees could get in the past.

shouldn't have been.
A. Yes.
Q. Other than the three people mentioned in this memo starting on Bates stamp -081182 -- that's Mayor Ann Johnston, Councilmember Dale Fritchen and Councilmember Albert Holman -- are you aware of any other councilmembers in 2012 who were enrolled in Stockton's pension plan.
A. No.
Q. Do you know how it was that these particular members were enrolled in Stockton's pension plans but other councilmembers were not?
A. It's a choice that was given to them erroneously when they start with the City.
Q. Do you know if Bob Deis is a member of Stockton's pension plan with CalPERS?
A. He is a CalPERS member.
Q. And he's a member of Stockton's CalPERS plan?
A. Yes.
Q. How long has he been in Stockton's CalPERS plan?
A. As soon as he started working for Stockton.
Q. And when was that, approximately? Your best estimate is fine.

A. He's been here about two and a half years. He started on July 1st of -- I think it must have been in 2010.

Q. And Mr. Deis, to your knowledge, continues to be a member today of Stockton's CalPERS pension plan?

A. Yes.

Q. And he has been a beneficiary, I should say, of that plan from the time he was hired straight through till today?

MR. HILE: I would object to the term "beneficiary." That's vague and ambiguous.

Go ahead.

MR. WALSH: Let me rephrase it. I accept that objection.

Q. And Mr. Deis has been a member of Stockton's pension plan with CalPERS continuously from the time he joined the City's employment until today; is that correct?

A. That is my understanding.

Q. And is it correct that these three councilmembers, mentioned at the top of Bates stamp -08112, were members of Stockton's CalPERS pension plan when the decision was made not to seek a reduction in the City's CalPERS pension liability?

A. I don't know when -- in April they knew that they were going to be removed from PERS.
Q. When was the decision made not to seek a reduction in the CalPERS pension plan?
A. Prior to entering the AB 506 process.
Q. And that process was began -- it started sometime in early 2012; is that right?
A. That's correct.
Q. So when the City decision was made by the City not to reduce -- not to request a reduction in the pension liability, the three persons from the council mentioned on -081182 -- that's the mayor, Councilmember Fritchen and Councilmember Holman -- all had CalPERS pensions with Stockton; is that correct?
A. I believe that's correct.
Q. Who is the decision-maker on the Strategic Direction Team, the ultimate decision-maker?
A. Bob Deis.
Q. And was he the one who took the SDT's recommendation straight to the City Council?
A. Which recommendation?
Q. Thank you. The recommendation not -- well, let me rephrase that. Let me strike the question.
Is it correct that at some point the three

EXHIBIT N

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT
SACRAMENTO DIVISION

In re:
CITY OF STOCKTON, CALIFORNIA, No. 12-32118
Debtor. Chapter 9
/

Deposition of
ANN GOODRICH
Tuesday, November 6, 2012

Reported by:
SANDRA BUNCH VANDER POL, RMR, CRR, CSR #3032
Realtime Systems Administrator credentialed
Fellow, Academy of Professional Reporters
Job No. 38860

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union documents that list the changes in their contracts that would relate back to the Ask, those were done by the Renne Sloan people, but I reviewed all of those.

Q. Okay. In coming up with recommendations for compensation reductions, did you consider a reduction in the pension benefit?

A. No.

Q. Did it occur to you to consider that? Did you just not consider it?

A. I wasn't aware of any way, short of bankruptcy, that the City could make any adjustments that they hadn't already made. And I was focused more on retiree medical than the other concessions. So, no, I didn't consider any pension reductions.

Q. And why were you more focused on the retiree and other issues?

MR. KILLEEN: Objection. Asked and answered.

THE WITNESS: I felt that the City's retiree medical problem were more severe than the pension obligation. And also the other concessions would provide another 6 or $7 million worth of reductions.

BY MR. GEOLOT:

Q. Why did you consider the retiree medical involving your lawyers, with respect to potential restructuring of the CalPERS pension obligation?

MR. KILLEEN: Objection. Asked and answered.

THE WITNESS: No.

BY MR. WALSH:

Q. Could I refer you to Exhibit 154, please. It should be on the top of your stack.

A. Yes.

Q. You will see on the first page, at the top it reads, "CalPERS follow-up notes form" -- I believe that's supposed to be from, "8-8-12 meeting."

Do you see that?

A. Yes.

Q. Do you recall any earlier meetings with respect to the issues discussed in these notes?

A. Well, first off, there was no meeting. This was a phone call. The meeting didn't involve PERS. This was about the -- obtaining this information. And we may have had a previous phone call to this.

Q. Okay. When would that previous phone call have occurred vis-a-vis the 8-12 meeting?

A. I think it was in July sometime.

Q. And was that July 2012 meeting a kickoff meeting with respect to the issues discussed in

Exhibit 154?
A. Yes.
Q. Is that when the project referenced in Exhibit 154 first began?
A. I believe so.
Q. Are you aware of any prior analysis by the City with respect to the issues discussed in Exhibit 154?
MR. KILLEEN: Objection. Asked and answered.
BY MR. WALSH:
Q. "Prior," I mean prior to the July 2012 kickoff?
MR. KILLEEN: Asked and answered.
THE WITNESS: Well, there's this earlier information collection that Management Partners was involved in. I think that -- that's earlier than July.
BY MR. WALSH:
Q. And you're referring to the Management Partners' documents that you went over earlier today with Mr. Geolot?
A. Yes.
Q. Is there any other prior analysis, prior to this July 2012 meeting, that you're aware of that

EXHIBIT O

Page 1

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT

SACRAMENTO DIVISION

In re:

CITY OF STOCKTON, CALIFORNIA, No. 12-32118

Debtor. Chapter 9

/

Deposition of

TERESIA A. HAASE

Wednesday, November 14, 2012

Reported by:

SANDRA BUNCH VANDER POL, RMR, CRR, CSR #3032

Realtime Systems Administrator credentialed

Fellow, Academy of Professional Reporters

Job No. 39039

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Q. Do you recall whether it was your department that asked Management Partners to do a PERS benefit information comparison?

A. Do I recall? Yes.

Q. Was it your department that gave that direction to Management Partners?

A. No.

Q. Do you know which department did?

A. I believe that came out of SDT discussions.

MR. RIDDELL: To the extent that you have information that's a result of being engaged in any conversations or communications relating to the SDT in which counsel was present, I instruct the witness not to answer on the basis of the attorney-client privilege.

BY MR. NEAL:

Q. In terms of a time reference or parameter, do you recall the first SDT meeting you attended?

A. No.

Q. Do you recall any meetings outside of the SDT that you had with Management Partners regarding their effort to do a PERS benefit information comparison?

A. Yes.

Q. And what's the first meeting you recall?

A. The -- I believe it happened in the early part of August.
Q. And that would be August of 2012?
A. Correct.
Q. And who was at that meeting?
A. Myself, Mr. Belknap, and Ann Goodrich, as I recall.
Q. And what was discussed at that meeting as it relates to the PERS benefit information comparison sought from Management Partners?
A. We discussed what types of information might be helpful in -- to gather for purposes of understanding what the market was in terms of defined benefit programs.
Q. I am going to show you what has been premarked as Exhibit 154.
Ms. Haase, the court reporter has handed you Exhibit 154. Please take the time to look this document over.
(Witness reviewing document.
A. Okay. I mean I didn't read it in detail.
Q. You mentioned a meeting in August of 2012. First, let me ask you: Have you seen this document before, Exhibit 154?
A. I have seen the first page. I don't recall

if the subsequent pages were attached to it when I saw the first page. But I have seen all of this information.
Q. As best you can recall, was this the first meeting you had with Ms. Goodrich and Mr. Belknap regarding the objective to make a business case for remaining current and in good standing with CalPERS?
A. This was the first meeting I recall where the purpose of which was to discuss the information we may want to gather to help us understand what the market was with respect to PERS or a PERS reciprocal defined retirement benefit system.
Q. And how many meetings were there involving you, Ms. Goodrich, and Mr. Belknap?
A. I don't recall.
Q. More than one?
A. There was at least one additional, but I don't know if there were more than one additional.
Q. Other than this document, Exhibit 154, do you know of any documents prepared by Management Partners or anyone else with respect to the business case referenced in Exhibit 154?
A. The only other document that I can recall is the prior exhibit.
Q. And that prior exhibit, I believe you still

have it in front of you, is Exhibit 157?
A. Yes.
Q. It has a draft date of April 11, 2012. Do you see that?
A. Yes.
Q. Do you know if that is the date that this document was prepared?
A. I have no way of knowing that for sure. As I -- as I said earlier, I don't know if this is the specific version that I -- that I had seen, and I don't recall when I first saw the version.
Q. Well, I'd like to show you Exhibit 165, which I believe the court reporter has a copy of.
(Witness reviewing document.)
A. Did you want me to read it in its entirety?
Q. Maybe. Let me first ask you to identify it.
Have you seen this document before, that is Exhibit 165, Draft 4/18/12" on Management Partners' letterhead?
A. I don't recall seeing it, but I see it was addressed to me.
Q. When I previously asked you whether additional documents, other than Exhibit 154 were prepared or generated out of your meeting with Ms. Goodrich and Mr. Belknap, you had first referred

THE WITNESS: 118 we're talking about, correct?
MR. NEAL: Yes. Take your time.
(Witness reviewing document.)
MR. NEAL: And we will break in 10 or 15 minutes for lunch. So we are nearing the end of the morning show.
Q. Ms. Haase, have you had an opportunity to familiarize yourself with Exhibit 118?
A. Yes.
Q. Do you recall providing any comments or making -- or suggesting any revisions with respect to the analysis that's reflected in Exhibit 118?
A. I don't recall.
Q. Other than the materials prepared by Management Partners, are you aware of any written study or analysis seeking to make the business case for the City to stay with CalPERS?
A. Nothing I can recall.
Q. Are you aware of any study or analysis that the City has done with Management Partners, or anyone else, or on its own initiative to determine its ability to meet its pension obligations with CalPERS?
MR. RIDDELL: Vague as to time.
THE WITNESS: I'm sorry. Could you repeat

the question?
MR. NEAL: Sure.
Q. Are you aware of any study or analysis that the City has done with Management Partners, or with anyone else, to determine its ability to pay its pension obligations with CalPERS?
A. I'm not aware of any?
Q. Are you aware of any effort to study alternative benefit structures with other pension administrators or agencies?
A. To replace CalPERS?
Q. Yes.
A. No.
Q. If we can go back to Exhibit 154. The second item on the first page, the first sentence, "Interview Eric COP in Stockton."
A. Huh-huh.
Q. Does that refer to Eric Jones?
A. Yes. "COP" is chief of police.
Q. "On the importance of CalPERS and the recruitment and retention of police officers." Do you see that sentence?
A. Uh-huh.
Q. Were you a part of that interview?
MR. RIDDELL: Objection. Assumes facts not

EXHIBIT P

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT

SACRAMENTO DIVISION

In re:

CITY OF STOCKTON, CALIFORNIA, No. 12-32118

Debtor. Chapter 9

/

Videotape Deposition of

ROBERT DEIS

Wednesday, November 28, 2012

Reported by:

SANDRA BUNCH VANDER POL, RMR, CRR, CSR #3032

Realtime Systems Administrator credentialed

Fellow, Academy of Professional Reporters

Job No. 38955

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MR. WALSH: I have a number of questions -- and I will direct this one to you, Mr. Hile, and Mr. Deis -- about the conversations at the SDT level as well as the closed council level with respect to the decision not to request an impairment of the CalPERS liability.

In prior depositions I know that you have asserted the privilege. I would like to get into this, and I think I'm entitled to it. But I'd like to know, Mr. Hile, whether the privilege will continue to be asserted with respect to these questions?

MR. HILE: Yes.

MR. WALSH: Okay. I continue to lodge my objection, as I have in the past. I won't belabor the record with it. I think we are entitled to this. But I will not go into those questions based on that, and I will reserve rights and move on.

Q. Mr. Deis, members of the SDT are CalPERS beneficiaries, correct?

A. Not all of them.

Q. But a majority of them, correct?

A. I don't even know if it's a majority.

Q. Do you know of -- can you identify anyone who is a member of the SDT that is not a member of

CalPERS, other than outside counsel and outside consultants?

A. You just lessened the math calculation there. That would basically be staff, and they would be members of CalPERS.

Q. And in -- again, I don't intend to get into the area Mr. Hile is going to object on, so let me just -- I object to his objection, but I'm not trying to probe sideways here.

Of the people on the SDT that make the decisions, you're the person that makes the final decisions; is that correct?

A. That's correct.

Q. Not the lawyers, the outside accountants -- or the outside consultants, correct?

MR. HILE: I'm going to object that there's no foundation. And it's vague and ambiguous.

MR. WALSH: Let me rephrase it.

Q. Does the buck stop with you on the SDT, Mr. Deis?

MR. HILE: Same objections.

THE WITNESS: I would say that in any decision-making process that I'm involved in, if a staff person feels that I'm making an egregious error in a particular decision, that that staff person has

Q. And then it took a 9 to 23 percent reduction in that pay just to get the employees back to the labor market average, correct?

MR. HILE: Objection. No foundation.

THE WITNESS: I have a qualifier in there that says, "for the most part."

MR. GARDENER: Fine.

THE WITNESS: This was written with generalities. It was written to elected officials.

If you're -- as I communicate to you as an attorney asking questions, if you want details or justification to say that everybody is at labor market average, I -- I would qualify it by just saying for the most part.

BY MR. GARDENER:

Q. And so when you say that current employees have taken deep cuts and now -- and have given up and now it's the turn of others to pay, it would seem, Mr. Deis, that what the current employees have done is receive years of above-market pay and what they are now doing is now being dropped down to the labor market average or, for the most part, the labor market average; isn't that a fair statement?

MR. HILE: Objection. Compound and argumentative.

THE WITNESS: For the most part.
MR. GARDENER: Thank you.
THE VIDEOGRAPHER: Counsel, I have three minutes of tape left.
MR. GARDENER: Thank you.
Q. Now, you told us before -- you've defined for us how you define the labor market average, and you say the goal of the City, at least now, now that you've been in charge, is to get to the labor market median or average, correct?
A. That's correct.
Q. Okay. And if I understand median correctly, it means that 50 percent of the cities are going to be below that median number, correct?
A. Not necessarily.
Q. All right. Maybe I don't understand median correctly. But some number are going to be below the median, correct?
A. Yes.
Q. Okay. Is it your understanding that all of those cities that are below the median do not provide adequate public safety, police and fire, for their citizens?
MR. HILE: Objection. No foundation.
THE WITNESS: I can't speak to what the

EXHIBIT Q

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Attorneys for Debtor
City of Stockton

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re:	Case No. 2012-32118
CITY OF STOCKTON, CALIFORNIA,	D.C. No. OHS-1
Debtor.	Chapter 9
	DECLARATION OF DAVID N. MILLICAN IN SUPPORT OF CITY OF STOCKTON'S STATEMENT OF QUALIFICATIONS UNDER SECTION 109(C) OF THE UNITED STATES BANKRUPTCY CODE

years before the recession to less than 150 per year today -- this has made it impossible for the funds to make the full debt service payments requiring a General Fund subsidy.

Lastly, some, not all, of the obligations were structured with increasing debt service each fiscal year assuming growth and development would continue. As debt service grows, it places increasing pressure on the General Fund to make up any shortfalls. Annual debt service will grow from about $17.9 million in FY12-13 to a little over $24.4 million by FY23-24 unless corrective actions are taken.

Factors for Debt Proposal

This proposal is based on two basic factors:

- Secured vs. Unsecured – Is the obligation secured by any asset or other pledge? For any obligation that is unsecured (i.e. pension obligation bonds) the General Fund will provide no payment support, and
- Essentiality of Assets – If the obligation is secured, is the collateral essential? For the lease transactions where the assets are essential, protect the asset by first pledging any outside repayment source like redevelopment tax increment, development fees, or parking funds, but limit or eliminate any General Fund subsidy.

The debt proposal looked at each obligation as a stand-alone instrument analyzing the secured versus unsecured status as well as the essentiality of the leased assets, if any. This resulted in three obligations remaining and being restructured, with each obligation treated equally on a net present value basis. The methodology for this proposed restructuring is as follows:

- Five years of no payments from the General Fund for debt service.
- Internal non-General Fund funding along with the reserve fund or reserve fund surety pays debt service until exhausted.
- The remainder of debt service, not otherwise paid, along with dollars drawn against the reserve fund surety policy, is taken as the impaired amount.
- The remaining bonds outstanding are combined with the impaired amount, and a new principal amortization was run with interest only for the first five years from FY17-18 to FY21-22 and full amortization of level fiscal year debt service from FY22-23 to FY51-52 (30-years).
- The total program life is 40-years (five years no debt service, five years interest only and 30-years full amortization.
- The assumed interest rate on the restructured obligations is approximately half of the current State of California GO bond rate or 2.5% and the assumed discount rate is 5.0%.

The results of this analysis decreased total debt service paid by the City by $355.2 million over the life of the proposal. Since the payments on the four restructured obligations were stretched out to FY51-52, the net present value savings to the City is approximately $219.3 million (assuming a discount rate of 5.0%). For each restructured obligation, the creditor receives its full principal and interest payments including repayment of impaired amounts but takes place over an extended period of time resulting in a 45.5% discount on a net present value basis. However, under this proposal two creditors (2007 POBs and DBAW) are deeply or fully impaired

Listing of Obligations and Summary of Proposals

- 2003 Housing COPs (Secured by: library, main police facility, and fire stations 1, 5 and 14 - Credit Enhancement: Ambac):
  - Restructured with continued General Fund backstop. The former housing tax increment would still be used as the internal source of repayment until the project areas mature, but current projections show little if any housing tax increment available for this obligation in the near to medium term.
- 2006 ESB (Secured by: Stuart Eberhart Building - Credit Enhancement: NPFG):
  - Restructured, with no General Fund payments, pledge or backstop. Revenues that would be pledged to debt repayment would be parking revenues (85%) with a small portion (15%) paid by public facility fees (PFFs) for police.
- 2007 VRDOs (Secured by: 400 E. Main - Credit Enhancement: Assured Guaranty):
  - Restructured and continued General Fund backstop. The building does not generate net operating revenue before debt service at current leasing levels. Proposal includes a pledge of all building net revenues up to the amount of the originally scheduled debt service, and the General Fund would backstop up to the amount of the restructured debt service.
- 2009 PFFs (Secured by: Oak Park, Van Buskirk Golf Course and Swenson Golf Course - Credit Enhancement: None):
  - Restructured, with no General Fund payments, pledge or backstop. This obligation would receive only the support of PFF funds in Fire, Police, Parks and Streets (the four funds that utilized the original bond proceeds and are tasked with repayment). The City would pledge only the annual PFF revenue collected within each respective fund to the repayment of debt service.
- The 2004 Events Center (Secured by: Stockton Events Center and Arena - Credit Enhancement: NPFG):
  - Remove General Fund backstop. However, no restructuring of the payments on this obligation is anticipated because assuming that the current pledge of former redevelopment tax increment from the Waterfront Project Area will cover stated debt service. Note however, that there is risk associated with this revenue stream.
- 2004 Parking Bonds (Secured by: Arena Parking Garage, Ed Coy Parking Garage and Market Street Parking Garage - Credit Enhancement: NPFG):

EXHIBIT R

EXHIBIT B

LONG-RANGE FINANCIAL PLAN OF CITY OF STOCKTON

Forecast Basics

The General Fund budget forecast includes the following sections:

- Baseline Budget – Revenue projections are based on current revenue sources (before the Measure A sales tax on the November 2013 ballot). Expenditure projections are based on the current FY13-14 budget level of staffing, including future cost-of-living increases (COLAs) to remain competitive, and projected pension rate changes. These costs are inclusive of the labor agreements negotiated under the AB 506 mediation process which have since been approved and implemented. Services, supplies and program support assume inflationary growth. Debt service is based on original amortization schedules and projected contributions from other funds. The baseline budget is the status quo, but it is neither sustainable (it is service insolvent) nor viable (it is budgetary and cash insolvent).
- Fiscal Stabilization – This section contains expenditure increases to the status quo baseline budget, including modest increased contributions to deferred maintenance and internal service funds (worker's compensation and liability insurance reserves, etc.), and funding of the Marshall Plan for improved public safety services. It is important to note that reinvestment in public safety as mapped out in the Marshall Plan is absolutely essential to Stockton's ultimate success, because we must combat crime and violence in order to build an economically healthy City. The fiscal stabilization budget is sustainable (while it does not meet *all* of the City's needs, it is arguably no longer service insolvent) but it remains unviable (because it is even more budgetary and cash insolvent due to the higher level of spending).
- Restructuring Savings – This section includes proposed savings which require chapter 9 protection in order to be implemented for retiree medical benefits, debt obligations, lawsuit claimants and sports teams. (Again, the labor savings portion of restructuring savings has already been implemented.) For purposes of this presentation we have incorporated what we believe will be a negotiated settlement with the large creditor mentioned earlier. This is the most conservative approach for the City to take, given the uncertainty, and thus prudent. This section also includes the proposed revenue from Measure A, along with additional efficiencies, cost recovery and income from land sales. With all of these savings and new revenues, the City realizes a balanced budget that is not service insolvent.

Tables 1A, 1B and 1C summarize these three elements of the General Fund budget and show the resulting net surplus or shortfall projected to remain after each element over the next 30 years. The entire forecast is shown in Attachments A and A1. It is important to note that a forecast of this range is inherently subject to significant variability. Even a one percent change in assumptions can have a major impact over time. However given the long-term nature of City obligations we need to have a plan and have attempted to model likely fiscal performance in a conservative manner. These conservative modeling assumptions, which are detailed in our discussion of revenues and variable expenditures later in this report, mean that on balance we can expect that variances are somewhat more likely to be "good news" than "bad news", but we have also striven to develop realistic projections given the pressure to restore City services and pay creditors. The point is that the forecast is prudently conservative but still subject to risks based on assumptions made.

Table 1A. Long-Range Financial Plan With Restructuring Savings (FY11-12 to FY 20-21)

($ in 000)	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21
Total Baseline Revenues	160,268	162,228	160,555	162,971	167,559	172,575	177,571	182,666	187,780	192,909
Total Baseline Expenditures	159,254	168,190	184,931	190,283	202,439	210,316	214,351	220,343	226,486	231,797
Net Annual After Baseline	1,013	(5,963)	(24,376)	(27,312)	(34,880)	(37,741)	(36,780)	(37,676)	(38,706)	(38,887)
Fiscal Stabilization Expenditures	-	-	1,093	18,768	25,513	23,330	24,003	25,419	26,951	28,233
Net Annual After Stabilization	1,013	(5,963)	(25,469)	(46,080)	(60,393)	(61,072)	(60,783)	(63,095)	(65,657)	(67,120)
Total Restructuring	653	21,010	32,146	57,485	59,287	61,798	61,868	63,071	65,210	65,926
Net Annual After Restructuring	1,666	15,047	6,677	11,405	(1,107)	726	1,085	(25)	(448)	(1,194)
Beginning Available Balance	6,639	-	3,074	9,751	21,157	20,050	20,776	21,548	21,230	20,528
Transfer to Bankruptcy Fund	(5,592)	(13,012)	-	-	-	-	(313)	(293)	(255)	(207)
AB 506 Carryover	(2,713)	1,039	-	-	-	-	-	-	-	-
Ending General Fund Balance	-	3,074	9,751	21,157	20,050	20,776	21,548	21,230	20,528	19,128
Balance as % of Total Exp	0.0%	2.1%	6.1%	11.8%	10.1%	10.2%	10.3%	9.8%	9.2%	8.4%

Table 1B. Long-Range Financial Plan With Restructuring Savings (FY21-22 to FY 30-31)

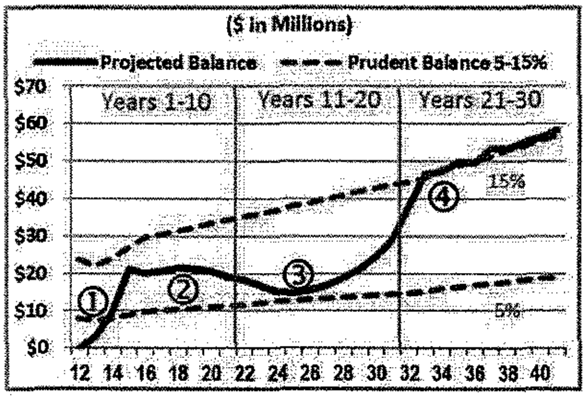
($ in 000)	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30	30-31
Total Baseline Revenues	198,092	203,242	208,542	214,009	219,622	225,333	231,195	237,191	243,316	249,577
Total Baseline Expenditures	237,995	243,527	249,983	256,923	261,876	268,853	275,978	283,205	290,148	297,317
Net Annual After Baseline	(39,903)	(40,284)	(41,442)	(42,914)	(42,255)	(43,520)	(44,782)	(46,014)	(46,832)	(47,740)
Fiscal Stabilization Expenditures	29,140	29,607	30,091	30,580	30,991	31,483	31,987	32,492	32,993	33,504
Net Annual After Stabilization	(69,043)	(69,892)	(71,532)	(73,494)	(73,246)	(75,004)	(76,769)	(78,506)	(79,825)	(81,244)
Total Restructuring	68,402	68,346	70,411	72,911	74,186	76,198	78,572	80,935	83,245	85,603
Net Annual After Restructuring	(642)	(1,545)	(1,121)	(583)	941	1,194	1,803	2,429	3,420	4,359
Beginning Available Balance	19,128	18,311	16,644	15,429	14,793	15,717	16,912	18,715	21,144	24,564
Transfer to Bankruptcy Fund	(175)	(122)	(93)	(53)	(17)	-	-	-	-	-
AB 506 Carryover	-	-	-	-	-	-	-	-	-	-
Ending General Fund Balance	18,311	16,644	15,429	14,793	15,717	16,912	18,715	21,144	24,564	28,923
Balance as % of Total Exp	7.8%	6.9%	6.2%	5.8%	6.1%	6.4%	6.9%	7.6%	8.6%	9.9%

Table 1C. Long-Range Financial Plan With Restructuring Savings (FY31-32 to FY 40-41)

($ in 000)	31-32	32-33	33-34	34-35	35-36	36-37	37-38	38-39	39-40	40-41
Total Baseline Revenues	256,009	261,592	268,229	274,794	281,598	288,106	295,154	302,309	309,470	316,886
Total Baseline Expenditures	301,662	307,974	312,248	319,730	316,495	323,730	332,332	326,865	331,930	338,443
Net Annual After Baseline	(45,653)	(46,383)	(44,018)	(44,935)	(34,897)	(35,624)	(37,178)	(24,555)	(22,461)	(21,557)
Fiscal Stabilization Expenditures	33,587	35,100	48,133	47,658	62,684	60,189	65,708	68,751	71,294	71,859
Net Annual After Stabilization	(79,240)	(81,483)	(92,151)	(92,593)	(97,581)	(95,814)	(102,886)	(93,306)	(93,755)	(93,416)
Total Restructuring	87,985	90,406	92,797	95,128	97,374	99,548	102,890	95,291	94,802	95,514
Net Annual After Restructuring	8,745	8,923	645	2,535	(207)	3,734	4	1,985	1,048	2,098
Beginning Available Balance	28,923	37,668	46,591	47,237	49,772	49,565	53,298	53,302	55,284	56,314
Transfer to Bankruptcy Fund	-	-	-	-	-	-	-	(3)	(17)	(32)
AB 506 Carryover	-	-	-	-	-	-	-	-	-	-
Ending General Fund Balance	37,668	46,591	47,237	49,772	49,565	53,298	53,302	55,284	56,314	58,380
Balance as % of Total Exp	12.7%	15.3%	14.7%	15.2%	14.7%	15.6%	15.0%	15.3%	15.1%	15.4%

Due to the timing of new tax revenues, implementing the Marshall Plan, and changing levels of PERS rates, the General Fund balance will vary as shown in Figure 1.

Figure 1. General Fund Balance with Revenue Growth as Forecasted

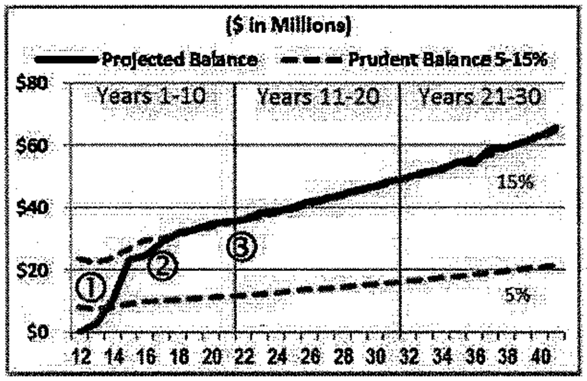


1. Balance rises with new tax revenue before Marshall Plan is fully implemented.
2. Balance declines with higher PERS rates and new Marshall Plan spending.
3. Balance stabilizes and then increases as (a) PERS rates level off and then decline due to impact of reforms and (b) with cumulative impact of lower debt expenditures.
4. When balance reaches 15% of expenditures, the resources in excess of that level can be used to restore services and fund unmet needs (projected at $236 million through FY40-41), while maintaining a stable reserve.

As is apparent from these graphics, the City will need to be carefully managed for some time to make sure that the General Fund balance maintains a prudent level of reserves. To weather the impacts created by near-term increases in PERS rates and implementation of the Marshall Plan, the City will have to exercise disciplined expenditure control. With the longer run stabilization and eventually reduction in PERS costs, the City's fiscal position will improve.

It should also be noted that we have been conservative in developing model assumptions, so it is possible that actual performance will be somewhat better than projected. Small ongoing improvements to base revenues, compounded over time, can significantly improve the fund balance outlook and capacity to address unmet needs. For example, Figure 1A below compares what fund balance would look like if our annual growth in core revenues (all taxes, including Measure A) is just 0.5% better than projected. Under this scenario fund balance hits the 15% reserve target in 2020 (despite higher near-term retirement costs), and mission critical spending capacity over the entire 30-year period increases from $236 million under the forecasted revenue level to $712 million under a "forecast+0.5%" growth in core revenues.

Figure 1A. General Fund Balance with Annual Ongoing Core Revenue Growth 0.5% Higher Than Forecasted (Compounded Basis)



1. Balance rises with new tax revenue before Marshall Plan is fully implemented.
2. Balance growth rate declines somewhat with higher PERS rates and new Marshall Plan spending.
3. When balance reaches 15% of expenditures, the resources in excess of that level can be used to restore services and fund unmet needs (projected at $712 million through FY40-41), while maintaining a stable reserve.

The following is a summary of the key revenue and expenditure assumptions on which this forecast is based.

Major Revenue Trends

Property Tax – This tax comprises 26.9% of total FY13-14 General Fund revenue, and includes property tax in lieu of vehicle license fees. At $44.9 million, property tax revenue remains 26.5% below its peak of $61.1 million in FY07-08. Stockton property values declined precipitously during the Great Recession: during 2009-2012 Stockton ranked from 2nd to 4th in the nation in magnitude of home price reduction. Median home prices fell from a peak of $400,000 in December 2005 to $118,500 in February 2012, a decline of 70%. Home sale prices have begun to recover over the past year. There is also a lag in addressing assessment appeals, which means some value declines, especially for commercial properties, have not yet been implemented. The City's 1Q14 Report assumes a 2.39% increase in property taxes and a 3.9% increase in property taxes in lieu of vehicle license fees. On a one-time basis, the City received $3.1 million in property tax administration fee reimbursements from the county in FY12-13. An updated property tax forecast assumes overall growth of 3.7% in FY14-15, rising to just over 4.5% in FY15-16 and 16-17, with the rate of increase declining slowly thereafter toward 3% by FY34-35. This is a mid-range estimate. Over time there will likely be higher growth years, depending on new construction and Prop 8 recovery rates, and lower (or negative) growth years depending on the extent of future economic downturns, however this forecast does not attempt to "time" these high and low years. This is a revenue source strongly linked to the real estate market and general economy, as evidenced by the revenue levels shown in Figure 2 and the percentage change in revenue in Figure 3. The linear trend from actual revenues received during FY96-97 through FY12-13 remains higher than the forecasted revenues for two reasons: (1) the dramatic growth rates in property values fueled by easy credit during the late 1990s and early 2000s is not expected to be repeated in the post-Great Recession banking environment, and (2) the historical revenue included an average of 2,064 new housing units each year, whereas a market absorption study prepared for the City projects a long-term average of 700 new units annually.

- Recently-implemented rate smoothing and amortization changes will increase rates in the near-term but lower them in the long-run, as unfunded liability costs will be paid off under a fixed schedule instead of being continually rolled over on a 30-year basis (a more conservative approach by CalPERS).
- A reduction of 0.25% in the PERS discount rate for interest earnings which increases rates (this has not yet been enacted, but a 0.5% reduction was proposed in 2012 by CalPERS staff and the board only implemented half of it at that time). (This is a good example of the conservative approach we have taken in developing the fiscal model.)
- Lower City payroll in recent years than CalPERS has projected, which increases the unfunded liability portion of the employer rate. (This impact will be mitigated after the Marshall Plan is implemented, as it will increase the payroll base on which the unfunded rate is computed, thus reducing the unfunded rate from what it would otherwise have been.)
- Higher costs from improved mortality and other demographic changes.
- The anticipated savings from Public Employee Pension Reform Act (PEPRA) changes, as well as the two-tier benefit plans implemented by the City.

Stockton's retirement reforms, achieved as a result of difficult labor negotiations and pre- and post-bankruptcy mediation, has produced a number of cost reductions with retirees and employees. To understand the complete retirement cost picture in Stockton one needs to understand first the population of existing retirees. These can be categorized into roughly two groups:

- The first and more senior retiree group consists of those that retired under benefit packages prior to enhancement in the early 2000's. This category receives on average $24,000 per year in benefits and did not receive a retiree medical benefit. We do not propose a change in overall benefits to this group.
- The second retiree group consists of those that retired under the more enhanced programs provided in the early 2000's. They are younger in age and receive an average PERS benefit of $51,000 per year and a medical benefit worth $26,000 per year. Most of this group does not receive Social Security from their Stockton employment. The City reduced and ultimately stopped paying medical premiums while in bankruptcy and we propose eliminating the retiree medical benefit, for an approximately 30% reduction in this group's overall benefits.

For current employees the medical post retirement package has also been eliminated and the following pension reforms have also been instituted. Their total loss in retirement benefits ranges from 30-50% or more when you add the future value of the loss of retiree medical benefits.

- Employees agreed to pay 100% of the employee's share of PERS (7% of salary for miscellaneous employees and 9% for safety employees) which results in immediate savings. This also had the impact that the legal "spiking" of pension benefits through the Employer-Paid Member Contribution (EPMC) benefit of 7-9% higher retirement pay was eliminated for most employees, which will reduce pension costs over time.

Revised City of Stockton Long-Range Financial Plan

ALTERNATIVE FORMAT - ATTACHMENT A1

		11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21
1	**General Revenues**										
2	Property Taxes										
3	Property Taxes	26.38	26.33	26.95	28.00	29.27	30.60	31.90	33.25	34.56	35.86
4	Property Tax Admin Fee Reimburse	-	3.09	-	-	-	-	-	-	-	-
5	In-Lieu of Motor Vehicle Fees	17.58	17.31	17.98	18.59	19.44	20.32	21.19	22.08	22.95	23.82
6	Subtotal Property Taxes	43.96	46.73	44.94	46.59	48.70	50.93	53.09	55.33	57.51	59.68
7	Sales Taxes										
8	75% Point of Sale	27.73	28.68	29.08	29.90	30.75	31.86	33.00	34.19	35.42	36.66
9	25% County ERAF Backfill	8.39	9.94	9.78	10.18	10.46	10.62	11.00	11.40	11.81	12.22
10	Proposition 172	1.18	1.30	1.31	1.34	1.38	1.43	1.48	1.53	1.59	1.65
11	Measure A	-	-	6.80	27.98	28.71	29.74	30.81	31.92	33.07	34.23
12	Subtotal Sales Taxes	37.30	39.92	46.97	69.39	71.30	73.64	76.30	79.04	81.89	84.75
13	Utility Users Tax										
14	Water	3.16	3.37	3.26	3.29	3.34	3.39	3.44	3.49	3.54	3.59
15	Electric & Gas	17.11	17.20	17.60	17.99	18.26	18.53	18.81	19.09	19.38	19.67
16	Cable	1.95	2.30	2.36	2.36	2.39	2.43	2.47	2.50	2.54	2.58
17	Telecommunications	9.29	9.08	8.98	8.80	8.93	9.06	9.20	9.34	9.48	9.62
18	Subtotal Utility Users Tax	31.50	31.94	32.19	32.43	32.92	33.41	33.91	34.42	34.94	35.46
19	Franchise Tax										
20	PG&E	1.86	1.84	1.91	1.95	1.99	2.03	2.07	2.11	2.15	2.19
21	Cable/Video	3.11	2.23	2.24	2.22	2.26	2.31	2.36	2.40	2.45	2.50
22	Waste Haulers	7.50	7.61	7.52	7.63	7.79	7.94	8.10	8.26	8.43	8.60
23	Subtotal Franchise Tax	12.46	11.68	11.67	11.80	12.04	12.28	12.52	12.77	13.03	13.29
24	Other General Revenues										
25	Business License Tax	8.92	9.17	8.99	9.08	9.22	9.35	9.49	9.64	9.78	9.93
26	Hotel/Motel Tax	1.93	2.01	1.95	1.97	1.99	2.01	2.03	2.05	2.07	2.09
27	Document Transfer Tax	0.60	0.46	0.50	0.51	0.51	0.52	0.53	0.54	0.54	0.55
28	Motor Vehicle License	0.15	0.13	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15
29	Interest Income	0.05	0.26	0.02	0.31	0.41	0.41	0.43	0.43	0.42	0.40
30	Subtotal Other General Revenues	11.65	12.02	11.61	12.01	12.28	12.44	12.63	12.80	12.96	13.12
31	**Program Revenues**										
32	Fire Contracts	4.79	3.34	3.33	3.26	3.29	3.32	3.36	3.39	3.43	3.46
33	Code Enforcement	4.04	2.80	2.95	3.01	3.04	3.07	3.10	3.13	3.16	3.19
34	Charges for Services	1.91	1.90	1.83	2.32	2.90	3.37	3.74	3.80	3.86	3.91
35	Fines & Forfeitures	1.73	2.02	1.30	1.31	1.34	1.37	1.39	1.42	1.45	1.48
36	Revenues from Other Agencies	0.78	0.91	0.68	0.66	0.66	0.66	0.66	0.66	0.66	0.66
37	Licenses & Permits	0.40	0.39	0.37	0.37	0.38	0.39	0.40	0.40	0.41	0.42
38	Misc Other Revenues	(0.38)	(0.91)	(0.14)	0.44	0.44	1.19	1.19	1.19	1.19	(0.06)
39	Subtotal Program Revenues	13.27	10.44	10.31	11.37	12.05	13.37	13.84	13.99	14.15	13.06
40	**Interfund Reimbursements**										
41	Indirect Cost Allocation	5.11	4.52	4.72	4.49	4.68	5.14	5.34	5.49	5.67	5.86
42	Refunds & Reimbursements	0.87	1.17	1.33	0.25	0.26	0.26	0.27	0.27	0.28	0.28
43	Rents/Leases/Concessions	2.56	2.97	2.71	2.68	2.68	2.68	2.68	2.68	2.68	2.68
44	Parking Fund - Debt Service	1.58	0.84	0.91	0.91	0.91	0.91	0.91	0.91	0.91	0.91
45	Subtotal Reimbursements	10.12	9.50	9.68	8.33	8.52	8.99	9.19	9.36	9.54	9.73
46	**Total General Fund Revenues**	160.27	162.23	167.36	191.93	197.80	205.05	211.47	217.72	224.02	229.09
47											
48	**Salaries & Benefits**										
49	Salaries - Safety (w/ COLA)	34.00	34.49	39.39	42.00	46.02	49.94	51.99	54.05	56.20	58.36
50	Salaries - Non-Safety (w/ COLA)	15.48	15.71	17.84	19.56	20.46	21.36	22.14	22.91	23.71	24.47
51	Salaries - Part time, Temporary	1.05	1.44	1.48	1.50	1.54	1.59	1.65	1.70	1.75	1.81
52	Pension - CalPERS	14.14	14.66	17.94	22.26	32.18	35.93	37.48	39.47	41.56	43.01
53	Health/Dental/Vision-Employee (w/COLA)	8.79	8.20	9.49	10.47	11.23	11.93	12.20	12.44	12.68	12.94
54	Health - Retirees	7.96	2.11	-	-	-	-	-	-	-	-
55	Workers Compensation	7.16	6.28	7.25	8.40	8.82	9.09	9.25	9.42	9.59	9.75
56	Other Pay & Benefits	6.39	5.43	5.57	5.83	6.09	6.26	6.35	6.44	6.54	6.63
57	Overtime & Standby/Callback	7.61	8.15	7.23	7.65	8.23	8.81	9.06	9.32	9.58	9.85
58	Compensated Absences	3.46	2.44	2.02	2.94	3.13	3.05	3.22	3.41	3.60	3.80
59	Salaries - Safety-Expiring Grants	-	-	-	-	-	2.32	2.39	2.47	2.55	2.63
60	Net Labor Adjust/Reimbursements	-	-	0.94	1.01	1.15	1.20	1.23	1.27	1.32	1.35
61	Budgeted Vacancy Savings	-	-	(1.48)	(3.85)	(5.33)	(5.57)	(4.64)	(4.82)	(5.01)	(5.17)
62	Subtotal Salaries & Benefits	106.05	98.91	107.66	117.78	133.53	145.91	152.31	158.07	164.07	169.42

(Updated from Oct-2013 Plan of Adjustment)

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CTY257707

EX 2006_0033

Revised City of Stockton Long-Range Financial Plan

ALTERNATIVE FORMAT - ATTACHMENT A1

	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21
63 **Services & Supplies**										
64 Internal Services-Equipment	12.18	13.40	13.51	14.29	15.10	15.91	16.12	16.33	16.54	16.76
65 General Liability Insurance	2.24	3.18	3.37	3.44	3.49	3.54	3.60	3.65	3.71	3.76
66 Utilities	2.49	2.60	2.65	2.69	2.73	2.77	2.82	2.86	2.90	2.95
67 Maintenance & Repair Services	2.14	2.33	2.60	2.63	2.67	2.71	2.76	2.80	2.84	2.88
68 Labor/Legal Services	3.76	3.95	2.20	2.23	2.26	2.30	2.33	2.37	2.40	2.44
69 General Expenses	6.70	8.74	9.34	10.77	10.91	10.88	9.41	9.49	9.64	9.78
70 Tax Collection & Election	2.09	1.21	2.33	2.68	2.73	2.78	2.85	2.90	2.95	3.01
71 Subtotal Services & Supplies	31.61	35.41	36.00	38.74	39.91	40.90	39.87	40.39	40.98	41.57
72										
73 **Program Support for Other Funds**										
74 Library	3.98	3.91	4.00	4.29	4.88	5.07	5.22	5.40	5.58	5.73
75 Recreation	2.76	2.34	2.85	3.06	3.47	3.61	3.71	3.84	3.97	4.08
76 Golf Courses	-	0.50	0.45	0.48	0.55	0.57	0.59	0.61	0.63	0.65
77 Entertainment Venues	2.44	2.64	2.65	2.49	2.88	3.12	3.21	3.33	3.35	3.45
78 RDA Successor Agency	1.81	0.53	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75
79 Downtown Marina	0.05	0.05	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16
80 Capital Improvements	0.62	0.83	1.29	1.58	1.58	1.58	1.58	1.58	1.58	1.58
81 Administration Building	-	-	0.07	0.84	0.84	0.84	0.84	1.07	1.07	1.07
82 Grant Match	0.04	0.00	0.40	0.40	0.40	0.30	0.30	0.30	0.30	0.30
83 Development Services	0.15	1.00	1.00	1.00	1.00	1.00	-	-	-	-
84 Other	0.25	0.03	-	0.05	0.05	0.05	0.05	0.05	0.05	0.05
85 Subtotal Program Support	12.09	11.82	13.62	15.10	16.56	17.05	16.42	17.08	17.43	17.80
86										
87 **Debt - Bonds/Other**										
88 Jarvis Utilities Settlement	0.47	-	-	-	-	-	-	-	-	-
89 Marina Settlement	-	-	-	-	-	-	-	-	-	-
90 2003 COPs	-	-	-	-	-	0.07	0.06	0.47	0.25	-
91 2004 Arena Bonds	-	-	-	-	-	-	-	-	-	-
92 2006 LRBs-Parking (SE8)	0.77	0.84	0.91	0.91	0.91	0.91	0.91	0.91	0.91	0.91
93 2006 DBW-Debt - Marina	0.68	-	-	-	-	-	-	-	-	-
94 2007 POBs	5.62	-	-	-	-	-	1.33	1.33	1.33	1.33
95 2007 VRDLRB - 400 E.Main	0.24	-	-	-	-	-	-	-	-	-
96 2009 LRBs-Pub Facil Bonds/CIP	0.65	-	-	-	-	-	-	-	-	-
97 Debt - Other/Admin	0.42	0.21	0.49	0.49	0.49	0.49	0.49	0.49	0.49	0.24
98 Subtotal Debt	8.85	1.05	1.40	1.40	1.40	1.47	2.79	3.20	2.99	2.48
99										
100 **Mission Critical Expenditures**	-	-	-	8.00	8.00	-	-	-	-	-
101 **Efficiencies/Improved Cost Recovery**	-	-	-	(2.50)	(2.50)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)
102 **Contingency**	-	-	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
103 **Total General Fund Expenditures**	158.60	147.18	160.68	180.52	198.91	204.33	210.39	217.74	224.46	230.28
104										
105 **Surplus(Shortfall)**	1.67	15.05	6.68	11.41	(1.11)	0.73	1.08	(0.02)	(0.45)	(1.19)
106 Transfer to Bankruptcy Fund	(5.59)	(13.01)	-	-	-	-	(0.31)	(0.29)	(0.25)	(0.21)
107 AB 506 Carryover	(2.71)	2.71	-	-	-	-	-	-	-	-
108 Encumbrance/Inventory Adjustment	-	(1.67)	-	-	-	-	-	-	-	-
109 Beginning Available Balance	6.64	-	3.07	9.75	21.16	20.05	20.78	21.55	21.23	20.53
110 **Ending Available Balance**	-	3.07	9.75	21.16	20.05	20.78	21.55	21.23	20.53	19.13
111 **Balance as % of Total Expenditures**	0.0%	2.1%	6.1%	11.8%	10.1%	10.2%	10.3%	9.8%	9.2%	8.4%
112 Vacancy Rate (% of Baseline+COLAs)	4.2%	11.3%	1.0%	2.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%

Revised City of Stockton Long-Range Financial Plan

ALTERNATIVE FORMAT - ATTACHMENT A1

		21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30	30-31
1	**General Revenues**										
2	Property Taxes										
3	Property Taxes	37.17	38.40	39.67	40.99	42.34	43.71	45.12	46.56	48.03	49.53
4	Property Tax Admin Fee Reimburse	-	-	-	-	-	-	-	-	-	-
5	In-Lieu of Motor Vehicle Fees	24.68	25.50	26.35	27.22	28.11	29.03	29.96	30.92	31.89	32.89
6	Subtotal Property Taxes	61.85	63.90	66.02	68.21	70.45	72.74	75.08	77.48	79.92	82.42
7	Sales Taxes										
8	75% Point of Sale	37.94	39.27	40.65	42.07	43.53	45.02	46.55	48.12	49.72	51.35
9	25% County ERAF Backfill	12.65	13.09	13.55	14.02	14.51	15.01	15.52	16.04	16.57	17.12
10	Proposition 172	1.70	1.76	1.82	1.89	1.95	2.02	2.09	2.16	2.23	2.31
11	Measure A	35.42	36.66	37.95	39.27	40.63	42.03	43.46	44.92	46.41	47.94
12	Subtotal Sales Taxes	87.72	90.79	93.97	97.26	100.63	104.08	107.61	111.23	114.93	118.72
13	Utility Users Tax										
14	Water	3.65	3.70	3.76	3.82	3.87	3.93	3.99	4.04	4.10	4.16
15	Electric & Gas	19.96	20.26	20.57	20.87	21.18	21.50	21.81	22.12	22.44	22.76
16	Cable	2.62	2.66	2.70	2.74	2.78	2.82	2.86	2.90	2.94	2.98
17	Telecommunications	9.76	9.91	10.06	10.21	10.36	10.51	10.67	10.82	10.97	11.13
18	Subtotal Utility Users Tax	35.99	36.53	37.08	37.64	38.20	38.76	39.32	39.89	40.46	41.03
19	Franchise Tax										
20	PG&E	2.24	2.28	2.33	2.37	2.42	2.47	2.52	2.56	2.61	2.66
21	Cable/Video	2.55	2.60	2.65	2.71	2.76	2.81	2.87	2.92	2.98	3.03
22	Waste Haulers	8.77	8.94	9.12	9.30	9.49	9.67	9.86	10.05	10.24	10.44
23	Subtotal Franchise Tax	13.55	13.83	14.10	14.38	14.67	14.96	15.25	15.54	15.83	16.13
24	Other General Revenues										
25	Business License Tax	10.08	10.23	10.38	10.54	10.69	10.85	11.02	11.18	11.35	11.52
26	Hotel/Motel Tax	2.11	2.13	2.15	2.17	2.20	2.22	2.24	2.26	2.28	2.31
27	Document Transfer Tax	0.56	0.57	0.58	0.59	0.59	0.60	0.61	0.62	0.63	0.64
28	Motor Vehicle License	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15
29	Interest Income	0.38	0.35	0.32	0.30	0.31	0.33	0.36	0.40	0.46	0.53
30	Subtotal Other General Revenues	13.27	13.43	13.58	13.75	13.94	14.15	14.38	14.62	14.87	15.15
31	**Program Revenues**										
32	Fire Contracts	3.49	3.53	3.56	3.60	3.64	3.67	3.71	3.75	3.78	3.82
33	Code Enforcement	3.22	3.26	3.29	3.32	3.35	3.39	3.42	3.46	3.49	3.53
34	Charges for Services	3.97	4.03	4.09	4.15	4.22	4.28	4.35	4.41	4.48	4.55
35	Fines & Forfeitures	1.51	1.54	1.57	1.60	1.63	1.67	1.70	1.73	1.77	1.80
36	Revenues from Other Agencies	0.66	0.66	0.66	0.66	0.66	0.66	0.66	0.66	0.66	0.66
37	Licenses & Permits	0.43	0.44	0.45	0.46	0.46	0.47	0.48	0.49	0.50	0.51
38	Misc Other Revenues	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)
39	Subtotal Program Revenues	13.23	13.39	13.56	13.73	13.90	14.08	14.26	14.44	14.62	14.81
40	**Interfund Reimbursements**										
41	Indirect Cost Allocation	6.02	6.19	6.37	6.54	6.73	6.90	7.09	7.30	7.50	7.72
42	Refunds & Reimbursements	0.29	0.29	0.30	0.30	0.31	0.32	0.32	0.33	0.34	0.34
43	Rents/Leases/Concessions	2.68	2.68	2.68	2.68	2.68	2.68	2.68	2.68	2.68	2.68
44	Parking Fund - Debt Service	0.91	0.91	0.91	0.90	0.91	0.91	0.90	0.90	0.90	0.90
45	Subtotal Reimbursements	9.90	10.07	10.25	10.43	10.63	10.80	11.00	11.21	11.42	11.64
46	**Total General Fund Revenues**	235.51	241.94	248.56	255.40	262.42	269.56	276.90	284.40	292.07	299.90
47											
48	**Salaries & Benefits**										
49	Salaries - Safety (w/ COLA)	60.35	62.15	64.00	65.91	67.87	69.90	71.99	74.14	76.35	78.64
50	Salaries - Non-Safety (w/ COLA)	25.23	26.00	26.80	27.62	28.47	29.34	30.24	31.17	32.13	33.12
51	Salaries - Part time, Temporary	1.87	1.93	1.99	2.05	2.12	2.18	2.25	2.33	2.40	2.48
52	Pension - CalPERS	44.35	45.56	46.78	48.06	48.58	49.82	51.09	52.34	53.62	54.91
53	Health/Dental/Vision-Employee (w/COLA	13.20	13.46	13.73	14.00	14.28	14.57	14.86	15.16	15.46	15.77
54	Health - Retirees	-	-	-	-	-	-	-	-	-	-
55	Workers Compensation	9.89	10.00	10.11	10.22	10.33	10.45	10.56	10.68	10.80	10.92
56	Other Pay & Benefits	6.71	6.78	6.85	7.04	7.24	7.44	7.65	7.87	8.09	8.32
57	Overtime & Standby/Callback	10.14	10.43	10.73	11.04	11.36	11.69	12.03	12.39	12.75	13.13
58	Compensated Absences	4.01	4.24	4.49	4.75	5.02	5.31	5.62	5.95	5.95	6.01
59	Salaries - Safety-Expiring Grants	2.71	2.80	2.89	2.98	3.08	3.18	3.28	3.38	3.49	3.60
60	Net Labor Adjust/Reimbursements	1.39	1.43	1.46	1.51	1.54	1.58	1.63	1.67	1.71	1.76
61	Budgeted Vacancy Savings	(5.33)	(5.49)	(5.64)	(5.80)	(5.94)	(6.11)	(6.28)	(6.46)	(6.63)	(6.81)
62	Subtotal Salaries & Benefits	174.51	179.29	184.18	189.39	193.95	199.36	204.93	210.63	216.14	221.85

(Updated from Oct-2013 Plan of Adjustment)

3/2/2014-10:46 PM

CTY257709

EX 2006_0035

Revised City of Stockton Long-Range Financial Plan

ALTERNATIVE FORMAT - ATTACHMENT A1

#		21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30	30-31
63	**Services & Supplies**										
64	Internal Services-Equipment	16.98	17.20	17.43	17.66	17.89	18.13	18.37	18.61	18.86	19.11
65	General Liability Insurance	3.82	3.88	3.93	3.99	4.05	4.11	4.18	4.24	4.30	4.37
66	Utilities	2.99	3.03	3.08	3.13	3.17	3.22	3.27	3.32	3.37	3.42
67	Maintenance & Repair Services	2.92	2.97	3.01	3.06	3.10	3.15	3.20	3.25	3.29	3.34
68	Labor/Legal Services	2.47	2.51	2.55	2.59	2.63	2.67	2.71	2.75	2.79	2.83
69	General Expenses	9.93	10.08	10.24	10.39	10.55	10.71	10.87	11.04	11.21	11.38
70	Tax Collection & Election	3.08	3.14	3.19	3.25	3.33	3.39	3.46	3.52	3.61	3.67
71	Subtotal Services & Supplies	42.19	42.81	43.43	44.07	44.73	45.38	46.04	46.72	47.42	48.12
72											
73	**Program Support for Other Funds**										
74	Library	5.89	6.05	6.21	6.39	6.53	6.71	6.90	7.09	7.27	7.45
75	Recreation	4.19	4.30	4.42	4.55	4.64	4.77	4.91	5.05	5.17	5.30
76	Golf Courses	0.66	0.68	0.70	0.72	0.73	0.76	0.78	0.80	0.82	0.84
77	Entertainment Venues	3.66	3.76	3.87	3.99	3.97	4.45	4.58	4.71	4.82	4.94
78	RDA Successor Agency	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75
79	Downtown Marina	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16
80	Capital Improvements	1.58	1.58	1.58	1.58	1.58	1.58	1.58	1.58	1.58	1.58
81	Administration Building	1.07	1.09	1.11	1.13	1.15	1.18	1.20	1.22	1.25	1.27
82	Grant Match	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30
83	Development Services	-	-	-	-	-	-	-	-	-	-
84	Other	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05
85	Subtotal Program Support	18.30	18.72	19.14	19.61	19.87	20.70	21.20	21.70	22.16	22.65
86											
87	**Debt - Bonds/Other**										
88	Jarvis Utilities Settlement	-	-	-	-	-	-	-	-	-	-
89	Marina Settlement	-	-	-	-	-	-	-	-	-	-
90	2003 COPs	(0.58)	(0.26)	-	-	-	-	-	-	-	-
91	2004 Arena Bonds	-	-	-	-	-	-	-	-	-	-
92	2006 LRBs-Parking (SEB)	0.91	0.91	0.91	0.90	0.91	0.91	0.90	0.90	0.90	0.90
93	2006 DBW-Debt - Marina	-	-	-	-	-	-	-	-	-	-
94	2007 POBs	1.58	2.78	2.78	2.78	2.78	2.78	2.78	2.78	2.78	2.78
95	2007 VRDLRB - 400 E.Main	-	-	-	-	-	-	-	-	-	-
96	2009 LRBs-Pub Facil Bonds/CIP	-	-	-	-	-	-	-	-	-	-
97	Debt - Other/Admin	0.24	0.24	0.24	0.24	0.24	0.24	0.24	0.24	0.24	0.24
98	Subtotal Debt	2.15	3.67	3.93	3.92	3.93	3.93	3.92	3.92	3.92	3.92
99											
100	**Mission Critical Expenditures**	-	-	-	-	-	-	-	-	-	-
101	**Efficiencies/Improved Cost Recovery**	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)
102	**Contingency**	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
103	**Total General Fund Expenditures**	236.15	243.49	249.68	255.98	261.48	268.37	275.10	281.97	288.65	295.54
104											
105	**Surplus(Shortfall)**	(0.64)	(1.55)	(1.12)	(0.58)	0.94	1.19	1.80	2.43	3.42	4.36
106	Transfer to Bankruptcy Fund	(0.17)	(0.12)	(0.09)	(0.05)	(0.02)	-	-	-	-	-
107	AB 506 Carryover	-	-	-	-	-	-	-	-	-	-
108	Encumbrance/Inventory Adjustment	-	-	-	-	-	-	-	-	-	-
109	Beginning Available Balance	19.13	18.31	16.64	15.43	14.79	15.72	16.91	18.72	21.14	24.56
110	**Ending Available Balance**	18.31	16.64	15.43	14.79	15.72	16.91	18.72	21.14	24.56	28.92
111	**Balance as % of Total Expenditures**	7.8%	6.9%	6.2%	5.8%	6.1%	6.4%	6.9%	7.6%	8.6%	9.9%
112	Vacancy Rate (% of Baseline+COLAs)	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%

Revised City of Stockton Long-Range Financial Plan

ALTERNATIVE FORMAT - ATTACHMENT A1

		31-32	32-33	33-34	34-35	35-36	36-37	37-38	38-39	39-40	40-41
1	**General Revenues**										
2	Property Taxes										
3	Property Taxes	51.06	52.62	54.22	55.84	57.50	59.19	60.92	62.67	64.46	66.28
4	Property Tax Admin Fee Reimburse	-	-	-	-	-	-	-	-	-	-
5	In-Lieu of Motor Vehicle Fees	33.91	34.95	36.00	37.09	38.19	39.31	40.45	41.62	42.81	44.02
6	Subtotal Property Taxes	84.97	87.57	90.22	92.93	95.69	98.50	101.37	104.29	107.27	110.30
7	Sales Taxes										
8	75% Point of Sale	53.03	54.74	56.49	58.28	60.11	61.97	63.88	65.82	67.80	69.82
9	25% County ERAF Backfill	17.68	18.25	18.83	19.43	20.04	20.66	21.29	21.94	22.60	23.27
10	Proposition 172	2.38	2.46	2.54	2.62	2.70	2.78	2.87	2.95	3.04	3.13
11	Measure A	49.51	51.10	52.74	54.41	56.11	57.85	59.63	61.44	63.29	65.18
12	Subtotal Sales Taxes	122.59	126.55	130.60	134.73	138.95	143.27	147.67	152.16	156.74	161.41
13	Utility Users Tax										
14	Water	4.22	4.28	4.33	4.39	4.45	4.51	4.57	4.63	4.69	4.75
15	Electric & Gas	23.07	23.39	23.71	24.04	24.36	24.68	25.01	25.33	25.66	25.99
16	Cable	3.02	3.07	3.11	3.15	3.19	3.24	3.28	3.32	3.36	3.41
17	Telecommunications	11.29	11.44	11.60	11.76	11.91	12.07	12.23	12.39	12.55	12.71
18	Subtotal Utility Users Tax	41.60	42.18	42.76	43.34	43.92	44.50	45.09	45.67	46.26	46.85
19	Franchise Tax										
20	PG&E	2.71	2.76	2.81	2.86	2.91	2.97	3.02	3.07	3.12	3.18
21	Cable/Video	3.09	3.15	3.21	3.26	3.32	3.38	3.44	3.50	3.56	3.62
22	Waste Haulers	10.63	10.83	11.02	11.22	11.42	11.63	11.83	12.04	12.24	12.45
23	Subtotal Franchise Tax	16.43	16.74	17.04	17.35	17.66	17.97	18.29	18.61	18.93	19.25
24	Other General Revenues										
25	Business License Tax	11.69	11.87	12.05	12.23	12.41	12.60	12.79	12.98	13.17	13.37
26	Hotel/Motel Tax	2.33	2.35	2.38	2.40	2.43	2.45	2.47	2.50	2.52	2.55
27	Document Transfer Tax	0.65	0.66	0.67	0.68	0.69	0.70	0.71	0.72	0.73	0.74
28	Motor Vehicle License	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15
29	Interest Income	0.66	0.84	0.94	0.97	0.99	1.03	1.07	1.09	1.12	1.15
30	Subtotal Other General Revenues	15.49	15.87	16.18	16.43	16.67	16.93	17.19	17.43	17.70	17.96
31	**Program Revenues**										
32	Fire Contracts	3.86	3.90	3.94	3.98	4.02	4.06	4.10	4.14	4.18	4.22
33	Code Enforcement	3.56	3.60	3.63	3.67	3.71	3.74	3.78	3.82	3.86	3.89
34	Charges for Services	4.62	4.69	4.76	4.83	4.91	4.98	5.06	5.14	5.22	5.30
35	Fines & Forfeitures	1.84	1.88	1.91	1.95	1.99	2.03	2.07	2.11	2.15	2.20
36	Revenues from Other Agencies	0.66	0.66	0.66	0.66	0.66	0.66	0.66	0.66	0.66	0.66
37	Licenses & Permits	0.52	0.53	0.54	0.55	0.57	0.58	0.59	0.60	0.61	0.62
38	Misc Other Revenues	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)	(0.06)
39	Subtotal Program Revenues	15.00	15.19	15.38	15.58	15.78	15.99	16.19	16.40	16.62	16.83
40	**Interfund Reimbursements**										
41	Indirect Cost Allocation	7.93	8.04	8.27	8.37	8.61	8.42	8.65	8.89	9.01	9.27
42	Refunds & Reimbursements	0.35	0.36	0.36	0.37	0.38	0.39	0.39	0.40	0.41	0.42
43	Rents/Leases/Concessions	2.68	2.68	2.68	2.68	2.68	2.68	2.68	2.68	2.68	2.68
44	Parking Fund - Debt Service	0.90	-	-	-	-	-	-	-	-	-
45	Subtotal Reimbursements	11.86	11.08	11.31	11.42	11.67	11.48	11.73	11.98	12.10	12.37
46	**Total General Fund Revenues**	307.95	315.18	323.50	331.78	340.34	348.64	357.52	366.55	375.61	384.97
47											
48	**Salaries & Benefits**										
49	Salaries - Safety (w/ COLA)	80.99	83.42	85.92	88.50	91.16	93.90	96.72	99.63	102.63	105.72
50	Salaries - Non-Safety (w/ COLA)	34.14	35.19	36.27	37.39	38.54	39.73	40.95	42.21	43.52	44.86
51	Salaries - Part time, Temporary	2.56	2.64	2.72	2.81	2.90	2.99	3.09	3.19	3.29	3.40
52	Pension - CalPERS	53.19	54.45	52.37	53.56	43.82	44.67	45.57	43.13	44.07	45.09
53	Health/Dental/Vision-Employee (w/COLA	16.09	16.41	16.74	17.07	17.41	17.76	18.11	18.48	18.85	19.22
54	Health - Retirees	-	-	-	-	-	-	-	-	-	-
55	Workers Compensation	11.04	11.17	11.29	11.42	11.55	11.68	11.81	11.94	12.07	12.21
56	Other Pay & Benefits	8.56	8.80	9.05	9.31	9.58	9.85	10.14	10.43	10.73	11.04
57	Overtime & Standby/Callback	13.51	13.91	14.33	14.75	15.19	15.64	16.11	16.59	17.09	17.61
58	Compensated Absences	6.07	5.95	6.01	6.07	6.14	6.20	6.26	6.32	6.38	6.45
59	Salaries - Safety-Expiring Grants	3.72	3.84	3.96	4.09	4.22	4.35	4.49	4.63	4.78	4.94
60	Net Labor Adjust/Reimbursements	1.76	1.80	1.80	1.85	1.75	1.79	1.84	1.84	1.88	1.93
61	Budgeted Vacancy Savings	(6.90)	(7.07)	(7.16)	(7.35)	(7.21)	(7.40)	(7.60)	(7.70)	(7.91)	(8.12)
62	Subtotal Salaries & Benefits	224.74	230.50	233.31	239.47	235.03	241.16	247.48	250.70	257.39	264.34

Revised City of Stockton Long-Range Financial Plan

ALTERNATIVE FORMAT - ATTACHMENT A1

	31-32	32-33	33-34	34-35	35-36	36-37	37-38	38-39	39-40	40-41
63 **Services & Supplies**										
64 Internal Services-Equipment	19.37	19.63	19.89	20.16	20.43	20.70	20.98	21.26	21.55	21.84
65 General Liability Insurance	4.43	4.50	4.57	4.63	4.70	4.77	4.85	4.92	4.99	5.07
66 Utilities	3.47	3.52	3.57	3.63	3.68	3.74	3.79	3.85	3.91	3.97
67 Maintenance & Repair Services	3.39	3.44	3.50	3.55	3.60	3.66	3.71	3.77	3.82	3.88
68 Labor/Legal Services	2.87	2.92	2.96	3.00	3.05	3.09	3.14	3.19	3.24	3.28
69 General Expenses	11.55	11.73	11.91	12.09	12.27	12.46	12.65	12.84	13.04	13.23
70 Tax Collection & Election	3.74	3.81	3.91	3.98	4.06	4.14	4.24	4.32	4.40	4.49
71 Subtotal Services & Supplies	48.83	49.55	50.30	51.04	51.79	52.56	53.35	54.14	54.95	55.76
72										
73 **Program Support for Other Funds**										
74 Library	7.47	7.65	7.65	7.84	7.42	7.60	7.79	7.79	7.98	8.18
75 Recreation	5.31	5.44	5.44	5.58	5.28	5.41	5.54	5.54	5.68	5.82
76 Golf Courses	0.84	0.86	0.86	0.88	0.84	0.86	0.88	0.88	0.90	0.92
77 Entertainment Venues	4.96	5.07	5.08	5.20	4.93	5.04	5.16	5.17	5.29	5.43
78 RDA Successor Agency	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75
79 Downtown Marina	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16
80 Capital Improvements	1.58	1.58	1.58	1.58	1.58	1.58	1.58	1.58	1.58	1.58
81 Administration Building	1.30	1.33	1.35	1.38	1.41	1.43	1.46	1.49	1.52	1.55
82 Grant Match	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30	0.30
83 Development Services	-	-	-	-	-	-	-	-	-	-
84 Other	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05
85 Subtotal Program Support	22.72	23.18	23.22	23.72	22.71	23.18	23.66	23.70	24.21	24.74
86										
87 **Debt - Bonds/Other**										
88 Jarvis Utilities Settlement	-	-	-	-	-	-	-	-	-	-
89 Marina Settlement	-	-	-	-	-	-	-	-	-	-
90 2003 COPs	-	-	-	-	-	-	-	-	-	-
91 2004 Arena Bonds	-	-	-	-	-	-	-	-	-	-
92 2006 LRBs-Parking (SEB)	0.90	-	-	-	-	-	-	-	-	-
93 2006 DBW-Debt - Marina	-	-	-	-	-	-	-	-	-	-
94 2007 POBs	2.78	2.78	2.78	2.78	2.78	2.78	2.78	2.78	2.78	2.78
95 2007 VRDLRB - 400 E.Main	-	-	-	-	-	-	-	-	-	-
96 2009 LRBs-Pub Facil Bonds/CIP	-	-	-	-	-	-	-	-	-	-
97 Debt - Other/Admin	0.24	0.24	0.24	0.24	0.24	0.24	0.24	0.24	0.24	0.24
98 Subtotal Debt	3.92	3.02	3.02	3.02	3.02	3.02	3.02	3.02	3.02	3.02
99										
100 **Mission Critical Expenditures**	-	1.00	14.00	13.00	29.00	26.00	31.00	34.00	36.00	36.00
101 **Efficiencies/Improved Cost Recovery**	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)	(3.00)
102 **Contingency**	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
103 **Total General Fund Expenditures**	299.20	306.25	322.85	329.25	340.55	344.91	357.52	364.56	374.56	382.87
104										
105 **Surplus(Shortfall)**	8.75	8.92	0.65	2.53	(0.21)	3.73	0.00	1.98	1.05	2.10
106 Transfer to Bankruptcy Fund	-	-	-	-	-	-	-	(0.00)	(0.02)	(0.03)
107 AB 506 Carryover	-	-	-	-	-	-	-	-	-	-
108 Encumbrance/Inventory Adjustment	-	-	-	-	-	-	-	-	-	-
109 Beginning Available Balance	28.92	37.67	46.59	47.24	49.77	49.56	53.30	53.30	55.28	56.31
110 **Ending Available Balance**	37.67	46.59	47.24	49.77	49.56	53.30	53.30	55.28	56.31	58.38
111 **Balance as % of Total Expenditures**	12.7%	15.3%	14.7%	15.2%	14.7%	15.6%	15.0%	15.3%	15.1%	15.4%
112 Vacancy Rate (% of Baseline+COLAs)	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%	3.0%

EXHIBIT S

AGENDA ITEM *15.3*

14-0202 ***FISCAL YEAR 2012-13 FOURTH QUARTER GENERAL FUND BUDGET UPDATE AND YEAR-END PROJECTION***

EXHIBIT
PENGAD 800-631-6989
2016

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CTY257654

City of Stockton

Legislation Details (With Text)

File #:	14-0202	Version: 1		
Type:	New Business		Status:	Agenda Ready
File created:	2/4/2014		In control:	City Council/Successor Agency to the Redevelopment Agency/Public Financing Authority Concurrent
On agenda:	2/25/2014		Final action:	

Title: FISCAL YEAR 2012-13 FOURTH QUARTER GENERAL FUND BUDGET UPDATE AND YEAR-END PROJECTION

RECOMMENDATION

It is recommended that the City Council accept this report, adopt a resolution amending the Fiscal Year 2012-13 Annual Budget to address a shortfall in funding for Debt Administration and amend the Adopted Budget Council Resolution 2013-06-25-1601-01, Section 7 to provide for the retention of $3.1 million of the Ending Fund Balance in the General Fund.

Sponsors:

Indexes:

Code sections:

Attachments: Attachment A - General Fund 4th Quarter Budget Update
Attachment B - Revenue Summary FY 2012-13 Year End Projection
Proposed Resolution - 2013-14 Q4 Budget Update

Date	Ver.	Action By	Action	Result

FISCAL YEAR 2012-13 FOURTH QUARTER GENERAL FUND BUDGET UPDATE AND YEAR-END PROJECTION

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Summary

The City's General Fund budget for Fiscal Year 2012-13 was balanced by making $26 million in reductions to creditors and retirees under the Pendency Plan adopted on June 26, 2012. All reductions included in this Plan/budget were effective through the entirety of the 2012-13 Fiscal Year.

Staff provided the City Council with three previous status reports on the Fiscal Year 2012-13 General Fund - the first quarter results on December 11, 2012, the second quarter results on March 19, 2013 and the third quarter results on June 25, 2013. The third quarter report concluded that based on information available at that point, and assuming trends apparent at that time continued, the General

Fund would end the year with a positive available balance between $6.9 and $8.9 million, depending on whether any portion of the $2 million General Fund Contingency Reserve was used in the last quarter of the year.

The Budget Office has now reviewed and analyzed the preliminary financial activity in the General Fund for the final three months ended June 30, 2013, with results shown in Attachment A. The City has closed its financial records and the year-end audit is in progress, however end of year totals are preliminary and unaudited in this report. Staff does not anticipate significant changes to these amounts. Though we had anticipated a normal schedule, and this year-end budget update report would be presented to City Council within six months of year end, there was more effort needed to close out the 2012-13 year. As was discussed in prior reports, the antiquated financial systems, getting outstanding audits caught up, bankruptcy negotiations, preparation for the 2014-15 budget process and start of labor negotiations, all create competing priorities which delayed this report. Going forward, it will be important to address this issue in order to avoid negative impacts on the implementation of Measures A & B. Staff is requesting additional positions as part of the Measure A & B implementation plan (subject to a separate staff report at this meeting). These added positions will not only support the new sales tax measure but can provide much needed assistance with closing efforts and bringing financial reporting current.

Based on twelve month revenue and expense totals, the General Fund is projected to have ended the year with a positive available fund balance of approximately $16.1 million. This includes $2.0 million in contingency reserve budget that was not used, as well as approximately $828,000 of unused Labor Litigation/Chapter 9 funds.

The Adopted Budget Council resolution directed that the General Fund ending balance in its entirety was to be transferred to the Bankruptcy Fund to be used for claims and related costs to exit bankruptcy. The Government Finance Officers Association recommends, at a minimum, that general -purpose governments, regardless of size, maintain unrestricted fund balance in their General Fund of no less than two months of regular General Fund operating revenues or regular General Fund operating expenditures, which is equivalent to 16.67% of those amounts. Cities with formal reserve policies generally specify between 10 - 20% reserve levels. The Administration now recommends that the portion of the Ending Fund Balance ($3.1 million) that resulted from the unanticipated refund of County Property Tax Administration Fees (explained in detail later in this report), be retained in the General Fund to help build the available fund balance. With a balance of $3.1 million (or just under 2%), the City is still substantially below these recommended levels. This recommendation is made to provide a small start towards building up one-time monies to meet the many unfunded, but mission critical needs for spending. These include significant expenditures for deferred building and facility maintenance, deferred tree maintenance, mobile and portable radios for public safety, proposed technology projects identified in the City-wide Technology Strategic Plan, and additional rate changes to fund accumulated deficits in the City Internal Service Funds (Workers' Compensation - $44.0 million; General Liability-$4.9 million).

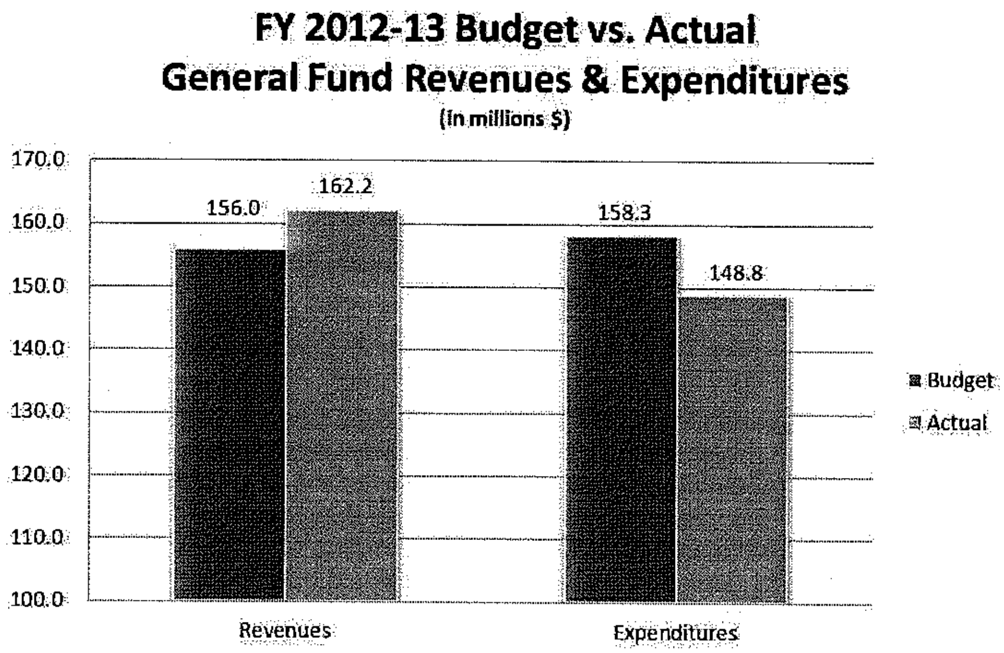
The remaining $13 million fund balance will, per prior Council direction, be transferred to the Bankruptcy Fund. These funds will be used to settle the claims of creditors that have been negotiated and to pay for the legal expenses associated with the City's bankruptcy. Settlements could be paid from these funds such as the retiree settlement and the anticipated move to the 400 East Main building as part of the settlement with Assured Guaranty under the plan. The City expects to conclude the bankruptcy case by the end of the fiscal year but we expect additional expenses to conclude the case and to fully implement the plan of adjustment. Should the bankruptcy case continue, due to the aggressive efforts of the one significant creditor that has yet to reach an agreement with the City, these funds would be used for associated legal expenses. If that case were to be long and protracted these funds would not be sufficient to cover all of those expenditures.

The increase in the 2012-13 General Fund available fund balance estimate provided in this report compared to the third quarter report (including no use of Contingency) is approximately $7.2 million. This increase was the result of an increase in revenue estimates in a number of categories, as well as higher than previously projected savings in various expenditure categories described below.

By far the largest change was the unanticipated receipt of a one-time Property Tax Administrative Fee (PTAF) refund in the amount of $3.1 million from San Joaquin County as the result of a court ruling earlier in the year. The remaining variances from the third quarter projections in revenue were improvements in Sales Tax ($382,000), Utility User Fees ($151,000), Refunds and Reimbursements ($720,000) and Rents, Leases and Concessions ($258,000), partially offset by lower than anticipated collections in Indirect Cost Allocations ($329,000) and Program Revenues ($119,000).

Total expenditure savings were up from third quarter estimates by approximately $2.6 million. This represented higher than previously anticipated savings in Labor Litigation and Chapter 9 expenditure ($828,000), as well as higher savings in several City departments and expenditure categories: Fire, Administrative Services, Human Resources, RDA Successor Agency, Grant Match and Tax Collection and Election costs.

Final 2012-13 General Fund year-end revenues are projected in this report at $162.2 million, an increase over the Amended Budget of $6.2 million, or approximately 4%. General Fund expenditures for 2012-13 are estimated at $148.8 million, $9.5 million, or 6.0% below the Amended Budget. Of the $9.5 million in expenditure budget savings, $2.0 million is the result of not utilizing any of the $2.0 million Contingency Reserve budget. Again, this $16.1 million in savings is only possible due to the $26.0 million in cuts made through the City's bankruptcy to balance the budget and the deferral of critical expenditures.



DISCUSSION

Background

One of the strategic initiatives developed to support the City Council's "Fiscal Sustainability - Getting our Fiscal House in Order" goal was to provide regular analysis and reporting of the City's financial status. The Quarterly Budget Update reports are provided as part of that effort.

Prior Budget Actions

During the prior three years, several extensive budget actions have been brought before Council that involved significant service and compensation reductions. The Fiscal Year 2011-12 Budget, as adopted by Council on June 21, 2011, was balanced using a combination of service reductions (approximately $12 million) and significant employee compensation reductions (approximately $25 million) imposed under the City's second declaration of fiscal emergency in addition to the deferral of critical expenditures. On February 28, 2012 a Fiscal Condition Update was presented to Council that included a revised Fiscal Year 2011-12 net annual operating deficit projection of $8.6 million. The change was primarily due to declines in revenue, additional subsidy to the Redevelopment Agency for expenditure overdrafts, other actions to address prior year accounting adjustments (e.g. writing off accounts receivables, cash reconciliation variances, etc.), and other items described in that report. The Council approved $15 million in solutions to resolve deficit fund balances (FY 2010-11 $6.6 million and FY 2011-12 $8.6 million) through unrestricted fund transfers and suspending certain general fund supported debt payments, and other actions.. Without these actions at year-end, the General Fund would have ended FY 2011-12 with a large deficit fund balance and a negative cash balance.

On June 26, 2012 the Council closed a $26.0 million budget deficit by approving the 2012-13 Annual Budget and Pendency Plan assuming the protection of Chapter 9 (bankruptcy). The Pendency Plan suspended debt payments, reduced retiree medical benefits in FY 2012-2013, continued reductions of pay and benefits imposed under Declarations of Fiscal Emergency and reduced compensation components that exceeded those in the City's labor market. The City filed for Chapter 9 Bankruptcy on June 28, 2012 and on April 1, 2013 the judge ruled that Stockton is eligible for bankruptcy relief. The City continues to provide services under the Pendency Plan while under Chapter 9 protection. The FY 2012-13 Pendency Plan was amended by Council on September 11, 2012, to adjust for new property tax information and agreements reached with labor.

Budget Monitoring Current Fiscal Year

On June 25, 2013 staff provided the City Council with a status report on the General Fund results for the Third Quarter and Year-end Projection which identified a likely year-end positive fund balance to a range of $6.9 to $8.9 million (again depending on whether any of the $2.0 Contingency Reserve was used in the final months of the year). In that report, General Fund revenue collections were estimated to end the year above the amended budget by $1.7 million or 1.1%, and it was projected that the overall annual savings in General Fund expenditures would be approximately $4.8 million or 3.1%.

Present Situation

2012-13 General Fund Fourth Quarter Results

A review of preliminary year-end revenues and expenditures for Fiscal Year 2012-13, which includes fourth quarter results, has now been conducted. The summary of the year-end outcomes, including a comparison with the Amended Budget and Third Quarter projections is displayed on Attachment A. This analysis covers 12 months of actual activity. The City has closed its financial records and the year-end audit is in progress, however end of year totals are preliminary and unaudited in this report. Year-end results are based on the information currently available with projections to year-end. Staff does not anticipate significant changes to these amounts. Explanations and details regarding specific revenue and expenditure variances are presented in the following pages.

Revenue

Based on current information, it is expected that the General Fund revenues will end the year approximately $6.2 million greater than budgeted, which is above the estimates provided in the prior Quarterly reports. This positive variance (4.0%) from budget reflects offsetting revisions in estimates in both the tax and non-tax revenue categories. As described above the most significant variance from prior estimates reflects the unexpected receipt of $3.1 million in refunds from the County for prior year over collections of the Property Tax Administration Fee (PTAF). This results from the outcome of litigation in the City of Alhambra et al. v. County of Los Angeles case. The City of Alhambra, along with a number of other cities, sued the County of Los Angeles regarding the calculation of Property Tax Administration fees for the years from 2006-07 to 2011-12. The Cities argued that SB 1096 Triple Flip and Motor Vehicle License Fee revenues, which are now incorporated into Property Tax category in receipts received from the Counties, should be excluded from the calculation of the PTAF charged to cities. The California Supreme Court, on appeal, ruled unanimously that the methodology utilized by the County of Los Angeles, as well as the other involved counties, was illegal. Late in the year, San Joaquin County notified the City of Stockton that it would be complying with the refund of PTAF plus accumulated interest. Council approved the settlement of the City's claim against the County of San Joaquin for recovery of these fees on December 17, 2013. Subsequently the City received a payment of $3.1 million, not including interest to be received in FY 2013-14 which was under negotiation. This amount had not been anticipated in prior budget projections.

Other categories where revenue exceeded the estimates provided in the third quarter review include Sales Tax, Utility Users Tax, Interest Earnings, Refunds and Reimbursements and Rents, Leases and Concessions, offset by lower than anticipated receipts in the Indirect Cost Allocation and Program Revenues categories.

Current estimates indicate that the General Fund received $162.2 million in revenue for the 12 months of the fiscal year. Attachment B details the year-end revenue received in the General Fund by category, and indicates the variances from the Third Quarter Report as well as the Amended 2012 -13 General Fund budget.

Property Taxes - Property tax revenues are received primarily in December and May. As the general economy of the City slowly improves, median home prices are trending upward. Overall property tax revenues projections of $46.7 million are $3.1 or 7.2% more than projected in the third quarter report, entirely due to the refund of the prior year Property Tax Administrative Fee (PTAF) refund described above.

Sales Tax - The final Quarter receipts came in slightly above prior estimates. As a result 2012-13 sales tax revenues are $382,000 more than the third quarter budget update presumed. This is an increase of $1.0 million (2.6%) over budget and would represent a 7% increase over Fiscal Year 2011-12 revenues. This growth is attributable to 3.7% increase in point of sale transactions and 18% increase due to a State true-up of the 2011-12 triple flip back fill. The growth in point of sales tax reflects improved automobile sales, the new Wal-Mart Supercenter, improved consumer sentiment and pent-up demand for general consumer goods, and a recovery in travel and tourism boosting sales at restaurants, hotels and car rentals.

Utility Users Tax - Total Utility Users Tax (UUT) revenues are projected to come in about 1.4% above the budget for a total of $31.9 million. Projected UUT revenues are $152,000 above that projected in the third quarter report reflecting better than anticipated Water, Electricity and Gas UUT receipts. Receipts are received monthly and monitored by an outside consultant. Cable tax revenue came in $408,000 above the Amended Budget due to a reporting change by AT&T last September which separates cable from telecommunications revenues. The result is that cable revenue reports higher than projected while the telecommunications revenue reports lower. Telecommunication UUT revenues were $107,000 below the budget. Both Cable and Telecommunications UUT revenues, however, came in slightly below Third Quarter estimates. Receipts from Comcast Cable ended the year at the budgeted level of three percent less than prior year. For AT&T, growth in wireless telecommunications revenues from rate increases, additional wireless customers and prior year catch up payments found by the City's consultant offset most of the loss due to AT&T reporting corrections.

Franchise Tax - Overall Franchise revenue is projected to be $416,000 or 3.7% more than budgeted. This is approximately $81,000 higher than anticipated in the Third Quarter report. The improved collections are primarily due to improvements in the commercial and industrial sectors leading to increased volume and need for services provided by waste hauler companies. PG&E franchise revenues came in 1% below budget as anticipated in the third quarter report. Cable/video franchise revenues improved $22,000 in the fourth quarter to exceed the amended budget by 3.7%.

Business License Tax - The majority of the Business License tax is received in the last five months of the fiscal year. In the third quarter update, the Administrative Services Department projected that it would achieve $9.1 million by fiscal year end which was $225,000 more than projected in the second quarter budget update, but still below the budgeted level by $110,000. Final collections were slightly above that level at $9,168,000, which was under budget by $67,000 (0.7%). The growth over prior year collections can be attributed to improved overall compliance and an 11.7% increase in the number of licenses including 261 new and 1,423 renewed licenses.

The General Fund pooled interest earnings were greater than anticipated in the original budget. This resulted from the higher ending fund balance and cash in FY 2011-12, only made possible due to the bankruptcy. This category also includes interest received from the Stormwater Enterprise Fund in repayment of a prior year loan. Collections for the year exceeded the budgeted level by $271,000.

Program Revenues

- Fire contracts - Four local fire districts contract with the City for services and reimburse the City based on a percentage of the City's total actual Fire Department operating costs. Fire contract revenues were $3.3 million or $583,000 or 14.9% less than the budgeted amount due to the reduction in fire personnel expenditures implemented as part of the 2012-13 Pendency Plan. That result was unchanged from the projection included in the Third Quarter report.
- Code Enforcement - Final collections were consistent with third quarter projections at $2.8 million, but still under budget by $378,000 or 11.9%. Code Enforcement revenues were lower than the budgeted $3.2 million due to the impact of the discontinuation of the Teeter Plan by San Joaquin County. Previously, under the Teeter Plan, the City was reimbursed for all amounts owed through the lien process, regardless of what had been collected. Under the new system, the City is reimbursed only when and if monies are collected by the County. It was very difficult to estimate the impact of the change going into this fiscal year absent information on collection rates under the Teeter Plan. Police Department staff used what was thought to be a conservative estimate that the City would collect 40% of the amount liened.
- Fines & Forfeitures - The third quarter report projected this category would end the year $365,000 below budget due to reductions in traffic and parking citations, criminal fines and a prior year correction in DUI fines by San Joaquin County. Higher than expected payments brought on by increased collection activities in the final quarter of the year resulted in revenue receipts almost equal to the budget of $1.5 million. In addition, a change in the recording of accounts receivable not previously projected added $518,000 to this category, bringing the total to just over $2.0 million or $543,000 over budget. In FY 2012-13 the full parking ticket accounts receivable was recorded with a separate allowance for uncollectible accounts reducing the receivable instead of recording the allowance net of uncollectible accounts as in previous fiscal years. The $518,000 increase in the receivable is offset by a $(395,000) allowance for uncollectible accounts in the Misc. Other Revenues category.
- The allowance for uncollectible accounts, shown as a reduction to revenues in the Misc. Other Revenues category was greater than the budget estimate of $200,000.

Indirect Cost Allocation - Indirect costs (City-wide administrative overhead) recovered by the General Fund in FY 2012-13 were less than projected by $329,000 or 6.8% because federal programs were not charged as budgeted, and capital project expenses were 14% lower than previous years. The

City is in the process of preparing a request for proposal in order to solicit firms experienced in preparing basic cost allocation plans that are in compliance with guidelines and to provide further review of costing methods used in order to improve the distribution and recovery/reimbursement of these costs.

Reimbursements - As projected in the third quarter update, Police Reimbursements are well above budgeted levels ($370,000) as a result of several multi-agency enforcement missions and the ability to receive reimbursement for overtime hours incurred. These revenues from agencies such as the FBI and ATF are offset by an increase in overtime expenses within the Police Department, particularly in the Special Investigations Section.

Rents/Leases/Concessions - The Municipal Utilities Department (MUD) pays rent for use of properties and office space purchased and maintained by the General Fund. The rent is adjusted annually based on market value, depreciation and City overhead costs. A true up for Fiscal Year 2011-12 rent was processed during the fourth quarter increasing the revenue in this category by $258,000 over the amount projected in the Third Quarter report.

Expenditures

The General Fund continued to experience savings in the fourth quarter of 2012-13 primarily due to lower than anticipated Bankruptcy expenses, reduced support needed by the Successor Agency and vacant staff positions. These savings were only partially offset by a small, previously anticipated increase in debt service administration costs. Preliminary year-end results show General Fund expended $148.8 million or 94% of the budgeted expenditures as summarized in Attachment A. This represents an additional $2.6 million in expenditure savings over what was projected in the Third Quarter report.

The 2012-13 Labor Litigation budget of $2 million was based on the assumption that all labor agreements would have to be renegotiated before they expired on June 30, 2013. Since only minimal modifications were made to most of the labor agreements, attorney and consultant costs were only $360,000. Of the remaining $1.7 million, $825,000 was used for Chapter 9 costs that exceeded the approved budget. The resulting Labor Litigation unused budget is $828,000. As reported in the Third Quarter report, the savings from the Labor Litigation budget was applied to help support the General Fund's share of bankruptcy costs which were projected at that time to be $1.5 million greater than the budget at $5.7 million. In FY 2012-13 the City spent a total of $7.0 million on the Chapter 9 filing. Not all of this funding came from the General Fund. This was greater than the original budget due to the creditor's aggressive litigation strategy. The General Fund's share of actual 2012-13 bankruptcy costs ended the year at $5.0 million which was below the Third Quarter projection by $724,000.

The projected General Fund subsidy for administration of the Successor Agency has been reduced by an additional $219,000 since the Third Quarter report based on actual expenses related to the winding down of redevelopment activities. The Successor Agency subsidy was approximately half of the budgeted $1.1 million subsidy because potential legal expenses did not materialize. The dissolution of the former Redevelopment Agency made it difficult to project in 2012 what legal and litigation expenses might be incurred by the new Successor Agency.

The adopted General Fund budget included $975,000 for anticipated vacancy savings. Actual savings from vacant positions throughout FY 2012-13 was approximately $5.0 million, with the majority occurring in the Police and Fire Departments. The Police Department expenditures were slightly higher than the $79.1 million projected in the third quarter report, but still represented savings of $3.4 million from the budgeted level, reflecting the high level of vacancies experienced by that department. The Fire Department experienced additional vacancy savings in the fourth quarter bringing expenses down to $34.6 million, $637,000 less than projected in the third quarter report, and $1.7 million below the budgeted level. The Fire Department had 11 vacancies toward the end of the fiscal year, up 5 from February. Vacancies were filled slower than anticipated due to the complex re-hire process from the lay-off list. The increase in the savings level from that estimated in the Third Quarter report reflected the fact that that projection assumed that a spike in overtime expenses which occurred last year in the fourth quarter would be repeated. Overtime in the fourth quarter was actually 17% below what had been projected. In the third quarter report Public Works was projected to come in on budget but actually experienced savings of approximately $152,000 at year end.

The City Council, City Auditor, Peacekeeper Program, Arts Commission and Other Administration expenses all came in close to the third quarter projections with less than $25,000 in additional savings realized. The City Manager, City Attorney, City Clerk, and Economic Development Departments experienced marginal additional savings of $25,000 to $35,000 each. The City Manager's Office came in 3.4% under budget saving $35,000. The City Attorney's Office experienced significant savings compared to budget ($384,000 or 41.2%) due to several vacancies occurring early in the fiscal year which were not filled for most of the fiscal year due to workload uncertainties and the City's bankruptcy filing. The City Clerk's Office came in 4.8% below budget with $34,000 in savings. The Economic Development Department was under budget by $92,000 also due to vacancies that were filled late in the fiscal year and due to attrition of additional staff in the last half of 2012-13.

Administrative Services ended the fiscal year $279,000 below budget primarily due to continued vacancy savings. The primary sources of these savings came from the vacancies, in a number of positions throughout Accounting, Revenue Services and the Administrative Services Office. Though substantial efforts were made to fill vacancies as fast as possible, the department continued to experience increased turnover towards the end of the year including several retirements. Much of this can be attributed to substantial cuts that were made to compensation in prior years and the huge demands placed on staff due to the bankruptcy and changes within the organization.

The third quarter report projected that Human Resources would save $385,000 due to vacancies, postponed training and recruitments, reduced legal service needs and cost savings on pre-employment screening services. Savings in Human Resources exceeded this estimate by $193,000 with total expenses of $1.3 million. Additional vacancy savings, legal service savings and a Leadership Development Academy budgeted at $85,000 but not being implemented until next fiscal year accounts for the additional savings.

As noted above, two budget amendments require Council resolutions. The first amendment authorizes adding $58,059 to increase the General Fund contribution to Debt Service Administration. Staff and overhead costs related to management of City bonded debt is distributed between assessment districts and City funds based on their share of bond issuances. The General Fund's share was underestimated in the Fiscal Year 2012-13 budget. The third quarter report projected this increase would need to be $68,000 but this amount has been reduced to $58,059 based on actual debt service administration expenses and allocation of costs to all bond issuances. The second amendment authorizes the retention of the $3.1 million in PTAF refund revenue in the General Fund Ending Fund Balance as an exception to the Budget Resolution number 2013-06-25-1601-01, Section 7. This action would help provide a start in building a source of funding for the many unfunded infrastructure maintenance needs facing the City. This is also consistent with the City's long term financial forecast. The remainder of the additional General Fund ending fund balance would go, as previously authorized, to the Bankruptcy Fund to help offset ongoing expenses required for the Chapter 9 process.

The Contingency Reserve was not spent in Fiscal Year 2012-13. This $2 million contingency funding is intended for unexpected expenditures or emergencies that, by their very nature, are impossible to predict. The same level of Contingency Reserve funding was included in the Adopted 2012-13 General Fund Budget.

All other General Fund departments not mentioned above ended the year at or slightly below previously projected levels.

The projected $3.1 million General Fund ending balance, after the $13 million is transferred to the Bankruptcy Fund per Council direction, is just under 2% of the City's General Fund revenues for that year. This is significantly below the Government Finance Officers Association recommended levels. Again, though, it must be noted that this balance was only achievable because of the $26 million of reductions made to creditors and retirees through the Pendency Plan assuming the protection of Chapter 9 Bankruptcy and deferral of critical expenditures.

FINANCIAL SUMMARY

Based on the current projections and unaudited year-end data, it is estimated that the City's General Fund ended the Fiscal Year 2012-13 with a $16.1 positive balance of which $13 million will be transferred to the Bankruptcy Fund per Council direction. This information will continue to be updated as additional data becomes available.

The following Budget Amendment is recommended to address a shortfall of funding in the Debt Service Administration fund as described above:

Increase General Fund Transfer to 201 Debt Administration Fund

010-0000-992	General Fund Transfer Out	$58,059
201-0000-492	Debt Administration Transfer In	$58,059
201-2001-510	Debt Administration Expense	$58,059

Attachment A - 2012-13 Fourth Quarter Budget Update - General Fund
Attachment B - 2012-13 Revenues - General Fund

Attachment A
City of Stockton
2012-13 Fourth Quarter Budget Update
General Fund - 010 by Program

	FY 2012-2013					
	Approved Budget	**3rd Quarter Projection**	**4th Quarter Year End Projection**	**% of Budget**	**Change In 4th Quarter vs. 3rd Quarter**	**4th Quarter Projection vs. Budget**
Beginning Available Balance						
Prior Year AB506/Encumbrance*	$ 2,713,214	$ 2,713,214	$ 2,713,214			
Revenues						
General Tax Revenues	136,112,867	138,239,578	142,282,559	105%	4,042,981	6,169,692
Program Revenues	11,506,189	10,560,789	10,442,026	91%	(118,763)	(1,064,163)
Interfund Reimbursements	7,532,129	8,018,552	8,667,264	115%	648,712	1,135,135
Transfers In	836,528	835,909	835,865	100%	(44)	(663)
	155,987,713	157,654,828	162,227,714	104%	4,572,886	6,240,001
Expenditures						
Programs						
Police	82,593,751	79,071,700	79,233,983	96%	(162,283)	3,359,768
Fire	36,343,178	35,261,468	34,624,106	95%	637,362	1,719,072
Public Works	6,829,011	6,829,013	6,677,431	98%	151,582	151,580
Economic Development	682,744	624,950	590,792	87%	34,158	91,952
Peacekeeper Program	214,065	214,065	210,457	98%	3,608	3,608
Arts Commission	33,327	21,379	21,018	63%	361	12,309
	126,696,076	122,022,575	121,357,787	96%	664,788	5,338,289
Program Support for Other Funds						
Library	3,907,000	3,907,000	3,907,000	100%	-	-
Recreation	2,340,000	2,340,000	2,340,000	100%	-	-
Entertainment Venues	2,637,350	2,637,350	2,637,350	100%	-	-
RDA Successor Agency	1,069,248	750,000	530,842	50%	219,158	538,406
Downtown Marina	47,299	47,299	47,299	100%	-	-
Capital Improvement	575,000	575,000	575,000	100%	-	-
Administration Building	162,000	162,000	162,000	100%	-	-
Golf Courses	502,000	502,000	502,000	100%	-	-
Grant Match	262,000	162,000	2,481	1%	159,519	259,519
Public Facility Fee Admin	25,000	25,000	25,000	100%	-	-
Development Services	1,000,000	1,000,000	1,000,000	100%	-	-
	12,526,897	12,107,649	11,728,972	94%	378,677	797,925
Administration						
City Council	465,512	465,511	456,459	98%	9,052	9,053
City Manager	1,012,874	1,012,874	978,104	97%	34,770	34,770
City Attorney	933,639	574,050	549,152	59%	24,898	384,487
City Clerk	716,199	716,199	682,084	95%	34,115	34,115
City Auditor	597,882	595,806	593,094	99%	2,712	4,788
Administrative Services	3,390,099	3,350,667	3,111,474	92%	239,193	278,625
Human Resources	1,919,124	1,534,224	1,340,872	70%	193,352	578,252
Tax Collection & Election	2,198,755	2,198,755	2,057,508	94%	141,247	141,247
Other Administration	(373,212)	(373,212)	(382,409)	102%	9,197	9,197
Vacancy Savings	(975,618)	-	-	0%	-	(975,618)
Inventory Adjustment	-	-	(49,474)		49,474	49,474
Labor Litigation	2,012,358	463,358	359,560	18%	103,799	1,652,799
Chapter 9	4,191,547	5,740,526	5,016,071	120%	724,455	(824,524)
	16,089,159	16,278,758	14,712,494	91%	1,566,264	1,376,665
Debt Service	978,560	1,046,560	1,036,619	106%	9,941	(58,059)
Contingency	2,000,000	2,000,000	-	0%	2,000,000	2,000,000
Expenditure Subtotal	158,290,692	153,455,542	148,835,871	94%	4,619,671	9,454,821
Net Annual Activity	(2,302,979)	4,199,286	13,391,843			
Proj. Ending Available Balance	410,235	6,912,500	16,105,057			

* The Beginning Balance has been adjusted to include AB506 and encumbrance balances from prior year.

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EX 2016_0012

Attachment B
City of Stockton
2012-13 Revenues
General Fund - 010

	FY 2012-2013				
	Amended Budget	3rd Quarter Projection	Year End Projection	Variance vs. 3rd Quarter	Variance vs. Budget
General Tax Revenues					
Property Taxes					
Property Taxes	$ 25,587,100	$ 26,280,000	$ 26,326,096	$ 46,096	$ 738,996
In-Lieu of Motor Vehicle Fees	17,299,000	17,307,349	17,307,349	-	8,349
Prior Year Admin Adjustment			3,093,428	3,093,428	3,093,428
	42,886,100	43,587,349	46,726,873	3,139,524	3,840,773
Sales Tax					
75% Point of Sale	27,896,856	28,330,077	28,682,711	352,634	785,855
25% County ERAF Backfill	9,799,434	9,937,923	9,937,924	1	138,490
Proposition 172	1,217,200	1,270,000	1,298,885	28,885	81,685
	38,913,490	39,538,000	39,919,520	381,520	1,006,030
Utility Users Tax					
Water	3,121,400	3,246,000	3,370,767	124,767	249,367
Electric & Gas	17,296,500	17,059,000	17,199,134	140,134	(97,366)
Cable	1,887,000	2,333,000	2,295,378	(37,622)	408,378
Telecommunications	9,182,100	9,152,000	9,075,454	(76,546)	(106,646)
	31,487,000	31,790,000	31,940,732	150,732	453,732
Franchise Tax					
PG&E	1,871,700	1,843,600	1,838,485	(5,115)	(33,215)
Cable/Video	2,144,000	2,203,000	2,225,238	22,238	81,238
Waste Haulers	7,245,000	7,549,000	7,612,801	63,801	367,801
	11,260,700	11,595,600	11,676,524	80,924	415,824
Business License Tax	9,235,000	9,125,000	9,168,078	43,078	(66,922)
Hotel/Motel Tax	1,811,000	1,975,000	2,005,668	30,668	194,668
Document Transfer Tax	530,000	456,000	458,431	2,431	(71,569)
Motor Vehicle License	-	150,000	125,724	(24,276)	125,724
Interest	(10,423)	22,629	261,009	238,380	271,432
	11,565,577	11,728,629	12,018,911	290,282	453,334
Program Revenues					
Fire Contracts	3,923,678	3,340,676	3,340,676	(0)	(583,002)
Code Enforcement	3,176,300	2,816,658	2,798,483	(18,175)	(377,817)
Charges for Services	1,963,786	1,871,947	1,898,117	26,170	(65,669)
Fines & Forfeitures	1,480,600	1,268,176	2,023,403	755,227	542,803
Revenues from Other Agencies	758,000	853,918	911,060	57,142	153,060
Licenses & Permits	371,825	379,115	385,061	5,946	13,236
Misc Other Revenues	(168,000)	30,298	(914,775)	(945,073)	(746,775)
	11,506,189	10,560,789	10,442,026	(118,763)	(1,064,163)
Interfund Reimbursements					
Indirect Cost Allocation	4,850,000	4,850,000	4,520,575	(329,425)	(329,425)
Workers Comp Reimbursement	-	-	-	-	-
Refunds & Reimbursements	173,383	452,674	1,173,127	720,452	999,744
Rents/Leases/Concessions	2,508,746	2,715,878	2,973,562	257,685	464,816
	7,532,129	8,018,552	8,667,264	648,712	1,135,135
Transfers In					
Transfers In				-	-
From Technology Fund - 502				-	-
From Parking for Debt Service	836,528	835,909	835,865	(44)	(663)
	836,528	835,909	835,865	(44)	(663)
Total Revenues	**$ 155,987,713**	**157,654,828**	**$ 162,227,714**	**$ 4,572,886**	**$ 6,240,001**
% Change from Prior Year	**-3%**	**-2%**	**1%**		

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EX 2016_0013

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION APPROVING AMENDMENTS TO THE 2012-2013 ANNUAL BUDGET AND AMENDING CITY COUNCIL RESOLUTION 2013-06-25-1601-01 TO PROVIDE FOR RETENTION OF $3.1 MILLION OF ENDING FUND BALANCE IN THE GENERAL FUND

Fiscal Sustainability is one of the City Council's goals; and

The City Council adopted the 2012-2013 Annual Budget on June 26, 2012, based on implementation of the Pendency Plan with $26 million in reduced payments to creditors and retirees; and

The City Council filed for bankruptcy protection on June 28, 2012; and

The City Council adopted the 2013-2014 Annual Budget on June 25, 2013, and resolution 2013-06-25-1601-01 authorized the unencumbered ending available general fund balance as of June 30, 2013, to be transferred to the Bankruptcy Fund for use toward Chapter 9 project management, litigation, and negotiations with creditors, with remaining funds available to pay settlements for claims; and

The City received $3,093,428 in fiscal year 2012-13 from the County of San Joaquin for reimbursement of improperly withheld property tax administration fees; and

In order to prepare the City's financial statements for Fiscal Year 2012-2013 certain budget adjustments must be made and the Council desires to direct staff to make such adjustments; and

By the staff report accompanying this Resolution, and incorporated into this Resolution by this reference (Staff Report), the Council has been provided with additional information upon which the actions set forth in this Resolution are based; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The status report on the 2012-2013 General Fund budget is accepted.

2. The 2012-2013 Annual Budget is amended to include the adjustments to the General Fund budget and inter-fund transfers as follows:

Increase General Fund Transfer to 201 Debt Administration Fund

010-0000-992	General Fund Transfer Out	$58,059
201-0000-492	Debt Administration Transfer In	$58,059
201-2001-510	Debt Administration Expense	$58,059

3. Council Resolution 2013-06-25-1601-01, Section 7 is amended to provide for the retention of property tax administration fee reimbursements in the amount of $3,093,428 in the General Fund with the remaining unencumbered ending available general fund balance as of June 30, 2013, to be transferred to the Bankruptcy Fund for use toward Chapter 9 project management, litigation, creditor committee expenses and negotiations with creditors, with remaining funds available to pay settlements for claims.

4. The City Manager is authorized and directed to take whatever actions are necessary to carry out the purpose and intent of this resolution.

PASSED, APPROVED, and ADOPTED February 25, 2014.

ANTHONY SILVA, Mayor
of the City of Stockton

ATTEST:

BONNIE PAIGE
City Clerk of the City of Stockton

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EXHIBIT T

AGENDA ITEM *15.4*

14-0211 ***FISCAL YEAR 2013-2014 FIRST QUARTER GENERAL FUND STATUS UPDATE AND AUTHORIZATION TO AMEND THE FY 2013-2014 GENERAL FUND BUDGET***

EXHIBIT
PENGAD 800-631-6989
2017

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CTY257669

City of Stockton

Legislation Details (With Text)

File #:	14-0211 Version: 1		
Type:	New Business	Status:	Agenda Ready
File created:	2/5/2014	In control:	City Council/Successor Agency to the Redevelopment Agency/Public Financing Authority Concurrent
On agenda:	2/25/2014	Final action:	
Title:	FISCAL YEAR 2013-2014 FIRST QUARTER GENERAL FUND STATUS UPDATE AND AUTHORIZATION TO AMEND THE FY 2013-2014 GENERAL FUND BUDGET RECOMMENDATION It is recommended that the City Council accept by motion this status report on the 2013-2014 General Fund budget, and adopt a resolution amending the Fiscal Year 2013-2014 General Fund Budget to address increased property tax appropriations of $987,000.		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	Attachment A - 2013-14 General Fund Q1 Budget Update Proposed Resolution - 2013-14 Q1 Budget Update		

Date	Ver.	Action By	Action	Result

FISCAL YEAR 2013-2014 FIRST QUARTER GENERAL FUND STATUS UPDATE AND AUTHORIZATION TO AMEND THE FY 2013-2014 GENERAL FUND BUDGET

RECOMMENDATION

It is recommended that the City Council accept by motion this status report on the 2013-2014 General Fund budget, and adopt a resolution amending the Fiscal Year 2013-2014 General Fund Budget to address increased property tax appropriations of $987,000.

Summary

Staff has conducted a review of the results of the first three months of the current fiscal year 2013-2014. Although it is too early in the year to draw precise judgments regarding year-end projections for most revenue and expenditure categories, a combination of the examination of prior year results, new information received from our outside Property Tax consultants, and a review of spending trends to date indicates that we are on track for slightly higher than budgeted Property Tax revenues ($987,000, or 0.6%). In addition, the additional unbudgeted revenues which will result in the last quarter of the year from the phase I implementation of the Measure A/B Sales Tax and related expenditures (appropriated in the budget in a separate staff report at this meeting) are reflected in these year end projections for Fiscal Year 2013-2014. Reviews have also been conducted of other funds to determine significant variances from budget or potential impacts to general fund. Further explanation of activities that are prompting projection changes are provided below.

DISCUSSSION

Background

One of the strategic initiatives developed to support the City Council's "Fiscal Sustainability - Getting our Fiscal House in Order" goal was to provide regular analysis and reporting of the City's financial status. This report is being provided as part of that effort.

The City of Stockton has undergone an unprecedented fiscal emergency in our general fund resulting in insolvency at the beginning of the 2012-13 Fiscal Year; thus, forcing the City to file for Chapter 9 protection. Since 2008, the City Council has substantially reduced programs, staffing, services and employee compensation by enacting $90 million in ongoing general fund budget cuts. Despite all the prior year reductions the City was facing an additional deficit of $26 million going into the 2012-13 Fiscal Year that could only be addressed under protection of Chapter 9.

The City's general fund budget for Fiscal Year 2013-2014 was balanced by making $22 million in reductions to creditors and retirees and was approved by Council on June 25, 2013. This budget continues the general fund Pendency Plan under Chapter 9 protection of the federal bankruptcy code and reflects the expenditure priorities pending confirmation of a plan of adjustment to exit Chapter 9.

The budgeted general fund ending available balance for 2013-2014 was projected to be $0, with the entire available balance from the prior fiscal year being dedicated to the Bankruptcy Fund. The Bankruptcy Fund was anticipated to begin the Fiscal Year 2013-2014 with a balance of $12.5 million which was accumulated over the past two year's net activity ($5.6 million from the ending balance in Fiscal Year 2011-2012 and $6.9 million projected to come from the ending balance in Fiscal Year 2012-2013). In a separate memorandum on this agenda summarizing actual fourth quarter General Fund results, the unaudited year-end 2012-13 ending fund balance is projected at $16.1 million. In that report, staff has recommended retaining $3.1 million of that balance in the General Fund for later use for unfunded, critical infrastructure needs. Approval of that recommendation would still leave the amount to be transferred to the Bankruptcy Fund at $13.1 million, which is $6.2 million higher than previously projected. This would bring the total in the Bankruptcy Fund to $18.7 million at the beginning of FY 2013-2014.

The bankruptcy fund was separately established in the fiscal year 2013-14 adopted budget by City Council resolution 2013-06-25-1601-01. The bankruptcy fund has been committed by City Council to be used towards bankruptcy costs and dedicated to negotiating a consensual Plan of Adjustment (or bankruptcy exit plan). The Plan is intended to bring the City's debts in line with our resources, both now and over time. The bankruptcy fund is being used specifically to cover costs for Chapter 9 including project management, ongoing litigation costs, financial advisors, and experts in support of the emergence from bankruptcy, continued negotiations with our creditors, with the remaining money available to pay our creditors as settlements for claims. After the filing of the Plan of Adjustment, one of the capital market creditors objected to the Plan which adds additional burden and litigation costs to the City. The City hopes to continue talks to mediate with this creditor prior to trial. The City anticipates these costs to continue for a number of months until the plan is confirmed by the bankruptcy court. If the objection by the creditor proceeds to trial and becomes long and protracted, these costs will continue to mount.

Present Situation

As shown in Attachment A, the Budget Office has reviewed expenditure and revenue results for the first three months of the current fiscal year. Although it is generally far too early in the year to draw precise judgments regarding year-end projections, a combination of the examination of prior year results, new information received from our outside Property Tax consultant, and a review of spending trends to date, indicates that we are on track for slightly higher than budgeted Property Tax revenues ($987,000). We have a fairly high level of confidence in this projection due to the uptick in property values being experienced, though Stockton is still trailing other regions in California. With one exception (Measure A Sales Tax revenues), projections for surpluses or shortfalls in the other revenue categories have not been included in this report, due to a lack of definitive information and volatility in those revenues. With the passage of Measure A by the citizens of Stockton, Sales Tax revenues are anticipated to increase by $6.8 million this fiscal year. These revenues were not included in the Fiscal Year 2013-2014 Adopted Budget. In a separate report on this agenda the Measure A/B detailed Implementation Plan (Phase I) is presented. In this report, expenditures for the first partial year of the Marshall Plan and supporting services are recommended to be increased in the annual General Fund budget by $1.1 million, utilizing the additional Measure A sales tax revenue.

Revenue

The net revenue gain that would result if current trends hold is the result of projections for higher than budgeted collections in Property Tax revenues ($987,000, or 0.6%).

The majority of Property Tax revenue is received in December and May. The collection estimate variances are the result of recently received updated projections by the outside consultant who provides us with detailed estimates. The primary change in their projection is updated information from the County Assessor showing improved residential property values due to the recapture of value on properties reduced in previous years under Proposition 8 and the increase in median sale prices. Property values in the City of Stockton experienced a net taxable value increase of 3.6% over the prior year resulting in a 2.9% increase in projected General Fund revenues for a total of $44.9 million. This is an increase of 0.6% from the FY 2013-14 Adopted Budget.

The Interfund Reimbursements category as of September 30, 2013 totaled $1.13 million or only 13% of the budgeted revenues. Revenues in this category are slow to come in primarily due to the nature of reimbursements. Costs incurred in the first quarter of the fiscal year are billed to other agencies for reimbursement but actual revenues are not received until the following quarter. This category also includes a payment from the Municipal Utilities Department for property rentals that will be paid in a lump sum as data for the calculation becomes available.

First Quarter revenue collections for other major General Fund categories (Utility Users Tax, Franchise Fees, Business License Tax and Program Revenues) were also all generally below the 25% pro-rated collection rate assuming collections followed an evenly timed pattern. First quarter data is of little value for projection for these sources of revenue however, since they each follow different collection timing schedules, and are almost all slated for receipt of the majority of their revenue in the latter months of the year. Collections in all categories will be carefully monitored by the Budget Office and by the time the second and third quarter reports are produced detailed projections for all of these revenue sources will be available.

Though typically, first quarter results are not usually enough to warrant budget amendments, staff recommends in this report that revenue budgets for Property Tax estimate be amended to reflect the revised projection. This trend is a continuation from last fiscal year and is also supported from multiple sources. A resolution to amend the Sales Tax estimate to include the additional Measure A/B revenue is included in a separate report on this agenda.

Expenditures

Three months of expenditure data has also been reviewed. As is the case with revenues, it is too early to draw any firm conclusions about observed trends.

Certain expenditure trends may be identified from the first quarter results, such as the amount of salary and benefit savings being experienced, if continued through the full year, would result in a higher than anticipated salary savings. The budgeted savings level is 1% of budgeted salaries and benefits. First quarter results indicate potential savings as high as 6%, When using the prior fiscal year's quarterly trends, which consider higher salary savings in the first quarter and less savings as the year progresses, the current fiscal year may end the year around 3% (last year's final salary savings was 4.7%). It is important to recognize that even this estimate may be overstated as several vacant positions, primarily in the Police Department, are currently being filled. As expressed earlier, however, it is too early in the year to rely upon these trends for budget adjustments. First Quarter trends can be especially unreliable in the vacancy savings category as the hiring of new positions often takes several months to complete. More precision will be made available after evaluation of vacancy savings in the second quarter budget status report. Expenditure patterns for all categories will be monitored and reported again in the mid-year report where a greater confidence level in projections should be possible.

Expenditure projections include estimates for the Measure A/B Plan including $855,836 for Police, $152,000 for the Administrative Services Department, $40,000 for the Human Resources Department and $55,000 for Tax Collection and Election account. These costs, described in more detail and recommended to be added to the budget are included in a separate staff report (Measures A & B Implementation Plan - Phase I) on this Agenda and would be funded by Measure A Sales Tax revenues and support an early implementation of the Marshall Plan along with associated support staff. Through these positions, the objectives of Measures A and B are addressed by supporting the Marshall Plan, supporting activities to end bankruptcy and making efforts to restore City services and sustain fiscal health.

In the Program Support for Other Funds category, the trend analysis indicates that most programs are on track with the budgeted subsidy levels from the General Fund.

Finally, certain programs fall far below a quarter of the budget in spending thus far in the fiscal year and can be explained as follows.

City Attorney's Office - Similar to last year, the City Attorney's Office is experiencing significant salary savings due to several vacancies which occurred early last fiscal year and were not filled due to workload uncertainties and the City's bankruptcy filing. One of these vacancies was filled in November but a second is expected to remain vacant until the City exits bankruptcy. Litigation cases have declined during the City's bankruptcy but are expected to return to pre-bankruptcy levels in the next fiscal year at which time the vacant Deputy City Attorney position will need to be filled.

City Auditor's Office - This budget primarily consists of two audit contracts for the internal and external audit services. Funds for these contracts are fully encumbered for FY 2013-2014 but only about one month of services had been paid during the first quarter of the year. In addition, the workload for the internal audit services contract was low during the first quarter as the City and Moss Adams developed a comprehensive two-year Internal Audit Plan. That plan has now been adopted by Council and the aggressive timeline for its completion underway. As such, it is expected that the full budget for internal audit services will be spent by year end. Furthermore, because the City is undertaking an aggressive timeline in carrying out the 2012-13 external financial audit it is anticipated that the budgeted costs for these services will also be fully spent by year end.

Human Resources Office - The Human Resources Office is expending below budgeted levels due to the existence of several vacancies during the first three months of the year. Efforts are underway to fill these vacancies and expenditure levels should rise during the remainder of the year.

Tax Collection and Election expenses were 4% of the annual budget because most of these expenses are paid when the associated revenue is received. Property tax administration fees will be paid in December and May. Sales Tax administration fees will be paid quarterly starting in December. Property taxes and assessments on City owned property will start being paid in November. The election budget is for the June 2014 election so payment will not be made until after close of fiscal year.

The Other Administration category holds a variety of City wide costs that are not attributable to an individual or specific group of programs or departments. In the first quarter of the year, the most significant cost activity is the offset to indirect costs being allocated to the Fire Department in the general fund. These offset entries are necessary for proper classification and reporting of Fire District contracts, although they appear as negative costs. By year end other activities will offset all or part of these entries.

Labor Litigation - First quarter expenses reflect legal fees through August 2014. Most of the legal costs in this category will be incurred in the last half of the fiscal year when labor negotiations for employee MOUs expiring June 30, 2014 will be underway.

Debt Service payments made in the fall for the Civic Auditorium HVAC lease and the Stewart Eberhardt Parking Structure are greater than the spring payment so more than 25% of the budget was expended in the first quarter. The first quarter debt services expenses also reflect three months of debt administration costs based on the budget estimate. Costs of administering the City's bonds are charged to the Debt Administration Fund during the year and allocated to the General Fund and other City funds with bonds. Any adjustment between the budgeted transfer and the General Fund allocation will be made at year end.

Staff will continue to monitor general fund expenditure levels, returning later in the year with reports and any appropriate budget actions that developments may require.

FINANCIAL SUMMARY

This report provides an analysis of 2013-2014 general fund first quarter results. The review of first quarter 2013-2014 General Fund performance indicates that it is on track to achieve salary savings above budget and that revenues are projected to slightly exceed budget, primarily as a result of increases for Property Tax and Measure A Sales Tax collections. The budget resolution will authorize the following adjustments to FY 2013-2014.

Increase Revenue Appropriation:

Property Taxes	010-0000-311	$987,000

Trends and potential budget variances will continue to be monitored, specifically in Administration and Debt Service categories, and staff will return to Council with future recommendations for changes where appropriate.

Attachment A - 2013-14 First Quarter Budget Update - General Fund

Attachment A
2013-14 First Quarter Budget Update
General Fund - 010 by Program

	Approved Budget	Year to Date Activity As of 9/30/13	% of Budget	Year End Projection	Projected vs. Approved Budget
Beginning Available Balance					
Prior Year Encumbrances	$ 1,571,423	$ 1,571,423		$ 1,571,423	
Revenues					
General Tax Revenues	139,535,250	8,909,796	6%	140,522,250	987,000
Measure A/B Sales Tax	-	-		6,803,630	6,803,630
Program Revenues	10,308,253	2,020,753	20%	10,308,253	-
Interfund Reimbursements	9,049,740	1,133,100	13%	9,049,740	-
Transfers In	909,194	664,734	73%	909,194	-
	159,802,437	12,728,383	8%	167,593,067	7,790,630
Expenditures					
Programs					
Police	84,473,753	19,669,500	23%	85,329,589	855,836
Fire	36,000,910	8,414,130	23%	36,000,910	-
Public Works	7,332,877	1,497,745	20%	7,332,877	-
Economic Development	1,001,113	224,936	22%	1,001,113	-
Peacekeeper Program	316,634	71,123	22%	316,634	-
Arts Commission	-	-		-	-
	129,125,287	29,877,435	23%	129,981,123	855,836
Program Support for Other Funds					
Library	3,999,000	999,750	25%	3,999,000	-
Recreation	2,845,000	711,249	25%	2,845,000	-
Entertainment Venues	2,653,094	663,273	25%	2,653,094	-
RDA Successor Agency	750,000	187,500	25%	750,000	-
Downtown Marina	160,000	39,999	25%	160,000	-
Capital Improvement	1,290,000	322,500	25%	1,290,000	-
Golf Courses	450,000	112,500	25%	450,000	-
Grant Match	400,000	-	0%	400,000	-
Development Services	1,000,000	249,999	25%	1,000,000	-
	13,547,094	3,286,770	24%	13,547,094	-
Administration					
City Council	463,089	111,045	24%	463,089	-
City Manager	1,019,518	233,929	23%	1,019,518	-
City Attorney	987,363	115,020	12%	987,363	-
City Clerk	697,506	145,122	21%	697,506	-
City Auditor	1,206,564	105,508	9%	1,206,564	-
Administrative Services	3,743,332	770,815	21%	3,885,332	152,000
Human Resources	2,048,112	313,097	15%	2,088,112	40,000
Tax Collection & Election	2,544,594	101,754	4%	2,599,594	55,000
Other Administration	629,228	(156,816)	-25%	629,228	-
Labor Litigation	2,000,000	57,510	3%	2,000,000	-
	15,339,306	1,796,984	12%	15,576,306	247,000
Debt Service	1,397,973	849,123	61%	1,397,973	-
Contingency	1,964,200	-	0%	1,964,200	-
Total	161,373,860	35,810,312	22%	162,466,696	1,102,836
Net Annual Activity	(1,571,423)	(23,081,929)		5,126,371	6,687,794
Proj. Ending Available Balance	$ -			$ 6,697,794	

350
CTY257676

EX 2017_0008

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION APPROVING AMENDMENTS TO THE 2013-2014 ANNUAL BUDGET

Fiscal Sustainability is one of the City Council's goals; and

The City filed for bankruptcy protection on June 28, 2012, after four years of substantially reducing programs, staffing, services, and employee compensation by enacting $90 million in ongoing General Fund budget cuts; and

The City Council adopted the 2013-2014 Annual Budget on June 25, 2013, continuing the Pendency Plan under Chapter 9 protection of the federal bankruptcy code. The adopted budget reflected the expenditure priorities pending confirmation of a plan of adjustment to exit Chapter 9 and continued to suspend $22 million in payments to creditors and retirees; and

By the staff report accompanying this Resolution, incorporated into this Resolution by this reference (Staff Report), the Council has been provided with additional information upon which the actions set forth in this Resolution are based; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The status report on the 2013-2014 General Fund budget is accepted.

2. The 2013-2014 Annual Budget is amended to increase the General Fund Property Tax Revenue appropriation as follows:

010-0000-311	General Fund Property Tax Revenue	$987,000

3. The City Manager is authorized and directed to take whatever actions are necessary to carry out the purpose and intent of this resolution.

PASSED, APPROVED, and ADOPTED February 25, 2014.

ANTHONY SILVA, Mayor
of the City of Stockton

ATTEST:

BONNIE PAIGE
City Clerk of the City of Stockton

352
CTY257678

EXHIBIT U

City of Stockton Development Impact Fee Review Report

The Economics of Land Use

EPS

Presented to City of Stockton

Development Oversight Commission

June 6, 2013

EXHIBIT 2021

PENGAD 800-631-6989

Economic & Planning Systems, Inc.
2501 Ninth Street, Suite 200, Berkeley, CA 94710
510.841-9190 • 510.841-9208 fax

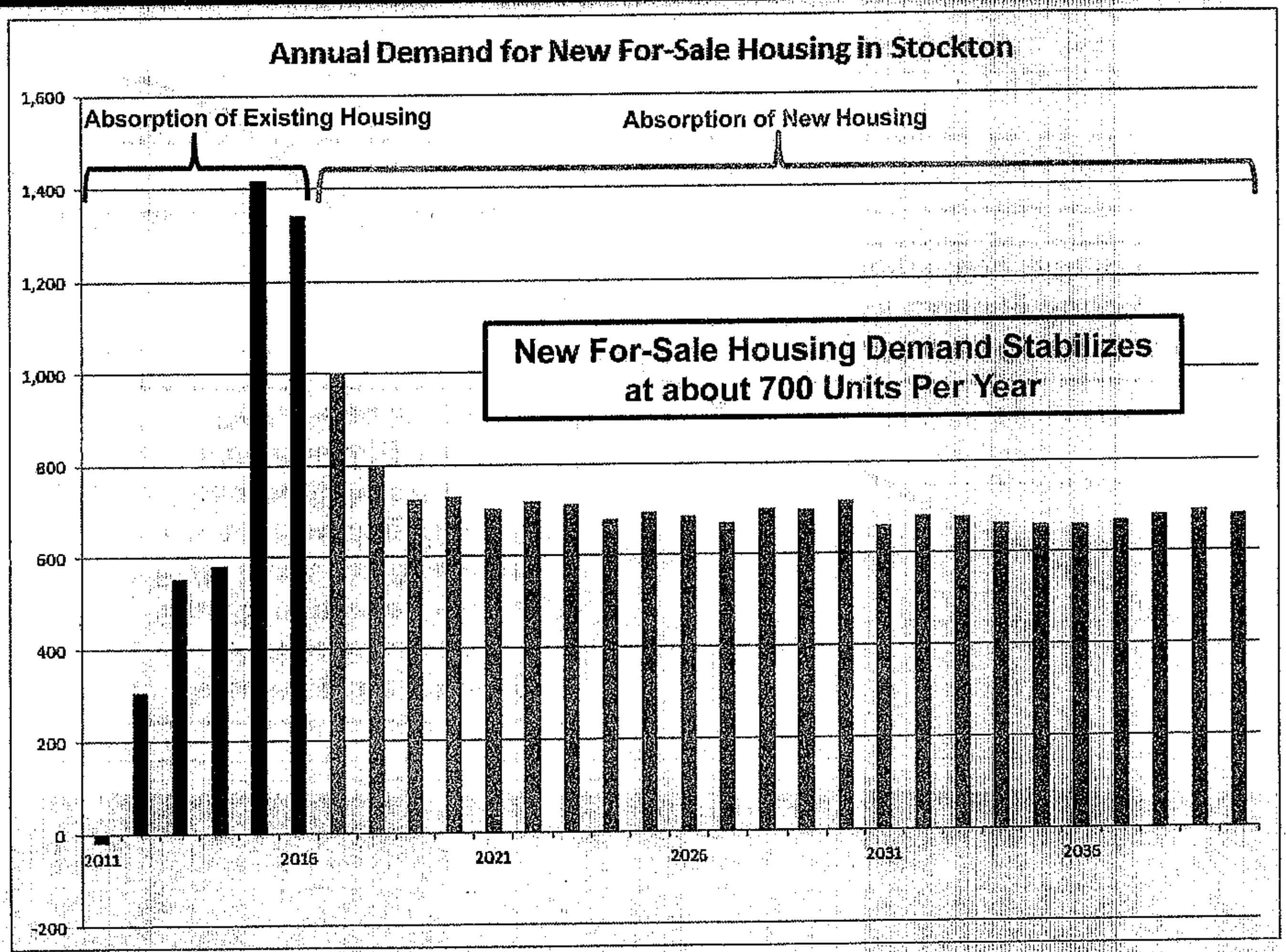
2. When will the Housing Market Recover?

- Current housing market remains weak due to limited real demand and over-supply of existing properties
- Existing housing supply will be absorbed and job growth will begin attracting new employees and household formation over next two years
- Market conditions continue improving and recovery (substantial new construction) is expected by 2017
- Some "spike" in demand may occur due to improving economic conditions and pent-up demand
- Stockton is capturing a decreasing share of regional market
- Sustained average of 700 units expected in future years
- Future annual fee revenues will be subject to expected business cycle variations

Housing Market Prospects and Forecast

- Existing housing supply will continue to dampen demand for new housing over the next year or two
- As the existing supply of housing is depleted, pricing is anticipated to rise, improving the feasibility of new home development
- Unmet demand for new housing will return by 2017, with new employment supporting roughly average of 700 new housing units annually in Stockton through 2040
- A spike in housing demand may occur as the economy recovers boosting demand in the short term and adding to the recovery

Looking Forward: Demand for New Units



CTY133560

EX 2021_0072

Development Forecast

- Development expected to remain tepid through 2015 as market slowly recovers
- A spike in demand may occur as demand for new product resumes and the market recovers
- Long-range economic growth (jobs and income) will sustain an average new housing of approximately 700 units per year through 2040, with annual variations
- There will be substantial annual variations, as in the past, related to future business cycle
- Housing price points will stabilize at about $300,000 in 2013 dollars with limited real appreciation possible

EXHIBIT V

City of Stockton

Council Chamber - City Hall
425 N. El Dorado Street,
Stockton CA

Legislation Text

EXHIBIT
PENGAD 800-631-6989
2023

File #: 13-0493, **Version:** 2

PUBLIC HEARING ADOPTING THE PROPOSED FISCAL YEAR 2013-2014 ANNUAL BUDGET; APPROVING THE 2013-2018 CAPITAL IMPROVEMENT PROGRAM; APPROVING THE 2013-2014 FEE SCHEDULE; APPROVING THE 2013-2014 CALIFORNIA CONSTITUTIONAL APPROPRIATIONS LIMIT; AND ADOPTING THE 2013-2014 ANNUAL BUDGET FOR THE SUCCESSOR AGENCY TO THE FORMER STOCKTON REDEVELOPMENT AGENCY

RECOMMENDATION

It is recommended that the City Council adopt a resolution that:

- Adopts the Fiscal 2013-2014 Annual Budget as part of the City's Pendency Plan (while under protection of the bankruptcy code), and also adopts the Proposed 2013-2018 Capital Improvement Program, the Proposed 2013-2014 Fee Schedule and the 2013-2014 Constitutional (Gann) Appropriations Limit.

And it is recommended that the Successor Agency to the former Stockton Redevelopment Agency (Successor Agency) approve a resolution that:

- Adopts the Fiscal 2013-2014 Annual Budget for the Successor Agency to the former Stockton Redevelopment Agency (Exhibit 1 to the resolution).

Summary

This staff report proposes that the City Council approve a resolution to adopt the City's budget that represents the City's financial plan for Fiscal Year 2013-2014. The City's Proposed Budget submitted to Council by the City Manager on May 16, 2013, included a plan for all of the City's funds, and continues for the General Fund the Pendency Plan which is the City's budget while it is under the protection of Chapter 9 of the federal bankruptcy code. Since there were no proposed changes by Council during the two budget workshops, the budget we are asking you to adopt today is essentially the budget shared on May 16th with revised Bankruptcy fund as shown in Exhibit 1 to the City's resolution. The revisions to this fund are based on the results of the FY 2012-2013 third quarter status report which indicates a greater projected General Fund balance than anticipated after the second quarter status report.

The key elements of this budget are summarized below, and are described in much greater detail in the Proposed Budget, Capital Improvement Program and Fee Schedule documents, all of which were released in mid-May. In addition to the adoption of the General Fund Pendency Plan, a number of other actions are proposed as part of this resolution. This includes adopting the proposed budgets for the solvent funds (those not affected by insolvency). It should be noted that solvent funds have

CTY023534

	Proposed New Fees
MUD - Stormwater	Conditional Discharge Permit fee
MUD - Wastewater	Wastewater Grease Disposal Mitigation fee
Community Services	Soccer Complex General & Use Fees

	Changed Fees
Reprographics	Mass produced documents 1) Elimination of 1st page fee & 2) clarification of documents & public records request fees

	Other Adjustments related to existing contracts
Fire Emergency Dispatch	Medical, ambulance and dispatch call fees
MUD - Wastewater	Wastewater collection rates
MUD - Water	Water connection and usage rates
PFF - Surface Water	All fees

Development Impact Fees

The Proposed Fee Schedule includes the development impact fees which are discussed here and presented on Attachment A. On June 6th, the City Development Oversight Commission received a briefing on the first phase of a comprehensive assessment of development impact fees. The Commission then passed a motion requesting that the Council extend current fee reductions by three years, and substantially increase the amount of that reduction, subject to annual review. The fee reduction currently in effect is around $7,500 for a new 2,000 square foot single family dwelling unit. The Commission recommended a further reduction of $12,000 for a net reduction of $19,500 for the same three years, subject to annual review. A proportional reduction for new multi-family dwelling units was also included in the adopted motion.

Staff recommends that the Council reject that recommendation, stay the course and adopt the Fee Schedule as proposed. That means current fee reductions will expire on December 31st, and future fee adjustments, up or down, will be reliant upon sound financial footing and documented analysis rather than speculative factors.

First, the Bankruptcy Ask seeks to renegotiate the terms of our debt obligations under the 2009 Lease Revenue Bonds Series A. We have defaulted on the bonds. The source of repayment is development impact fees collected to finance the construction of fire stations, police stations, parklands and street improvements throughout Stockton. The City cannot forgo the collection of the very same fees backing those negotiations. To do so would be seen as a sign of bad faith by the Bankruptcy Court and creditors. This could have a major detrimental impact on our bankruptcy negotiations. The City's imperative need to exit bankruptcy, in a timely and sustainable manner, makes the recommendations of the Development Oversight Commission a non-starter.

Second, the City has foregone $2.25 million in development impact fee revenue since the enactment of a first round of fee reductions in September 2010. That figure will likely continue to rise to $2.76 million by the time the program sunsets at the end of 2013. Those revenues cannot be made up by future development impact fees. The additional round of fee reduction recommended by the

EXHIBIT W

From: Levinson, Marc A. [MALEVINSON@Orrick.com]
Sent: Tuesday, December 03, 2013 11:04 AM
To: Jennifer Niemann
Cc: Steven Felderstein; Durmann, Lesley M.
Subject: Please confirm that the attached is the final version of the revised Committee letter of support
Attachments: Ltr to Retirees re Plan - final with signature v.2.pdf; image001.jpg

We're working with Rust Omni to transmit the plan packages later this week or early next week. I'm writing to make sure that the attached is the version of the Committee letter you'd like to be inserted in the plan packages mailed to health benefit claimants. Thanks.

From: Jennifer Niemann [mailto:jniemann@ffwplaw.com]
Sent: Tuesday, November 26, 2013 2:05 PM
To: Levinson, Marc A.
Cc: sfelderstein@ffwplaw.com; Durmann, Lesley M.
Subject: Stockton: revised Committee letter of support

Marc,

Pursuant to your telephone conversation with Steve, attached is the Committee's revised letter of support for the plan. Please let me know if you have any questions.

Regards,
Jennifer

Jennifer E. Niemann
Attorney at Law
Felderstein Fitzgerald Willoughby & Pascuzzi LLP
400 Capitol Mall, Suite 1750
Sacramento, CA 95814-4434
Tel: 916-329-7400, Ext. 232
Fax: 916-329-7435
Email: jniemann@ffwplaw.com
Web: www.ffwplaw.com

EXHIBIT 2045
PENGAD 800-631-6989

RET20000270

EX 2045

addressed herein.

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Official Committee for the City of Stockton Retirees

Letter of Support for City of Stockton Plan of Adjustment

Dear City of Stockton Retiree with lost health benefits:

As you were previously informed, an Official Committee of Retirees ("Committee") was appointed by the Bankruptcy Court to monitor the bankruptcy process and represent the interests of retirees of the City of Stockton ("City") in the City's Chapter 9 bankruptcy case. The Committee has worked with the City to resolve the treatment of retirees' claims. While the City's Plan of Adjustment ("Plan") significantly adversely affects the interests of retirees who lost health benefits the City was to provide, the Plan does not impair the City's obligations to CalPERS. In other words, your CalPERS pension benefits will not be altered in any way by the Plan.

With respect to your health benefits that were reduced and then eliminated by the City, the Plan provides that you will receive a small, lump sum payment estimated to be just under 1% of the amount of your total claim. This cash payment will be paid on the effective date of the Plan, which the City estimates will occur in April or May 2014. **Although this payment is not what we would like to have secnred for retirees, this was the best deal that could be negotiated with the City.**

The Committee has been in close communication with the City in negotiating the proposed settlement of retiree claims. The Committee believes it is in the best interest of retirees with lost health benefits to support the Plan. If the Plan is not approved, we run the risk that the City may also have to substantially reduce your CalPERS pension benefits in order to settle all claims.

With this letter you will receive a computer CD with a full copy of the City's Plan and the Disclosure Statement which describes the Plan. If you would prefer to download a PDF version of these documents, you can obtain them on the City of Stockton website. **If you prefer to receive a printed copy of the documents at no cost to you**, you can contact the City of Stockton Ballot Tabulator, Rust Consulting/Omni Bankruptcy, 5955 DeSoto Avenue, Suite 100, Woodland Hills, California 91367 in writing or by phone at (818) 906-8300 or by facsimile at (818) 783-2737.

The Committee urges you to review the Plan and the Disclosure Statement and recommends a vote in favor of the Plan. The parts of the Plan and Disclosure Statement most related to the treatment of retiree health benefit claims are: (1) Disclosure Statement pages 1-3, 6-11, 13-14, 16-17, 19-22, 26-27, 29-32, 68-70, 82-83 and 94-98; and (2) Plan pages 21-22, 31, 39-41, 49-50 and 57.

You will also receive with this letter two other official documents: (a) the notice of confirmation hearing, plan voting deadline and deadline for filing objections to the plan; and (b) a ballot. **Once you feel you understand the City's Plan treatment for CalPERS pension**

benefits and retiree health benefit claims, you need to vote and submit your ballot following the instructions on the ballot. In order for your vote to be counted, the Ballot Tabulator must receive it on or before February 10, 2014.

If you have any questions concerning your vote on the Plan or the benefit you will receive, you may refer them to the primary contact for the Committee, its chairperson, Dwane Milnes, telephone 209-467-0224, or email at dwane.milnes@sbcglobal.net. The secondary contact for the Committee is Committee member Gary Ingraham, telephone 209-403-0076, or email at gcingraham@comcast.net.

The Committee will also be holding two informational meetings to answer questions about the Plan. The first meeting is scheduled for December 15, 2013 and the second is scheduled for January 5, 2014. Both meetings will be held at 4:00 pm at the First Baptist Church, 3535 North El Dorado Street, Stockton, California. A separate notice reminding you of these meetings will also be sent to you.

Sincerely,
OFFICIAL COMMITTEE OF RETIREES

Dwane Milnes

Dwane Milnes, Chairperson
Robert Sivell - Vice Chair
Shelley Green - Secretary
Morris Allen
Mark Anderson
Rick Butterworth
Anthony Delgado
Gary Ingraham
Frank Johnston
Larry Long
Mary Morley
Cynthia Neely
L. Patrick Samsell

EXHIBIT X

STEVEN H. FELDERSTEIN (State Bar No. 056978)
JASON E. RIOS (State Bar No. 190086)
JENNIFER E. NIEMANN (State Bar No. 142151)
FELDERSTEIN FITZGERALD
WILLOUGHBY & PASCUZZI LLP
400 Capitol Mall, Suite 1750
Sacramento, CA 95814
Telephone: (916) 329-7400
Facsimile: (916) 329-7435

EXHIBIT
PENGAD 800-631-6989
2052

Attorneys for the Official Committee of Retirees

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Case No. 2012-32118 Chapter 9 **OFFICIAL COMMITTEE OF RETIREES' OBJECTIONS AND RESPONSES TO FRANKLIN HIGH YIELD TAX-FREE INCOME FUND AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND'S FIRST SET OF INTERROGATORIES**

PROPOUNDING PARTY: Franklin High Yield Tax-Free Fund and Franklin California High Yield Municipal Fund

RESPONDING PARTY: Official Committee of Retirees

SET NO. One (1)

TO FRANKLIN HIGH YIELD TAX-FREE INCOME FUND AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND AND THEIR ATTORNEYS OF RECORD:

The following are the objections and responses of the Official Committee of Retirees ("Retirees") to Franklin High Yield Tax-Free Fund and Franklin California High Yield Municipal Fund's ("Franklin") First Set of Interrogatories. The Retirees reserve the right to revise, correct, update, supplement, or clarify these responses and objections.

///

I. RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

Do you contend that the Retirees Settlement is conditioned upon the City's agreement not to impair or reduce pension benefits held by or payable to Retiree Health Benefit Claimants? Identify all bases for your answer.

RESPONSE TO INTERROGATORY NO. 1:

The Retirees object to Franklin's definitions, instructions, and interrogatories to the extent that Franklin purports to require disclosure of information that is protected from disclosure by any privilege or protection including, without limitation, the attorney-client privilege, the attorney work product doctrine, the mediation privilege and/or the policy preserving the confidentiality of compromise discussions (including, without limitation, as established pursuant to the Court's July 13, 2012 Opinion and Order On Motion For Leave To Introduce Evidence Relating To Neutral Evaluation Process Under California Government Code § 53760.3(q) [Dkt. Nos. 426 & 429], as modified by the Court's November 2, 2012 Order Modifying Order On Motion For Leave To Introduce Evidence Relating To Neutral Evaluation Process Under California Government Code § 53760.3(q) [Dkt. No. 598]), the settlement privilege, and/or the deliberative process privilege.

The Retirees object that the term "Retirees Settlement" is not defined by Franklin and, therefore, Retirees assume that the term has the meaning defined in the Plan. The Retirees further object to the extent this interrogatory calls for a legal conclusion.

The Retirees object to Franklin's definitions, instructions, and interrogatories to the extent that Franklin purports to require the Retirees to provide any information beyond what is available to the Retirees from a reasonable search of the relevant files, information, and members of the Retirees' Committee.

The Retirees object to Franklin's definitions, instructions, and interrogatories to the extent that Franklin purports to impose on Retirees any obligation not imposed by the Federal Rules of Bankruptcy Procedure and/or the Federal Rules of Civil Procedure.

Subject to and without waiving these objections, the Retirees respond as follows: The Retirees contend that one of five material terms of the Retirees Settlement with the City is that the

Plan shall not impair in any way the provisions of the existing pension benefit plans under which employees retired, including pension amounts and the capped annual cost-of-living adjustment (the "Pension Provision"). This contention is based upon the fact that under the Retirees Settlement the City agreed to propose a plan of adjustment that provides for, among other things, five provisions, including the Pension Provision, and the Retirees agreed to recommend that retirees vote to accept such a plan of adjustment. A copy of the Retirees Settlement will be produced in response to Franklin's Requests for Production of Documents. Each and every one of the five terms of the Retirees Settlement is material to the Retirees agreeing to the Retirees Settlement.

Dated: January 8, 2014.

FELDERSTEIN FITZGERALD
WILLOUGHBY & PASCUZZI LLP

By: ______________________
Jason E. Rios,
Attorneys for Official Committee of Retirees

VERIFICATION

I, Dwane Milnes, am the Chairperson of the Official Committee of Retirees. I have read the foregoing Objections and Responses of the Official Committee of Retirees to Franklin High Yield Tax-Free Fund and Franklin California High Yield Municipal Fund's First Set of Interrogatories and know the contents thereof. Based upon the information available to me, I declare under penalty of perjury that it is true and correct and if called to testify as a witness, I could competently testify thereto.

Executed this 8th day of January 2014, at Stockton, California.

Dwane Milnes

Dwane Milnes

EXHIBIT Y

From: Sherri Asakawa [Sherri.Asakawa@stocktongov.com]
Sent: Friday, July 06, 2012 8:24 AM
To: Direct 4; HR
Subject: Fwd: Letter sent to all Vendors - re Bankruptcy
Attachments: 2012_6_25_Letter_VendorsPendencyPlan.pdf

fyi

Sherri Asakawa
Executive Assistant (Confidential)
City of Stockton Human Resources Department
209-937-7557
209-937-8558 Fax
sherri.asakawa@stocktongov.com

Effective July 15, 2011, the City of Stockton will begin using new e-mail addresses. My **new e-mail address will be sherri.asakawa@stocktongov.com**. Please make changes to your system(s) or lists(s) to continue receiving communications from the City of Stockton.

>>> Concepcion Gayotin 7/6/2012 8:12 AM >>>
Good morning.

On June 27th, the attached letter was mailed to all vendors doing business with the City of Stockton. Sending it your way in case vendors inquire regarding the bankruptcy and how it will affect payments to them. Some vendors would've received the letter and would've found it reassuring; others who deal directly with the City may not have received the information from their company. In either case, Purchasing finds the letter very helpful when dealing with our vendors.

As always, please let me know if there's anything we can help you with.
Happy Friday.
Concepcion

EXHIBIT 2065
PENGAD 800-631-6989

CITY OF STOCKTON

OFFICE OF THE CITY MANAGER
City Hall • 425 N. El Dorado Street • Stockton, CA 95202-1997 • 209 / 937-8212 • Fax 209 / 937-7149
www.stocktongov.com

June 25, 2012

Dear City of Stockton Vendors and Service Providers,

CITY OF STOCKTON BUDGET AND BANKRUPTCY PENDENCY PLAN – VENDORS & SERVICE PROVIDERS WILL BE PAID

The purpose of this letter is to assure you that the City of Stockton is paying its vendors and service providers on a timely, current basis and that it will continue to do so. We understand that there have been numerous reports in the media about Stockton's fiscal crisis. This letter is to clarify our fiscal circumstances and to explain that your company, as one of our critical business partners, will be paid even if the City is forced to petition for chapter 9 bankruptcy protection.

Throughout our fiscal crisis and four years of major General Fund deficits, we have continued timely payment of our bills, our employees and our vendors and service providers. The goods and services you provide are critical to the everyday operations of the City. We rely on your company and will continue to pay you, as we have since our fiscal crisis began.

It is important to understand that the City's total budget for Fiscal Year 2012-13 is $521 million; $366 million of the total budget is comprised of restricted funds, for example, water and sewer utilities and transportation funds, that are legally separate and cannot – and will not – be used to solve our General Fund crisis. Goods and services that you provide in support of these functions are paid for out of these restricted funds. The remaining portion of the budget - $155 million – is our General Fund. The primary sources of revenue for the General Fund are sales tax, property tax, utility user's tax and business license tax, all of which declined during the housing crisis and the great recession. The General Fund provides the funding for services such as police, fire, administration, maintenance of parks and libraries. Over the last few years, these programs and services have been reduced. We can no longer reduce these services that we now provide at a very modest level. Our priority is to preserve services for our citizens, and we rely on you, and the products and services you provide, to provide and maintain these essential public services.

CTY084289

In a municipality bankruptcy case, the City will control who it pays without approval required by the Bankruptcy Court. Expenses incurred in the normal course of business are essential to continue services and failing to pay increases costs in the future. The focus of the City's recovery plan will be restructuring of above market pay and benefits and unsustainable long term debt.

The City, by law, must adopt a balanced budget by July 1, 2012. The City Council has indicated that we cannot cut more municipal services. The City Council must now adopt a Final Budget on June 26, 2012, that enables it to live within its available revenue. The budget recommended assumes that the City may have to file for bankruptcy filed before July 1, 2012. Municipal bankruptcies can take many years to resolve, but we are hopeful that our bankruptcy would be much shorter.

After filing for chapter 9 protection and before "exiting" bankruptcy, a City implements a Pendency Plan budget pending the outcome of the bankruptcy. The proposed Pendency Plan for Stockton is on the City Council Agenda on June 26, 2012, for the City Council to consider. The details of the proposed Pendency Plan are publicly available on the City website. By reading the Pendency Plan, you will see that our trade vendors and service providers are not subject to any reduction or delay in payments. A link to the June 26, 2012, Council Agenda Item 16.03, is available on the home page of the City's web site at www.stocktongov.com.

The City must make plans to move forward and use the features and protections afforded by the bankruptcy code to preserve basic public health and safety services for the citizens of Stockton.

Thank you for your support. We look forward to our continued partnership, as we move Stockton forward.

If you have any questions or concerns, please feel free to contact our Public Information Officer at (209) 937-8827.

Sincerely,

BOB DEIS
CITY MANAGER

cc: City Council

CTY084290

EX 2065_0004

EXHIBIT Z

City of Stockton 10/16/2013

2012-13 Chapter 9 Expense Allocation - Year End

		2012-13 Chapter 9 Actual Expenses as of 10/15/13			7,013,327
FUND DESCRIPTION	**FUND**	**Account #**	**Total Allocation**	**Q2 Allocation**	**Year End Entry**
General Fund	010	010-0139-510.89-02	4,811,695	(711,972)	(1,489,660)
			a	*b*	*c = a - b*
Grant Fund	020		-	-	-
Police COPS	024		-	-	-
Police Grant	025		-	-	-
Gas Tax	030		-	-	-
Library	041	041-3511-580.20-58	139,447	47,805	91,642
Recreation	044	044-3611-590.20-58	53,620	18,367	35,253
Boat Launch	045	045-3069-590.20-58	258	-	258
		045-3660-590.20-58	-	87	(87)
Solid Waste	047	047-3088-540.20-58	28,552	9,917	18,635
Development Services	048	048-1810-510.20-58	90,832	31,962	58,870
		048-2631-530.20-58	41,036	14,944	26,092
CDBG	052		-	-	-
HOME	059		-	-	-
Neighborhood Stabilization	063		-	-	-
Maintenance Districts	072	072-6900-590.20-58	8,756	3,057	5,699
Measure W	081		-	-	-
Measure K	082		-	-	-
Administration Building	085	085-0160-510.20-58	246	87	159
Entertainment Venues	086	086-3611-590.20-58	9,502	9,502	-
Debt Administration	201	201-2001-510.20-58	13,111	4,654	8,457
Public Art	306	306-7031-610.20-58	926	322	604
Successor Agency	633	633-7310-510.20-58	74,849	24,626	50,223
Central Parking	416	416-4020-571.20-58	233,092	76,327	156,765
Water Utility	421	421-4210-572.20-58	369,749	123,310	246,439
Wastewater Utility	431	431-4311-572.20-58	385,680	131,346	254,334
Stormwater Utility	441	441-4411-572.20-58	34,212	11,836	22,376
Downtown Marina	460	460-4820-571.20-58	18,492	6,040	12,452
Golf	481	481-3610-572.20-58	1,529	538	991
Utility Billing	498	498-1350-572.20-58	39,385	13,533	25,851
		498-4334-571.20-58	17,237	5,946	11,292
Fleet ISF	501	501-5021-572.20-58	72,297	24,998	47,299
Computer ISF	502	502-5101-571.20-58	259,224	47,807	211,417
Radio ISF	503	503-5201-571.20-58	3,990	1,386	2,604
Telephone ISF	504	504-5301-571.20-58	3,558	1,217	2,341
Office Equipment ISF	505	505-5401-571.20-58	5,826	2,015	3,811
Risk ISF	541	541-5711-572.20-58	29,559	10,390	19,169
Worker's Comp ISF	551	551-5610-572.20-58	11,439	3,982	7,457
Health Benefit ISF	552	552-5510-572.20-58	18,551	6,484	12,067
Retirement ISF	561	561-5950-571.20-58	737	260	477
Deferred Comp Trust	642	642-0288-510.20-58	1,992	698	1,294
PFF Bond Funds	910	910-9281-640.20-58	66,232	-	66,232
PFF Bond Funds	940	940-9251-630.20-58	34,001	-	34,001
PFF Bond Funds	960	960-0000-630.20-58	24,084	-	24,084
PFF Bond Funds	970	970-9173-590.20-58	70,482	-	70,482
Air Quality PFF	990	(charge to 999-9110)	2,883	-	-
PFF/Capital Administration	999	999-9110-610.20-58	36,266	78,529	(39,380)
Subtotal Other Funds			2,201,632	711,972	1,489,660
Total All Funds			**7,013,327**		-

EXHIBIT 2070

CTY247216

EX 2070

City of Stockton
2012-13 Chapter 9 Expense Allocation

10/15/2013

Estimated 2012-13 Chapter 9 Expense 7,188,000

Breakdown of Actual Costs by Type	Q1 & Q2	Q3 & Q4	Total		Allocation Method
General Overhead	1,059,896	2,044,732	3,104,628	44%	
Labor Related	510,097	870,814	1,380,911	20%	Labor Pendency Plan Savings
Debt Related	356,646	1,075,969	1,432,615	20%	65% Debt defaults, 30% Debt Issuances, 5% Contracts
Retiree Medical	336,134	759,039	1,095,173	16%	Retiree Medical Cost Spread (FTE)
	2,262,773	4,750,554	7,013,327	100%	
			(0)		

FUND DESCRIPTION	FUND	Labor Allocation	Debt Allocation	Retiree Allocation	Subtotal	%	Overhead Allocation	Total	Fund Not Eligible	Adjusted Total	
General Fund	010	1,028,566	763,448	602,207	2,394,221	61%	1,901,698	4,295,919	515,776	4,811,695	69%
Grant Fund	020	4,471	1,319	4,705	10,495	0%	8,336	18,831	(18,831)	-	
Police COPS	024	1,503	535	4,605	6,643	0%	5,276	11,919	(11,919)	-	
Police Grant	025	4,474	6,761	14,582	25,817	1%	20,506	46,323	(46,323)	-	
Gas Tax	030	31,379	5,516	58,918	95,813	2%	76,103	171,916	(171,916)	-	
Library	041	24,517	6,254	46,946	77,717	2%	61,730	139,447		139,447	
Recreation	044	9,293	2,502	18,089	29,884	1%	23,736	53,620		53,620	
Boat Launch	045	38	10	96	144	0%	114	258		258	
Solid Waste	047	6,114	1,307	8,492	15,913	0%	12,639	28,552		28,552	
Development Services	048	37,600	6,703	29,190	73,493	2%	58,375	131,868		131,868	
CDBG	052	4,208	1,021	6,216	11,445	0%	9,091	20,536	(20,536)	-	
HOME	059	792	275	1,558	2,625	0%	2,085	4,710	(4,710)	-	
Neighborhood Stabilization	063	2,243	351	2,264	4,858	0%	3,859	8,717	(8,717)	-	
Maintenance Districts	072	1,992	394	2,494	4,880	0%	3,876	8,756		8,756	
Measure W	081	40,004	19,883	33,001	92,888	2%	73,780	166,668	(166,668)	-	
Measure K	082	792	246	1,535	2,573	0%	2,044	4,617	(4,617)	-	
Administration Building	085	65	11	61	137	0%	109	246		246	
Entertainment Venues	086	849	38,230	514	39,593	1%	31,448	71,041	(61,539)	9,502	
Debt Administration	201	3,655	651	3,001	7,307	0%	5,804	13,111		13,111	
Public Art	306	205	42	269	516	0%	410	926		926	
Successor Agency	633	1,948	37,587	2,180	41,715	1%	33,134	74,849		74,849	
Central Parking	416	2,581	123,820	3,507	129,908	3%	103,184	233,092		233,092	
Water Utility	421	27,725	130,121	48,224	206,070	5%	163,679	369,749		369,749	
Wastewater Utility	431	57,728	55,600	101,621	214,949	5%	170,731	385,680		385,680	
Stormwater Utility	441	6,932	1,617	10,518	19,067	0%	15,145	34,212		34,212	
Downtown Marina	460	62	10,152	92	10,306	0%	8,186	18,492		18,492	

CTY247217

FUND DESCRIPTION	FUND	Labor Allocation	Debt Allocation	Retiree Allocation	Subtotal	%	Overhead Allocation	Total	Fund Not Eligible	Adjusted Total
Golf	481	387	89	376	852	0%	677	1,529		1,529
Utility Billing	498	10,535	2,273	18,749	31,557	1%	25,065	56,622		56,622
Fleet ISF	501	14,557	3,027	22,709	40,293	1%	32,004	72,297		72,297
Computer ISF	502	18,220	100,220	26,032	144,472	4%	114,752	259,224		259,224
Radio ISF	503	852	213	1,159	2,224	0%	1,766	3,990		3,990
Telephone ISF	504	602	176	1,205	1,983	0%	1,575	3,558		3,558
Office Equipment ISF	505	1,184	244	1,819	3,247	0%	2,579	5,826		5,826
Risk ISF	541	7,351	1,525	7,598	16,474	0%	13,085	29,559		29,559
Worker's Comp ISF	551	2,531	605	3,239	6,375	0%	5,064	11,439		11,439
Health Benefit ISF	552	4,316	889	5,134	10,339	0%	8,212	18,551		18,551
Retirement ISF	561	176	28	207	411	0%	326	737		737
Deferred Comp Trust	642	476	74	560	1,110	0%	882	1,992		1,992
Air Quality PFF	990	897	134	576	1,607	0%	1,276	2,883		2,883
PFF Bond Funds	910/940	-	108,566	-	108,566	3%	86,233	194,799		194,799
PFF/Capital Administration	999	19,091	196	925	20,212	1%	16,054	36,266		36,266
	Grand Total	1,380,911	1,432,615	1,095,173	3,908,699		3,104,628	7,013,327	-	7,013,327

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City of Stockton 10/15/2013

2012-13 Chapter 9 Expense Allocation

Labor Related Expenses

Amount to Allocate 1,380,911

Pendency Plan Labor Savings

FUND DESCRIPTION	FUND	SALARY PROJECTION SAVINGS	SEPARATION PAY	TOTAL SAVINGS BY FUND	% of Total	Allocation of Chapter 9 Costs
General Fund	010	(1,553,268)	(1,294,717)	(2,847,985)	74%	1,028,566
Grant Fund	020	(7,945)	(4,434)	(12,379)	0%	4,471
Police COPS	024	(1,807)	(2,354)	(4,161)	0%	1,503
Police Grant	025	(1,963)	(10,425)	(12,388)	0%	4,474
Gas Tax	030	(43,292)	(43,592)	(86,884)	2%	31,379
Library	041	(39,876)	(28,010)	(67,886)	2%	24,517
Recreation	044	(14,561)	(11,170)	(25,731)	1%	9,293
Boat Launch	045	(60)	(45)	(105)	0%	38
Solid Waste	047	(10,991)	(5,939)	(16,930)	0%	6,114
Development Services	048	(79,174)	(24,936)	(104,110)	3%	37,600
CDBG	052	(7,063)	(4,589)	(11,652)	0%	4,208
HOME	059	(955)	(1,239)	(2,194)	0%	792
Neighborhood Stabilization	063	(4,630)	(1,582)	(6,212)	0%	2,243
Maintenance Districts	072	(3,769)	(1,747)	(5,516)	0%	1,992
Measure W	081	(81,650)	(29,116)	(110,766)	3%	40,004
Measure K	082	(1,085)	(1,109)	(2,194)	0%	792
Administration Building	085	(131)	(48)	(179)	0%	65
Entertainment Venues	086	(1,798)	(552)	(2,350)	0%	849
Debt Administration	201	(7,167)	(2,952)	(10,119)	0%	3,655
Public Art	306	(384)	(185)	(569)	0%	205
Successor Agency	344	(3,305)	(2,089)	(5,394)	0%	1,948
Central Parking	416	(4,979)	(2,168)	(7,147)	0%	2,581
Water Utility	421	(45,671)	(31,097)	(76,768)	2%	27,725
Wastewater Utility	431	(95,706)	(64,136)	(159,842)	4%	57,728
Stormwater Utility	441	(11,949)	(7,244)	(19,193)	1%	6,932
Downtown Marina	460	(82)	(89)	(171)	0%	62
Golf	481	(671)	(401)	(1,072)	0%	387
Utility Billing	498	(18,999)	(10,172)	(29,171)	1%	10,535
Fleet ISF	501	(26,851)	(13,455)	(40,306)	1%	14,557
Computer ISF	502	(29,500)	(20,949)	(50,449)	1%	18,220
Radio ISF	503	(1,405)	(953)	(2,358)	0%	852
Telephone ISF	504	(853)	(813)	(1,666)	0%	602
Office Equipment ISF	505	(2,193)	(1,085)	(3,278)	0%	1,184
Risk ISF	541	(13,516)	(6,839)	(20,355)	1%	7,351
Worker's Comp ISF	551	(4,271)	(2,736)	(7,007)	0%	2,531
Health Benefit ISF	552	(7,964)	(3,987)	(11,951)	0%	4,316
Retirement ISF	561	(366)	(121)	(487)	0%	176
Deferred Comp Trust	642	(992)	(327)	(1,319)	0%	476
Air Quality PFF	990	(1,885)	(599)	(2,484)	0%	897
PFF Bond Funds	910/940/960	-	-	-	0%	-
PFF/Capital Administration	999	(51,979)	(882)	(52,861)	1%	19,091
	Grand Total	(2,184,706)	(1,638,883)	(3,823,589)	100%	1,380,911
				-		-

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CTY247219

City of Stockton
2012-13 Chapter 9 Expense Allocation
Debt Related Expenses

	Amount to Allocate	1,145,611										
		287,004										
		1,432,615	Pendency Plan Savings			All City Debt Issuances			Other Contracts			
			65% of Debt Total			30% of Debt Total			5% of Debt Total			
		Source:	AB506 Ask Doc			As of 7/1/12			AB506 Ask Doc			
	Debt Issues		Principal Outstanding	% of Total	Allocation of Chapter 9 Costs	Principal Outstanding	% of Total	Allocation of Chapter 9 Costs	Pendency Reduction	% of Total	Allocation of Chapter 9 Costs	Total Chapter 9 Allocation
1	2003A&B RDA Housing Projects Certificates of Participation		12,625,000	4%	31,212	12,970,000	2%	6,102				37,314
2	2004 RDA-Stockton Events Center Revenue Bonds		45,135,000	15%	111,586	45,590,000	6%	21,450				133,036
3	2004 Parking & CIP Lease Revenue Bonds		31,640,000	11%	78,223	31,640,000	4%	14,886				93,109
4	2006A/B/C Redevelopment SNI Revenue Bonds				-	79,105,000	11%	37,218				37,218
5	2006A ESB Lease Revenue Refunding Bonds		12,085,000	4%	29,877	12,085,000	2%	5,686				35,563
6	2007A&B Variable Rate Demand Lease Revenue Bonds		40,355,000	13%	99,768	40,355,000	6%	282,470				382,238
7	2007A&B Pension Obligation Bonds		124,280,000	41%	307,253	124,280,000	17%	58,472				365,725
8	2009A CIP Lease Revenue Bonds		35,080,000	12%	86,727	35,080,000	5%	16,505				103,232
9	1998 Wastewater System Project COP				-	78,105,000	11%	36,748				36,748
10	2002A CSCDA Water Revenue Bonds				-	9,430,000	1%	4,437				4,437
11	2003 Wastewater System Project COP				-	9,485,000	1%	4,463				4,463
12	2005A Water System Revenue Bonds				-	24,230,000	3%	11,400				11,400
13	2009A&B Water System Revenue Bonds (DWSP)				-	173,125,000	24%	81,453				81,453
14	2010A Water System Variable Rate Demand Bonds				-	55,000,000	8%	25,877				25,877
	DBAW				-			-	10,837,363	18%	10,132	10,132
	Price Case				-			-	1,400,000	2%	1,309	1,309
	Jarvis				-			-	31,556,902	52%	29,502	29,502
	Marina Towers				-			-	1,875,000	3%	1,753	1,753
	Other Contracts				-			-	15,600,000	25%	38,105	38,105
			301,200,000	100%	744,646	730,480,000	100%	607,167	61,269,265	100%	80,801	1,432,614
					1			(1)			1	(1)

CTY247220

EX 2070_0005

City of Stockton
2012-13 Chapter 9 Expense Allocation
Debt Related Expenses

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FUND DESCRIPTION	FUND	1. 2003 Housing	2. 2004 Events Cen	3. 2004 Parking	4. 2006 SNI	5. 2006 ESB	6. 2007 VRB	7. 2007 POB	8. 2009 PFF	9. 1998 Wastewate	10. 2002 Water	11. 2003 Wastewat	12. 2005 Water	13. 2009 DWSP	14. 2010 VR Water	15. Other	TOTAL SAVINGS BY
General Fund	010	37,314	133,036				286,679	273,851								32,564	763,444
Grant Fund	020							1,319									1,319
Police COPS	024							535									535
Police Grant	025							6,761									6,761
Gas Tax	030							5,516									5,516
Library	041							6,254									6,254
Recreation	044							2,502									2,502
Boat Launch	045							10									10
Solid Waste	047							1,307									1,307
Development Servic	048							6,703									6,703
CDBG	052							1,021									1,021
HOME	059							275									275
Neighborhood Stabil	063							351									351
Maintenance Distric	072							394									394
Measure W	081							19,883									19,883
Measure K	082							246									246
Administration Build	085							11									11
Entertainment Venu	086							125								38,105	38,230
Debt Administration	201							651									651
Public Art	306							42									42
Successor Agency	344				37,218			369									37,587
Central Parking	416			93,109		30,229		482									123,820
Water Utility	421							6,954			4,437		11,400	81,453	25,877		130,121
Wastewater Utility	431							14,389		36,748		4,463					55,600
Stormwater Utility	441							1,617									1,617
Downtown Marina	460							20								10,132	10,152
Golf	481							89									89
Utility Billing	498							2,273									2,273
Fleet ISF	501							3,027									3,027
Computer ISF	502						95,560	4,660									100,220
Radio ISF	503							213									213
Telephone ISF	504							176									176
Office Equipment IS	505							244									244
Risk ISF	541							1,525									1,525
Worker's Comp ISF	551							605									605
Health Benefit ISF	552							889									889
Retirement ISF	561							28									28
Deferred Comp Trus	642							74									74
Air Quality PFF	990							134									134
PFF Bond Funds	910/940/960/970					5,334		-	103,232								108,566
PFF/Capital Adminis	999							196									196
		37,314	133,036	93,109	37,218	35,563	382,239	365,721	103,232	36,748	4,437	4,463	11,400	81,453	25,877	80,801	1,432,611

CTY247221

EX 2070_0006

City of Stockton
2012-13 Chapter 9 Expense Allocation 10/15/2013

Retiree Related Expenses

Amount to Allocate 1,095,173

Pendency Plan Retiree Medical Savings

FUND DESCRIPTION	FUND	RETIREE MEDICAL	% of Total	Allocation of Chapter 9 Costs
General Fund	010	(7,053,000)	55%	602,207
Grant Fund	020	(55,099)	0%	4,705
Police COPS	024	(53,931)	0%	4,605
Police Grant	025	(170,780)	1%	14,582
Gas Tax	030	(690,048)	5%	58,918
Library	041	(549,825)	4%	46,946
Recreation	044	(211,858)	2%	18,089
Boat Launch	045	(1,124)	0%	96
Solid Waste	047	(99,458)	1%	8,492
Development Services	048	(341,876)	3%	29,190
CDBG	052	(72,807)	1%	6,216
HOME	059	(18,247)	0%	1,558
Neighborhood Stabilization	063	(26,516)	0%	2,264
Maintenance Districts	072	(29,213)	0%	2,494
Measure W	081	(386,505)	3%	33,001
Measure K	082	(17,977)	0%	1,535
Administration Building	085	(719)	0%	61
Entertainment Venues	086	(6,022)	0%	514
Debt Administration	201	(35,145)	0%	3,001
Public Art	306	(3,146)	0%	269
Successor Agency	344	(25,527)	0%	2,180
Central Parking	416	(41,077)	0%	3,507
Water Utility	421	(564,790)	4%	48,224
Wastewater Utility	431	(1,190,172)	9%	101,621
Stormwater Utility	441	(123,188)	1%	10,518
Downtown Marina	460	(1,079)	0%	92
Golf	481	(4,404)	0%	376
Utility Billing	498	(219,589)	2%	18,749
Fleet ISF	501	(265,970)	2%	22,709
Computer ISF	502	(304,888)	2%	26,032
Radio ISF	503	(13,573)	0%	1,159
Telephone ISF	504	(14,112)	0%	1,205
Office Equipment ISF	505	(21,302)	0%	1,819
Risk ISF	541	(88,986)	1%	7,598
Worker's Comp ISF	551	(37,931)	0%	3,239
Health Benefit ISF	552	(60,133)	0%	5,134
Retirement ISF	561	(2,427)	0%	207
Deferred Comp Trust	642	(6,562)	0%	560
Air Quality PFF	990	(6,741)	0%	576
PFF Bond Funds	910/940/960	-	0%	-
PFF/Capital Administration	999	(10,831)	0%	925
	Grand Total	(12,826,578)	100%	1,095,173
				-

G:\FIN\priv\Budget\FY2012-13\General Fund\Ch 9 AB506\[Chapter 9 Cost Allocation 12-13 Year End 10-15-13.xlsx]Acct Entry

CTY247222

City of Stockton
Chapter 9 Expense FY 2012-13
Compare General Ledger Activity to Year End Projection

10/15/2013

GROUP NBR	PO PER.CD	DAT NUN DES(	CATEGORY	GENERAL LEDGER YEAR TO DATE	PROJECTION	DIFFERENCE	CORRECTIVE ACTION
			ALLOCATION Total	(711,972.00)			
			BARRETT SPORTS GRO Total	23,521.35	23,521.35	-	
			DEL RIO ADVISORS L Total	70,854.17	70,854.17	-	
			FREEMAN DAIUTO PIE Total	12,840.80	12,840.80	-	
			LDA/DURST Total	30,092.12	30,092.12	-	
			MANAGEMENT PARTNER Total	977,350.89	977,350.89	-	
			RETIREE COMMITTEE Total	33,257.17	33,257.17	-	
			MISC EXPENSE Total	41,505.72	41,505.72	-	
			ORRICK HERRINGTON Total	5,309,578.82	5,309,578.82	-	
			RENNE SLOAN HOLTZM Total	318,995.22	318,995.22	-	
			IT RELOCATION DESIGN PROJECT Total	195,331.13	195,331.13	-	
			PUN & MCGEADY Total	-	-	-	
			Grand Total	6,301,355.39	7,013,327.39	-	
			Total without Q2 Allocation	7,013,327.39	7,013,327.39	-	
			GRAND TOTAL	6,301,355.39	7,013,327.39		
				-	-		

CTY247223

EX 2070_0008

Fund	Dept/Div	Element	Object	Description	YTD Actual	Budget Remaining	Encumbered	Annual Budget	Unencumbered Balance	Bdgt %	Acct Period
10	139	10	11	SALARIES-PART TIME/TEMP	5,512.50	87.50	-	5,600.00	87.50	98	16/2013
10	139	10	27	MEDICARE	79.93	0.07	-	80.00	0.07	100	16/2013
10	139	10	33	WORKER'S COMPENSATION	55.12	4.88	-	60.00	4.88	92	16/2013
10	139	10	34	UNEMPLOYMENT INSURANCE	24.80	5.20	-	30.00	5.20	83	16/2013
10	139	10	**	EMPLOYEE SERVICES	5,672.35	97.65	-	5,770.00	97.65	98	16/2013
10	139	20	34	DUPLICATION/COPY COSTS	750.00	-	-	750.00	-	100	16/2013
10	139	20	35	RISK EXPOSURE INS PREMIUM	-	-	-	-	-	0	16/2013
10	139	20	37	INSURANCE PREMIUMS	248.05	1.95	-	250.00	1.95	99	16/2013
10	139	20	58	LEGAL SERVICES	5,690,569.67	42,586.33	-	5,733,156.00	42,586.33	99	16/2013
10	139	20	65	PROF & SPECIAL SERVICES	1,117,444.02	80,776.98	142,019.18	1,198,221.00	(61,242.20)	105	16/2013
10	139	20	66	OTHER SERVICES	1,896.30	3.70	-	1,900.00	3.70	100	16/2013
10	139	20	**	OTHER SERVICES	6,810,908.04	123,368.96	142,019.18	6,934,277.00	(18,650.22)	100	16/2013
10	139	40	12	MEETINGS & TRAVEL	532.84	(232.84)	-	300.00	(232.84)	178	16/2013
10	139	40	15	CAR MILEAGE REIMBURSEMENT	883.03	316.97	-	1,200.00	316.97	74	16/2013
10	139	40	**	OTHER EXPENSES	1,415.87	84.13	-	1,500.00	84.13	94	16/2013
10	139	89	2	Cost Reimbursed	(711,972.00)	(688,028.00)	-	(1,400,000.00)	(688,028.00)	51	16/2013
10	139	89	**	Cost Applied/Reimbursec	(711,972.00)	(688,028.00)	-	(1,400,000.00)	(688,028.00)	51	16/2013
10	139	DV	39	AB506 EXTRAORDINARY COSTS	6,106,024.26	(564,477.26)	142,019.18	5,541,547.00	(706,496.44)	113	16/2013
10	139	DP	01	NON-DEPARTMENTAL	6,106,024.26	(564,477.26)	142,019.18	5,541,547.00	(706,496.44)	113	16/2013
10	0			GENERAL FUND	**6,106,024.26**	(564,477.26)	142,019.18	5,541,547.00	(706,496.44)	113	16/2013

Fund	Dept	Element	Object	Description	YTD Actual	Encumbered	Annual Budget	Unencumbered	Bdgt %	Acct Period
301	30	0		EMPLOYEE SERVICES	-	-	-	-	0	14/2013
301	30	10	10	SALARIES REGULAR	14,816.22	-	50,000.00	35,183.78	25	14/2013
301	30	10	11	SALARIES-PART TIME/TEMP	18.56	-	-	(18.56)	0	14/2013
301	30	10	13	REGULAR - OVERTIME	-	-	-	-	0	14/2013
301	30	10	19	VACATION SELL BACK	-	-	-	-	0	14/2013
301	30	10	20	EMPLOYEE SEPARATION PAY	-	-	-	-	0	14/2013
301	30	10	21	ADDITIONAL PAY	102.57	-	-	(102.57)	0	14/2013
301	30	10	25	RETIREMENT	2,521.48	-	-	(2,521.48)	0	14/2013
301	30	10	26	DEFERRED COMPENSATION	-	-	-	-	0	14/2013
301	30	10	27	MEDICARE	208.26	-	-	(208.26)	0	14/2013
301	30	10	29	HEALTH/DENTAL/VISION	1,354.63	-	-	(1,354.63)	0	14/2013
301	30	10	30	RETIREE HEALTH INSURANCE	-	-	-	-	0	14/2013
301	30	10	31	L/T DISABILITY INSURANCE	122.48	-	-	(122.48)	0	14/2013
301	30	10	32	LIFE INSURANCE	11.43	-	-	(11.43)	0	14/2013
301	30	10	33	WORKER'S COMPENSATION	809.68	-	-	(809.68)	0	14/2013
301	30	10	34	UNEMPLOYMENT INSURANCE	67.63	-	-	(67.63)	0	14/2013
301	30	10	40	FLAT RATE MILEAGE ALLOW	-	-	-	-	0	14/2013
301	30	10	42	RETIREE MEDICAL TRUST	-	-	-	-	0	14/2013
301	30	10	45	CELL PHONE ALLOWANCE	92.12	-	-	(92.12)	0	14/2013
301	30	10	46	RETIREMENT PENSION BOND	-	-	-	-	0	14/2013
301	30	10	47	RETIREE HEALTH - CITY PD	-	-	-	-	0	14/2013
301	30	10	**	EMPLOYEE SERVICES	20,125.06	-	50,000.00	29,874.94	35	14/2013
301	30	0		OTHER SERVICES	-	-	-	-	0	14/2013
301	30	20	37	INSURANCE PREMIUMS	676.05	-	-	(676.05)	0	14/2013
301	30	20	52	PUBLICITY & ADVERTISING	279.30	-	-	(279.30)	0	14/2013
301	30	20	57	PROCESSING FEES	16,495.92	-	-	(16,495.92)	0	14/2013
301	30	20	61	ENGINEERING SERVICES	157,754.80	2,912.37	200,000.00	39,332.83	80	14/2013
301	30	20	**	OTHER SERVICES	175,206.07	2,912.37	200,000.00	21,881.56	89	14/2013
301	30	0		PUBLIC WORKS	195,331.13	2,912.37	250,000.00	51,756.50	78	14/2013
301	30	0		CAPITAL IMPROVEMENTS	195,331.13	2,912.37	250,000.00	51,756.50	78	14/2013

CTY247225

EX 2070_0010

EXHIBIT AA

City of Stockton
2013-14 Chapter 9 Expense Projection Allocation

3/7/2013

Estimated 2013-14 Chapter 9 Expense	5,200,000		
Breakdown of Costs by Type			Allocation Method
General Overhead	1,860,000	36%	
Labor Related	880,000	17%	Labor Pendency Plan Savings
Debt Related	1,680,000	32%	65% Debt defaults, 30% Debt Issuances, 5% Contracts
Retiree Medical	780,000	15%	Retiree Medical Cost Spread (FTE)
	5,200,000	100%	

FUND DESCRIPTION	FUND	Labor Allocation	Debt Allocation	Retiree Allocation	Subtotal	%	Overhead Allocation	Total	Fund Not Eligible	Adjusted Total	
General Fund	010	655,464	829,773	428,902	1,914,139	57%	1,065,957	2,980,096	249,212	3,229,308	62%
Grant Fund	020	2,849	1,935	3,351	8,135	0%	4,530	12,665	(12,665)	-	
Police COPS	024	958	785	3,280	5,023	0%	2,797	7,820	(7,820)	-	
Police Grant	025	2,851	9,915	10,385	23,151	1%	12,892	36,043	(36,043)	-	
Gas Tax	030	19,996	8,090	41,963	70,049	2%	39,009	109,058	(109,058)	-	
Library	041	15,624	9,171	33,436	58,231	2%	32,428	90,659		90,659	
Recreation	044	5,922	3,669	12,883	22,474	1%	12,515	34,989		34,989	
Boat Launch	045	24	15	68	107	0%	60	167		167	
Solid Waste	047	3,896	1,917	6,048	11,861	0%	6,605	18,466		18,466	
Development Services	048	23,961	9,829	20,790	54,580	2%	30,395	84,975		84,975	
CDBG	052	2,682	1,497	4,427	8,606	0%	4,793	13,399	(13,399)	-	
HOME	059	505	404	1,110	2,019	0%	1,124	3,143	(3,143)	-	
Neighborhood Stabilization	063	1,430	515	1,612	3,557	0%	1,981	5,538	(5,538)	-	
Maintenance Districts	072	1,270	578	1,776	3,624	0%	2,018	5,642		5,642	
Measure W	081	25,493	29,158	23,504	78,155	2%	43,523	121,678	(58,496)	63,182	
Measure K	082	505	361	1,093	1,959	0%	1,091	3,050	(3,050)	-	
Administration Building	085	41	16	44	101	0%	56	157		157	
Entertainment Venues	086	541	21,572	366	22,479	1%	12,518	34,997		34,997	
Debt Administration	201	2,329	955	2,137	5,421	0%	3,019	8,440		8,440	
Public Art	306	131	61	191	383	0%	213	596		596	
Successor Agency	633	1,241	55,120	1,552	57,913	2%	32,251	90,164		90,164	
Central Parking	416	1,645	181,577	2,498	185,720	6%	103,425	289,145		289,145	
Water Utility	421	17,668	190,818	34,346	242,832	7%	135,230	378,062		378,062	
Wastewater Utility	431	36,788	81,534	72,376	190,698	6%	106,197	296,895		296,895	
Stormwater Utility	441	4,417	2,372	7,491	14,280	0%	7,952	22,232		22,232	

EXHIBIT 2071 PENGAD 800-631-6989

CTY233015

EX 2071

FUND DESCRIPTION	FUND	Labor Allocation	Debt Allocation	Retiree Allocation	Subtotal	%	Overhead Allocation	Total	Fund Not Eligible	Adjusted Total
Downtown Marina	460	39	14,887	66	14,992	0%	8,349	23,341		23,341
Golf	481	247	131	268	646	0%	360	1,006		1,006
Utility Billing	498	6,714	3,334	13,353	23,401	1%	13,032	36,433		36,433
Fleet ISF	501	9,276	4,440	16,174	29,890	1%	16,645	46,535		46,535
Computer ISF	502	11,611	50,372	18,541	80,524	2%	44,843	125,367		125,367
Radio ISF	503	543	312	825	1,680	0%	936	2,616		2,616
Telephone ISF	504	383	259	858	1,500	0%	835	2,335		2,335
Office Equipment ISF	505	754	357	1,295	2,406	0%	1,340	3,746		3,746
Risk ISF	541	4,685	2,236	5,411	12,332	0%	6,868	19,200		19,200
Worker's Comp ISF	551	1,613	887	2,307	4,807	0%	2,677	7,484		7,484
Health Benefit ISF	552	2,751	1,304	3,657	7,712	0%	4,295	12,007		12,007
Retirement ISF	561	112	40	148	300	0%	167	467		467
Deferred Comp Trust	642	304	109	399	812	0%	452	1,264		1,264
Air Quality PFF	990	572	197	410	1,179	0%	657	1,836		1,836
PFF Bond Funds	910/940/'	-	159,209	-	159,209	5%	88,661	247,870		247,870
PFF/Capital Administration	999	12,166	288	659	13,113	0%	7,302	20,415		20,415
	Grand Total	880,001	1,679,999	780,000	3,340,000		1,859,998	5,199,998	-	5,199,998

G:\FIN\priv\Budget\FY2013-14\General Fund\Bankruptcy\[Chapter 9 Cost Alloc Proj 2013-14.xlsx]Summary

CTY233016

EX 2071_0002

EXHIBIT BB

Association of Retired Employees of the City of Stockton

CITY OF STOCKTON RETIREES' NEWSLETTER #32

September 29, 2013

The City Has Published Its Draft Plan of Adjustment or Bankruptcy Exit Plan

The City has published its draft Plan of Adjustment, which is their proposal for how they will operate once they exit bankruptcy. For retirees, the significant pieces are:

- No reduction in pensions are proposed for retirees
- A proposed one-time payout to each retiree eligible for retiree medical benefits, equal to approximately .94796% of their individual claim. The actual claim for each retiree is being calculated by the City based on corrected information they requested from each retiree earlier this month.
- In order for the City's plan to be financially feasible and acceptable to the court, Tax Measure A will have to pass this November 4 by a majority vote.

Below is a more extensive description of each of these three issues. Most of the description of the pension, retiree medical and tax measure issues are using words published by the City. If you want to see the full documents, you can visit the ARECOS web site at www.arecos.org or the City of Stockton website and look at the attachments to the agenda for the October 4 City Council meeting.

At the end of this newsletter is an update of the currently optimistic bankruptcy schedule. The end result is that the earliest the City will exit bankruptcy is next March or April. Any payments to creditors, including retirees, will not be made until after the City exits bankruptcy.

Retiree Pensions are Not Proposed to be Reduced

The City's employee and retiree pensions are managed through the California Public Employees' Retirement System ("CalPERS").

A CalPERS defined benefit pension is the industry standard for city employees throughout Califoruia. Over 97% of California cities contract with CalPERS for pension benefits, and more than 99% of California city employees are covered by CalPERS or a similar defined benefit plan. Additionally, all county employees in California receive a defined benefit plan from CalPERS or another similar system, and all state employees receive a CalPERS pension.

...the City has no ready, feasible, and cost-effective alternative to the CalPERS system. Nor can the City reduce its CalPERS obligations without serious consequences. City leadership believes that rejecting its CalPERS contract would impose a significant reduction in the City's pension benefits to current retirees—by approximately two-thirds, according to CalPERS. This would result in many retirees receiving benefits below the poverty level. Meanwhile, current employees would likely lose approximately two-thirds of their current-to-date earned benefit. Moreover, such pension cuts would be in addition to the elimination of retiree health benefits that the City has already imposed: the City has completely eliminated retiree health benefits for those approximately 1,100 retirees who were receiving retiree health benefits.

The elimination of City-paid health benefits for current retirees and their dependents on average amounted to 30% of their total postemployment benefits (the loss of City-paid health benefits given up by current employees will reduce their future total postemployment benefits 28-41%). The City's recent labor agreements also made substantial cuts to compensation and benefit packages for current employees, including eliminating their future retirement health coverage (worth approximately $26,000 per employee per year), requiring current employees to pay 100% of the employee share of their CalPERS contribution (7-9% of salary), and imposing compensation reductions that varied, but averaged 10% to 33%, of which 7% to 30% was in pensionable income reductions that would impact future pensions as well as current income.

The City believes that the compensation changes made over the last three years, along with the changes in pension benefits for new hires, have eliminated the excesses in its compensation/pension system.

Through changes in labor agreements as well as changes in state law, the City has reduced the pension and health benefits for new hires after January 1, 2013 by 50-70% for all new employees and higher for some types of new hires. The major compensation reductions that have occurred in the last three years will also reduce employee pensions from what they would have been due to reductions in pensionable income.

In light of the severe cuts that City employees and retirees already have experienced, the City believes that any significant reduction in pension benefits would almost certainly lead to a mass exodus of City employees, as well as leaving the City hampered in its future recruitment of new employees—especially experienced police officers—on account of the noncompetitive compensation package it would be offering new hires. Moreover, due to recent changes in California law, the exodus of City employees would be massive and sudden. In order to preserve their pension benefit levels under new state law, Stockton employees would need to leave the City's employ and obtain employment with another public agency with CalPERS benefits within six months of the rejection of the City's CalPERS contract. Such a sudden loss of trained and experienced staff would be catastrophic and would seriously jeopardize the City's ability to provide even the most basic of essential public protections.

The City is unwilling to reduce or eliminate pensions and, in effect, roll the dice to see if employees flee. In addition to critically impairing the City's ability to recruit new employees, were the City to reject its CalPERS contract, California state law provides that such rejection would also trigger a termination penalty, which CalPERS calculates at $946 million. Even then, the City would still have to fund and operate an alternate pension plan providing market-level benefits in order to remain a competitive employer. The City believes that even if it could locate or establish such a plan, it could not do so at a cost materially lower than the cost of remaining in the CalPERS plan. Additionally, because the City has not participated in the federal Social Security program since 1978, City employees receive no federal pension benefits from that source, and their CalPERS pension is the only "retirement" provided by the City. The City thus cannot unilaterally abandon the CalPERS system without incurring additional obligations and seriously jeopardizing its ability to recruit qualified employees.

Retiree Medical

Importantly, while the Plan significantly impairs the interests of former employees and retirees with respect to health benefits, **it does not impair the City's obligations to CalPERS** in its capacity as trustee for the City's pension trust for the City's retired workers and their dependents who are the beneficiaries of this trust as well as current employees and their dependents**... In other words, current and future pension CalPERS payments to such persons will not be altered by the Plan.**

...the Retiree Health Benefit Claimants, and the holders of Leave Buyout Claims—shall receive cash payment on the Effective Date in an amount equal to a set percentage of the Allowed amount of such Claims. The percentage of the Allowed amount paid on such claims will be the Unsecured Claim Payout Percentage (unless the amount of the Retiree Health Benefit Claims changes, that percentage will be $5,100,000/$538,000,000 = 0.94796%)....

Retirees who are receiving a CalPERS pension but no health benefits from the City will not be affected by the Plan. Retirees who are receiving a CalPERS pension plus health benefits will have their health benefits eliminated (and replaced with the one-time payment equal to approximately .94796% of their individual claim).

Impact of Measure A upon Future City Finances and Ability of City to Confirm the Plan.

The City believes that passage on November 5, 2013 of Measure A will produce approximately $30 million per year in new revenue from a 3/4 of one percent increase in sales taxes (from 8.25% to 9%), and that such revenue is critical to the viability of the Plan. Measure A may be difficult for some Stocktonians to accept, but it is not unusual in California's current financial environment.

According to California State Board of Equalization's website,

- 18 California cities have higher sales tax rates than Stockton's proposed 9%.
- 125 California cities are already at 9%.

EXHIBIT CC

Association of Retired Employees of the City of Stockton

CITY OF STOCKTON RETIREES' NEWSLETTER #34

December 5, 2013

City Proposal to Retirees

The City has filed with the court a Plan of Adjustment and a more extensive Disclosure Statement that both propose that pensions will not be reduced. They have proposed that $5.1 million also be distributed proportionately to each retiree who was eligible for retiree medical benefits if they retired on or before June 30, 2012. Each of you received a letter that set out the amount that the City calculated as the full amount of estimated loss of benefits. The amount each person receives will be a little less than 1% of that amount. This will be a one-time payout to each retiree received in late spring or next summer, depending on the bankruptcy schedule (more about this later in the newsletter).

Again, CalPERS pension benefits will not be altered in any way by the Plan.

Nevertheless, one of the major bond holders is objecting to the Plan; and if a negotiated solution is not reached with them, a trial is scheduled to begin April 14, 2014. One of the arguments they have made consistently is that pensions need to be reduced. Later in this article is a brief discussion of the present situation stemming from the Detroit opinion by the Bankruptcy Judge in charge of that issue.

You will also receive from the City several letters, notices, and a ballot. Below is information about two upcoming meetings and contact information if you additional questions.

Retiree Information Meeting

We have scheduled two meetings for retirees to answer questions if you would like to hear a presentation and be able to ask questions before you mail in your ballot regarding your agreement with the proposal being provided by the City.

The two meeting dates are both on Sundays.

- December 15 and January 5
- Meeting Time: 4 pm
- The meetings are being held at the First Baptist Church, 3535 N. El Dorado, in Stockton.

RET20010570

EXHIBIT DD

CITY OF STOCKTON

STANDARD & POOR'S CREDIT RATING PRESENTATION

2009-10 TAX AND REVENUE ANTICIPATION NOTES / GENERAL FUND OVERVIEW
AND
LEASE REVENUE BONDS 2009 SERIES (PUBLIC FACILITY FEE CAPITAL PROJECTS)

JULY 9, 2009 – REVISED 7-17-09

Proposed Financing Structure

City's proposed financing structure remains the same as adopted:

- ✓ 30 yr fixed-rate lease revenue bonds
- ✓ Current Rating - S&P "A" *(negative outlook)*
- ✓ Estimated Issue Size - $34.0 M
  - ✓ Project Fund - $30.713 M
  - ✓ Reserve Fund (est.) - $2.875 M
  - ✓ Cost of Issuance/Underwriting Fees (est.) - $1.0 M
- ✓ Lease Revenue Bonds secured by General Fund and pool of City assets (parks valued at $36.331 M)
  - ✓ Oak Park ($19.414 M)
  - ✓ Swenson Golf Course ($8.613 M)
  - ✓ Van Buskirk Golf Course ($8.304 M)
- ✓ Annual debt service payment = approx. $2.875 M; PFF revenues are major source of bond repayment
- ✓ Major step in resolving inter-fund loans

CITY OF STOCKTON

EXHIBIT EE

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re:

CITY OF STOCKTON, CALIFORNIA,

Debtor.

Case No. 12-32118 (CMK)

Chapter 9

WELLS FARGO BANK, NATIONAL ASSOCIATION, FRANKLIN HIGH YIELD TAX-FREE INCOME FUND, AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND,

Plaintiffs,

versus

CITY OF STOCKTON, CALIFORNIA,

Defendant.

Adv. Proceeding No. 13-02315-C

DEPOSITION OF EXPERT KIM NICHOLL

April 17, 2014

10:07 A.M.

555 South Flower Street, 50th Floor

Los Angeles, California

Reported by:

DEBRA V. HELGESON

CSR No. 3189, RPR

MR. RIDDELL: Well, I'll object to the extent that it -- for purposes of the expert opinions, I don't know whether or not -- at this point in time, whether Ms. Nicholl may be testifying as a fact witness or with respect to issues beyond what she's been designated to testify here about in the context of her expert report.

So I just wanted to make that clear. I'm not sure, and I don't know if anybody has had those discussions, but it's possible.

MR. JOHNSTON: My question is related solely to Ms. Nicholl's testimony as an expert in this case.

So if we can mark these as 2962.

(Exhibit 2962 marked)

MR. FEYDER: Can we take a short break.

MR. JOHNSTON: Sure. Five minutes.

(Recess)

BY MR. JOHNSTON:

Q I've handed you Exhibit 2962.

Can you tell me if you recognize that document.

A Yes. This is Mr. Moore's expert report.

Q Okay. And the question I had asked you was that your rebuttal report and expert testimony is a rebuttal to a portion of this report; correct?

A Yes.

Q And, more specifically, you're rebutting parts of Mr. Moore's Opinion Three, which starts on page 18; correct?

MR. RIDDELL: Objection. Mischaracterizes the opinions expressed in her report.

THE WITNESS: Yes.

BY MR. JOHNSTON:

Q And when you look within Opinion Three, there are four subparts denominated, A, B, C, and D.

Your rebuttal report addresses parts A, B, and C of Opinion Three; correct?

MR. RIDDELL: Objection to the extent it seeks to limit the scope of the opinions expressed in the rebuttal report.

THE WITNESS: I -- in my rebuttal report, I commented on each of these topics.

But also I believe I had other information in my report as well.

BY MR. JOHNSTON:

Q What other information?

A Well --

MR. RIDDELL: Objection. Calls for a narrative response. The report speaks for itself.

THE WITNESS: The way that -- I mean, you can look through it and see the principles involved with financing public sector reports. There is a section.

I have a section about Moore's report having no suggestions about addressing the level of Stockton's pension contributions. I don't think that they're necessarily tied to Mr. Moore's A, B, and C.

BY MR. JOHNSTON:

Q Is it tied to any other parts of Mr. Moore's report?

MR. RIDDELL: Objection. Vague.

THE WITNESS: No, not that I can see.

BY MR. JOHNSTON:

Q So you have not offered an opinion on the calculation of the City's liability for retiree health benefits; correct?

MR. RIDDELL: Objection. The document speaks for itself.

THE WITNESS: I have not.

BY MR. JOHNSTON:

Q And you have not offered an opinion on the accuracy of the City's long-range financial plan; correct?

A I have not.

Q And you haven't offered an opinion as to whether the City has the financial ability to pay all of its future pension liabilities; correct?

MR. RIDDELL: The document speaks for itself.

THE WITNESS: I have not.

BY MR. JOHNSTON:

Q And you haven't offered an opinion on Mr. Moore's Opinion One, which is that the City can afford to pay Franklin more than it's proposing to pay in its plan; correct?

MR. RIDDELL: Same objection.

THE WITNESS: I have not.

BY MR. JOHNSTON:

Q And you haven't offered an opinion on Mr. Moore's Opinion Two, which is that the City is paying other creditors with similar rights to Franklin's recovery greater than what the City is proposing to pay Franklin in its Plan of Adjustment; right?

MR. RIDDELL: Before you answer, may I have a standing objection with respect to the effect that the report -- the contents of the report are the opinions that Ms. Nicholl is prepared to express, irrespective of which portion of the report they're tied to.

MR. JOHNSTON: I don't understand the objection; so just make it.

MR. RIDDELL: You don't understand it?

MR. JOHNSTON: I do not.

MR. RIDDELL: Okay. I was asking if I could have a standing objection so that I wouldn't have to keep saying that the document -- the report itself and the contents, which include the witness's opinions that she's prepared to express, are included in the report and so that I don't have to keep saying "Objection. The report speaks for itself."

MR. JOHNSTON: You can have a standing objection that says the report speaks for itself.

Q And you may answer the question.

A Could you repeat the question.

Q Yes.

You are not offering an opinion on Mr. Moore's Opinion Two, which is that the City is paying other creditors with rights similar to Franklin recoveries that are greater than what the City is proposing to pay Franklin in its Plan of Adjustment; correct?

A That's correct.

Q And you're not offering an opinion as to Part D of Mr. Moore's Opinion Three, which relates to the City of Vallejo; correct?

MR. RIDDELL: And I also object to the extent that Mr. Moore's report does not include his explanations that he provided yesterday and, therefore, the report is incomplete in and of itself.

THE WITNESS: My report does not comment on Mr. Moore's Item D on page 21.

EXHIBIT FF

CalPERS

California Public Employees' Retirement System
Actuarial Office
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (916) 795-3240
(888) 225-7377 phone · (916) 795-2744 fax
www.calpers.ca.gov

October 2013

SAFETY PLAN OF THE CITY OF STOCKTON (CalPERS ID: 6373973665)
Annual Valuation Report as of June 30, 2012

Dear Employer,

As an attachment to this letter, you will find a copy of the June 30, 2012 actuarial valuation report of your pension plan. Your 2012 actuarial valuation report contains important actuarial information about your pension plan at CalPERS. Your CalPERS staff actuary, whose signature appears in the Actuarial Certification Section on page 1, is available to discuss the report with you after October 31, 2013.

Future Contribution Rates

The exhibit below displays the Minimum Employer Contribution Rate for fiscal year 2014-15 and a projected contribution rate for 2015-16, before any cost sharing. The projected rate for 2015-16 is based on the most recent information available, including an estimate of the investment return for fiscal year 2012-13, namely 12 percent, and the impact of the new smoothing methods adopted by the CalPERS Board in April 2013 that will impact employer rates for the first time in fiscal year 2015-16. For a projection of employer rates beyond 2015-16, please refer to the "Analysis of Future Investment Return Scenarios" in the "Risk Analysis" section, which includes rate projections through 2019-20 under a variety of investment return scenarios. Please disregard any projections that we may have provided you in the past.

Fiscal Year	Employer Contribution Rate
2014-15	41.385%
2015-16	44.5% (projected)

Member contributions other than cost sharing, (whether paid by the employer or the employee) are in addition to the above rates. **The employer contribution rates in this report do not reflect any cost sharing arrangement you may have with your employees.**

The estimate for 2015-16 also assumes that there are no future contract amendments and no liability gains or losses (such as larger than expected pay increases, more retirements than expected, etc.). This is a very important assumption because these gains and losses do occur and can have a significant impact on your contribution rate. Even for the largest plans, such gains and losses often cause a change in the employer's contribution rate of one or two percent of payroll and may be even larger in some less common instances. These gains and losses cannot be predicted in advance so the projected employer contribution rates are just estimates. Your actual rate for 2015-16 will be provided in next year's report.

CTY001260

EX 2727

Hypothetical Termination Liability

Below is an estimate of the financial position of your plan if you had terminated your contract with CalPERS as of June 30, 2012 using the discount rates shown below. Your plan liability on a termination basis is calculated differently compared to the plan's ongoing funding liability. In December 2012, the CalPERS Board adopted a more conservative investment policy and asset allocation strategy for the Terminated Agency Pool. Since the Terminated Agency Pool has limited funding sources, expected benefit payments are secured by risk-free assets. With this change, CalPERS increased benefit security for members while limiting its funding risk. This asset allocation has a lower expected rate of return than the PERF. Consequently, the lower discount rate for the Terminated Agency pool results in higher liabilities for terminated plans.

In order to terminate your plan, you must first contact our Retirement Services Contract Unit to initiate a Resolution of Intent to Terminate. The completed Resolution will allow your plan actuary to give you a preliminary termination valuation with a more up-to-date estimate of your plan liabilities. CalPERS advises you to consult with your plan actuary before beginning this process.

Valuation Date	Hypothetical Termination Liability[1]	Market Value of Assets (MVA)	Unfunded Termination Liability	Termination Funded Ratio	Termination Liability Discount Rate[2]
06/30/11	$ 1,186,712,063	$ 598,289,135	$ 588,422,928	50.4%	4.82%
06/30/12	1,614,069,650	571,679,198	1,042,390,452	35.4%	2.98%

[1] The hypothetical liabilities calculated above include a 7 percent mortality contingency load in accordance with Board policy. Other actuarial assumptions, such as wage and inflation assumptions, can be found in appendix A.

[2] The discount rate assumption used for termination valuations is a weighted average of the 10 and 30-year US Treasury yields in effect on the valuation date that equal the duration of the pension liabilities. For purposes of this hypothetical termination liability estimate, the discount rate used, 2.98 percent, is the yield on the 30-year US Treasury Separate Trading of Registered Interest and Principal of Securities (STRIPS) as of June 30, 2012. In last year's report the May 2012 rate of 2.87 percent was inadvertently shown rather than the June rate of 2.98 percent. Please note, as of June 30, 2013 the 30-year STRIPS yield was 3.72 percent.

EXHIBIT GG

CalPERS

California Public Employees' Retirement System
Actuarial Office
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (916) 795-3240
(888) 225-7377 phone · (916) 795-2744 fax
www.calpers.ca.gov

October 2013

MISCELLANEOUS PLAN OF THE CITY OF STOCKTON (CalPERS ID: 6373973665)
Annual Valuation Report as of June 30, 2012

Dear Employer,

As an attachment to this letter, you will find a copy of the June 30, 2012 actuarial valuation report of your pension plan. Your 2012 actuarial valuation report contains important actuarial information about your pension plan at CalPERS. Your CalPERS staff actuary, whose signature appears in the Actuarial Certification Section on page 1, is available to discuss the report with you after October 31, 2013.

Future Contribution Rates

The exhibit below displays the Minimum Employer Contribution Rate for fiscal year 2014-15 and a projected contribution rate for 2015-16, before any cost sharing. The projected rate for 2015-16 is based on the most recent information available, including an estimate of the investment return for fiscal year 2012-13, namely 12 percent, and the impact of the new smoothing methods adopted by the CalPERS Board in April 2013 that will impact employer rates for the first time in fiscal year 2015-16. For a projection of employer rates beyond 2015-16, please refer to the "Analysis of Future Investment Return Scenarios" in the "Risk Analysis" section, which includes rate projections through 2019-20 under a variety of investment return scenarios. Please disregard any projections that we may have provided you in the past.

Fiscal Year	Employer Contribution Rate
2014-15	20.090%
2015-16	22.2% (projected)

Member contributions other than cost sharing, (whether paid by the employer or the employee) are in addition to the above rates. **The employer contribution rates in this report do not reflect any cost sharing arrangement you may have with your employees.**

The estimate for 2015-16 also assumes that there are no future contract amendments and no liability gains or losses (such as larger than expected pay increases, more retirements than expected, etc.). This is a very important assumption because these gains and losses do occur and can have a significant impact on your contribution rate. Even for the largest plans, such gains and losses often cause a change in the employer's contribution rate of one or two percent of payroll and may be even larger in some less common instances. These gains and losses cannot be predicted in advance so the projected employer contribution rates are just estimates. Your actual rate for 2015-16 will be provided in next year's report.

CTY001193

EX 2728

Hypothetical Termination Liability

Below is an estimate of the financial position of your plan if you had terminated your contract with CalPERS as of June 30, 2012 using the discount rates shown below. Your plan liability on a termination basis is calculated differently compared to the plan's ongoing funding liability. In December 2012, the CalPERS Board adopted a more conservative investment policy and asset allocation strategy for the Terminated Agency Pool. Since the Terminated Agency Pool has limited funding sources, expected benefit payments are secured by risk-free assets. With this change, CalPERS increased benefit security for members while limiting its funding risk. This asset allocation has a lower expected rate of return than the PERF. Consequently, the lower discount rate for the Terminated Agency pool results in higher liabilities for terminated plans.

In order to terminate your plan, you must first contact our Retirement Services Contract Unit to initiate a Resolution of Intent to Terminate. The completed Resolution will allow your plan actuary to give you a preliminary termination valuation with a more up-to-date estimate of your plan liabilities. CalPERS advises you to consult with your plan actuary before beginning this process.

Valuation Date	Hypothetical Termination Liability[1]	Market Value of Assets (MVA)	Unfunded Termination Liability	Termination Funded Ratio	Termination Liability Discount Rate[2]
06/30/11	$ 808,560,358	$ 450,853,223	$ 357,707,135	55.8%	4.82%
06/30/12	0	431,187,495	575,931,065	42.8%	2.98%

[1] The hypothetical liabilities calculated above include a 7 percent mortality contingency load in accordance with Board policy. Other actuarial assumptions, such as wage and inflation assumptions, can be found in appendix A.

[2] The discount rate assumption used for termination valuations is a weighted average of the 10 and 30-year US Treasury yields in effect on the valuation date that equal the duration of the pension liabilities. For purposes of this hypothetical termination liability estimate, the discount rate used, 2.98 percent, is the yield on the 30-year US Treasury Separate Trading of Registered Interest and Principal of Securities (STRIPS) as of June 30, 2012. In last year's report the May 2012 rate of 2.87 percent was inadvertently shown rather than the June rate of 2.98 percent. Please note, as of June 30, 2013 the 30-year STRIPS yield was 3.72 percent.

EXHIBIT HH

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Attorneys for Franklin High Yield Tax-Free Income Fund and Franklin California High Yield Municipal Fund

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Case No. 12-32118 (CMK) Chapter 9 Adv. Proceeding No. 13-02315-C
WELLS FARGO BANK, NATIONAL ASSOCIATION, FRANKLIN HIGH YIELD TAX-FREE INCOME FUND, AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND, Plaintiffs. v. CITY OF STOCKTON, CALIFORNIA, Defendant.	**SUBMISSION BY FRANKLIN HIGH YIELD TAX-FREE INCOME FUND AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND OF EXPERT REPORT OF CHARLES M. MOORE**

Expert Report of Charles M. Moore, CPA, CTP, CFF

I. Introduction.

I have been retained by Jones Day as an expert in municipal finance related to the analysis of business plans and financial projections on behalf of the Franklin High Yield Tax-Free Income Fund and Franklin High Yield Municipal Fund (collectively, "Franklin") in connection with the City of Stockton's (the "City") Chapter 9 filing under the U.S. Bankruptcy Code and the treatment of the Stockton Public Financing Authority Lease Revenue Bonds, 2009 Series A (Capital Improvement Projects) (the "Franklin Bonds"), which represent a $35.1 million loan ($37.1 million including unpaid prepetition interest) to the City, in the City's proposed First Amended Plan for the Adjustment of Debts of City of Stockton, California (November 15, 2013) (the "Plan").

I am a Senior Managing Director and Shareholder of Conway MacKenzie, Inc. ("CM" or the "Firm"). CM provides turnaround consulting and financial advisory services to distressed organizations, municipalities, and their constituents, as well as due diligence, fraud investigation and litigation support services. The Firm was established in 1987 and has nine offices throughout the United States. CM has been recognized as an "Outstanding Turnaround Firm" by the publication *Turnarounds and Workouts* every year since 2000, was named "Turnaround Firm of the Year" by M&A Advisor in 2011, and has received several awards for its work in performing turnarounds and conducting transactions for a variety of clients.

Attached as Exhibit 1 are my Curriculum Vitae, statement of compensation, listing of other cases where I have testified as an expert or fact witness at trial or by deposition during the past four years, and listing of publications I have authored in the previous 10 years. The procedures performed in connection with this engagement were either performed by me or under my supervision by employees of CM.

The information in this report is presented as of the date of this report. The opinion and conclusions expressed herein are subject to change based on additional data, facts and information that may be received subsequent to the date of this report. In addition, it is possible that I may be asked at a future date to review and respond to a report issued by an expert(s) retained by the City.

II. Case Background.

Several financial institutions either have debt outstanding or have insured debt outstanding with the City. These include National Public Finance Guaranty Corporation ("NPFG"), Assured Guaranty Municipal Corp. ("Assured Guaranty"), and AMBAC ("Ambac"). These entities have all settled with the City. In the Plan, the City proposes to place the Franklin Bonds in a class entitled "General Unsecured Claims." This class includes an alleged amount of $545.9 million of Retiree Health Benefit Claims (also known as other post-retirement employee benefit ("OPEB") claims, which are to receive an aggregate

Alabama; Detroit Public Schools; Wayne County Circuit Court; and work performed on behalf of the American Federation of State, County and Municipal Employees ("AFSCME").

I am a Certified Public Accountant, Certified Turnaround Professional, Certified in Financial Forensics and hold memberships in the Turnaround Management Association, American Bankruptcy Institute, American Institute of Certified Public Accountants and Michigan Association of Certified Public Accountants. I am also a past President and former member of the Board of Directors for the Detroit Chapter of the Turnaround Management Association. I received my Master of Business Administration and Bachelor of Arts degrees from Michigan State University. In 2008, I was honored by *Crain's Detroit Business* through selection to the class of "40 Under 40" and in 2006, I was named one of twelve 'People to Watch – Business Professionals Making Their Mark' by *Turnarounds & Workouts*.

V. Summary Of Opinions.

The opinions I have reached in this matter are based on the work performed to date, as well as my professional experience as a business consultant as described above. They are:

A. Based on the projections in the City's revised Long Range Financial Plan ("LRFP")[2], the City can afford to pay Franklin a significant percentage, if not all, of the City's obligations in respect of the Franklin Bonds.

B. The City is paying other creditors with rights similar to those held by Franklin recoveries that dramatically exceed the proposed *de minimis* recovery to Franklin in respect of the Franklin Bonds.

C. The City's pension obligations, particularly for the Safety Plan, are very high, growing and unpredictable.

VI. Opinion One – Detailed Basis: Based On The Projections In The City's Revised LRFP, The City Can Afford To Pay Franklin A Significant Percentage, If Not All, Of Its Obligations In Respect Of The Franklin Bonds.

In the Plan, the City proposes to treat the claim arising from the Franklin Bonds as a claim for damages resulting from rejection of a lease and to limit the amount of that claim, pursuant to section 502(b)(6) of the Bankruptcy Code, to approximately $10.0 million. The City then proposes to make a payment on that claim equal to the "capped" claim amount multiplied by the "Unsecured Claim Payout Percentage," which the Plan defines as "the percentage paid on account of the Retiree Health Benefit Claims (unless the amount of the Retiree Health Benefit Claims changes, that percentage will be equal to 0.93578%, i.e., $5,100,000 divided by $545,000,000)." The City therefore proposes to pay Franklin approximately $94,000, or 0.25% of the principal amount and accrued prepetition interest on the Franklin

[2] Delivered to Franklin on March 3, 2014.

Bonds. Based on the resources available to the City as detailed in the LRFP, the City can afford to pay Franklin a significantly greater recovery from revenues received over time. Moreover, given an extension of the maturity of the Franklin Bonds commensurate with the extension provided other creditors in the restructuring of their obligations under the Plan, the City should be able to pay the amount of the claim in respect of the Franklin Bonds in full.

A. The City's LRFP Represents A Conservative Forecast.

The City touts the "conservatism" of its assumptions in several places throughout the LRFP, observing that "it is possible that actual revenues will be better than expected" (see LRFP page 3) and that "variances are somewhat more likely to be 'good news' than 'bad news'" (see LRFP page 2). Reflecting this conservative bias, the City even includes an alternative scenario where annual revenue growth is 0.5% better than projected. In this scenario, the City states that there is an additional $476 million available to pay "mission critical spending" (see LRFP page 3). It is notable that the City provided an upside alternative scenario but not a downside one in the LRFP.

Based on historical data accompanying the LRFP provided by the City, I agree that the LRFP is indeed conservative. Property taxes are forecast to grow at a 3.1% compound annual growth rate over the duration of the forecast (from FY2012-13), as compared to 4.3% over the last 15 years through FY2012-13. Sales taxes are forecast to grow at 3.2%, versus 3.8% over the last 15 years. This historical period includes a full economic cycle containing both an abnormal boom as well as a severe financial crisis. Given these facts, the material differences in the property tax and sales tax growth rate assumptions over the forecast period are conservative when compared to available historical data. Similarly, the utility users tax is forecast to grow at 1.4% versus a 2.2% compound annual growth rate over the last 15 years. While the City bases the lower growth rate forecast on tangible factors such as reduced use of cable and landline phones and customer conservation efforts, the utility users tax growth rate would also seem to be conservative.

Documents prepared by the City in connection with the February 25, 2014 City Council meeting further confirm my opinion that the LRFP is a conservative forecast. These documents indicate that because the City's property tax revenues are trending ahead of budget for the current fiscal year, it was appropriate for the City Council to adopt a resolution increasing the property tax revenue budget for FY2013-14 by approximately $1.0 million. City staff explained that "[p]roperty values in the City of Stockton experienced a net taxable value increase of 3.6% over the prior year resulting in a 2.9% increase in projected general fund revenues for a total of $44.9 million. This is an increase of 0.6% from the FY

2013-14 Adopted Budget."[3] In fact, the current LRFP reflects $18.4 million in additional property tax revenues over the first 10 years of the LRFP (FY2012-13 through FY2021-22) as compared to the version of the LRFP that the City included with its Disclosure Statement just three months ago.[4] City staff also noted that expenditures are projected to be lower than budget due to salary savings, while cautioning that it was too soon to draw conclusions for the full year as certain positions are currently being filled.

Results from the prior fiscal year (FY2012-13) provide further support for the City's conservatism. Ultimately, general fund revenues for Fiscal Year 2012-13 were $6.2 million in *excess* of budget and expenses were $9.7 million *under* budget.[5] In their report on year-end results, City staff noted that "median home prices are trending upward," sales taxes were more than 2.6% over budget, "Utility Users Tax (UUT) revenues are projected to come in about 1.4% above the budget," and franchise tax revenue is projected to be 3.7% over budget. On the expense side, $5.0 million of the expenditure savings was due to vacant positions (primarily in the police and fire departments), $1.6 million was for anticipated labor litigation that did not occur and $2.0 million of the expenditure savings was due to non-use of the contingency that the City forecasts to be needed every year for the entire 28 yearprojection period commencing with FY2013-14.

B. The City Builds Cash Over the Term Of The LRFP, Sufficient To Pay A Material Portion, If Not All, Of The City's Obligation In Respect Of The Franklin Bonds.

The City builds significant cash over the course of the LRFP, such that in the last year of the LRFP (FY2040-41), the City is projected to have cash reserves of $58.4 million. Additionally, as noted above, the City has factored into the LRFP a $2.0 million "contingency" in each year beginning with the 2013-14 fiscal year. This contingency is not allocated to any specific expense line item. If the LRFP is realistically and accurately forecast, there will likely be both favorable and unfavorable variances over the forecast period, which should generally balance out over time. Therefore, assuming that the LRFP is realistically and accurately forecast and assuming cash resulting from positive variances to the LRFP is not diverted to other uses, the City's adjusted cash balance at the end of the forecast period would be $114.4 million, or approximately 42% of the City's average annual general fund expenditures over the forecast period. This figure comprises 1) the $58.4 million ending cash balance listed by the City, and 2) the $56.0 million

[3] See Agenda Item 15.4, Fiscal Year 2013-14 First Quarter General Fund Status Update And Authorization To Amend the FY2013-14 Budget, page 3.
[4] There are significant changes to various line items in the updated LRFP. For example, despite the property tax increase in the first decade described above, overall property tax revenues are lower by $26.8 million due to significant reductions in projected property tax revenues in the third decade of the forecast. Sales tax revenues are roughly the same over the first nearly two decades of the LRFP, but are $31.9 million higher over the last 10 years. Additionally, the City forecasts an additional $59.1 million for "Charges for Services" over the course of the LRFP. The lack of a clear explanation for most of these changes makes the LRFP itself appear somewhat arbitrary.
[5] See Agenda Item 15.3 – Fiscal Year 2012-13 Fourth Quarter General Fund Budget Update and Year-End Projection.

cumulative contingency that is built into the LRFP (28 years at $2.0 million). This cash balance of $114.4 million is *after* the City pays $220 million in so-called "mission-critical" spending over the 10 years from FY2031-32 to FY2040-41.

In the LRFP the City states that a "prudent" range for the City's minimum cash balance at any given point in time is 5% to 15% of budgeted general fund expenditures, and the City therefore forecasts making elective payments toward "mission critical" spending needs in every year where the cash balance exceeds 15%, for a projected total of $220 million in "mission critical" expenditures over the course of the LRFP. In calculating the ending cash balance of $114.4 million, I have assumed that the City in fact spends all of that $220 million on "mission critical" spending and not on payment of the claim in respect of the Franklin Bonds. I do note, however, that the City itself has defined its "mission critical" spending needs as including "*making creditor payments under the plan of adjustment,*" which would imply that some portion of the $220 million can and should be devoted to payment of the Franklin Bonds (see LRFP page 13) (emphasis added).

Given that unforeseen events and cyclicality are inevitable over such a long period, and that it is impossible to predict when such variances to the budget will occur, the City is wise to provide for a minimum cash balance, expressed as a percentage of expenditures. The purpose of this cash cushion is to ensure that the City does not run out of cash when there are negative variances to the budget; essentially, the minimum cash balance must outlast any period of negative variances. In an accurately-forecast budget, over time any negative variances and positive variances should net out and the cash balance at the end of a given forecast period should be as reflected in the forecast. In such a forecast, the aggregate amount of any budgeted "contingency" would be included in the ending cash balance if the "contingency" funds are not otherwise diverted to other uses in the positive variance years. In a conservatively-forecast budget (as the City describes the LRFP to be), positive variances should outweigh negative variances and the cumulative cash balance at the end of a forecast period should be greater than the forecast amount (again assuming that available funds are not diverted to pay for non-forecast expenditures in positive variance years).

Here, despite the conservatism of this LRFP, the City has included in the forecast a $2.0 million unrestricted annual contingency, year after year, for every year of the forecast period. The City's justification for this is that there could be negative variances, and over a long-range plan the "compounding of those variances over time…can get to be pretty significant."[6] Negative variances should not be "compounding" in a conservative plan. Moreover, any risk of sustained negative variances would be better addressed with an adequate minimum cash balance expressed as a percentage of expenditures, which would increase over time and therefore better accommodate any such

[6] See R. Leland Tr. (3/7/14) at 118:22-23 (rough draft).

"compounding." At any rate, any competent forecast – particularly a "conservative" one – will not result in negative variances to the budget every year, which is essentially what the City is assuming when it states that it needs an annual contingency of $2 million.

Based on available data from the City's Comprehensive Annual Financial Reports ("CAFR"), the City's cash balance as a percentage of total expenditures has averaged approximately 5% over the last 14 years (see Table 1 below). Additionally, the City's own adopted policy is to maintain a 10% reserve. According to Policy No. 700-4 Reserve Policy – General Fund, effective as of 7/1/06[7], the City established general fund reserve targets of 5% of budgeted expenditures for "Catastrophic Reserve," and 5% for "Economic Contingency/Budget Uncertainty Reserve." Even these targets were aspirational. The City noted in the policy statement that it "anticipated that the initial funding … at these levels will take multiple years to be realized." However, notwithstanding the historical record and the City's adopted policy targeting a 10% level, in the LRFP the City builds cash to the 15% level.

TABLE 1 –

Historical Cash Balance As A Percentage Of Expenditures

City of Stockton *($'s in thousands)*	FY98-99	FY99-00	FY00-01	FY01-02	FY02-03	FY03-04	FY04-05	FY05-06	FY06-07	FY07-08	FY08-09	FY09-10	FY10-11	FY11-12	Average
Cash	$ 5,078	$ 6,159	$ 11,777	$ 7,221	$ 8,035	$ 6,278	$ 2,796	$ 8,966	$ 3,959	$ 3,463	$ 6,934	$ 12,571	$ 12,193	$ 10,678	$ 7,579
Total Expenditures	110,139	118,770	126,278	141,511	134,524	141,569	157,168	167,166	176,488	182,000	174,132	175,657	178,141	162,251	153,271
Cash as % of Total Exp.	4.6%	5.2%	9.3%	5.1%	6.0%	4.4%	1.8%	5.4%	2.2%	1.9%	4.0%	7.2%	6.8%	6.6%	5.0%

Source: Comprehensive Annual Financial Reports ("CAFRs") for the respective years

As the City notes, the Government Finance Officers Association ("GFOA") does recommend a budgeted cash balance of "not less than two months of … general fund operating expenditures,"[8] which amounts to approximately a 16.7% minimum cash balance. Putting aside whether the City should maintain a minimum cash cushion at the high end of the "prudent" range when creditors have not been paid, and that a 16.7% cash balance is well in excess of the City's own adopted policy, I have reforecast the LRFP under four scenarios, with the City maintaining a 5%, 10%, 15% and 16.7% minimum cash balance, but without the $2 million annual contingency. I have done so because in a forecast that is accurately assembled, and especially one that is "conservatively" constructed, inclusion of both a contingency and a minimum cash cushion is redundant and not necessary. Under each scenario, as shown below, the City is able to pay all, or a substantial portion, of its obligation in respect of the Franklin Bonds. For example, in the 5% minimum cash balance scenario, the City is able to pay *all* of the obligations on the Franklin Bonds by the end of the forecast period, and even in the 16.7% minimum

[7] Adopted by Resolution No. 06-0299 dated 6/6/06; policy statement available on City website.
[8] The City has not historically been a strong adherent to GFOA best practices; the GFOA, for instance, recommends prefunding versus "pay as you go" for post-employment benefits, a recommendation the City has not heeded. See, e.g., "Considerations for Prefunding OPEB Obligations (2008) (Budget and CORBA)," available on the GFOA website, www.gfoa.org.

cash balance scenario the City is able to pay 51.5% of the principal and accrued prepetition interest on the Franklin Bonds.

Specifically, Franklin is owed $78.9 million in debt service (including principal and interest payments) over the scheduled payment term of the Franklin Bonds. Assuming that the debt service is paid where there is availability above the minimum cash balance commencing June 30, 2014, and where there is not sufficient cash above the minimum threshold unpaid amounts are carried forward and accrue interest at the blended contract rate of 6.875%, the City's own LRFP produces the following over the forecast period:

- Maintaining a 5% minimum cash balance, the City generates sufficient cash to pay the Franklin Bonds in full. The City ends up paying a total of $92.5 million, including $13.6 million in interest on arrearages. The City makes its final payment in this scenario in FY 2040-41, and the City has $21.9 million remaining at the end of the forecast period (see Exhibit 3).
- Maintaining a 10%, 15% or 16.7% minimum cash balance, the City cannot pay its obligations in respect of the Franklin Bonds in full by the end of the forecast period in FY 2040-41, but it can pay a significant portion of those obligations. For example, under the 10% scenario, the City pays $76.1 million and has a $38.3 million cash balance at the end of the forecast period; under the 15% scenario, the City pays $57.0 million with a $57.4 million cash balance at the end of the forecast period; under the 16.7% scenario, the City pays $50.6 million with a $63.8 million cash balance at the end of the forecast period (see Exhibits 4, 5 and 6).

Moreover, the City has willingly agreed to pay other creditors under the Plan well beyond the forecast period of the LRFP. For example, the City's settlement with Assured Guaranty regarding the Pension Obligation Bonds provides for payments on the restructured Pension Obligation Bonds to FY2052-53 – *twelve years beyond the end of the LRFP forecast period.* If the LRFP were extended to FY2052-53 using the average growth rates for the prior 10 years for each line item and assuming that "mission critical" spending increases by $2 million per year after FY2040-41 (i.e., an *additional* $588 million of "mission critical" spending over the additional 12 years), *there are ample funds to pay Franklin a full recovery under each and every one of the minimum cash balance scenarios described above.*[9]

The charts below summarize the amounts available to pay to Franklin, as well as the recovery percentages on the Franklin Bonds obligation and City's cash balance at the end of the LRFP under each scenario, plus a scenario assuming that payments are made through FY2052-53. The recovery percentages are calculated by discounting the Franklin Bonds payment stream at 5%, as the City has done with other creditors.

[9] Because the forecast for pension expense shows a negative growth rate over the prior 10 years, that line item is held flat in the extension through FY2052-53.

TABLE 2A –

Recoveries To Franklin And Ending Cash Balances Under Alternative Minimum Cash Scenarios Assuming Payments Through FY2040-41 (End of LRFP)

($'s in thousands)	Total Cash Payments (Discounted) (A) (1)	Outstanding Debt + Prepetition Interest (B)	Recovery ((A)/(B)) (2)	City Ending Cash Balance (3)
5.00%	$ 47,221	$ 37,093	100.0%	$ 21,889
10.00%	35,174	37,093	94.8%	38,287
15.00%	22,259	37,093	60.0%	57,431
16.67%	19,092	37,093	51.5%	63,824

Notes:
(1) Payments discounted at 5.0%
(2) Assumes recovery capped at 100%. Discounted cash payments in excess of outstanding amount result from debt service accruing at the contract rate while payments are discounted at 5.0%.
(3) Per the last year of the LRFP (FY 2040-41)

TABLE 2B –

Recoveries To Franklin And Ending Cash Balances Under Alternative Minimum Cash Scenarios Assuming Payments Through FY2052-53

($'s in thousands)	Total Cash Payments (Discounted) (A) (1)	Outstanding Debt + Prepetition Interest (B)	Recovery ((A)/(B)) (2)	City Ending Cash Balance (3)
5.00% (4)	$ 47,221	$ 37,093	100.0%	$ 166,740
10.00%	55,548	37,093	100.0%	69,057
15.00%	44,139	37,093	100.0%	75,669
16.67%	40,592	37,093	100.0%	84,094

Notes:
(1) Payments discounted at 5.0%
(2) Assumes recovery capped at 100%. Discounted cash payments in excess of outstanding amount result from debt service accruing at the contract rate while payments are discounted at 5.0%.
(3) As of FY 2052-53
(4) Franklin is paid in full in FY2040-41 (same as in LRFP scenario)

Taken together, the inclusion of an annual contingency in the LRFP, the adherence to a 15% minimum cash balance when 10% is consistent with the City's adopted policy (which itself is well in excess of the City's past practice), the diversion of cash to so-called "mission critical spending" once it reaches that 15% level, and the conservatism embedded in the City's LRFP obscure that the City is actually hoarding cash in its LRFP. That cash could be used to pay the City's obligations in respect of the Franklin Bonds.

SFR permits would need to be issued for the scheduled FY2013-2014 debt service on the Franklin Bonds of $2.923 million to be fully covered by the PFFs (see Table 4 below).[11]

Thus, the ability to pay the Franklin Bonds debt service from these funds is dependent upon the number of SFR permits. Such permits have significantly decreased in the wake of the housing crisis in the City. In the City's peak building years of FY2002-03, FY2003-04, and FY2004-05, SFR permits approached 3,000 per year. In FY2010-11, FY2011-12, and FY2012-13, the SFR permits were less than 100 per year (see Exhibit 7; FY2012-13 figure from FY2013-14 budget, page I-3).

However, even if permits remain at relatively low levels, the PFFs still could provide a meaningful contribution to the Franklin Bonds debt service. For example, even assuming that the City's 50% reduction in the amount of the Streets Fund fee continues indefinitely, and using current SFR permit fees, at just 100 SFR permits per year – the level achieved in each of the last three fiscal years – approximately $1.1 million annually would be available for debt service on the Franklin Bonds, approximately $1.8 million annually would be available at 200 SFR permits per year, and at 300 SFR permits per year approximately $2.2 million annually would be available. The table below provides an illustration of potential PFF revenues under different SFR scenarios:

TABLE 4 –

PFF Funds Available To Pay The Franklin Bonds At Different Levels Of SFR Permits

FY 2013-14 Public Facility Fee Illustrative Example: Revenue Available for Franklin Debt Service *($ in actuals)*					
	Streets 910-915	Parkland 970	Fire 940	Police 960	Total
Applicable Fee:	$ 6,668	$ 2,798	$ 781	$ 591	$ 10,838
Allocation (%)	34.1%	36.2%	17.4%	12.4%	100.0%
Cap (FY2013-14)	$ 995,322	$ 1,058,461	$ 507,746	$ 361,590	$ 2,923,119
Units to Meet Cap	150	379	651	612	
Permits/Year:					
100	$ 666,800	$ 279,800	$ 78,100	$ 59,100	$ 1,083,800
200	995,322	559,600	156,200	118,200	1,829,322
300	995,322	839,400	234,300	177,300	2,246,322
400	995,322	1,058,461	312,400	236,400	2,602,583
500	995,322	1,058,461	390,500	295,500	2,739,783
600	995,322	1,058,461	468,600	354,600	2,876,983
651	995,322	1,058,461	507,746	361,590	2,923,119

[11] The Fire Station (Fund 940) and Police Station (Fund 960) Funds reflect negative cash balances per the FY 2013-14 Budget of approximately $2.4 million and $1.3 million, respectively (see FY2013-14 Budget pages N22-23). Per the City's designated witness, these funds have negative balances because they borrowed from other funds and the amounts shown reflect the cash in the fund net of the liability (see V. Burke Tr. (3/18/14) at 73:18–75:24 and 93:1–9 (rough draft)).

TABLE 5 –

General Fund Subsidies Of Entertainment Venues

FY 2013-14 Entertainment Venues Fund Budget: General Fund Transfer

($'s in thousands)

	Stockton Arena	Bob Hope Theater	Oak Park Ice Arena	Ballpark	Other	Total
Beginning Available Balance (A)						$ 148
Revenues	$ 3,258	$ 468	$ 409	$ 220	$ 62	$ 4,416
Expenditures	4,568	877	638	666	259	7,008
Net Loss (B)	(1,310)	(409)	(229)	(446)	(198)	(2,591)
General Fund Transfer (C)						**2,653**
Ending Available Balance ((A)+(B)+(C))						$ 210

These four facilities are managed by the City's facility management firm, SMG. The City states that these venues have historically required high subsidies, and that despite SMG's "efforts to increase revenues and reduce costs … SMG has not achieved the savings anticipated due to declining ticket sales and revenue" (see FY2013-14 Budget page A-44). Notably, the LRFP does not forecast *any* reversal in general fund subsidies of the entertainment venues. Rather, the general fund subsidy increases at approximately a 2.8% annual rate over the duration of the LRFP, resulting in a $5.4 million subsidy from the general fund in FY2040-41. Over the course of the LRFP, *general fund subsidies to the Entertainment Venues Fund total approximately $123.7 million*, far more than is owed in respect of the Franklin Bonds.

Moreover, the "Golf Courses" subsidy in the LRFP constitutes an additional $450,000 in FY2013-14 and an additional *$21.2 million* over the course of the LRFP. Given that the City proposes to relinquish possession of the golf courses under the Plan, there will be no future subsidy and those funds also could be used to pay the City's obligations in respect of the Franklin Bonds.

VII. Opinion Two – Detailed Basis: The City Is Paying Other Creditors With Rights Similar To Those Held By Franklin Recoveries That Dramatically Exceed The Proposed *De Minimis* Recovery To Franklin In Respect of the Franklin Bonds.

In its Disclosure Statement and Plan, the City details settlements it has reached with the various other creditor constituencies and its proposed treatment of Franklin in the unsecured creditor class. In all instances, the payments to other "Capital Markets Creditors" and payments to other unsecured creditors (including retirees) dramatically exceed the payments the City proposes to make in respect of the Franklin Bonds.

its example in the LRFP, the recovery on the Pension Obligation Bonds would increase by an estimated 11.7% to a total recovery of 63.6%. Similarly, the recovery on the Assured Guaranty 2007 Office Building Bonds is based on the mid-point of the Lee & Associates appraisal range of the 400 East Main Building dated as of July 20, 2012. Given recoveries in property values since that time, that figure would likely be higher now.

B. Treatment Of Retirees.

The City's overall treatment of retirees also dramatically exceeds the proposed recoveries to Franklin. The City attempts to justify its treatment of the Franklin Bonds by comparing it to the proposed recovery of less than 1% on account of claims for retiree health care. In fact, however, retirees as a whole fare far better under the Plan. Specifically, taking the retiree recoveries on claims for both retiree health care and pensions together, and using verified figures with respect to the City's health care and pension liabilities, the aggregate recovery for the 1,100 retirees holding claims for both health care and pension obligations is at least 53.4% of the claimed amounts (and for the 1,300 retirees holding only claims for pension obligations, the recovery is 100%). In fact, in the LRFP the City itself estimates the overall recoveries to retirees to be in excess of 70% (see LRFP page 11).

1. The City Has Inflated The Amount Of The Retiree Health Benefit Claims.

The City has stipulated to an allowed amount of Retiree Health Benefit Claims of $545.9 million. The actual amount of the City's liability for retiree health care is substantially smaller.

The City produced a memorandum titled "Retiree Health Benefit Cost Analysis Explanation" for distribution to retiree health benefit claimants (see Exhibit 9). This memorandum is also summarized in the Notice of November 26, 2013 Bar Date for All Retiree Health Benefit Claims. It purports to explain the methodology used to calculate the City's $545.9 million aggregate claim amount. Based on that explanation, and the testimony of the City's witnesses in deposition, it is clear that in calculating the allowed claim amount to which the City has stipulated that the City did not discount its future liability for retiree health care to present value. As described below, this is wholly inconsistent with the practice of the City actuary in prior actuarial valuations for the City, with the way the City reports its retiree health care liability in its audited financial statements, with the rules promulgated by the Government Accounting Standards Board, and with the most basic principles of corporate and governmental finance. Amazingly, when asked about the City's failure to apply a discounting methodology, the City's designated witness with respect to calculation of the Retiree Health Benefit Claims professed not even to understand the concept of present value. When asked whether $1,000 was worth more today or 20 years in the future, she answered that "it depends on whether you have $1,000 now or twenty years in the future."[12]

[12] See A. Goodrich Tr. (3/17/14) at 33:21–23 (rough draft).

In developing the stipulated $545.9 million amount of the Retiree Health Benefit Claims, the City's actuary, Segal Company ("Segal"), generated a benchmark for FY2012-13 from actual retiree health care claims made during the previous 3 years. Segal then used that benchmark to extrapolate projected future health care costs over each retiree's lifetime, which could extend decades into the future, and then simply added up the total projected future health care costs to arrive at the aggregate claim amount of $545.9 million. This is a patently invalid methodology.

Standard practice entails calculating the *present value* of future benefits based on forecasts of the actual benefits to be provided using standard actuarial data and assumptions regarding the costs of providing health care. This is precisely what Segal itself did in the actuarial valuation reports used to calculate the City's retiree health care liability for purposes of the City's audited financial statements (as described in more detail below). There is no basis for the abrupt and unexplained change in methodology in the bankruptcy case.

To start, it makes no sense simply to tally up projected future health care expenses payable over the next thirty years or more. The payment of a claim thirty years from now obviously is less of a burden than the payment of the same claim today. This is why generally accepted accounting principles dictate that future liabilities like retiree health care benefit costs be discounted to present value in order to provide an accurate representation of the liability in an entity's financial statements.

Moreover, it is inappropriate to extrapolate a projection of future liability from historical data. Projected future liabilities should be derived from forward-looking assumptions about the *future* costs of providing health care benefits. The backward-looking methodology used by Segal and the City in the bankruptcy case is particularly inappropriate here because, given the City's long, pre-bankruptcy period of financial distress and accompanying rumors of a bankruptcy filing, it is likely that there was heightened retiree use of health care benefits in recent years, as retirees likely expected such benefits to be cut off in a bankruptcy case (as in fact they were). This would have inflated the benchmark used by Segal to extrapolate future health care liabilities. Moreover, available mitigation opportunities were not applied to the City's calculation. While Segal apparently did account for retirees' eligibility for Medicare after age 65, it does not account for any potential mitigation provided by the Patient Protection and Affordable Care Act ("ACA").[13] [14]

Given that there are 1,100 applicable retirees, under the City's calculation the average amount owed to *each* retiree is approximately $0.5 million. This is a staggering amount, and shows just how much the City has inflated its alleged liability in this regard.[15]

[13] Ibid, 19:4-10.

[14] While the Retirees Committee's designated witness stated that the reason for this was because the ACA did not become effective until January 1, 2014 (see D. Milnes Tr. (3/17/14) at 44:24–45:15 (rough draft)), it was signed into law on March 23, 2010; thus the City had ample time to incorporate its prospective impact.

[15] Additionally, Stockton's OPEB liabilities are exceedingly high in comparison with peer cities. According to the City's figures, Stockton's per capita liability was $1,409 versus a peer median of $286, and as a percentage of payroll its annual required contribution was 30.8% versus a peer median of 6.8% (see "Ask" page 37 of 790).

2. The City's Pre-Bankruptcy Calculation Of Retiree Health Care Liability Reveals A More Accurate Calculation.

In the Actuarial Valuation and review of OPEB conducted by Segal for the City dated as of June 30, 2011, the unfunded actuarial accrued liability for retiree health care ("UAAL") as of June 30, 2011 was $416.7 million. This liability is reported in the City's audited financial statements for the year ended June 30, 2012.

Of that $416.7 million UAAL, approximately $261.9 million was attributable to current retirees (with the balance attributable to liability for current employees). Segal discounted that liability to present value using a 4.5% discount rate. Segal's figure provides a good estimate of the magnitude of the City's error in using absolute dollar figures. It is clear that the City's UAAL, calculated correctly, would be nowhere near the $545.9 million claim amount to which the City has stipulated.

3. Combined Retiree Recovery.

Even accounting for the elimination of the retiree health benefits, the combined recovery under the Plan to retirees with both health care and pension claims is at least 53.4%, based on the verifiable, available data described above. Specifically, while the City proposes to discharge all claims regarding retiree health care benefits for a total payment of $5.1 million, the City proposes to leave unimpaired all pension benefits promised to retirees (see treatment of Class 15 in the Plan). For the City's pension liability, the latest available data is from the CalPERS June 30, 2012 valuation reports for the City's Safety and Miscellaneous Plans (dated as of October 2013, see attached Exhibits 10 and 11), which list an unfunded liability with a present value of $258.4 million for the Safety Plan and $153.4 million for the Miscellaneous Plan. These reports also show that, of the total present value of projected benefits, the total liability that is owing to current retirees is 71.3% in the case of the Safety Plan and 68.4% in the case of the Miscellaneous Plan. Applying these percentages to the unfunded liabilities yields a total retiree claim of $289.2 million for the pension. Combined with the retiree health care claim of $261.9 million, the combined claim of retirees is $551.0 million. A 100% recovery on the CalPERS liability and $5.1 million recovery on the retiree health care claims results in an overall recovery of 53.4% (see Exhibit 8).

C. Treatment Of Current Employees.

In the Disclosure Statement and other public statements, the City has emphasized the salary and benefit reductions accepted by current employees and new hires, implying that these should somehow be factored into the evaluation of the merits of the Plan.

The various changes that current employees have accepted for the most part reverse the City's prior largesse, and include requiring employees to pay the employee portion of the pension payment, eliminating employer paid member contribution-related spiking, and eliminating various other "add-pays" that have the effect of reducing compensation and therefore future pension benefits (see e.g., Declaration of Robert Deis in Support of City of Stockton's Reply to Objections, filed February 15, 2013, Docket 708). This may indeed affect pensionable compensation and therefore future pension benefits as to *current employees*. It has nothing to do with recoveries of *current retirees*. Moreover, the impact is difficult to quantify and the imprecise percentage impact ranges that the City asserts ("30-50%" in retirement benefits and "up to 30%" in compensation) are not clearly defined and not supported by any details (see Disclosure Statement page 83 footnote 15). The fact remains that the City proposes to meet 100% of its obligations to CalPERS for both retirees and current employees and, prior concessions notwithstanding, to the extent current employees are part of a class it is the class of CalPERS Pension Claims (Class 15), which the Plan proposes to pay in full. More to the point, changes in compensation and benefits for current employees have nothing to do with the treatment of claims of existing retirees under the Plan.

Similarly, new hires are not part of any class, and discussing "reductions" for new hires does not make sense. They are new employees and are entering a new system. The fact that it is less generous than the old regime does not make it a "reduction of 50-70%" (see Disclosure Statement page 83 footnote 15). It is just a new contract structure that they have willingly entered with full knowledge of the terms.

Additionally, there is a crucial distinction between actual prepetition claims, such as Franklin's, and those of current employees, whose claims are partially in the future. Any reductions for current employees can be recovered at any time. Employees are under a one-year collective bargaining agreement, and the terms of their employment can and will be renegotiated. They are thus in a totally different position than Franklin, which faces the prospect of a permanent impairment under the Plan.

VIII. Opinion Three – Detailed Basis: Pension Obligations, Particularly For The Safety Plan, Are Very High, Growing And Unpredictable.

The City's contribution rates to CalPERS for Stockton's Safety Plan are forecast to grow to seemingly unprecedented levels, are well in excess of the contribution rates of peer cities, and are increasing each year. These obligations are not only rapidly increasing, but they are also out of the City's control. In the LRFP, the City's pension expense is forecast to grow from 10.0% of general fund expenditures in FY2012-13 to 18.8% in 2024-25. Assuming without modification such an unmanageable and unpredictable obligation creates risks to the City's long-term financial viability and is inconsistent with the City's assertion that it cannot afford to pay more than approximately $94,000 in respect of the Franklin Bonds.

A. The City's Contribution Rates Are Well Above Peer Cities And Are Forecast To Grow Rapidly.

The City's forecasted Safety Plan contribution rates, expressed as a percentage of payroll, are significantly above those of peer cities (See Exhibit 12; CA cities between 200k – 500k population). For FY2013-14, the City's contribution rate is 34.6% and the peer average is 30.9%. From FY2014-15 through the end of the forecast period in FY2019-20, the City's contribution rate is the second-highest among the peer-group (second only to Santa Ana). While the contribution rates are forecast to increase over time for all of the peer cities, for the City they increase at a faster rate, reaching 57.1% in 2019-20 vs. the forecast peer average in that year of 45.1%. Not only is the City's contribution rate well-above its peers, but it is forecast to become even more of an outlier over time.

B. CalPERS' Estimated Contribution Rates Are Increasing From Year To Year.

The CalPERS estimated contribution rates, as a percentage of payroll, have tended to increase year over year. This makes it difficult for cities to plan, but the challenge is particularly vexing when contribution rates are already at lofty levels, as with the City's Safety Plan. For example, in the 2010 CalPERS valuation report, the forecast contribution rate for 2016-17 was 34.6%; this increased to 40.6% in the 2011 CalPERS valuation report, and further increased to 47.7% in the 2012 CalPERS report. The chart below illustrates this trend:

TABLE 7 –

Summary Comparison Of CalPERS Projections Of City Pension Contributions As A Percentage Of Payroll

Year over Year CalPERS Summary of Employer Contribution Rate Analysis

Safety Plan

	2013-14	2014-15	2015-16	2016 -17	2017-18	2018-19	2019-20
Stockton (6/30/10 CalPERS Report)	32.50%	33.20%	33.90%	34.60%	ND	ND	ND
Stockton (6/30/11 CalPERS Report)	34.61%	38.90%	39.80%	40.60%	41.40%	ND	ND
Increase Year over Year	2.11%	5.70%	5.90%	6.00%	NM	NM	NM
Stockton (6/30/12 CalPERS Report)	34.61%	41.39%	44.50%	47.70%	50.80%	54.00%	57.10%
Increase Year over Year	NM	2.49%	4.70%	7.10%	9.40%	NM	NM
Increase from 6/30/10 to 6/30/12	**2.11%**	**8.19%**	**10.60%**	**13.10%**	NM	NM	NM

Miscellaneous Plan

	2013-14	2014-15	2015-16	2016 -17	2017-18	2018-19	2019-20
Stockton (6/30/10 CalPERS Report)	17.40%	17.90%	18.40%	18.80%	ND	ND	ND
Stockton (6/30/11 CalPERS Report)	17.94%	19.60%	20.20%	20.80%	21.40%	ND	ND
Increase Year over Year	0.54%	1.70%	1.80%	2.00%	NM	NM	NM
Stockton (6/30/12 CalPERS Report)	17.94%	20.09%	22.20%	24.30%	26.40%	28.60%	30.70%
Increase Year over Year	NM	0.49%	2.00%	3.50%	5.00%	NM	NM
Increase from 6/30/10 to 6/30/12	**0.54%**	**2.19%**	**3.80%**	**5.50%**	NM	NM	NM

Source: CalPERS website (www.calpers.ca.gov); note: "ND" means not disclosed in Annual Valuation Report

These types of year-over-year Safety Plan increases were reflected across the board for all observed cities from the 2011 to the 2012 valuation reports. For example, in the 2011 CalPERS report the FY2017-18 forecast was 41.4% for the City and 34.6% for the average; in the 2012 CalPERS report, the forecast for FY2017-18 increased to 50.8% for the City and 40.6% for the average (see Exhibit 12). Thus, the City's Safety Plan contribution percentages are not only increasing dramatically, but are unpredictable and literally out of the City's control. Additionally, the contribution rates are extremely high on a historical basis. For reference, the City's contribution rate in FY2008-09 was 21.5% (per the 2010 valuation report); the City's highest reported historical rate among the documents received was 34.7% in FY2005-06 (per the 2007 valuation report). As the above chart indicates, many of these same trends apply to the Miscellaneous Plan, but the increases are more moderate and the nominal rates are lower.

The City does appear to have attempted to factor anticipated increases in the CalPERS contribution rates into the LRFP. The LRFP backup provided to the City by Segal, for example, shows a contribution rate for the Safety Plan of 53.8% for FY2015-16 versus the 44.5% figure in the CalPERS forecast from the FY2012 CalPERS valuation report. For the Miscellaneous Plan, the City's forecast contribution rate for FY2015-16 is 27.5% versus the 22.2% figure in the CalPERS report. By 2019-20, however, the Segal forecast contribution rate figures are lower than the comparable CalPERS figure for the Safety Plan, as shown by the table below (see also Exhibit 13).

TABLE 8 –

Comparison Of CalPERS And City Projections Of Future Pension Liability

Comparison of CalPERS Contribution Rate Forecast and LRFP (per Segal)

Safety Plan

	2013-14	2014-15	2015-16	2016 -17	2017-18	2018-19	2019-20
Stockton (Per CalPERS 6/30/12 Valn)	34.61%	41.39%	44.50%	47.70%	50.80%	54.00%	57.10%
Stockton (Per Segal Adjustments)	34.61%	41.39%	53.75%	55.66%	55.32%	55.69%	56.03%
Difference	0.00%	0.00%	9.25%	7.96%	4.52%	1.69%	-1.07%

Miscellaneous Plan

	2013-14	2014-15	2015-16	2016 -17	2017-18	2018-19	2019-20
Stockton (Per CalPERS 6/30/12 Valn)	17.94%	20.09%	22.20%	24.30%	26.40%	28.60%	30.70%
Stockton (Per Segal Adjustments)	17.94%	20.09%	27.52%	29.26%	30.95%	32.73%	34.51%
Difference	0.00%	0.00%	5.32%	4.96%	4.55%	4.13%	3.81%

Source: CalPERS website (www.calpers.ca.gov) and LRFP spreadsheet

Moreover, as noted, the 2012 CalPERS valuation report represents a substantial increase in contribution rates over 2011, which in turn represented a substantial increase over 2010. So while the City has attempted to anticipate some future increases in the CalPERS contribution rates, history suggests that the City is unable accurately to predict the CalPERS Safety Plan contribution rate, and by FY2019-20 the City's forecast is actually lower than the forecast contained in the most recent CalPERS valuation report (as shown in the table above). If future increases in the contribution rate rise above what the City has forecast, it could call the feasibility of the Plan and future viability of the City into question.

C. Pension Expense As A Percentage Of General Fund Expenditures Is Unsustainably High.

The City's forecast pension expenditure as a percentage of total general fund expenditures is also unsustainably high. For FY2012-13, the City projected in its LRFP that pension expenses would constitute approximately 10.0% of its general fund. However, the rapid growth in the City's projected pension expense, as noted above, results in this figure increasing to 18.1% in just six years (FY2018-19). The projected pension expense then remains above 18.0% for the next twelve years (until FY2030-31) and above 16.0% until FY2034-35 (see Exhibit 14). From a historical perspective, these figures are extremely high. From FY1998-1999 (as far back as data was readily available) through FY2011-12, the City's pension expense as a percentage of total general fund expenditures averaged approximately 9.6%, with a low of 2.7% in FY2001-02 and a high of 16.2% in FY2005-06 (see Exhibit 15).

D. Vallejo's Failure To Contain Pension Expenses Presents A Cautionary Tale.

The City of Vallejo ("Vallejo") is facing another budget crisis less than two years after exiting bankruptcy, providing a case study in the risks of failing to address pension obligations while in Chapter 9. Vallejo projects budget deficits for this fiscal year and next (FY2013-14 and FY2014-15), with ballooning obligations to CalPERS a key part of the challenge, and a dwindling cash balance of approximately 4.5% of general fund expenditures (for FY 2013-14; see Exhibit 16). Vallejo's CalPERS Safety Plan contribution rate for FY2014-15 is 50.8% (compared to 41.4% for the City and a 37.9% peer average), and is forecast to grow to 65.5% in FY2019-20 (compared to 57.1% for the City and a 48.5% peer average) (see Exhibit 17).[16] Vallejo's Safety Plan contribution rate is higher than all of the peer cities for FY2014-15 and second only to El Monte in FY2019-20. Vallejo's forecast CalPERS contribution rates, as well as Stockton's CalPERS and Segal contribution rates, are shown on the table below.

[16] Peer group for Vallejo includes California cities with populations of 110,000 – 130,000.

EXHIBIT II

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Attorneys for Franklin High Yield Tax-Freenice Income Fund and Franklin California High Yield Municipal Fund

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Case No. 12-32118 (CMK) Chapter 9 Adv. Proceeding No. 13-02315-C
WELLS FARGO BANK, NATIONAL ASSOCIATION, FRANKLIN HIGH YIELD TAX-FREE INCOME FUND, AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND, Plaintiffs. v. CITY OF STOCKTON, CALIFORNIA, Defendant.	**SUBMISSION BY FRANKLIN HIGH YIELD TAX-FREE INCOME FUND AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND OF EXPERT REPORT OF FREDERICK E. CHIN**

March 26, 2014

James Johnston
Joshua Morse
Jones Day
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Los Angeles, California 90017

Re: City of Stockton, Debtor, Case No. 12-32118 (CMK), Wells Fargo Bank, NA et.al. v. City of Stockton, California, ADV Case No. 13-2315

Gentlemen:

At your request, I considered various issues relating to the properties defined below in connection with the litigation involving Wells Fargo Bank, National Association, Franklin High Yield Tax-Free Income Fund, and Franklin California High Yield Municipal Fund (the "Plaintiffs") and the City of Stockton, California (the "Defendant" or "City"). My qualifications to perform this assignment, the scope of procedures performed, and my conclusions and opinions are included in this report. The effective date of my report is March 26, 2014.

The properties are more specifically defined as:

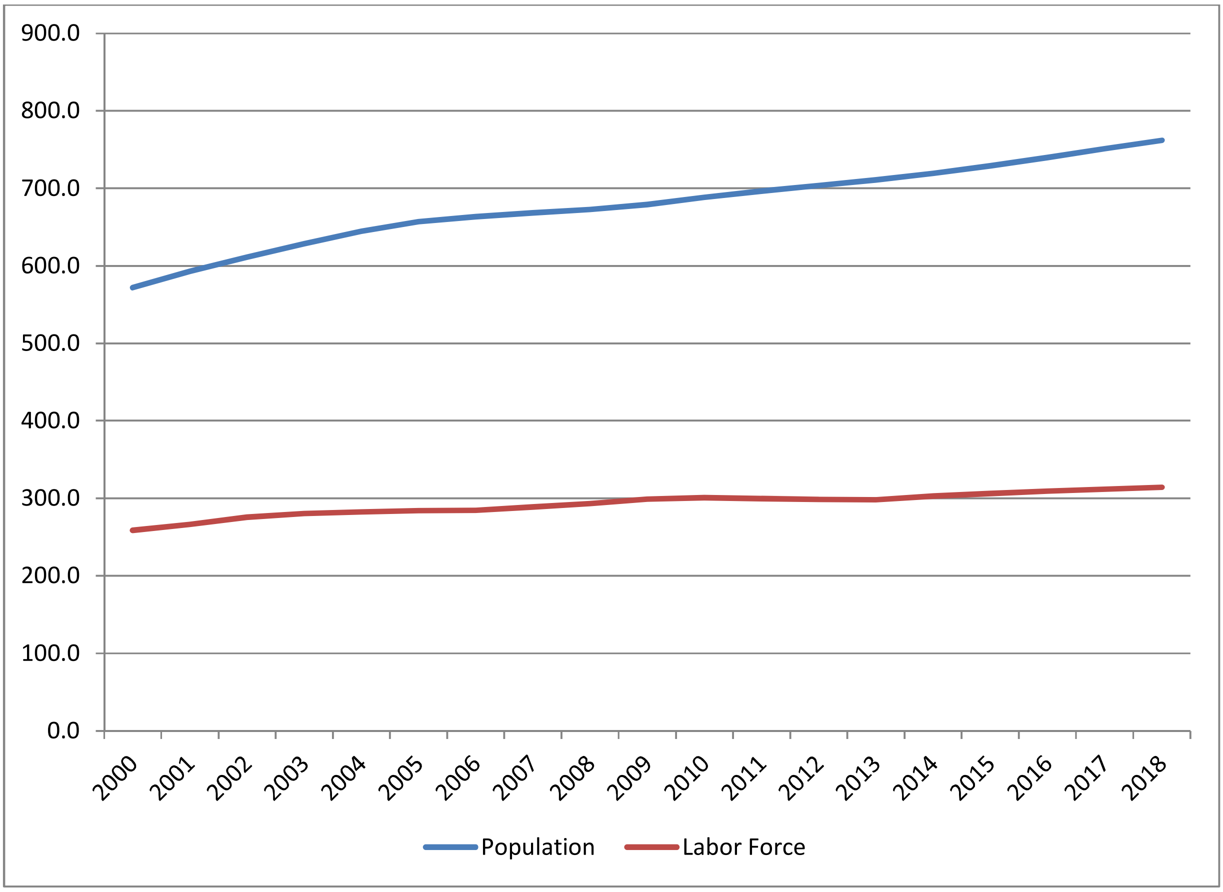
- Swenson Golf Course, located at 6803 Alexandria Place, Stockton, San Joaquin County, California ("Swenson").
- Van Buskirk Golf Course, located at 1740 Houston Avenue, Stockton, San Joaquin County, California ("Van Buskirk"). Van Buskirk includes the golf course and the Van Buskirk Community Center.
- Van Buskirk Community Center, located at 714 Houston Avenue, Stockton, San Joaquin County, California ("Community Center"). The Community Center has been separately evaluated from Van Buskirk.
- Oak Park, located on East Alpine Avenue between North Sutter Street. and Alvarado Avenue, Stockton, San Joaquin County, California ("Oak Park").

Collectively, Swenson, Van Buskirk, Community Center and Oak Park are referred to in this report as the "Properties", "Site", "Facility", "Subject Facilities" or "Subject Properties".

ECONOMIC OVERVIEW

The Subject Properties are located in Stockton, California. Stockton is the county seat for San Joaquin County, located roughly 90 miles east of San Francisco and 45 miles south of Sacramento. Stockton was incorporated in 1850 resulting from the 'Gold Rush' in California but transformed into an agriculturally based economy. Stockton is located along a channel heading into the Port of Stockton which results in Stockton being a shipping point for Northern California along the San Joaquin Delta. (Source: City of Stockton website). For purposes of this section, the Stockton MSA is comprised of San Joaquin County according to the State of California Employment Development Department.

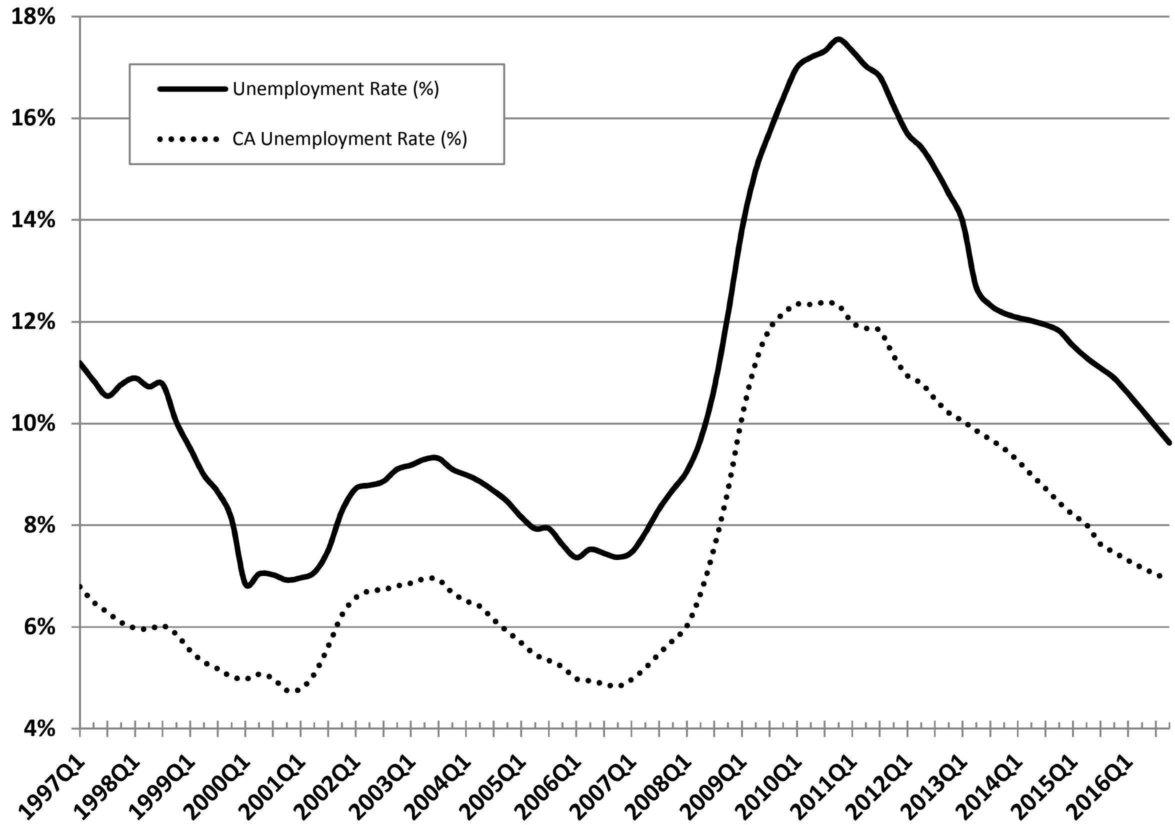
Stockton MSA Population and Labor Force



Source: *University of Pacific (January 2014)*

ECONOMIC OVERVIEW

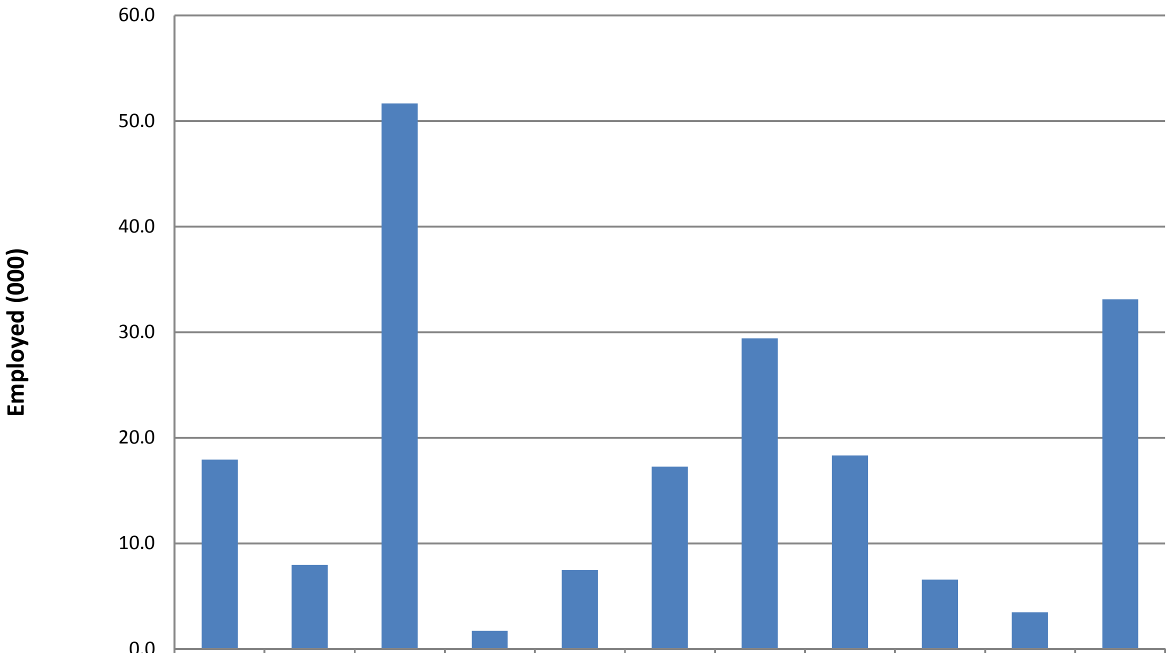
Stockton and California Unemployment Rates
(percent)



Source: *University of Pacific (January 2014)*

ECONOMIC OVERVIEW

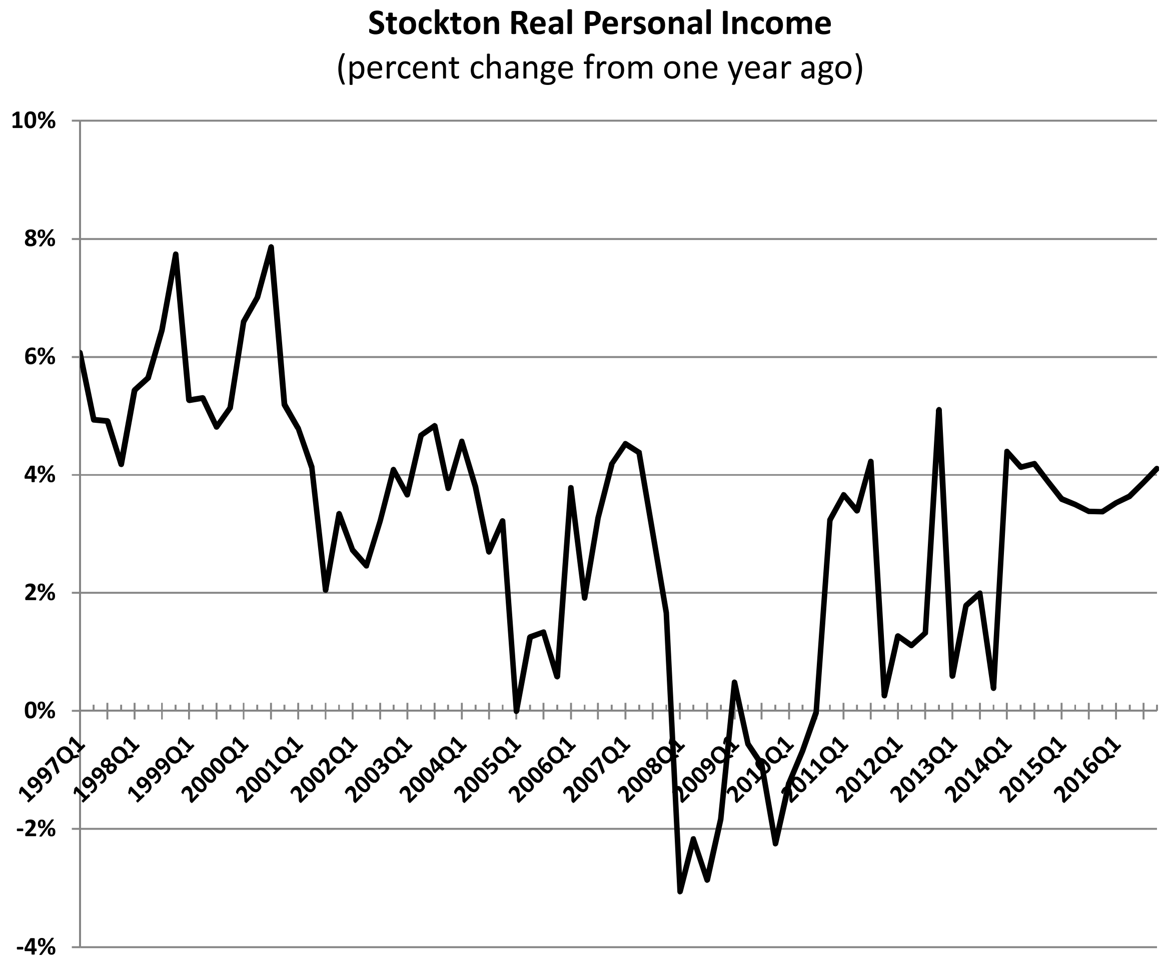
2013 Stockton MSA Employment By Industry



	Manufacturing	Construction & Mining	Trade, Transportation, & Utilities	Information	Financial Activities	Professional & Business Services	Education & Health Services	Leisure & Hospitality	Other Services	Federal Government	State & Local Government
Employed (000)	17.9	8.0	51.7	1.7	7.5	17.3	29.4	18.3	6.6	3.5	33.1

Source: *University of Pacific (January 2014)*

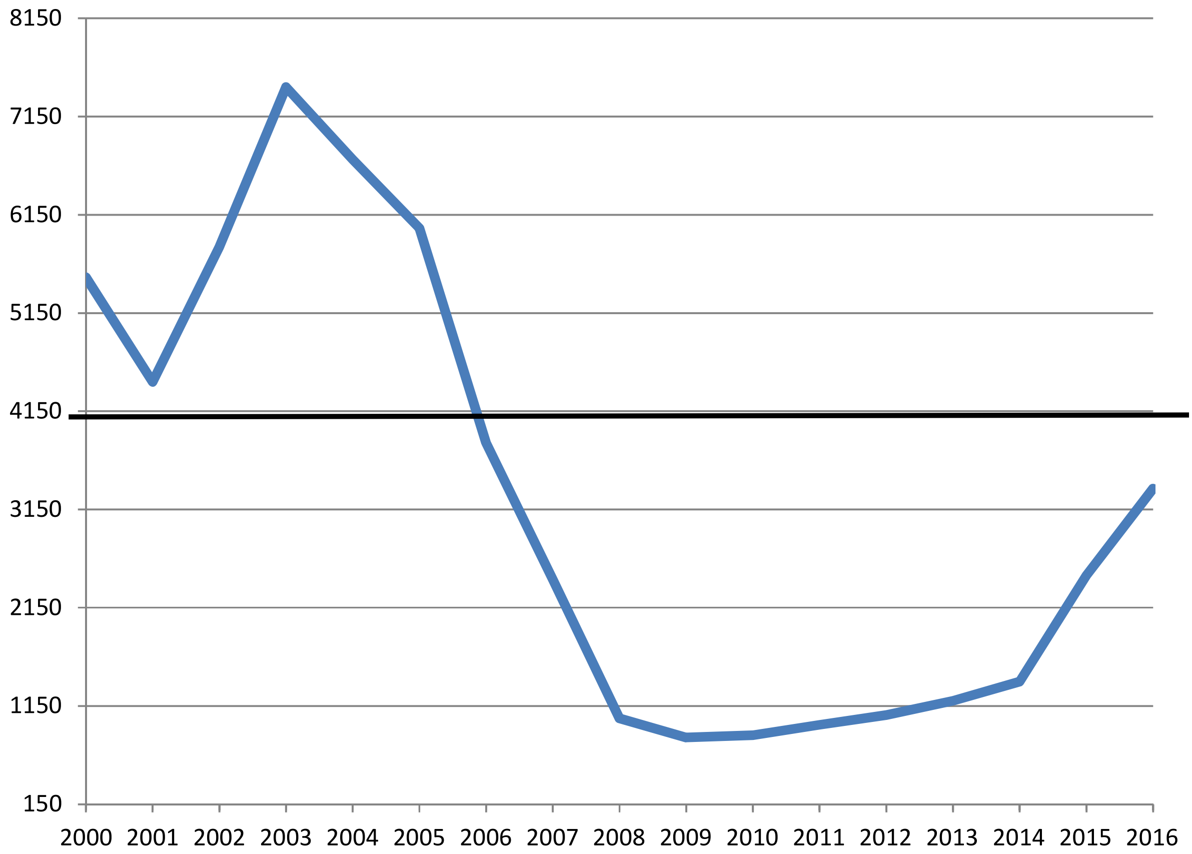
ECONOMIC OVERVIEW



Source: *University of Pacific (January 2014)*

ECONOMIC OVERVIEW

Stockton MSA Housing Starts
(Thousands)

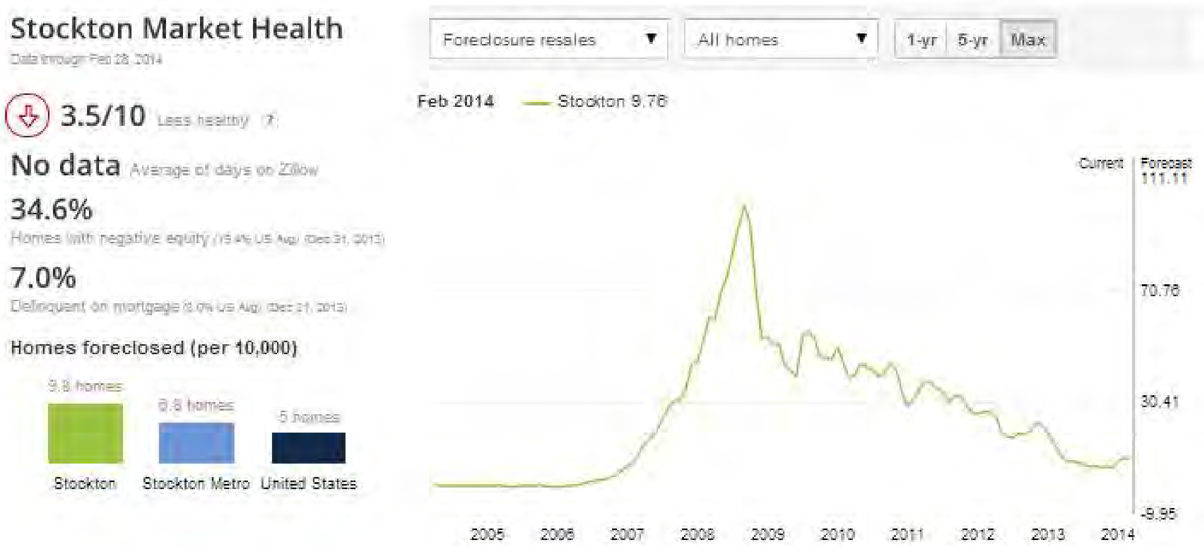


Source: *University of Pacific (January 2014)*

ECONOMIC OVERVIEW

Source: *Zillow (February 2014)*

Stockton Foreclosures



Source: *Zillow (February 2014)*

ECONOMIC OVERVIEW

According to the City of Stockton Annual Comprehensive Report 2012 (note that the City limits are smaller than the Stockton MSA), the largest employers in the City are:

Employer	Employees	Percent of Total City Employment
San Joaquin County	6,500	5.16%
Stockton Unified School District	3,893	3.09%
St. Joseph's Medical Center	2,500	1.99%
O-G Packing Company	2,000	1.59%
City of Stockton	1,683	1.34%
Diamond Walnut	1,407	1.12%
Dameron Hospital	1,200	0.95%
Pacific Gas and Electric	1,100	0.87%
Kaiser Permanente	1,065	0.85%
University of Pacific	1,000	0.79%

The Stockton market appears to be improving from a precipitous decline in employment and the downturn of the economy. Key economic statistics show improvement. The economic information below is from the University of Pacific's quarterly release based on Stockton MSA data.

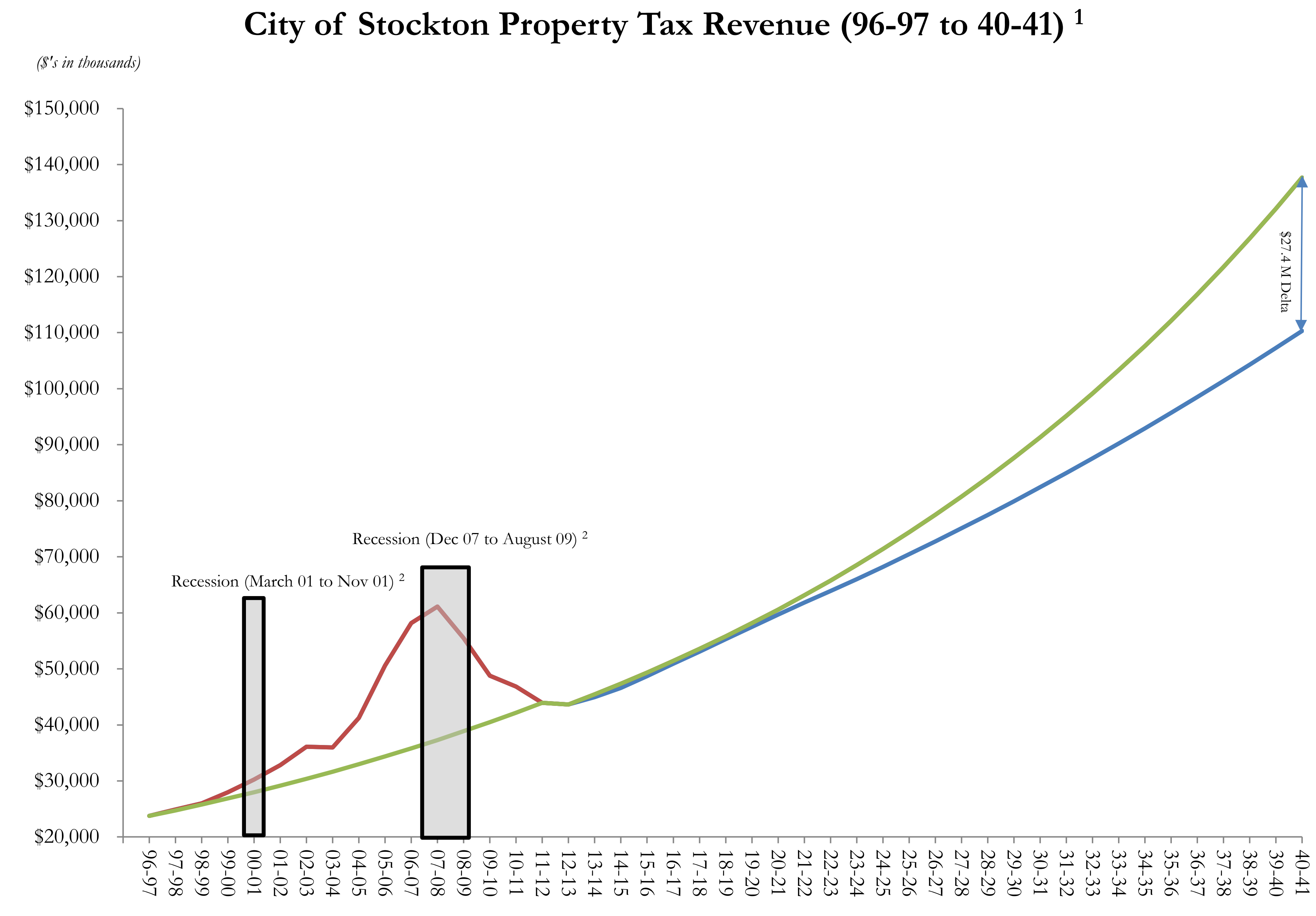
- Per the University of Pacific, estimates of non-farm employment in the Stockton MSA is expected to increase 3.7% in 2014.
    - Trade, Transportation, and Utilities represent 26.5% of the total employment base and it is projected to have an average growth rate of 1.9% from 2014 – 2018.
    - Construction & Mining and State & Local Government are expected to lead the job growth in 2014 with 7.1% and 7.3% increases, respectively, representing 21.1% of the total employment base.
    - Construction & Mining is expected to grow at an average annual rate of 8.2% from 2014 - 2018, representing the largest growth rate for the area.

ECONOMIC OVERVIEW

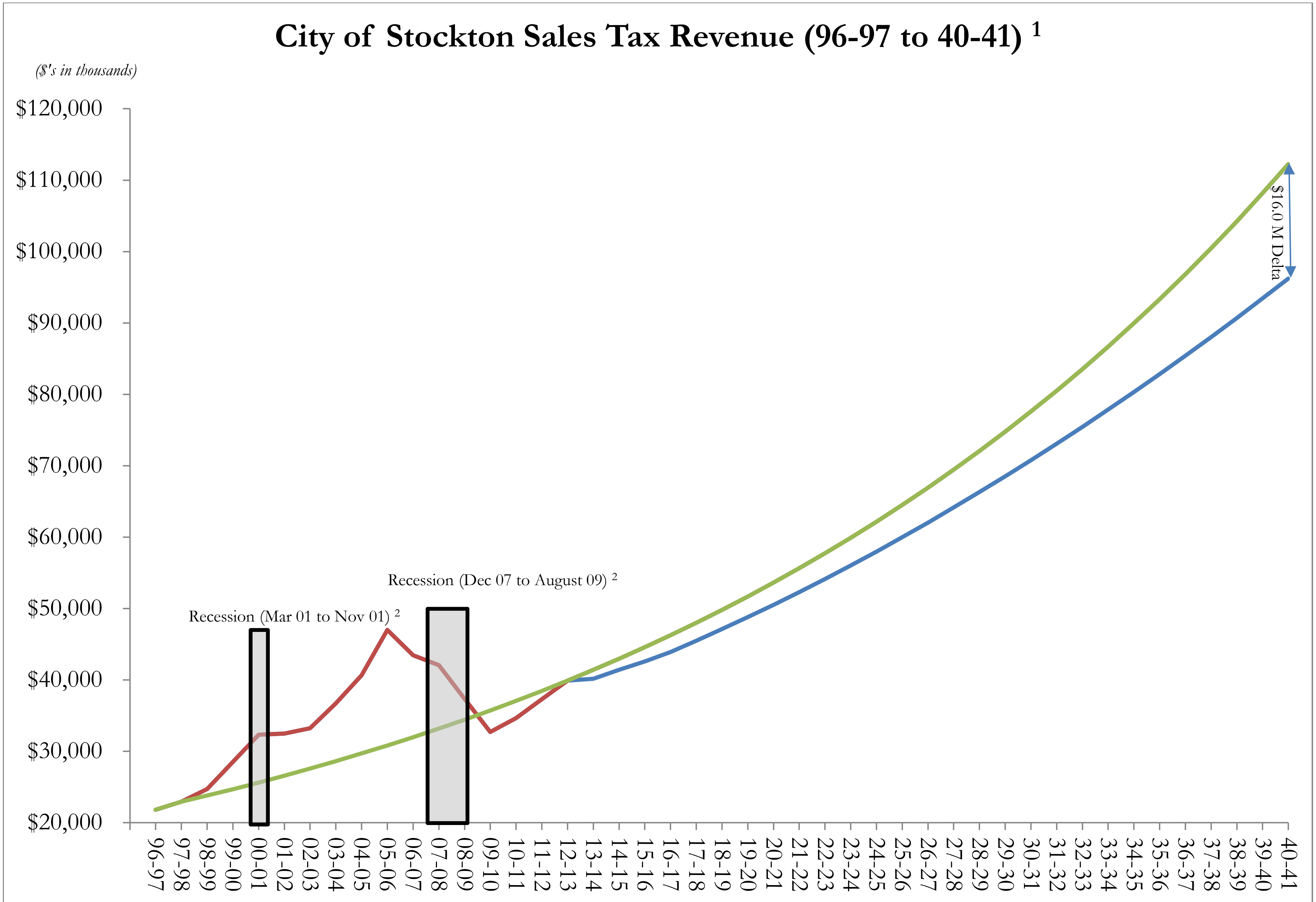
  - Federal Government and Information are expected to see the largest decreases in employment in 2014 at 2.8% and 0.1%. Government represents 2.7% of the total employment base.
- Unemployment peaked in the 4th quarter of 2010 at 17.6%, but has steadily decreased to 12.2% in 4th quarter of 2013.
- Government entities are the largest employers in the Stockton area. Since 2010, around 1,600 more employees were added totaling 34,300 in Q4 2013, but less than when peak employment in Q1 2008 of 36,700.
- Personal income has rebounded from negative changes since 2009 to 16 straight quarters of positive gains thru the end of 2013. Personal income has increased $3,400 over the past four years.
- Wages contracted in 2013 but are projected to grow 14% total thru 2018.
- Per capita income hit a trough in 2010 at $27,700, but has grown each year to $28,600 in 2013, just below the peak of $29,400 in 2007.
- Housing starts reached a trough in the 4th quarter of 2011 but are expected to demonstrate consistent additions, with new starts up 28.5% yearly through 2018.
- Further growth is expected from the Gross Metro Product at an annual rate of 3.5% thru 2018 with 3.6% growth projected in 2014 over 2013.

The Stockton housing market also appears to be improving. According to information from the website Zillow, Stockton housing prices increased from their trough of around $120,000 in late 2010 to just over $170,000 at the beginning of 2014, an increase of almost 40%. This rate of change is one of the highest in the country. Additionally, foreclosures peaked in 2008/09 but have been trending down each year since.

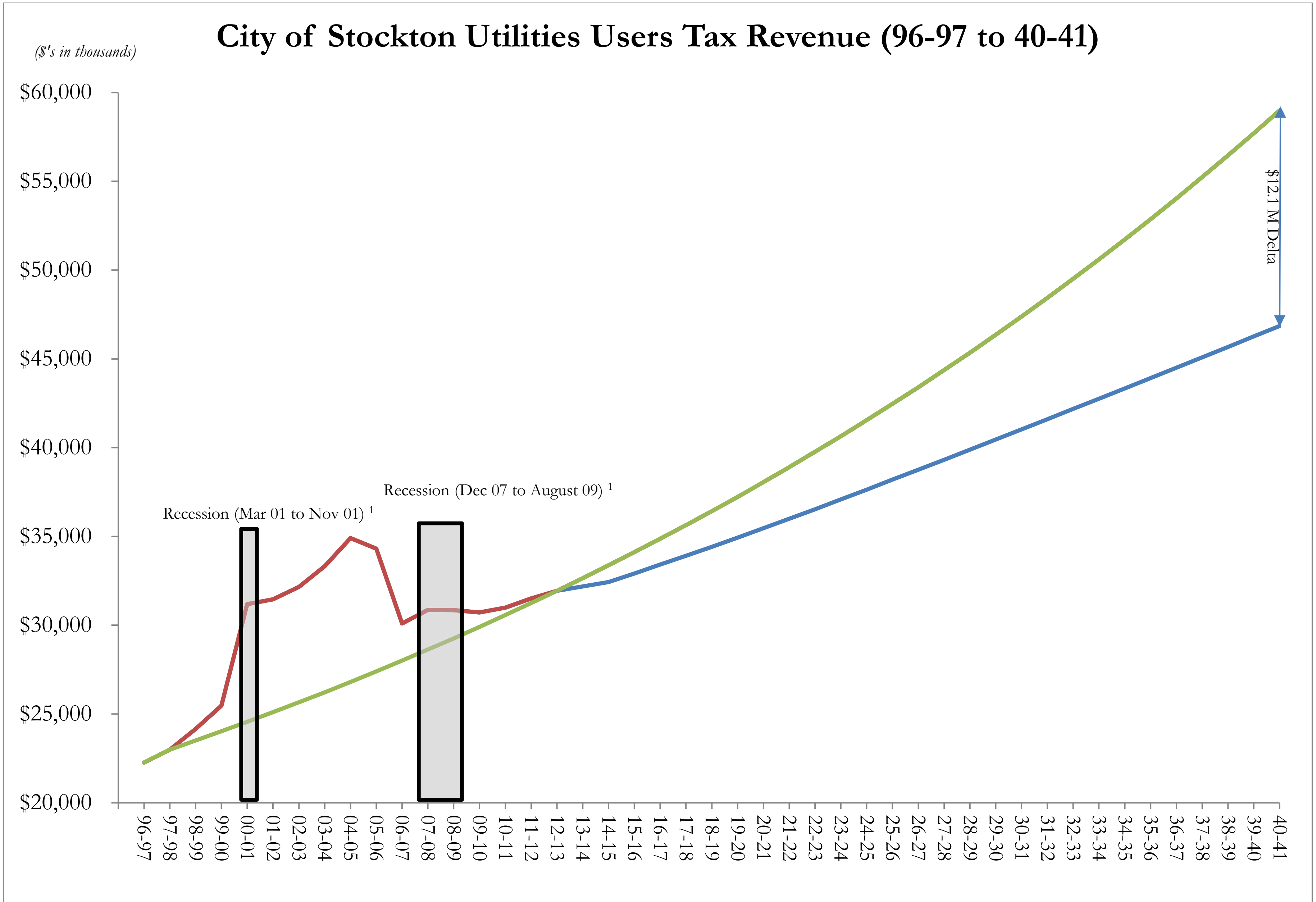
EXHIBIT JJ



1) Excludes Prior Period Admin Charge Adj in 12-13
2) Source: National Bureau of Economic Research (NBER)



1) Does not include Measure A additional sales tax
2) Source: National Bureau of Economic Research (NBER)



(1) Source: National Bureau of Economic Research (NBER)

EXHIBIT KK

City of Stockton Original to Current LRFP Bridge

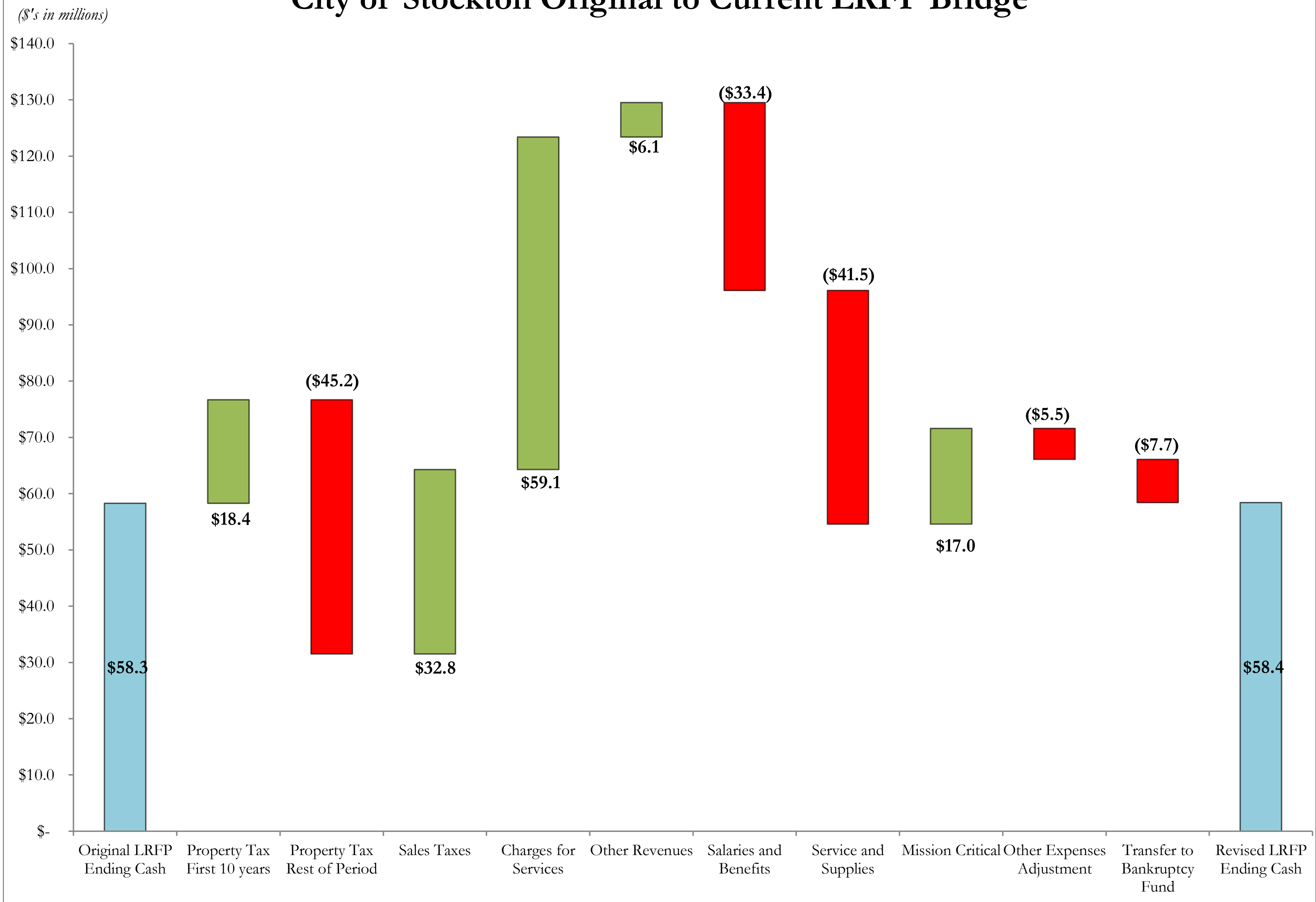


EXHIBIT LL

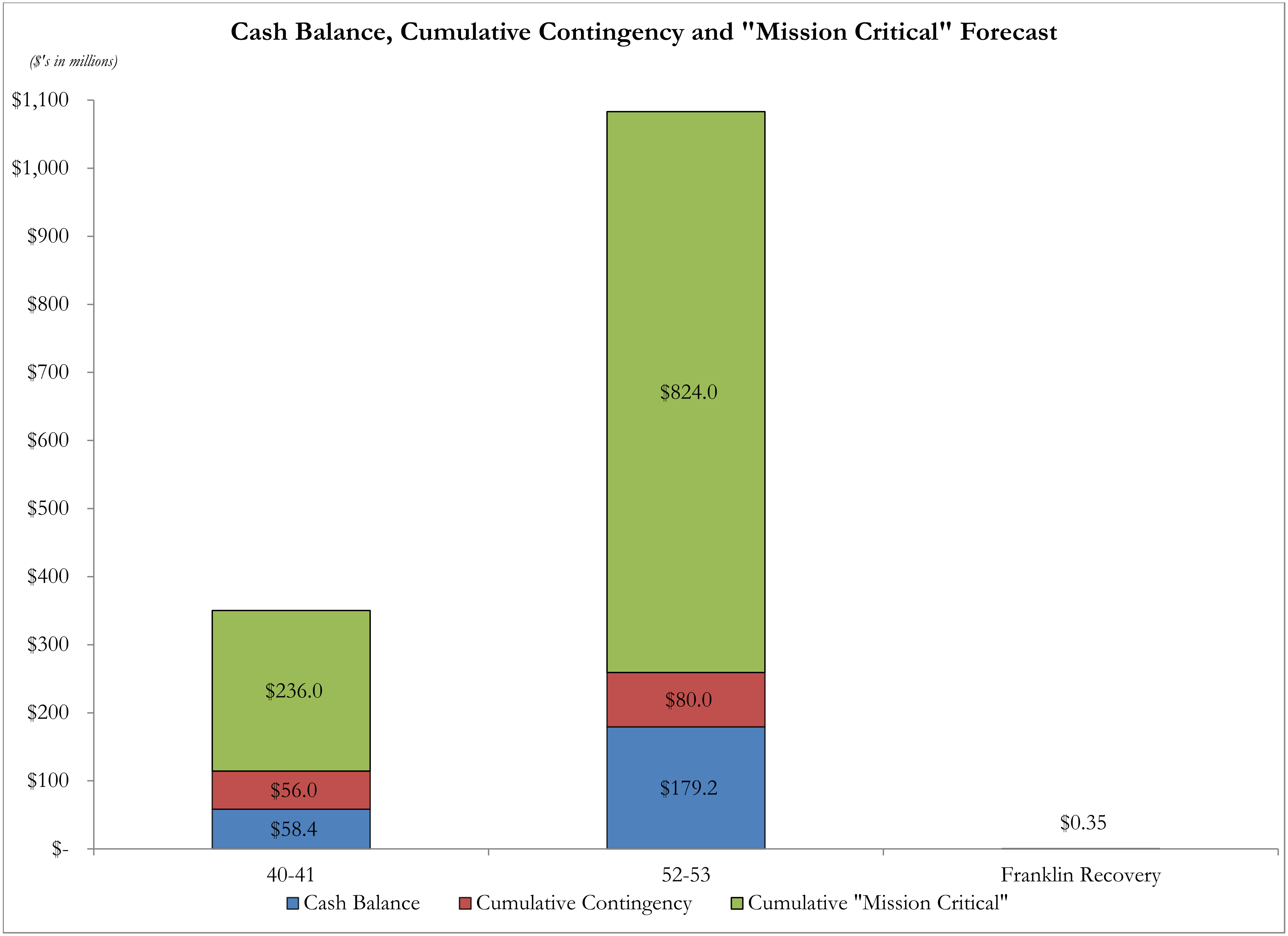
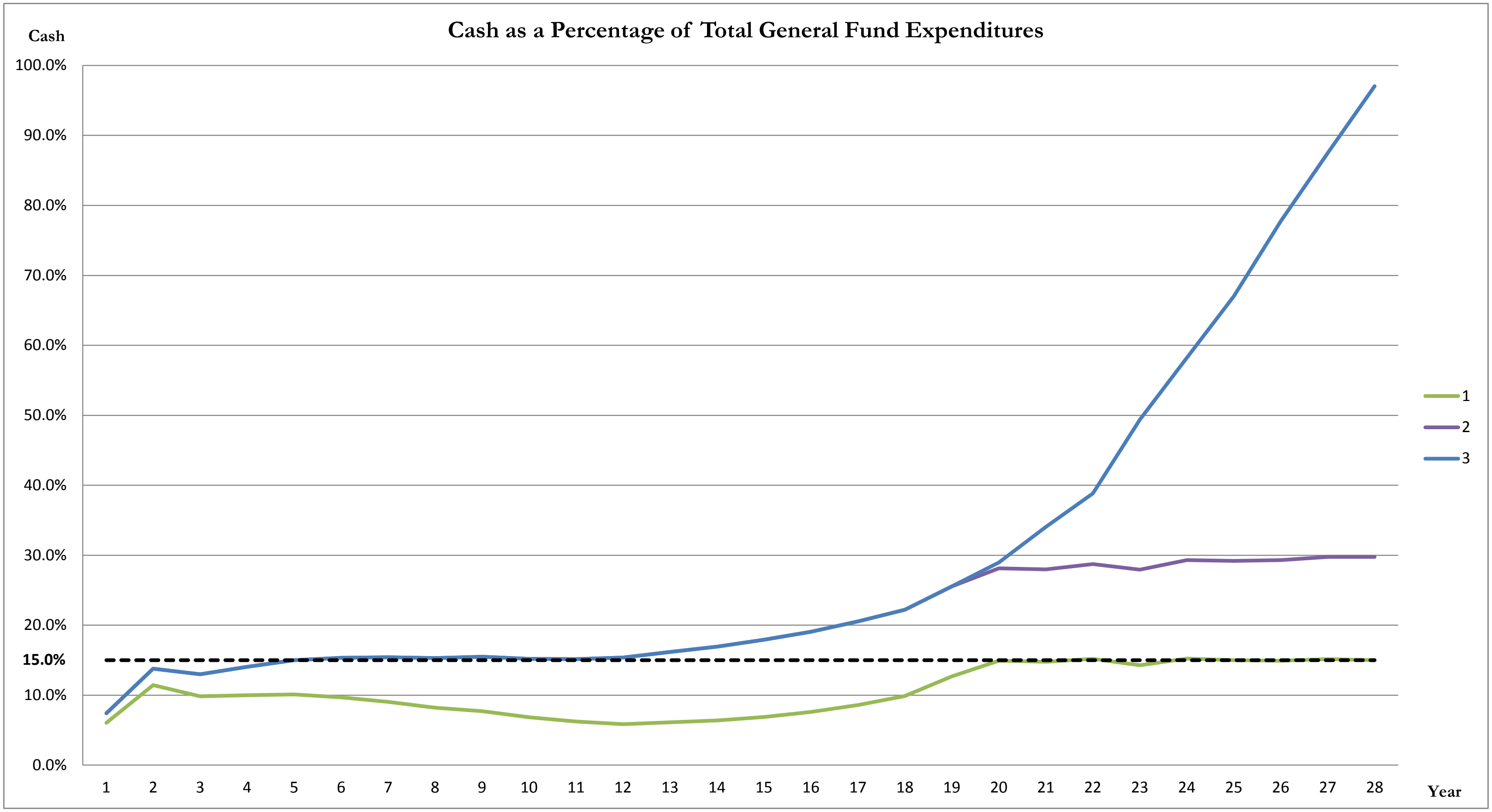

Cash Balance, Cumulative Contingency and "Mission Critical" Forecast
($'s in millions)
$1,100
$1,000
$900
$800
$700
$600
$500
$400
$300
$200
$100
$-
$236.0
$56.0
$58.4
$824.0
$80.0
$179.2
$0.35
40-41
52-53
Franklin Recovery
Cash Balance
Cumulative Contingency
Cumulative "Mission Critical"

EXHIBIT MM



Footnote:

1) Ending cash balance per the LRFP as a percentage of total general fund expenditures (Year 1 is FY2013-14)
2) Ending cash balance plus cumulative contingency as a percentage of total general fund expenditures
3) Ending cash balance plus cumulative contingency and "mission-critical spending" (from FY2032-33 on) as a percentage of total general fund expenditures

EXHIBIT NN

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City of Stockton

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Case No. 2012-32118 D.C. No. OHS-15 Chapter 9
WELLS FARGO BANK, NATIONAL ASSOCIATION, FRANKLIN HIGH YIELD TAX-FREE INCOME FUND, AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND, Plaintiffs, v. CITY OF STOCKTON, CALIFORNIA, Defendant.	**EXHIBIT D-2 TO THE DIRECT TESTIMONY DECLARATION OF KENNETH DIEKER IN SUPPORT OF CONFIRMATION OF FIRST AMENDED PLAN FOR THE ADJUSTMENT OF DEBTS OF CITY OF STOCKTON, CALIFORNIA (NOVEMBER 15, 2013)[1]** Adv. No. 2013-02315 Date: May 12, 2014 Time: 9:30 a.m. Dept: Courtroom 35 Judge: Hon. Christopher M. Klein

[1] While this declaration is made in support of confirmation of the Plan, out of an abundance of caution, and because the evidentiary hearing on Plan confirmation and the trial in the adversary proceeding share common issues, it is being filed in both in the main case and the adversary proceeding.

Construction Activity

Building activity for the past five years for which data is available in the City is shown in Table A-8.

Table A-8
CITY OF STOCKTON
Total Building Permit Valuations†
($ in thousands)

	2004	2005	2006	2007	2008
Permit Valuation					
New Single Family	$585,834.6	$532,975.4	$233,156.2	$151,268.0	$43,049.2
New Multiple Family	6,735.1	6,857.5	9,925.8	10,887.0	708.0
Residential Alterations/Additions	14,781.1	20,192.0	18,172.9	15,224.9	13,773.0
TOTAL RESIDENTIAL	$607,350.9	$560,024.9	$261,254.9	$177,379.9	$57,530.1
New Commercial	$59,935.1	$100,896.4	$94,168.5	$151,461.9	$153,853.4
New Industrial	25,704.5	7,124.3	27,647.5	73,777.8	37,145.9
New Other	28,639.5	28,396.9	27,823.7	73,051.9	13,264.9
Commercial Alternations/Additions	42,698.3	40,874.2	49,685.5	58,239.2	62,446.4
TOTAL NONRESIDENTIAL	$156,977.4	$177,291.9	$199,325.1	$356,530.8	$266,710.6
New Dwelling Units					
Single Family	3,138	2,312	929	617	164
Multiple Family	136	83	91	89	8
TOTAL	3,274	2,395	1,020	706	172

† Certain columns may not total due to rounding.
Source: Construction Industry Research Board, Building Permit Summary.

Public Impact Fees

In July 1988, the City Council adopted Ordinance No. 56-88 C.S. (the "Ordinance") establishing procedures for the collection and expenditure of fees imposed as a condition of new development within the City. Pursuant to the Ordinance, impact fees are imposed for each of the following types of public facilities: Air Quality Mitigation, City Office Space, Community Recreation Centers, Fire Stations, Libraries, Parkland, Street Tree and Street Signs, Police Stations, Public Facilities Fees Administration, Street Light In-Lieu and Traffic Signals.

The City expects that the Public Facilities Impact Fees generated from the General City Office Space, Fire Stations, Parkland, Street Tree and Street Signs and Police Stations will be sufficient to pay the debt service, when due on the 2009 Bonds. See also "SECURITY AND SOURCES OF PAYMENT FOR THE 2009 BONDS" and "CITY FINANCIAL INFORMATION."

EXHIBIT OO

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Attorneys for Debtor
City of Stockton

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Case No. 2012-32118 D.C. No. OHS-15 Chapter 9 **DIRECT TESTIMONY DECLARATION OF ERIC JONES IN SUPPORT OF CONFIRMATION OF FIRST AMENDED PLAN FOR THE ADJUSTMENT OF DEBTS OF CITY OF STOCKTON, CALIFORNIA (NOVEMBER 15, 2013)**[1]
WELLS FARGO BANK, NATIONAL ASSOCIATION, FRANKLIN HIGH YIELD TAX-FREE INCOME FUND, AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND, Plaintiffs, v. CITY OF STOCKTON, CALIFORNIA, Defendant.	Adv. No. 2013-02315 Date: May 12, 2014 Time: 9:30 a.m. Dept: Courtroom 35 Judge: Hon. Christopher M. Klein

[1] While this declaration is made in support of confirmation of the Plan, out of an abundance of caution, and because the evidentiary hearing on Plan confirmation and the trial in the adversary proceeding share common issues, it is being filed in both the main case and the adversary proceeding.

I, Eric Jones, hereby declare:

1. I am the Chief of Police in the City of Stockton, California ("the City" or "Stockton"). I make this declaration in support of confirmation of the City of Stockton, California's ("City") First Amended Plan For The Adjustment Of Debts Of City Of Stockton, California (November 15, 2013).

2. I have served in the Stockton Police Department in some capacity for over 20 years. I became the Chief of Police in March of 2012. Prior to becoming Chief, I served as Assistant Chief from September 2011 to March 2012 and as Deputy Chief from March 2008 to September 2011. I hold a bachelor's degree in Criminal Justice from California State University, Sacramento, and a Masters of Public Administration from National University. I am a member of the Central Sierra Police Chiefs Association, California Police Chiefs Association, and the International Association of Chiefs of Police. I hold certificates from the Commission on Peace Officer Standards and Training, and am a member of the FBI's National Academy Law Enforcement Executive Development Association and Police Executive Research Forum.

3. On June 28, 2012, I executed a declaration in support of the Statement of Qualifications the City filed on June 29, 2012 (the "June Declaration" or "June Decl."). On February 15, 2013, I submitted a declaration in support of the City's Reply to Objections to Statement of Qualifications Under Section 109(c) (the "Reply Declaration" or "Reply Decl.").

The Continuing Challenges To Public Safety In Stockton

4. As of the date of this Declaration, all of my testimony in the June Declaration and Reply Declaration continues to be true and accurate to the best of my knowledge. The City of Stockton continues to suffer from a disproportionately high crime rate and low number of police officers. Violent crime, despite a reduction in 2013, is still extremely high in Stockton. Already in 2014 (as of March 25), there have been 12 homicides, compared to six homicides at this time last year. Further, although violent crime reduced in 2013, overall crime did not.

5. Another major challenge is the continually understaffed police department. Not including positions funded by Measures A and B, as of today the Stockton Police Department has 365 budgeted positions (which include the recent COPS hiring grant). Although we have made

some incremental progress in our hiring outpacing our attrition, the police department has so far been able to fill only 351 of these positions. This is partly because hiring has outpaced attrition at an extremely slow pace. From January 2012 to date (March 25, 2014), the Stockton Police Department has hired 134 police officers; during the same time period, 104 police officers have left the department through attrition. This attrition itself is a major challenge to public safety, because it takes with it vast experience that is difficult to replace. In fact, the average tenure of the Stockton Police Department's officers has dropped markedly. Comparing the 366 police officers and sergeants (not including police managers and commanders) that the Stockton Police Department had in July of 2009, and the 328 officers and sergeants Stockton has as of March 2014, the average tenure has dropped from 14.22 years in 2009 to 9.34 years in 2014.

6. Once the current 365 budgeted positions are filled, under Measures A and B the authorized budgeted positions for the police department will increase to 485. The police department believes that if aggressive hiring were to take place, we could potentially reach the 485 police officer level about three years from now. But even at the level of 485 police officers, the officer-per-thousand-resident ratio would be only 1.6. This is still far from the 2.0 ratio recommended in 2006 for the City of Stockton by Dr. Anthony Braga, as well as the 2.0 ratio recommended in 2013 by criminal justice consultants David Bennett and Donna Lattin as part of their Marshall Plan report. Stockton needs about 600 police officers to reach the recommended 2.0 officer-per-thousand-resident, and even at 485 officers, Stockton will be nowhere near this level.

7. Additionally problematic is the fact that police officers are still leaving the Stockton Police Department for other police departments. The Stockton Police Department is not competitive in the marketplace with other police departments and this is drastically affecting our retention and recruitment. Of the 104 police officers that left the department from January 2012 through March 25, 2014, 44 left for other police departments. I continue to speak with exiting staff as well as various members of the department to keep a pulse on department morale. Most officers, as well as my managers and commanders, continue to tell me that if the Department's CalPERS contract is broken, they will depart to another agency. Others continue to say that they

will leave the Department if any additional compensation or benefit cuts occur, or even if they fail to get any of their previous 20-30% cuts restored. The Department morale is fragile, and the continued instability is causing police officers to depart or apply to other law enforcement agencies. And all of this is happening at a time when Stockton most needs experienced, high-quality police officers.

Importance Of Measure A

8. The passage of Measure A was critical for public safety in Stockton. Proceeds from Measure A will fund the Marshall Plan, which will bring 120 additional police officers over an approximate three year period and fund the Office of Violence Prevention and Neighborhood Blitz teams. The proceeds will fund Stockton crime-fighting strategies that have been touted by national experts like Stewart Wakeling of California Partnerships for Safe Communities, United States Attorney for the Eastern District of California Benjamin Wagner, and COPS Office Director Ronald Davis. Without the passage of Measure A and its future addition of staff, we would not be able to combat crime effectively where we are the second-most violent City in the State of California. Violent crime is still a very serious issue for Stockton, and although Stockton experienced significant violent crime reductions in 2013, as of March 2014, Stockton is currently on pace with the record-breaking homicide rate of 2012. Unfortunately, as explained above, even with the passage of Measure A we will continue to be an understaffed police department.

Executed this 21st day of April 2014, at Stockton, California. I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

Eric Jones

EXHIBIT PP

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Attorneys for Debtor
City of Stockton

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re: CITY OF STOCKTON, CALIFORNIA, Debtor.	Case No. 2012-32118 D.C. No. OHS-15 Chapter 9 **DIRECT TESTIMONY DECLARATION OF VAL TOPPENBERG IN SUPPORT OF CONFIRMATION OF FIRST AMENDED PLAN FOR THE ADJUSTMENT OF DEBTS OF CITY OF STOCKTON, CALIFORNIA (NOVEMBER 15, 2013)[1]**
WELLS FARGO BANK, NATIONAL ASSOCIATION, FRANKLIN HIGH YIELD TAX-FREE INCOME FUND, AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND, Plaintiffs, v. CITY OF STOCKTON, CALIFORNIA, Defendant.	Adv. No. 2013-02315 Date: May 12, 2014 Time: 9:30 a.m. Dept: Courtroom 35 Judge: Hon. Christopher M. Klein

[1] While this declaration is made in support of confirmation of the Plan, out of an abundance of caution, and because the evidentiary hearing on Plan confirmation and the trial in the adversary proceeding share common issues, it is being filed in both the main case and the adversary proceeding.

Franklin Mischaracterizes The Return On Certain Settlements

14. On pp. 46-47 of its brief, Franklin sets forth a chart purporting to characterize the distribution to various creditors. Many of these characterizations are incorrect or misleading. I can attest specifically that Franklin's characterizations of the settlements with Assured and NPFG are based on flawed assumptions regarding the value of the property underlying each settlement. Franklin's chart assumes certain values for the leased properties underlying the Assured and NPFG settlements. The property related to the Assured settlement is 400 E. Main, discussed above. The properties related to the NPFG settlements include the Stewart/Eberhardt Building, an essential services building (as defined by Cal. Health & Safety Code § 16007) that is home to several essential City operations, and the Stockton Arena, home to the Stockton Thunder and a variety of performing arts and other events. The City has not appraised any of these properties. This is in part because secured deals, like those with Assured and NPFG, don't require appraisals. More importantly, it is because the City exercised its business judgment in determining that these assets were essential or could not be replaced. Finally, many of the properties related to the Assured and NPFG settlements are buildings designed for a specific purpose for which accurate typical market appraisals are impossible. How would one appraise the value to the City, for example, of a police communication building and fire stations, or of the Arena? These buildings are designed for specific purposes and would require extensive retrofitting to be used for any other purpose.

15. The appraisal submitted by Franklin displays a clear lack of understanding of how cities value their assets. Because there are no comparable sales and no income to assess, the appraiser reverts to the cost approach. The value to the City is the inherent value of providing services to its citizens, while the general market value is what an informed buyer would pay for the property. Further, to assume a possessory value based on a lease is similar to a fee simple ownership is an inherently flawed assumption. Although the appraiser goes on to describe the challenges and associated risks, he continues to presume a perpetual possessory interest. The lease allows possession by the creditor only until they are repaid, then the property must be returned to the city in its current condition. Finally, the appraiser assumes that the city's interests

EXHIBIT QQ

17

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Attorneys for California Public Employees' Retirement System

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re CITY OF STOCKTON, CALIFORNIA, Debtor.	Case No. 2012-32118 DC No. OHS-15 Chapter 9 **DIRECT TESTIMONY DECLARATION OF DAVID LAMOUREUX IN SUPPORT OF CALPERS' RESPONSE TO FRANKLIN'S OBJECTION TO CONFIRMATION OF THE CITY OF STOCKTON'S FIRST AMENDED PLAN OF ADJUSTMENT** Date: May 12, 2014 Time: 9:30 a.m. Place: Robert T. Matsui U.S. Courthouse, 501 I Street Department C, Fl. 6, Courtroom 35 Sacramento, CA 95814 Judge: Hon. Christopher M. Klein

I, David Lamoureux, declare as follows:

1. I am over 18 years of age, and I am authorized to make this declaration in support of "CalPERS' Response to Franklin's Objection to Confirmation of the City of Stockton's First

31. For this reason, the City's obligations to CalPERS are not limited to those found in the language of the document labeled a "contract"; rather, the City's obligations are defined primarily by applicable State law and regulations.

32. As noted above, the City has two subplans, a Safety Plan, which covers the City's safety officers, and a Miscellaneous Plan, which covers all other City employees As of June 30, 2012, the Safety Plan had 486 active members, 152 transferred members, 101 terminated members, and 746 retired members and beneficiaries. Ex. 6. The City's contribution rate for the Safety Plan is 34.605% for fiscal year 2013-2014 and 41.385% for fiscal year 2014-2015. Ex. 6. The Safety Plan was 68.9% funded as of June 30, 2012. Ex. 6.

33. For the Miscellaneous plan, as of June 30, 2012, there were 811 active members, 463 transferred members, 505 terminated members, and 1,329 retired members. Ex. 7. The City's contribution rate for the Miscellaneous Ex. 7. Plan is 17.939% for fiscal year 2013-2014 and 20.090% for fiscal year 2014-2015. Ex. 7. The Miscellaneous Plan was 73.8% funded as of June 30, 2012. Ex. 7.

V. Application of Actuarial Concepts to Stockton

34. Stockton's employer contribution rates are relatively high compared with other cities in part because of the significant reduction in employees by Stockton during the past few years. When layoffs occur, the contribution amount necessary to fund the unfunded liability remains basically unchanged as a result of the layoffs. Since contribution requirements are expressed as percentage of payroll, contribution rates will generally increase after layoffs even if there are no other changes and even if the amount due to pay off any unfunded liability has not changed.

35. Though Stockton's cost as a percentage of payroll has increased recently, almost all municipal employers have experienced the same effect. These recent increases in contribution rates that impacted all employers have been in large part the result of the 2008/2009 financial crisis and the significant losses in the CalPERS investment portfolio for 2008/2009.

36. Employer contribution rates are expected to continue to increase over the next 7 years for most employers at CalPERS as these employers are asked to contribute more toward the amount

of money needed to fund the unfunded liability that resulted from the 2008/2009 investment losses. The CalPERS Board determined that, because of the 2008/2009 losses, employers should retire the unfunded liability on a more accelerated basis. This policy decision has the effect of front loading the payments necessary to fund benefits such that contributions will increase and be higher than under the previous approved amortization policies for a period of about 25 years following which the contribution amounts will begin to decline and be lower than they would have been under the old amortization policies. Ex. 9 depicts the forecasted trend of contributions amounts over the next thirty years.

37. Stockton's valuation results are similar in volatility to those of other California municipalities. For all plans, volatility occurs when actuarial assumptions are not met. Volatility could come in the form of investment returns being higher or lower than expected and also in the form of members retiring earlier than anticipated, members living longer than assumed or members receiving larger salary increases than assumed. In any year, contribution requirements are as likely to either increase or decrease as a result of actual experience being different than assumed. If focusing on contribution *rates* instead of contribution amounts, hirings and layoffs, which are in the City's control, are a major driver of contribution rate volatility. Projected rates are based on payroll increasing at 3% per year. The rates included in the 2010 valuation were based on that assumption but, because payroll was lower a year later, CalPERS revised the rates upward to reflect the lower payroll and the higher rates necessary to generate the same amount of contributions toward the unfunded liability. The following year, the rates again increased to reflect the Board's changes to amortization. This year, CalPERS will once again revise the projected rates to reflect the change in actuarial assumptions adopted this February. It is not true that contribution rates constantly increase. Contribution rates have declined for various reasons over the years and going forward they are as likely to either increase or decrease from their current projected levels.

VI. Termination

38. The PERL allows for voluntary termination by a contracting agency and in certain circumstances, CalPERS may unilaterally terminate its relationship with a contracting agency. In the

event of termination, a terminated agency is required to make a payment to CalPERS in an amount determined by the CalPERS Board (based on actuarial information) to be sufficient to ensure payment of all vested pension rights of the terminated agency's employees accrued through the termination date ("Termination Payment"). The Termination Payment goes into the "Terminated Agency Pool." Once the Termination Payment is made, CalPERS has no further recourse to a terminating employer. If a terminated agency the size of the City fails to pay the Termination Payment, benefits may have to be reduced pro rata based on the amount of the Termination Payment that is not funded. Once the terminated agency's assets and liabilities have been merged into the Terminated Agency Pool, no further benefit adjustments are permitted under the PERL. As a result, the pool is subject to actuarial risk.

39. When determining the Termination Payment, CalPERS is subject to actuarial risks including longevity risk, investment risk, inflation and wage-growth risk associated with the future payment of the terminated agency's benefits. Ex. 10, (Dec. 2012 Agenda Item). Unlike in an ongoing plan, these risks cannot be addressed by adjusting contribution rates in future years. Because there is no mechanism for receiving additional payments should the actuarial assumptions not be met, the investments in the Terminated Agency Pool, and the assumptions to determine the Termination Payment, must be more conservative. To address the longevity risk, the Termination Payment calculation includes an increase to the liabilities to address mortality fluctuations. To address investment risk, inflation and wage-growth risk, the CalPERS Board has adopted a policy to determine the discount rate, inflation assumption and wage growth assumption for termination calculations. Ex. 11 (CalPERS Circular Letter No. 200-058-11 (August 19, 2011)); Ex. 12 (August 2011 Agenda Item). In addition, the CalPERS Board recently adopted a conservative asset allocation for the Terminated Agency Pool, providing that assets will be invested in treasury bonds. Ex. 10 (Dec. 2012 Agenda Item).

40. A primary driver in determining the amount of the Termination Payment is the setting of the discount rate, which is a reflection of the asset policy or how the assets are invested. Given the conservative nature of the investments in the Terminated Agency Pool, the discount rate related to a

Termination Payment is low when compared with the actuarial rate for the portfolio for ongoing participating agencies. The cumulative effect of these policies is that a terminated agency's actuarial liability upon termination is larger than the actuarial liability on an ongoing basis.[2]

41. Stockton's Annual Valuation Reports each provide a line item for "unfunded termination liability," which is an estimate of how much Stockton would owe to CalPERS if its contracts had been terminated as of *June 30, 2012*. The Miscellaneous Plan lists this unfunded termination liability at $575,931,065 and the Safety Plan lists this unfunded termination liability at $1,042,390,452, for a total of more than $1.6 billion. Exs. 6 & 7, Safety Valuation Report at 28 & Miscellaneous Valuation Report at 28. If a terminated agency fails to pay the Termination Payment, benefits to employees must be reduced pro rata based on the amount of the Termination Payment that is not funded.[3] Cal. Gov. Code § 20577. CalPERS may reduce the benefits payable under the terminated contract only once. *Id*. After the terminated agency's assets and liabilities have been merged into the Terminated Agency Pool account, the PERL permits no further benefit adjustments. *Id.* § 20578.

42. When a plan is terminated, the PERL imposes a lien in favor of CalPERS "on the assets of a terminated contracting agency, subject only to a prior lien for wages." Cal. Gov. Code § 20574. Legislative history confirms that this section immediately provides CalPERS with the rights of a senior secured creditor as a matter of law. The legislature expressly intended to "grant PERS a lien against the assets of public agencies who have terminated their membership in the system, usually as a result of agency dissolution and bankruptcy who have unfunded liabilities owed to PERS for vested employee benefits and have no ability to pay such liabilities." Ex. 13 at 35 (relevant portions of Legislative History of California Government Code § 20574).

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[2] Furthermore, a terminating agency owes CalPERS the costs of collection, including attorneys' fees. Cal. Gov. Code § 20574.

[3] CalPERS may choose to make no reduction or a lesser reduction if the CalPERS Board has made reasonable efforts to the collect the payment and the CalPERS Board determines that failure to make a reduction will not impact the actuarial soundness of the Terminated Agency Pool account. Cal. Gov. Code § 20577.5.

43. If Stockton chose to terminate its relationship with CalPERS, the City would be faced with an immediately due and owing massive termination liability secured by a senior lien on all its assets. The estimated combined unfunded termination liability for both of the City's plans as of 2012, net of the value of assets in the plans, is approximately $1.6 billion, as more particularly described in paragraph 41 above.

44. I have read the "Reply of Franklin High Yield Tax-Free Income Fund and Franklin California High Yield Municipal Fund to the CalPERS Brief Regarding Pension Liabilities (the "Reply"). The Reply argues that a large portion of a termination claim "would not be an allowed claim because it would exceed the City's actual pension liability." Reply, 9:4-5. That is not correct because, in a termination situation, the termination claim is the actual unfunded pension liability. The Reply misapprehends the meaning of actuarial liability and the difference between an ongoing plan and a terminated plan. In an ongoing plan, adjustments can be made to future contributions as the actuarial results differ from actuarial assumptions and as assumptions change over time. In a terminated plan, there are no future contributions and no ability to make adjustments. Consequently, the actuarial liability for a terminated plan is necessarily greater than the actuarial liability for an ongoing plan, and the unfunded actuarial liability on termination is the amount that would be needed to fully fund the plan because there will be no further contributions and would therefore be the amount of the claim.

45. In a termination, CalPERS would continue benefits without reduction only if the Board were to find that benefit continuation will not impact the actuarial soundness of the Terminated Agency Pool. Cal. Gov. Code § 20577.5. As a result, because Stockton could not fund its shortfall following a hypothetical termination, in the event that Stockton did not fund a material amount of its contribution obligations, CalPERS would be required to reduce benefits before merging Stockton's assets into the Terminated Agency Pool.

46. Further, if the City chooses to terminate its relationship with CalPERS, the City could not enter into a new relationship with CalPERS for at least three years from the date of termination. *Id.* § 20460. Although the City's existing employees that had benefits accrued as of the termination

EXHIBIT 11

CalPERS

California Public Employees' Retirement System
P.O. Box 942709
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Reference No.:
Circular Letter No.: 200-058-11
Distribution: I, VI
Special:

Circular Letter

August 19, 2011

TO: **ALL PUBLIC AGENCIES**

SUBJECT: **CHANGES TO THE TERMINATED AGENCY POOL**

ATTENTION: **FINANCE DIRECTORS, HUMAN RESOURCE DIRECTORS, PUBLIC AGENCY DECISION MAKERS**

CalPERS is sending this Circular Letter as a result of the CalPERS Board of Administration's decision at its August meeting to take steps to protect member benefits and to mitigate funding risk to the Terminated Agency Pool (Pool).

Background

When a contracting agency terminates its CalPERS contract, the assets and liabilities of the agency are merged into the Pool. Similarly, when a contracting agency terminates a portion of its CalPERS contract, the assets and liabilities associated with the terminated portion of the contract are merged into the Pool. The Pool is part of the Public Employees' Retirement Fund (PERF) and pools those PERF assets used to pay benefits to members who are credited with service rendered as employees of terminated agencies.

As of June 30, 2009, the market value of assets attributable to the Pool was $144 million, and the funding value of actuarial liabilities attributable to the Pool was $60 million. At that time the Pool was 240% funded. Benefit payments attributable to the Pool exceed $5.4 million annually.

Due to the current economic environment and budget issues faced by public agencies, there is increasing pressure on public agencies to amend or terminate pension plan contracts. Although currently the Pool is well funded, the termination of a large employer (or several small employers) would cause the funded status of the Pool to be significantly diluted. For example, if a plan (or collection of plans) with $535 million in assets and $500 million in liabilities is merged into the Pool, the funded status of the Pool would likely drop from 240% to 121%.

Should the Pool become underfunded, CalPERS has limited funding sources available to increase the funded status of the Pool. This is because terminated agencies generally do not make ongoing contributions (other than a fixed schedule of payments established at the time of contract termination). Therefore, the Pool could be at risk should it become underfunded. Since the Pool is currently well funded, an opportunity exists to mitigate this risk before it is realized.

<u>How Can CalPERS Minimize This Risk?</u>

In light of the risk discussed above, the Board has adopted, in concept, an investment policy and asset allocation strategy that reflects the characteristics of future expected benefit payments that will be paid out of the Pool. By implementing a specific investment policy and asset allocation strategy, CalPERS is taking steps to increase benefit security and mitigate the Pool's funding status risk.

<u>Change to Investment Policy, Income Allocation and Other Actuarial Assumptions</u>

The assets of the Pool will be invested in a way that reflects the characteristics of future expected benefit payments. The Pool will continue to be part of the PERF and will be allocated income in accordance with this investment policy and asset allocation strategy. Over the next few months, CalPERS will establish the investment policy and asset allocation strategy to better match the liabilities and assets of the Pool.

To ensure that the most appropriate actuarial assumptions are used at the time a public agency terminates its contract with CalPERS, the Board has adopted an interim method to determine the discount rate, inflation assumption and other related economic assumptions to be used when calculating the liabilities of terminating agencies and to be used in the annual actuarial valuation of the Pool entitled "Method to Determine the Discount Rate, Inflation Assumption and Wage Growth Assumption for Termination Calculations," a copy of which is attached.

The interim method will be used to set the discount rate, inflation assumption and other related economic assumptions for contract terminations (and partial contract terminations) with a termination date on or after August 18, 2011. In addition, this method will be used to set the discount rate and other actuarial assumptions for the June 30, 2010, actuarial valuation of the Pool that will be performed later this fall. It is expected that there will be changes to the interim method when an investment policy and asset allocation strategy are adopted, and thereafter from time to time to reflect changes to the investment policy and asset allocation strategy.

<u>Impact on Liabilities in the Pool and Agencies Contemplating Termination of a Contract with CalPERS</u>

In light of the current benefits attributable to the Pool, and using the US Treasury rates in effect as of June 30, 2011, and the new termination calculation method described above, the discount rate for valuation of the Pool as of June 30, 2011, would be 3.8%. Using this rate, actuarial liabilities attributable to the Pool increases from $60 million to close to $92 million, resulting in a decrease in surplus assets of the Pool from $84 million to $52 million.

Going forward, if an agency terminates its contract, or a portion of its contract, a similar increase in the value of actuarial liabilities at the time of termination (compared to the value of actuarial liabilities as an active agency with ongoing contributions) can be expected assuming rates remain at 3.8%. Note that as rates fluctuate in the market, the value of actuarial liabilities at the time of termination will also fluctuate. <u>Employers should be aware that under the current interest rate environment this new termination calculation method will increase the amount of assets that employers will need to leave behind when they terminate; if there is insufficient assets in the employer's account at CalPERS, the employer will be required to make up the shortfall.</u>

In order to ensure transparency and provide relevant information, the CalPERS Actuarial Office expects to be able to provide employers with hypothetical information regarding their termination liabilities as part of the regular annual actuarial valuation report. At this time we expect this information to be available, at the earliest, in the June 30, 2011, actuarial valuation report that will be mailed in October of 2012.

If you wish to discuss these issues further, please contact your CalPERS actuary at **888 CalPERS** or (**888**-225-7377).

ALAN MILLIGAN, Chief Actuary
Actuarial Office

Enclosure
Method to Determine the Discount Rate

EXHIBIT RR

◂ Prev Cal. Civ. Code § 2882 Next ▸

Section 2882. Operation of law

No lien arises by mere operation of law until the time at which the act to be secured thereby ought to be performed.

◂ Prev Cal. Civ. Code § 2882 Next ▸

EXHIBIT SS

◂ Prev Cal. Gov't Code § 20460 Next ▸

Section 20460. Contract authority

Any public agency may participate in and make all or part of its employees members of this system by contract entered into between its governing body and the board pursuant to this part.

However, a public agency may not enter into the contract within three years of termination of a previous contract for participation.

◂ Prev Cal. Gov't Code § 20460 Next ▸

EXHIBIT TT

California Code
CALIFORNIA GOVERNMENT CODE
Title 2. GOVERNMENT OF THE STATE OF CALIFORNIA (§§ 8000 to 22980)
Division 5. PERSONNEL (§§ 18000 to 22980)
Part 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (§§ 20000 to 21703)
Chapter 5. CONTRACT MEMBERS OF SYSTEM (§§ 20460 to 20593)
Article 1. General Provisions (§§ 20460 to 20487)

◂ Prev Cal. Gov't Code § 20482 Next ▸

Section 20482. Placement of only portion of local members under system

Subject to the approval of the board as in the case of all other employees, the contracting agency may elect to continue the local system and to place under this system only a portion of the members of the local system.

◂ Prev Cal. Gov't Code § 20482 Next ▸

EXHIBIT UU

California Code
CALIFORNIA GOVERNMENT CODE
Title 2. GOVERNMENT OF THE STATE OF CALIFORNIA (§§ 8000 to 22980)
Division 5. PERSONNEL (§§ 18000 to 22980)
Part 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (§§ 20000 to 21703)
Chapter 5. CONTRACT MEMBERS OF SYSTEM (§§ 20460 to 20593)
Article 1. General Provisions (§§ 20460 to 20487)

◂ Prev Cal. Gov't Code § 20485 Next ▸

Section 20485. Alternative retirement plan providing benefits under difined contribution plan

It is the intent of the Legislature that contracting agencies in conjunction with recognized local employee organizations, develop alternative retirement plans that provide benefits under a defined contribution program.

◂ Prev Cal. Gov't Code § 20485 Next ▸

EXHIBIT VV

California Code
CALIFORNIA GOVERNMENT CODE
Title 2. GOVERNMENT OF THE STATE OF CALIFORNIA (§§ 8000 to 22980)
Division 5. PERSONNEL (§§ 18000 to 22980)
Part 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (§§ 20000 to 21703)
Chapter 5. CONTRACT MEMBERS OF SYSTEM (§§ 20460 to 20593)
Article 1. General Provisions (§§ 20460 to 20487)

◂ Prev Cal. Gov't Code § 20487 Next ▸

Section 20487. Public or contracting agency becoming subject of bankruptcy case

Notwithstanding any other provision of law, no contracting agency or public agency that becomes the subject of a case under the bankruptcy provisions of Chapter 9 (commencing with Section 901) of Title 11 of the United States Code shall reject any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or any similar provision of law; nor shall the agency, without the prior written consent of the board, assume or assign any contract or agreement between that agency and the board pursuant to Section 365 of Title 11 of the United States Code or any similar provision of law.

Renumbered from § 20486 and amended by *Stats 2000 ch 1002 (SB 1998)* , *s 4* , eff. 1/1/2001 .

◂ Prev Cal. Gov't Code § 20487 Next ▸

EXHIBIT WW

California Code
CALIFORNIA GOVERNMENT CODE
Title 2. GOVERNMENT OF THE STATE OF CALIFORNIA (§§ 8000 to 22980)
Division 5. PERSONNEL (§§ 18000 to 22980)
Part 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (§§ 20000 to 21703)
Chapter 5. CONTRACT MEMBERS OF SYSTEM (§§ 20460 to 20593)
Article 5. Termination of Contracts (§§ 20570 to 20593)

◂ Prev Cal. Gov't Code § 20570 Next ▸

Section 20570. Contract in effect for at lease five years approved by ordinance or resolution

(a) If the contract has been in effect for at least five years and was approved by an ordinance or resolution adopted by the governing body of the contracting agency, the governing body may terminate it by the adoption of a resolution giving notice of intention to terminate, and by the adoption, not less than one year thereafter by the affirmative vote of two-thirds of the members of the governing body, of an ordinance or resolution terminating the contract. Termination shall be effective with board approval on the date designated in the ordinance or resolution terminating the contract.

(b) If the contract is a joint contract and the joint contract has been in effect for at least five years, the contract may be terminated by the adoption of trial court and county resolutions giving notice of intention to terminate, and by the adoption, not less than one year thereafter by the affirmative vote of two-thirds of the members of the governing body of the county, and by the presiding officer of the trial court, of an ordinance or resolution terminating the contract. Termination shall be effective with board approval on the date designated in the ordinance terminating the contract.

Amended by *Stats 2000 ch 1010 (SB 2140)* , *s 9* , eff. 1/1/2001 .

◂ Prev Cal. Gov't Code § 20570 Next ▸

EXHIBIT XX

California Code
CALIFORNIA GOVERNMENT CODE
Title 2. GOVERNMENT OF THE STATE OF CALIFORNIA (§§ 8000 to 22980)
Division 5. PERSONNEL (§§ 18000 to 22980)
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Chapter 5. CONTRACT MEMBERS OF SYSTEM (§§ 20460 to 20593)
Article 5. Termination of Contracts (§§ 20570 to 20593)

◂ Prev Cal. Gov't Code § 20571 Next ▸

Section 20571. Contract in effect for at least five years approved by ordinance adopted by majority vote of electorate

If the contract has been in effect for at least five years and was approved by an ordinance adopted by a majority vote of the electorate, termination by the contracting agency may be effected not less than one year after authority has been granted by ordinance adopted by a majority vote of the electorate of the contracting agency voting thereon. Termination shall be effective with board approval on the date designated in the ordinance or resolution terminating the contract.

◂ Prev Cal. Gov't Code § 20571 Next ▸

EXHIBIT YY

◂ Prev Cal. Gov't Code § 20572 Next ▸

Section 20572. Failure to pay contributions, file required information or agency no longer in existence; interest and costs of collection for nonpayment of contributions

(a) If a contracting agency fails for 30 days after demand by the board to pay any installment of contributions required by its contract, or fails for three months after demand by the board therefor to file any information required in the administration of this system with respect to that agency's employees, or if the board determines that the agency is no longer in existence, the board may terminate that contract by resolution adopted by a majority vote of its members effective 60 days after notice of its adoption has been mailed by registered mail to the governing body of the contracting agency.

(b) Notwithstanding Section 20537, if a contracting agency fails to remit the contributions when due, the agency may be assessed interest at an annual rate of 10 percent and the costs of collection, including reasonable legal fees, when necessary to collect the amounts due. In the case of repeated delinquencies, the contracting agency may be assessed a penalty of 10 percent of the delinquent amount. That penalty may be assessed once during each 30-day period that the amount remains unpaid.

Amended by *Stats 2003 ch 462 (SB 271)* , *s 1* , eff. 1/1/2004 .

◂ Prev Cal. Gov't Code § 20572 Next ▸

EXHIBIT ZZ

California Code
CALIFORNIA GOVERNMENT CODE
Title 2. GOVERNMENT OF THE STATE OF CALIFORNIA (§§ 8000 to 22980)
Division 5. PERSONNEL (§§ 18000 to 22980)
Part 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (§§ 20000 to 21703)
Chapter 5. CONTRACT MEMBERS OF SYSTEM (§§ 20460 to 20593)
Article 5. Termination of Contracts (§§ 20570 to 20593)

◂ Prev Cal. Gov't Code § 20574 Next ▸

Section 20574. Liability of terminated agency

A terminated agency shall be liable to the system for any deficit in funding for earned benefits, as determined pursuant to Section 20577, interest at the actuarial rate from the date of termination to the date the agency pays the system, and for reasonable and necessary costs of collection, including attorney's fees. The board shall have a lien on the assets of a terminated contracting agency, subject only to a prior lien for wages, in an amount equal to the actuarially determined deficit in funding for earned benefits of the employee members of the agency, interest, and collection costs. The assets shall also be available to pay actual costs, including attorneys' fees, necessarily expended for collection of the lien.

Amended by *Stats 2003 ch 462 (SB 271)* , *s 2* , eff. 1/1/2004 .

◂ Prev Cal. Gov't Code § 20574 Next ▸

EXHIBIT AAA

California Code
CALIFORNIA GOVERNMENT CODE
Title 2. GOVERNMENT OF THE STATE OF CALIFORNIA (§§ 8000 to 22980)
Division 5. PERSONNEL (§§ 18000 to 22980)
Part 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (§§ 20000 to 21703)
Chapter 5. CONTRACT MEMBERS OF SYSTEM (§§ 20460 to 20593)
Article 5. Termination of Contracts (§§ 20570 to 20593)

◂ Prev Cal. Gov't Code § 20576 Next ▸

Section 20576. Accumulated contributions held by board for benefit members and beneficiaries

(a) Upon the termination of a contract, the board shall hold for the benefit of the members of this system who are credited with service rendered as employees of the contracting agency and for the benefit of beneficiaries of this system who are entitled to receive benefits on account of that service, the portion of the accumulated contributions then held by this system and credited to or as having been made by the agency that does not exceed the difference between (1) an amount actuarially equivalent, including contingencies for mortality fluctuations, as determined by the actuary and approved by the board, the amount this system is obligated to pay after the effective date of termination to or on account of persons who are or have been employed by, and on account of service rendered by them to, the agency, and (2) the contributions, with credited interest thereon, then held by this system as having been made by those persons as employees of the agency.

(b) All plan assets and liabilities of agencies whose contracts have been terminated shall be merged into a single pooled account to provide exclusively for the payment of benefits to members of these plans. Recoveries from terminated agencies for any deficit in funding for earned benefits for members of plans of terminated agencies, and interest thereon, shall also be deposited to the credit of the terminated agency pool.

Amended by *Stats 2003 ch 462 (SB 271)* , *s 3* , eff. 1/1/2004 .

◂ Prev Cal. Gov't Code § 20576 Next ▸

EXHIBIT BBB

California Code
CALIFORNIA GOVERNMENT CODE
Title 2. GOVERNMENT OF THE STATE OF CALIFORNIA (§§ 8000 to 22980)
Division 5. PERSONNEL (§§ 18000 to 22980)
Part 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (§§ 20000 to 21703)
Chapter 5. CONTRACT MEMBERS OF SYSTEM (§§ 20460 to 20593)
Article 5. Termination of Contracts (§§ 20570 to 20593)

◂ Prev

Cal. Gov't Code § 20577

Next ▸

Section 20577. Accumulated contributions less than actuarial equivalent specified in section 20576(a)

If, at the date of termination, the sum of the accumulated contributions credited to, or held as having been made by, the contracting agency and the accumulated contributions credited to or held as having been made by persons who are or have been employed by the agency, as employees of the agency, is less than the actuarial equivalent specified in clause (1) of subdivision (a) of Section 20576, the agency shall contribute to this system under terms fixed by the board, an amount equal to the difference between the amount specified in clause (1) of subdivision (a) of Section 20576 and the accumulated contributions. The amount of the difference shall be subject to interest at the actuarial rate from the date of contract termination to the date the agency pays this system. If the agency fails to pay to the board the amount of the difference, all benefits under the contract, payable after the board declares the agency in default therefor, shall be reduced by the percentage that the sum is less than the amount in clause (1) of subdivision (a) of Section 20576 as of the date the board declared the default. If the sum of the accumulated contributions is greater than the amount in clause (1) of subdivision (a) of Section 20576, an amount equal to the excess shall be paid by this system to the contracting agency, including interest at the actuarial rate from the date of contract termination to the date this system makes payment. The market value used shall be the value calculated in the most recent annual closing.

The right of an employee of a contracting agency, or his or her beneficiary, to a benefit under this system, whether before or after retirement or death, is subject to the reduction.

Amended by *Stats 2003 ch 462 (SB 271)* , *s 4* , eff. 1/1/2004 .

◂ Prev

Cal. Gov't Code § 20577

Next ▸

EXHIBIT CCC

West's Annotated California Codes
Government Code (Refs & Annos)
Title 5. Local Agencies (Refs & Annos)
Division 2. Cities, Counties, and Other Agencies (Refs & Annos)
Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies (Refs & Annos)
Chapter 4. Financial Affairs (Refs & Annos)
Article 5. Bankruptcy (Refs & Annos)

This section has been updated. Click here for the updated version.

West's Ann.Cal.Gov.Code § 53760

§ 53760. Authority to file petition and prosecute proceedings

Effective: January 1, 2003 to December 31, 2011

(a) Except as otherwise provided by statute, a local public entity in this state may file a petition and exercise powers pursuant to applicable federal bankruptcy law.

(b) As used in this section, "local public entity" means any county, city, district, public authority, public agency, or other entity, without limitation, that is a "municipality," as defined in paragraph (40) of Section 101 of Title 11 of the United States Code (bankruptcy), or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities.

Credits
(Added by Stats.2002, c. 94 (S.B.1323), § 4.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

2002 Repeal

Former Section 53760 is superseded by a new Section 53760. The substance of the grant of authority to file for municipal bankruptcy provided in this section is continued in new Section 53760, which modernizes references to federal bankruptcy law. The Bankruptcy Act sections listed in former Section 53760 were repealed in 1978. See Bankruptcy Reform Act of 1978, Pub. L. No. 95-598. The "taxing agency or instrumentality" phrase was drawn from the predecessor Bankruptcy Act of 1898, as amended in 1937. This language has been replaced by the more general term "municipality" in the Bankruptcy Code. See 11 U.S.C. § 101(40) (Westlaw 2001), as amended by the Bankruptcy Reform Act of 1994. To the extent that former Section 53760 could be interpreted in a more limited fashion (*cf. In re* County of Orange, 183 B.R. 594, 605 (Bankr. C.D. Cal. 1995)), that limitation is not continued in new Section 53760. [31 Cal.L.Rev.Comm. Reports 162 (2002)].

2002 Addition

Section 53760 supersedes former Sections 43739 (city bankruptcy), 53760 (taxing agency or instrumentality bankruptcy), and 53761 (state consent). The former sections contained obsolete references to repealed federal bankruptcy law. This section is intended to provide the broadest possible state authorization for municipal bankruptcy proceedings, and thus provides the specific state law authorization for municipal bankruptcy filing required under federal law. See 11 U.S.C. § 109(c)(2) (Westlaw 2001).

As recognized in the introductory clause of subdivision (a), this broad grant of authority is subject to specific limitations provided by statute. See, e.g., Ins. Code § 10089.21 (California Earthquake Authority precluded from resort to bankruptcy); Sts. & Hy. Code § 9011 (prerequisites to bankruptcy filing under Improvement Bond Act of 1915). See also Educ. Code § 41325 (control of insolvent school district by Superintendent of Public Instruction); Health and Safety Code § 129173 (health care district trusteeship). [31 Cal.L.Rev.Comm. Reports 163 (2002)].

West's Ann. Cal. Gov. Code § 53760, CA GOVT § 53760
Current with urgency legislation through Ch. 19 of 2014 Reg.Sess. and all propositions on the 6/3/2014 ballot.

End of Document

EXHIBIT DDD

West's Annotated California Codes
Government Code (Refs & Annos)
Title 5. Local Agencies (Refs & Annos)
Division 2. Cities, Counties, and Other Agencies (Refs & Annos)
Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies (Refs & Annos)
Chapter 4. Financial Affairs (Refs & Annos)
Article 5. Bankruptcy (Refs & Annos)

West's Ann.Cal.Gov.Code § 53760

§ 53760. Authority to file petition and prosecute proceedings

Effective: January 1, 2012
Currentness

A local public entity in this state may file a petition and exercise powers pursuant to applicable federal bankruptcy law if either of the following apply:

(a) The local public entity has participated in a neutral evaluation process pursuant to Section 53760.3.

(b) The local public entity declares a fiscal emergency and adopts a resolution by a majority vote of the governing board pursuant to Section 53760.5.

Credits
(Added by Stats.2002, c. 94 (S.B.1323), § 4. Amended by Stats.2011, c. 675 (A.B.506), § 2.)

Editors' Notes

LAW REVISION COMMISSION COMMENTS

2002 Repeal

Former Section 53760 is superseded by a new Section 53760. The substance of the grant of authority to file for municipal bankruptcy provided in this section is continued in new Section 53760, which modernizes references to federal bankruptcy law. The Bankruptcy Act sections listed in former Section 53760 were repealed in 1978. See Bankruptcy Reform Act of 1978, Pub. L. No. 95-598. The "taxing agency or instrumentality" phrase was drawn from the predecessor Bankruptcy Act of 1898, as amended in 1937. This language has been replaced by the more general term "municipality" in the Bankruptcy Code. See 11 U.S.C. § 101(40) (Westlaw 2001), as amended by the Bankruptcy Reform Act of 1994. To the extent that former Section 53760 could be interpreted in a more limited fashion (*cf. In re* County of Orange, 183 B.R. 594, 605 (Bankr. C.D. Cal. 1995)), that limitation is not continued in new Section 53760. [31 Cal.L.Rev.Comm. Reports 162 (2001)].

2002 Addition

Section 53760 supersedes former Sections 43739 (city bankruptcy), 53760 (taxing agency or instrumentality bankruptcy), and 53761 (state consent). The former sections contained obsolete references to repealed federal bankruptcy law. This section is intended to provide the broadest possible state authorization for municipal bankruptcy proceedings, and thus provides the specific state law authorization for municipal bankruptcy filing required under federal law. See 11 U.S.C. § 109(c)(2) (Westlaw 2001).

As recognized in the introductory clause of subdivision (a), this broad grant of authority is subject to specific limitations provided by statute. See, e.g., Ins. Code § 10089.21 (California Earthquake Authority precluded from resort to bankruptcy); Sts. & Hy. Code § 9011 (prerequisites to bankruptcy filing under Improvement Bond Act of 1915). See also Educ. Code § 41325 (control of insolvent school district by Superintendent of Public Instruction); Health and Safety Code § 129173 (health care district trusteeship). [31 Cal.L.Rev.Comm. Reports 163 (2001)].

Notes of Decisions (6)

West's Ann. Cal. Gov. Code § 53760, CA GOVT § 53760
Current with urgency legislation through Ch. 19 of 2014 Reg.Sess. and all propositions on the 6/3/2014 ballot.

End of Document

EXHIBIT EEE

◂ Prev

Cal. Gov't Code § 53760.1

Next ▸

Section 53760.1. Definitions

As used in this article the following terms have the following meanings:

(a) "Chapter 9" means Chapter 9 (commencing with Section 901) of Title 11 of the United States Code.

(b) "Creditor" means either of the following:

(1) An entity that has a noncontingent claim against a municipality that arose at the time of or before the commencement of the neutral evaluation process and whose claim represents at least five million dollars ($5,000,000) or comprises more than 5 percent of the local public entity's debt or obligations, whichever is less.

(2) An entity that would have a noncontingent claim against the municipality upon the rejection of an executory contract or unexpired lease in a Chapter 9 case and whose claim would represent at least five million dollars ($5,000,000) or comprises more than 5 percent of the local public entity's debt or obligations, whichever is less.

(c) "Debtor" means a local public entity that may file for bankruptcy under Chapter 9.

(d) "Good faith" means participation by a party in the neutral evaluation process with the intent to negotiate toward a resolution of the issues that are the subject of the neutral evaluation process, including the timely provision of complete and accurate information to provide the relevant parties through the neutral evaluation process with sufficient information, in a confidential manner, to negotiate the readjustment of the municipality's debt.

(e) "Interested party" means a trustee, a committee of creditors, an affected creditor, an indenture trustee, a pension fund, a bondholder, a union that, under its collective bargaining agreements, has standing to initiate contract or debt restructuring negotiations with the municipality, or a representative selected by an association of retired employees of the public entity who receive income from the public entity convening the neutral evaluation. A local public entity may invite holders of contingent claims to participate as interested parties in the neutral evaluation if the local public entity determines that the contingency is likely to occur and the claim may represent five million dollars ($5,000,000) or comprise more than 5 percent of the local public entity's debt or obligations, whichever is less.

(f) "Local public entity" means any county, city, district, public authority, public agency, or other entity, without limitation, that is a municipality as defined in Section 101(40) of Title 11 of the United States Code (bankruptcy), or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities, and also includes a successor agency to a redevelopment agency created pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. For purposes of this article, "local public entity" does not include a school district.

(g) "Local public entity representative" means the person or persons designated by the local public agency with authority to make recommendations and to attend the neutral evaluation on behalf of the governing body of the municipality.

(h) "Neutral evaluation" is a form of alternative dispute resolution that may be known as mandatory mediation. A "neutral evaluator" may also be known as a mediator.

Amended by *Stats 2012 ch 26 (AB 1484)* , *s 1* , eff. 6/27/2012 . Added by *Stats 2011 ch 675 (AB 506)* , *s 3* , eff. 1/1/2012 .

EXHIBIT FFF

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Status - 1237 bytes

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Introduced - 02/23/96	HTML - 2211 bytes	PDF - 5467 bytes

Analyses

Assembly Committee	- 08/27/96 - 3433 bytes
Senate Floor	- 08/05/96 - 12441 bytes
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Senate Floor	- 02/23/96 - 11325 bytes
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Votes

Senate Floor	- 08/22/96 - 1162 bytes
Assembly Floor	- 08/19/96 - 1511 bytes
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Assembly Committee	- 07/03/96 - 977 bytes
Senate Floor	- 05/09/96 - 1144 bytes
Senate Committee	- 04/08/96 - 926 bytes

BILL ANALYSIS

SB 1945

Date of Hearing: August 7, 1996

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Charles Poochigian, Chair

SB 1945 (Craven) - As Amended: August 5, 1996

Policy Committee: P.E.,R. & S.S. Vote: 7-0

State Mandated Local Program: NoReimbursable: No Urgency: No

SUMMARY

Prohibits a CalPERS contracting agency debtor's trustee from making an election to end, by rejection, assignment, or assumption, its contract with CalPERS. Allows public employees to participate in deferred compensation.

Specifically, this bill :

1) Prohibits a contracting agency or public agency seeking bankruptcy protection from rejecting any contract or agreement between the agency and the Board or, without prior consent of the Board, from assuming or assigning any contract or agreement between the agency and the Board.

2) Permits all public employees to participate in deferred compensation programs.

FISCAL EFFECT

This measure will not result in additional state costs or savings.

BACKGROUND

CalPERS sponsored this measure to prevent a public agency such as Orange County, from shifting liability for funding its employees' retirement benefit payments to CalPERS.

- continued

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BILL ANALYSIS

SENATE RULES COMMITTEE SB 1945
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 445-6614 Fax: (916) 327-4478

UNFINISHED BUSINESS

Bill No: SB 1945
Author: Craven (R)
Amended: 8/5/96
Vote: 21

SENATE PUBLIC EMP. & RET. COMMITTEE: 3-0, 4/8/96
AYES: Haynes, Rogers, Hughes
NOT VOTING: Costa, Solis

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SENATE FLOOR: 36-0, 5/9/96, Consent (Applies to Section 1 only)
AYES: Alquist, Ayala, Beverly, Boatwright, Calderon, Dills, Greene, Hayden, Haynes, Hughes, Hurtt, Johannessen, Johnson, Johnston, Kelley, Killea, Kopp, Leonard, Leslie, Lewis, Lockyer, Maddy, Marks, Mello, Monteith, Mountjoy, O'Connell, Peace, Polanco, Rogers, Rosenthal, Sher, Solis, Thompson, Watson, Wright
NOT VOTING: Costa, Craven, Petris, Russell

ASSEMBLY FLOOR: 77-0, 8/19/96 (Passed on Consent)

SUBJECT: Public employees: retirement

SOURCE: Public Employees Retirement System Board of Administration

?1

CONTINUED

DIGEST: This bill prohibits contracting agencies and public agencies that become subject to federal bankruptcy proceedings from rejecting retirement coverage contracts or assuming or assigning those contracts without the prior consent of the Public Employees Retirement System (PERS) Board.

Assembly Amendments expand the deferred compensation program administered by CalPERS, which currently is available only to local public employees, to all state and local public employees.

ANALYSIS: The Senate Public Employment and Retirement Committee analysis indicates that the recent Orange County fiscal crisis has raised the possibility that a PERS' contracting agency could file a Chapter 9 Bankruptcy, and that the agency's trustee in bankruptcy might seek to reject its contract with PERS, thereby transferring the liability for its retirees' retirement allowances to PERS.

Existing PERS law contains the following sections relating to its relationship with local governmental agencies that enter into a contract with the system to provide retirement benefits to their employees:

1. Section 20450 authorizes any public agency to contract for all or part of its employees to become members of PERS,

2. Section 20450.1 permits the PERS Board to refuse to contract for any benefit provision not specifically authorized which would adversely affect the administration of the system,

3. Section 20499.5 provides that a contracting agency forced to reduce employee compensation because of a fiscal

emergency cannot reduce retirement benefits below the level before the reduction,

4.Section 20531 permits PERS to assess costs for late contributions and section 20531.5 permits PERS to charge interest on unpaid contributions,

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5.Section 20562 permits PERS to cancel a contracting agency's contract when that agency has failed to pay after 30 days from written demand by the PERS Board; it may also terminate the contract by resolution effective 60 days after mailing to an agency it decides no longer exists,

6.Section 20563 states that where the agency's accumulated contributions do not satisfy the actuarial equivalent set forth in section 20563, the agency must contribute the difference on terms fixed by the PERS Board; furthermore, the amount of the difference is subject to interest. And, if the agency fails to pay, the Board may declare a proportional reduction in benefits. However, section 20567 assures that the right to a retirement allowance of an annuitant is not affected by termination of the contract unless the contracting agency fails to make its required contributions, and

7.Section 20757.2 declares that despite any other provision of the law, no employer may refuse to make its contributions to CalPERS.

Existing federal law, under Chapter 9 of the United States Bankruptcy Code, provides for reorganization of a municipality under strict parameters that include: insolvency; desire to adjust debts; agreement by creditors holding a majority of the outstanding amounts to be adjusted under the plan; and good faith negotiation with those creditors resulting in inability to succeed because of impracticability or the possibility of an unavoidable transfer under section 547 of the Bankruptcy Code.

U. S. Bankruptcy Code section 101(40) defines "municipality" to include any political subdivision or agency of the state. Section 901 provides many of the general provisions of the Bankruptcy Code including sections 362 (automatic stay), 365 (executory contracts and unexpired leases), 1129 (confirmation of plan), and 1142 (implementation of plan). But section 903 says that the power of a state to control the exercise of a municipality's governmental powers including expenditure for such an exercise is not limited.

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And section 904 provides that without consent of the debtor or provision in the plan, the court may not interfere with the exercise of its governmental powers or use of its property and revenues. 28 U.S.C. Section 959(b) says that the trustee shall manage the property like an owner or possessor would.

California Government Code sections 53760 and 53761 effectively consent to the provisions of the Bankruptcy Code for its governmental subdivisions and taxing agencies.

The Public Employment and Retirement Committee has been advised by PERS bankruptcy counsel that federal Bankruptcy Code also contains the following:

1.Section 922 provides additional authority to that set forth in section 362, to stay all entities that seek to enforce any claim against a debtor,

2.Section 941 requires the debtor agency to file a plan. Section 943(b) ordains that the court shall affirm the plan if: it complies with the Bankruptcy Code; contains no action prohibited by law; contains any regulatory or electoral approval necessary; and is both feasible and in the best interests of creditors,

3.Section 944 says the confirmed plan binds both the debtor and creditors even if they have not accepted the plan.

Under Section 365 as applied to Chapter 9, any assumption, assignment, or rejection of a contract requires court approval. Contracts must be assumed or rejected as a whole, not in part. If assumed, all defaults and deficiencies must be cured. Clauses in a contract canceling it because of insolvency are invalid. Non-assignable contracts are also not subject to assumption or assignment.

While the purpose of the federal bankruptcy law is to permit the impairment of contracts to effect a reorganization of debt, Chapter 9 only provides relief in states which have consented to its application. Only 18 states, including California, have done so. Of those 18, a number have established conditions on the right to seek

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bankruptcy relief. An example is requiring approval by a state agency before a municipality can apply for Chapter 9 relief. New Jersey, Louisiana, Kentucky, Ohio, and Pennsylvania require such preapproval. Other states -- North Dakota, Montana, and Kentucky -- and Louisiana set forth specific procedures which must be followed.

This bill would add language to the PERS law specifically prohibiting the debtor's trustee of a PERS local contracting agency that has filed for Chapter 9 Bankruptcy from making an election to end -- by rejection, assignment, or assumption -- its contract with PERS.

Existing law authorizes the establishment of a deferred compensation program for members of the system.

This bill permits that program to be offered to all state and local public employees.

Comments:

The Senate Public Employment and Retirement Committee states that, under existing PERS law, if a PERS local contracting public agency were to file for reorganization under Chapter 9, PERS' ability to terminate a contract could be abrogated by the automatic stay.

In that event, CalPERS might not be able to assess for deficient contributions but may still be liable to annuitants whose allowances are not fully funded.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes
Local: No

SUPPORT: (Verified 8/19/96)

Public Employees Retirement System Board of Administration (source)
California State Firefighters' Association
California Professional Firefighters
Service Employees International Union, California State Council
California School Employees Association

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DLW:lm 8/19/96 Senate Floor Analyses
SUPPORT/OPPOSITION: SEE ABOVE
**** END ****

BILL ANALYSIS

Date of Hearing: July 3, 1996

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYEES RETIREMENT & SOCIAL SECURITY
Howard Kaloogian, Chairman

SB 1945 (Craven) - As Amended: June 26, 1996

SENATE VOTE: 36-0

SUBJECT: Public employees: retirement.

VOTE REQUIREMENT: Majority

SUMMARY: Prohibits a CalPERS contracting agency debtor's trustee from making an election to end, by rejection, assignment, or assumption, its contract with CalPERS. Allows public employees to participate in deferred compensation. Specifically, this bill:

1) Prohibits a contracting agency or public agency seeking bankruptcy protection from rejecting any contract or agreement between the agency and the Board or, without prior consent of the Board, from assuming or assigning any contract or agreement between the agency and the Board.

2) Permits all public employees to participate in deferred compensation programs.

FISCAL EFFECT: Unknown

BACKGROUND: Since the Orange County bankruptcy, concern regarding the possibility of a CalPERS' contracting agency filing a Chapter 9 Bankruptcy has arisen. In particular, the concern is that such an agency's trustee in bankruptcy will choose to reject its contract with CalPERS thereby transferring the liability for its retirees' retirement allowances to CalPERS.

ARGUMENTS IN SUPPORT: The state should protect its retirement system and its beneficiaries as a priority to prevent use of the Bankruptcy Code by a political subdivision or agency to avoid its obligations to its employees and annuitants.

ARGUMENTS IN OPPOSITION: A bankruptcy judge might refuse to recognize the power of the state to control bankruptcy proceedings or to set conditions for using bankruptcy protection.

REGISTERED SUPPORT / OPPOSITION:

Support

CalPERS

Opposition/None on file.

Analysis prepared by: Michael J. D'Arelli / aper&ss / (916)322-4320

EXHIBIT GGG

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Legislative History of

CALIFORNIA GOVERNMENT CODE § 20574

As Derived From
Former Government Code § 21600

As Added By
Statutes of 1982, Chapter 77, § 4
Assembly Bill 1648 – Chacon

BILL ANALYSIS AB 1648 (CHACON)

California Legislature

Assembly Committee on Public Employees and Retirement

DAVE COX
SENIOR CONSULTANT
ROBBIN LEWIS-COAXUM
ASSOCIATE CONSULTANT
DEBORAH REED
COMMITTEE SECRETARY

STATE CAPITOL BUILDING
SACRAMENTO, CALIFORNIA
95814
(916) 322-4320

CURTIS R. TUCKER
CHAIRMAN

ASSEMBLY BILL 1648 - CHACON - AS INTRODUCED
HEARING DATE: April 29, 1981

SPONSOR:

Public Employees' Retirement Board

DESCRIPTION:

Assembly Bill 1648 would amend various sections of the Public Employees' Retirement Law. The measure is part of the PERS Board's 1981 legislative program.

ANALYSIS:

An analysis, as prepared by PERS is attached.

FISCAL COMMITTEE:

Yes.

NOTE:

Opposition has been expressed to Section 3 of the bill. Section 3 would exempt PERS from Section 7504 of the Government Code, which, among other things, requires all state and local public retirement systems to submit audited financial statements to the State Controller within six months of the close of each fiscal year (subsection c).

Such an exemption is being opposed by California Taxpayers' Association and (it is understood) the State Controller. It is also understood that PERS and the State Controller are attempting to agree on a compromise.

CONTACT: Dave Cox
PHONE: 322-4320
DATE: April 24, 1981

2446

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

FLOOR STATEMENT

AB 1648

AB 1648 IS SPONSORED BY THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND ENACTS MINOR POLICY AND TECHNICAL CHANGES TO THE RETIREMENT LAW.

THERE IS NO OPPOSITION TO THE BILL THAT I AM AWARE OF, AND IT IS SUPPORTED BY A NUMBER OF ORGANIZATIONS.

THE BILL HAS ONLY MINOR ADMINISTRATIVE COSTS ~~AND~~ I ASK FOR AN AYE VOTE.

CFC:JLC

7/7/81

SENATE COMMITTEE ON PUBLIC EMPLOYMENT and RETIREMENT

Room 2191
State Capitol

8/5/81
Comm

BILL ANALYSIS - BACKGROUND INFORMATION

Sent

To Assemblyman Chacon

Date July 29, 1981

Room 5130 State Capitol

Sacramento, CA 95814

Your bill, number AB 1648 has been referred to our Committee. The Committee meets on the first and third Monday of each month at 1:30 p.m. in room 2040. Please indicate the next hearing date you would prefer your bill be set for 8/10/81. If you are not yet ready to set this bill you may call our Committee Secretary, Mary at 5-8958 when you are ready to do so.

In order that we may give your bill the best possible consideration I am asking that you (or the person sponsoring your bill) answer the following questions. I would very much appreciate your returning this form as soon as possible as I plan to prepare our analyses as soon as we receive each bill assigned to our Committee. Your cooperation will be a great help.

1. Source:

   a. What group, organization, governmental agency, or other person, if any, requested the introduction of the bill?

      Public Employees'Retirement System

   b. Which groups, organizations, or governmental agencies have contacted you in support, of, or in opposition to, this bill?

      California State Firemen's Association,Inc.
      PERS

   c. If a similar bill has been introduced at a previous session of the Legislature, what was its number and what year was it introduced?

   d. Has there been an interim committee, task force, university, or other report on the bill? If so, please identify.

      No

2. Purpose:

   What problem or deficiency, under existing law, does this bill seek to remedy?

   seeks to enact minor policy and techical changes to the retirement law

If you have any further background information or material relating to the bill, please enclose a copy of it or state where the information or material may be obtained. Thank you.

Robert C. Bissonnette
ROBERT C. BISSONNETTE

Explanation

A wide variety of fact situations have arisen in recent months involving the dissolution of member agencies, the transfer of functions or a portion of the workforce of member agencies, the consolidation or reformation of agencies, the transfer of state functions to local systmes, the possible transfer of state functions to private industry (the U.C. weapons labs), etc. In the even an agency is unable to provide for the payment of the vested retirement liabilities of its employees, PERS is in the position, essentially, of an unsecured creditor. Current retirement law does not provide any priority for retirement obligations. If we are unable to secure adequate financing, member benefits must be proportionately reduced, both for current and future employees. This bill would follow traditional wisdom that retirement contributions are, in reality, deferred compensation, by establishing a lien against agency assets second only to wages. The purpose is to secure the employees' retirement rights before the assets of the bankrupt agency are distributed to holders of materialmen and contractor's liens.

Fiscal Impact

Will depend on individual situations - expected to be nominal.

-MORE-

8/10/81

COMMITTEE STATEMENT

AB 1648

AB 1648 is sponsored by the Public Employees' Retirement System and enacts minor policy and technical changes to the retirement law.

There is no opposition to the bill that I am aware of, and it is supported by a number of organizations.

The bill has only minor administrative costs. I ask for your "aye" vote on this measure.

Chuck Conrad, PERS
Brd of adm

Section 4

Amends the PERL to grant to the PERS Board of Administration ~~and~~ a lien upon the assets of agencies who terminate their contracts with the System leaving accrued and unfunded liabilities and no statisfactory method of payment can be negotiated.

Explanation

A wide variety of fact situations have arisen in recent months involving the dissolution of member agencies, the transfer of functions or a portion of the workforce of member agencies, the consolidation or reformation of agencies, the transfer of state functions to local systems, the possible transfer of state functions to private industry (the U.C. weapons labs), etc. In the event an agency is unable to provide for the payment of the vested retirement liabilities of its employees, PERS is in the position, essentially, of an unsecured creditor. Current retirement law does not provide any priority for retirement obligations. If we are unable to secure adequate financing, member benefits must be proportionately reduced, both for current and future employees. This bill would follow traditional wisdom that retirement contributions are, in reality, deferred compensation, by establishing a lien against agency assets second only to wages. The purpose is to secure the employees' retirement rights before the assets of the bankrupt agency are distributed to holders of other liens.

Fiscal Impact

Will depend on individual situations - expected to be nominal.

Carl J. Blechinger
Work: 445-7629
Home: 421-0652

Charles F. Conrad
Work: 445-8549
Home: 635-5146

The pursuit of subrogation rights has been an expensive, complex, time-consuming process. Evolving case law is is reducing the System's net recovery and making recovery more difficult.

Fiscal Effect

PERS expects to collect some $186,000 in fiscal year 1979/80 after administrative expenses.

Section 5

Amends the PERL to grant to the PERS Board of Administration and governing bodies of other public entities the authority to negotiate a transfer of the rights of members, retirees, and beneficiaries and survivors, and the assets and liabilities derived therefrom, to, from, or within PERS as deemed necessary.

Explanation

* A wide variety of fact situations have arisen in recent months involving the dissolution of member agencies, the transfer of functions or a portion of the workforce of member agencies, the consolidation or reformation of agencies, the transfer of state functions to local systems, the possible transfer of state functions to private industry (the U.C. weapons labs), etc. In the event an agency is unable to provide for the payment of the vested retirement liabilities of its employees, PERS is in thhe position, essentially, of an unsecured creditor. Current retirement law does not provide any priority for retirement obligations. If we are unable to secure adequate financing, member benefits must be proportionatly reduced, both for current and furner employees. This bill would follow traditional wisdom that retirement contributions are, in reality, deferred compensation, by establishing a lien against agency assets second onnly to wages. The purpose is to secure the employees' retirment rights before the assets of the bankrupt agency agency are distributed to holders of materialmen and contractor's liens.

Fiscal Impact

Will depend on individual situations - expected to be nominal.

*Corrected paragraph - disregard analysis typed 4/25/81

6/22/81

The pursuit of subrogation rights has been an expensive, complex, time-consuming process. Evolving case law is is reducing the System's net recovery and making recovery more difficult.

Fiscal Effect

PERS expects to collect some $186,000 in fiscal year 1979/80 after administrative expenses.

Section 5

Amends the PERL to grant to the PERS Board of Administration and governing bodies of other public entities the authority to negotiate a transfer of the rights of members, retirees, and beneficiaries and survivors, and the assets and liabilities derived therefrom, to, from, or within PERS as deemed necessary.

Explanation

* A wide variety of fact situations have arisen in recent months involving the dissolution of member agencies, the transfer of functions or a portion of the workforce of member agencies, the consolidation or reformation of agencies, the transfer of state functions to local systems, the possible transfer of state functions to private industry (the U.C. weapons labs), etc. In the event an agency is unable to provide for the payment of the vested retirement liabilities of its employees, PERS is in thhe position, essentially, of an unsecured creditor. Current retirement law does not provide any priority for retirement obligations. If we are unable to secure adequate financing, member benefits must be proportionatly reduced, both for current and furner employees. This bill would follow traditional wisdom that retirement contributions are, in reality, deferred compensation, by establishing a lien against agency assets second onnly to wages. The purpose is to secure the employees' retirment rights before the assets of the bankrupt agency agency are distributed to holders of materialmen and contractor's liens.

Fiscal Impact

Will depend on individual situations - expected to be nominal.

*Corrected paragraph - disregard analysis typed 4/25/81

6/22/81

The pursuit of subrogation rights has been an expensive, complex, time-consuming process. Evolving case law is is reducing the System's net recovery and making recovery more difficult.

Fiscal Effect

PERS expects to collect some $186,000 in fiscal year 1979/80 after administrative expenses.

Section 5

Amends the PERL to grant to the PERS Board of Administration and governing bodies of other public entities the authority to negotiate a transfer of the rights of members, retirees, and beneficiaries and survivors, and the assets and liabilities derived therefrom, to, from, or within PERS as deemed necessary.

Explanation

* A wide variety of fact situations have arisen in recent months involving the dissolution of member agencies, the transfer of functions or a portion of the workforce of member agencies, the consolidation or reformation of agencies, the transfer of state functions to local systems, the possible transfer of state functions to private industry (the U.C. weapons labs), etc. In the event an agency is unable to provide for the payment of the vested retirement liabilities of its employees, PERS is in thhe position, essentially, of an unsecured creditor. Current retirement law does not provide any priority for retirement obligations. If we are unable to secure adequate financing, member benefits must be proportionatly reduced, both for current and furner employees. This bill would follow traditional wisdom that retirement contributions are, in reality, deferred compensation, by establishing a lien against agency assets second onnly to wages. The purpose is to secure the employees' retirment rights before the assets of the bankrupt agency agency are distributed to holders of materialmen and contractor's liens.

Fiscal Impact

Will depend on individual situations - expected to be nominal.

*Corrected paragraph - disregard analysis typed 4/25/81

6/22/81

The pursuit of subrogation rights has been an expensive, complex, time-consuming process. Evolving case law is is reducing the System's net recovery and making recovery more difficult.

Fiscal Effect

PERS expects to collect some $186,000 in fiscal year 1979/80 after administrative expenses.

Section 5

* Amends the PERL to grant to the PERS Board of Administration a lien on the assets of insolvent terminating contracting agencies second only to wages.

Explanation

A wide variety of fact situations have arisen in recent months involving the dissolution of member agencies, the transfer of functions or a portion of the workforce of member agencies, the consolidation or reformation of agencies, the transfer of state functions to local systems, the possible transfer of state functions to private industry (the U.C. weapons labs), etc. In the event an agency is unable to provide for the payment of the vested retirement liabilities of its employees, PERS is in thhe position, essentially, of an unsecured creditor. Current retirement law does not provide any priority for retirement obligations. If we are unable to secure adequate financing, member benefits must be proportionatly reduced, both for current and future employees. This bill would follow traditional wisdom that retirement contributions are, in reality, deferred compensation, by establishing a lien against agency assets second only to wages. The purpose is to secure the employees' retirement rights before the assets of the bankrupt agency are distributed to holders of materialmen and contractor's liens.

Fiscal Impact

Will depend on individual situations - expected to be nominal.

*Corrected paragraph - disregard analysis typed 6/22/81

7/1/81

the transfer of state functions to local systems, the possible transfer of state functions to private industry (the U.C. weapons labs), etc. In the event an agency is unable to provide for the payment of the vested retirement liabilities of its employees, PERS is in the position, essentially, of an unsecured creditor. Current retirement law does not provide any priority for retirement obligations. If we are unable to secure adequate financing, member benefits must be proportionately reduced, both for current and future employees. This bill would follow traditional wisdom that retirement contributions are, in reality, deferred compensation, by establishing a lien against agency assets second only to wages. The purpose is to secure the employees' retirement rights before the assets of the bankrupt agency are distributed to holders of other liens.

Fiscal Impact

Will depend on individual situations - expected to be nominal.

01/04/82

EXHIBIT HHH

*** This document is current through Chapter 187 of ***
the 2014 Regular Session of the 2013-2014 Legislature
and Propositions 41 and 42 approved June 2014

GOVERNMENT CODE
Title 5. Local Agencies
Division 2. Cities, Counties, and Other Agencies
Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies
Chapter 4. Financial Affairs
Article 5. Bankruptcy

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Gov Code § 53760 (2014)

§ 53760. Authority of local public entity to file proceedings in bankruptcy; Conditions

A local public entity in this state may file a petition and exercise powers pursuant to applicable federal bankruptcy law if either of the following apply:

(a) The local public entity has participated in a neutral evaluation process pursuant to Section 53760.3.

(b) The local public entity declares a fiscal emergency and adopts a resolution by a majority vote of the governing board pursuant to Section 53760.5.

HISTORY:

Added Stats 2002 ch 94 § 4 (SB1323). Amended Stats 2011 ch 675 § 2 (AB 506), effective January 1, 2012.

NOTES:

Former Sections:

Former Gov C § 53760, relating to consent by State to adoption and application of Bankruptcy Act, was added Stats 1949 ch 81 § 1, and repealed Stats 2002 ch 94 § 3.

EXHIBIT III

I want to search again.

Documents associated with SB 1323 in the Session

Status - 06/30/2002 1277 bytes

History - 06/30/2002 1968 bytes

Bill Text

In order to view the PDF version of the bill text documents, you may need a free viewer from Adobe.

Chaptered	- 06/30/2002	HTML - 5254 bytes	PDF - 9209 bytes
Enrolled	- 06/13/2002	HTML - 5156 bytes	PDF - 10544 bytes
Amended	- 03/07/2002	HTML - 5293 bytes	PDF - 9354 bytes
Introduced	- 01/29/2002	HTML - 6680 bytes	PDF - 11109 bytes

Analyses

Assembly Committee	- 06/04/2002 - 5705 bytes
Senate Floor	- 04/02/2002 - 7185 bytes
Senate Committee	- 03/14/2002 - 7250 bytes
Senate Committee	- 02/28/2002 - 8057 bytes

Votes

Assembly Floor	- 06/13/2002 - 1435 bytes
Assembly Committee	- 06/05/2002 - 905 bytes
Senate Floor	- 04/04/2002 - 1055 bytes
Senate Committee	- 03/20/2002 - 876 bytes

BILL ANALYSIS

Date of Hearing: June 5, 2002

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Patricia Wiggins, Chair
SB 1323 (Ackerman) - As Amended: March 7, 2002

SENATE VOTE : 38-0

SUBJECT : Municipal bankruptcy.

SUMMARY : Modifies bankruptcy statute by changing the definition of "local government entity" to conform with the federal Bankruptcy Act definition of "municipality". Specifically, this bill :

1) Defines "local government entity" as any county, city, district, public authority, public agency, or other entity, without limitation, that is a "municipality," as defined in paragraph (40) of Section 101 of Title 11 of the United States Code (bankruptcy) or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities.

2) Makes conforming and technical changes to correct obsolete references.

EXISTING LAW permits cities and other local taxing instrumentalities of the state to file for federal bankruptcy protection.

FISCAL EFFECT : None

COMMENTS :

1) Federal bankruptcy law for public agencies gives government debtors time to come up with repayment plans, providing them a breathing spell from creditors' collection efforts. Unlike private bankruptcy law, however, municipal bankruptcy law must respect the states' sovereign powers. Consequently, the states have the power to control their local agencies' access to federal bankruptcy protection. Like 11 other states, California grants its cities, counties, and special districts the broadest possible access to federal bankruptcy.

2) Because one municipality's bankruptcy may have a negative

effect on other local government's borrowing power, some states limit or prohibit local governments from pursuing federal protections. After the 1994 Orange County bankruptcy, the Legislature tried to establish state oversight for municipal bankruptcy filings. The bill passed, but Governor Pete Wilson vetoed it (SB 349, Kopp, 1996).

3) California codified its local government bankruptcy statute in 1949 and has not amended it since. Many of its references to federal law have been obsolete since federal law changed in 1978. In addition, the statute needs to change in order to comply with 1994 federal amendments that require specific state authorization before local governments can petition for federal debt adjustment.

REGISTERED SUPPORT / OPPOSITION :

Support

CA Law Revision Commission [SPONSOR]

Opposition

None on file

Analysis Prepared by : Joanne Wong / L. GOV. / (916) 319-3958

BILL ANALYSIS

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|SENATE RULES COMMITTEE            |                   SB 1323|
|Office of Senate Floor Analyses   |                          |
|1020 N Street, Suite 524          |                          |
|(916) 445-6614         Fax: (916) |                          |
|327-4478                          |                          |
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CONSENT

Bill No: SB 1323
Author: Ackerman (R)
Amended: 3/7/02
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE : 5-0, 3/20/02
AYES: Torlakson, Ackerman, Machado, Margett, Soto

SUBJECT : Municipal bankruptcy

SOURCE : California Law Revision Commission

DIGEST : This bill modifies bankruptcy statute by changing the definition of local government entity to conform with the federal Bankruptcy Act definition of "municipality. This bill also makes other conforming changes and makes technical changes to correct obsolete references.

ANALYSIS : Federal bankruptcy law for public agencies gives government debtors time to come up with repayment plans, providing them a breathing spell from creditors' collection efforts. Unlike private bankruptcy law, however, municipal bankruptcy law must respect the states' sovereign powers. Consequently, the states have the power to control their local agencies' access to federal bankruptcy protection. Like 11 other states, California grants its cities, counties, and special districts the broadest possible access to federal bankruptcy available.

Because one municipality's bankruptcy may have a negative
CONTINUED

effect on other local governments' borrowing power, some states limit or prohibit their local governments to access federal protections. After the 1994 Orange County bankruptcy, the Legislature tried to establish state oversight in municipal bankruptcy filings. The bill passed, but Governor Pete Wilson vetoed it (SB 349, Kopp, 1996).

California codified its local government bankruptcy statute in 1949 and has not amended it since. Many of its references to federal law have been obsolete since federal law changed in 1978. In addition, the statute needs to change in order to comply with 1994 federal amendments that require specific state authorization before local governments can petition for federal debt adjustment.

In 2001, the California Law Revision Commission produced a study of California's municipal bankruptcy statute. The commission recommended that the Legislature revise the state law to conform with the federal provisions but stopped short of recommending substantive policy changes.

This bill changes the bankruptcy statute by revising California's definition of "local government entity" to fit with the federal Bankruptcy Act's definition of "municipality." This bill also repeals obsolete sections and makes conforming changes.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local: No

SUPPORT : (Verified 3/21/02)

California Law Revision Commission (source)

ARGUMENTS IN SUPPORT : According to Senate Local Government Committee analysis, this bill modernizes state law without limiting local governments' access to federal bankruptcy protection. Public bankruptcies are uncommon in California. Nevertheless, if fiscal stresses persist, other counties, cities, or districts may seek federal bankruptcy protection from their creditors. In the event of another municipal bankruptcy, the changes in this bill will ensure that local governments can use federal

protection.

LB:sl 3/21/02 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

BILL ANALYSIS

SENATE LOCAL GOVERNMENT COMMITTEE
Senator Tom Torlakson, Chair

BILL NO: SB 1323 HEARING: 3/20/02
AUTHOR: Ackerman FISCAL: No
VERSION: 3/7/02 CONSULTANT:
Carpenter

Municipal Bankruptcy

Background and Existing Law

Federal bankruptcy law for public agencies gives government debtors time to come up with repayment plans, providing them a breathing spell from creditors' collection efforts. Unlike private bankruptcy law, however, municipal bankruptcy law must respect the states' sovereign powers. Consequently, the states have the power to control their local agencies' access to federal bankruptcy protection. Like 11 other states, California grants its cities, counties, and special districts the broadest possible access to federal bankruptcy available.

Because one municipality's bankruptcy may have a negative effect on other local governments' borrowing power, some states limit or prohibit their local governments to access federal protections. After the 1994 Orange County bankruptcy, the Legislature tried to establish state oversight for municipal bankruptcy filings. The bill passed, but Governor Pete Wilson vetoed it (SB 349, Kopp, 1996).

California codified its local government bankruptcy statute in 1949 and has not amended it since. Many of its references to federal law have been obsolete since federal law changed in 1978. In addition, the statute needs to change in order to comply with 1994 federal amendments that require specific state authorization before local governments can petition for federal debt adjustment.

In 2001, the California Law Revision Commission produced a study of California's municipal bankruptcy statute. The Commission recommended that the Legislature revise the state law to conform with the federal provisions but stopped short of recommending substantive policy changes.

Proposed Law

Senate Bill 1323 provides the specific state authorization that is required for "local public entities" to file for bankruptcy protection under federal law. SB 1323 also repeals obsolete sections and makes conforming changes.

Comments

1. When government fails . SB 1323 modernizes the law and ensures conformity with federal requirements. In keeping with historical practice, it also provides local governments with the broadest possible access to federal bankruptcy protections. Public bankruptcies are uncommon in California. Nevertheless, if fiscal stresses persist, other counties, cities, or districts may seek federal bankruptcy protection from their creditors. In the event of another municipal bankruptcy, the changes in SB 1323 will ensure that local governments can use federal protection.

2. Deciding not to act . With legislative instigation, the California Law Revision Commission studied the mechanisms that the state might use to oversee local government access to bankruptcy protections, effectively providing a state "gatekeeper." The intent behind oversight is to guard against one local government's bankruptcy hurting other local governments' borrowing power. The study presented options for revising the law, but chose not to recommend substantive changes. There are valid policy reasons to install a gatekeeper as well as reasons to allow unfettered access to federal protections. It's useful to remember that by not including substantive change in SB 1323, the Legislature is effectively choosing in favor of the current system that provides access without state oversight.

3. Misery loves company . Since 1990, only six local governments have published opinions from their Chapter 9 filings: Corcoran Hospital District, Heffernan Memorial Hospital District, Orange County, Richmond Unified School District, Southern Humboldt Community Healthcare District, and Ventura Port District. The City of Desert Hot Springs filed for Chapter 9 bankruptcy protection in late 2001.

Support and Opposition (3/14/02)

Support : Unknown.

Opposition : Unknown.

BILL ANALYSIS

SENATE LOCAL GOVERNMENT COMMITTEE
Senator Tom Torlakson, Chair

BILL NO: SB 1323 HEARING: 3/6/02
AUTHOR: Ackerman FISCAL: No
VERSION: 1/29/02 CONSULTANT:
Carpenter

Municipal Bankruptcy

Background and Existing Law

Federal bankruptcy law for public agencies gives government debtors time to come up with repayment plans, providing them a breathing spell from creditors' collection efforts. Unlike private bankruptcy law, however, municipal bankruptcy law must respect the states' sovereign powers. Consequently, the states have the power to control their local agencies' access to federal bankruptcy protection. Like 11 other states, California grants its cities, counties, and special districts the broadest possible access to federal bankruptcy available.

Because one municipality's bankruptcy may have a negative effect on other local governments' borrowing power, some states limit or prohibit their local governments to access federal protections. After the 1994 Orange County bankruptcy, the Legislature tried to establish state oversight in municipal bankruptcy filings. The bill passed, but Governor Pete Wilson vetoed it (SB 349, Kopp, 1996).

California codified its local government bankruptcy statute in 1949 and has not amended it since. Many of its references to federal law have been obsolete since federal law changed in 1978. In addition, the statute needs to change in order to comply with 1994 federal amendments that require specific state authorization before local governments can petition for federal debt adjustment.

In 2001, the California Law Revision Commission produced a study of California's municipal bankruptcy statute. The Commission recommended that the Legislature revise the state law to conform with the federal provisions but stopped short of recommending substantive policy changes.

Proposed Law

Senate Bill 1323 changes the bankruptcy statute by revising California's definition of "local government entity" to fit with the federal Bankruptcy Act's definition of "municipality." SB 1323 also repeals obsolete sections and makes conforming changes.

Comments

1. When government fails . SB 1323 modernizes state law without limiting local governments' access to federal bankruptcy protection. Public bankruptcies are uncommon in California. Nevertheless, if fiscal stresses persist, other counties, cities, or districts may seek federal bankruptcy protection from their creditors. In the event of another municipal bankruptcy, the changes in SB 1323 will ensure that local governments can use federal protection.

2. Distinction with a difference ? SB 1323 intends to grant the broadest possible access to local governments to bankruptcy protections by using the federal definition of "municipality." However, the federal term technically fails to capture California's cities in its scope because of their unique relationship to the state. The federal statute implies that cities are political subdivisions of the state government. Because of California's home rule tradition, cities are not considered the state's political subdivisions. To avoid possible ambiguity or future confusion, the Committee may wish to consider if a clarifying amendment to SB 1323 is appropriate.

3. Deciding not to act . With legislative instigation, the California Law Revision Commission studied the mechanisms that the state might use to oversee local government access to bankruptcy protections, effectively providing a state "gatekeeper." The intent behind oversight is to guard against one local government's bankruptcy hurting other local governments' borrowing power. The study presented options for revising the law, but chose not to recommend substantive changes. There are valid policy reasons to install a gatekeeper as well as reasons to allow unfettered access to federal protections. It's useful to remember that by not including substantive change in SB 1323, the Legislature is effectively choosing in favor of the current system that provides access without state oversight.

4. Misery loves company . Since 1990, only six local governments have published opinions from their Chapter 9 filings: Corcoran Hospital District, Heffernan Memorial Hospital District, Orange County, Richmond Unified School District, Southern Humboldt Community Healthcare District, and Ventura Port District. The City of Desert Hot Springs

filed for Chapter 9 bankruptcy protection in late 2001.

Support and Opposition (2/28/)

Support : Unknown.

Opposition : Unknown.

EXHIBIT JJJ

I want to search again.

Documents associated with AB 506 in the 2011-2012 Session

Status - 10/10/2011 1241 bytes

History - 10/09/2011 3814 bytes

Bill Text

In order to view the PDF version of the bill text documents, you may need a free viewer from Adobe.

Chaptered	- 10/09/2011	HTML - 23425 bytes	PDF - 93795 bytes
Enrolled	- 09/20/2011	HTML - 23322 bytes	PDF - 101342 bytes
Amended	- 09/08/2011	HTML - 24332 bytes	PDF - 174298 bytes
Amended	- 09/02/2011	HTML - 49007 bytes	PDF - 225015 bytes
Amended	- 08/31/2011	HTML - 39779 bytes	PDF - 195215 bytes
Amended	- 08/15/2011	HTML - 40695 bytes	PDF - 205171 bytes
Amended	- 07/12/2011	HTML - 3699 bytes	PDF - 151956 bytes
Amended	- 06/29/2011	HTML - 39418 bytes	PDF - 195742 bytes
Amended	- 05/31/2011	HTML - 33327 bytes	PDF - 187330 bytes
Amended	- 03/31/2011	HTML - 27121 bytes	PDF - 185052 bytes
Introduced	- 02/15/2011	HTML - 2582 bytes	PDF - 142428 bytes

Analyses

Assembly Floor	- 09/09/2011 - 53015 bytes
Senate Floor	- 09/09/2011 - 32954 bytes
Senate Floor	- 09/09/2011 - 34549 bytes

Senate Committee	- 09/07/2011 - 34786 bytes
Senate Committee	- 09/01/2011 - 14379 bytes
Senate Floor	- 08/31/2011 - 19363 bytes
Senate Committee	- 08/25/2011 - 14302 bytes
Senate Committee	- 08/25/2011 - 14381 bytes
Senate Committee	- 06/30/2011 - 43602 bytes
Assembly Floor	- 06/01/2011 - 44414 bytes
Assembly Committee	- 05/17/2011 - 13054 bytes
Assembly Committee	- 05/03/2011 - 43956 bytes

Votes

Assembly Floor	- 09/09/2011 - 1466 bytes
Senate Floor	- 09/09/2011 - 1096 bytes
Senate Committee	- 09/07/2011 - 946 bytes
Senate Committee	- 08/25/2011 - 890 bytes
Senate Committee	- 08/25/2011 - 910 bytes
Senate Committee	- 07/06/2011 - 933 bytes
Assembly Floor	- 06/02/2011 - 1456 bytes

Assembly Committee - 05/27/2011 - 984 bytes

Assembly Committee - 05/04/2011 - 955 bytes

BILL ANALYSIS

CONCURRENCE IN SENATE AMENDMENTS
AB 506 (Wieckowski)
As Amended September 8, 2011
Majority vote

ASSEMBLY:	48-27	(June 2, 2011)	SENATE:	28-10	(September 9, 2011)

Original Committee Reference: L. GOV.

SUMMARY : Authorizes a local government to petition for bankruptcy protection if it either participates in a neutral evaluation process or declares a fiscal emergency.

The Senate amendments :

1) Allow a local public entity to file a petition and exercise powers pursuant to applicable federal bankruptcy law, if either of the following apply:

   a) The local public entity has participated in a neutral evaluation process, as specified; or,

   b) The local public entity declares a fiscal emergency and adopts a resolution by a majority vote, as specified.

2) Allow a local public entity to file a bankruptcy petition if the local public entity declares a fiscal emergency and adopts a resolution by a majority vote of the governing board at a noticed public hearing that includes findings that the financial state of the entity jeopardizes the health, safety, or well-being of the residents of that jurisdiction or service area absent the protections of Chapter 9.

3) Require, prior to a declaration of fiscal emergency, that the local public entity place an item on the agenda of a noticed public hearing on the fiscal condition of the entity, in order to take public comment.

4) Specify that the resolution declaring the fiscal emergency must make findings that the public entity is or will be unable to pay its obligations within the next 60 days.

5) Allow a local public entity to initiate the neutral evaluation process if the local public entity is or likely will become unable to meet its financial obligations as and when those obligation are due or become due and owing.

6) Require the local public entity to initiate the neutral evaluation by providing notice by certified mail of a request for neutral evaluation to all interested parties, as defined and requires interested parties to respond within 10 business days of receipt of notice.

7) Specify that a local public entity and interested parties agreeing to participate in the neutral evaluation shall, through a mutually agreed upon process, select the neutral evaluator to oversee the neutral evaluation process and facilitate all discussions in an effort to resolve their disputes.

8) Allow, if the local public entity and interested parties fail to agree on an evaluator within seven days after the interested parties have responded to the notification sent by the local public entity, the public entity to select five qualified evaluators and provide their names, references, and backgrounds to the participating interested parties.

9) Allow a majority of participating interested parties to strike up to four names on the list, within three business days, and specify the following:

   a) If a majority of participating interested parties strike four names, the remaining candidate will be the neutral evaluator; or,

   b) If the majority of participating parties strike fewer than four names, the local public entity may choose which of the remaining candidates is the neutral evaluator.

10) Require the neutral evaluator to have experience in conflict resolution and alternative dispute resolution and meet at least one of the following qualifications:

a) At least 10 years of high-level business or legal practice involving bankruptcy or service as a United States Bankruptcy Judge; or,

b) Professional experience or training in municipal finance and one or more of the following issue areas:

i) Municipal organization;

ii) Municipal debt restructuring;

iii) Municipal finance dispute resolution;

iv) Chapter 9 bankruptcy;

v) Public finance;

vi) Taxation;

vii) California Constitutional law;

viii) California labor law; or,

ix) Federal labor law.

11) Require the neutral evaluator to be impartial, objective, independent, and free from prejudice and prohibits the neutral evaluator from acting with partiality or prejudice based on any participant's personal characteristics, background, values or beliefs, or performance during the neutral evaluation process.

12) Provide that if any party objects to the neutral evaluator, the party must notify all other parties, including the neutral evaluator, within 15 days of receipt of the notice from the neutral evaluator and requires the neutral evaluator to withdraw and a new neutral evaluator to be selected.

13) Allow the neutral evaluator, subject to his or her discretion, to make oral or written recommendations for settlement or plan of readjustment to a party privately or to all parties jointly.

14) Require the interested parties to maintain the confidentiality of the neutral evaluation process and prohibits the parties form disclosing statements made, information disclosed, or documents prepared or produced, during the neutral evaluation process at the conclusion of the neutral evaluation process or during any bankruptcy proceeding unless either of the following occur:

a) All person that conduct or otherwise participate in the neutral evaluation expressly agree in writing, or orally, as specified, to disclosure of the communication, document, or writing; or,

b) The information is deemed necessary by a judge presiding over a bankruptcy proceeding to determine eligibility of a municipality to proceed with a bankruptcy proceeding.

15) Prohibit the neutral evaluation process from lasting more than 60 days following the date the evaluator is selected, unless the local public entity or a majority of participating interested parties elect to extend the process for up to 30 additional days.

16) Prohibit the neutral evaluation process from lasting more than 90 days following the date the evaluator is selected, unless the local public entity and a majority of interested parties agree to an extension.

17) Provide that the local public entity shall pay 50% of the costs of the neutral evaluation, including but not limited to the fees of the evaluator, and provides that the creditors shall pay the

balance, unless otherwise agreed to by the parties.

18) Require the neutral evaluation process to end if any of the following occur:

a) The parties execute a settlement agreement;

b) The parties reach an agreement or proposed plan of readjustment that requires the approval of a bankruptcy judge;

c) The neutral evaluation process has exceeded 60 days and neither the local public entity nor a majority of participating interested parties elect to extend the neutral evaluation process past the initial 60 day time period;

d) The local public entity initiated the neutral evaluation process but no responses from interested parties were received within the specified time frame; or,

e) The fiscal condition of the local public entity deteriorates to the point that a fiscal emergency is declared and necessitates the need to file a petition for bankruptcy.

19) Provide that if the neutral evaluation process does not resolve all pending disputes with creditors, the local public entity may file a petition if, in the opinion of the governing board of the local public entity, a bankruptcy filing is necessary.

20) Allow a county board of supervisors that places on its agenda a noticed public hearing to declare a fiscal emergency to require local agencies with funds invested in the county treasury to provide a five-day notice of withdrawal before the county is required to comply with a request for withdrawal of funds by that local agency.

21) Define the following terms:

a) "Creditor" means either of the following:

i) An entity that has a noncontingent claim against a municipality that arose at the time of or before the commencement of the neutral evaluation process and whose claim represents at least five million dollars or comprises more than 5% of the local public entity's debt or obligations, whichever is less; or,

ii) An entity that would have a noncontingent claim against the municipality upon the rejection of an executor contract or unexpired lease in a Chapter 9 case and whose claim would represent five million dollars or comprises more than 5% of the local public entity's debt or obligations, whichever is less.

b) "Debtor" means a local public entity that may file for bankruptcy under Chapter 9.

c) "Good faith" means participation by a party in the neutral evaluation process with the intent to negotiate toward a resolution of the issues that are the subject of the neutral evaluation process, including the timely provisions of complete and accurate information to provide the relevant parties through the neutral evaluation process with sufficient information, in a confidential manner, to

negotiate the readjustment of the municipality's debt.

d) "Interested party" means a trustee, a committee of creditors, an indenture trustee, a pension fund, a bondholder, a union that, under its collective bargaining agreements, has standing to initiate contract or debt restructuring negotiations with the municipality, or a representative selected by an association of retired employees of the public entity who receive income from the public entity convening the neutral evaluation.

e) "Local public entity" means any county, city, district, public authority, public agency, or other entity, without limitation, that is a municipality as defined in the United States Bankruptcy Code, or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities. States that "local public entity" does not include a school district.

f) "Neutral evaluation" is a form of alternative dispute resolution that may be known as mandatory mediation. "Neutral evaluator" may also be known as a mediator.

22) Make legislative findings and declarations.

EXISTING LAW :

1) Allows a local public entity in California to file a petition and exercise powers pursuant to applicable federal bankruptcy law, without any statewide approval or pre-conditions.

2) Defines a "local public entity" as a county, city, district, public authority, public agency, or other entity, without limitation, that is a municipality as defined in paragraph (40) of Section 101 of Title 11 of the United States Code (U.S.C.), or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities.

3) Allows a legislative body authorized to conduct a proceeding pursuant to this chapter (Government Code Section 59125) to file a petition and exercise powers under applicable federal bankruptcy law as provided by Section 53760.

4) Defines the term "municipality" as a political subdivision or

public agency or instrumentality of a state, in federal law (11 U.S.C. Section 101 (40)).

5) Allows the Superintendent of Public Instruction to assume control of a school district that becomes insolvent to ensure the district's return to fiscal solvency.

AS PASSED BY THE ASSEMBLY , this bill:

1) Prohibited a local public entity, as defined, from filing a petition and exercising powers applicable to federal bankruptcy law unless the local public entity has participated in a neutral evaluation process and received a good faith certification from the neutral evaluator, and requires one of the following to apply:

a) The local public entity has reached an out-of-court agreement with all interested parties regarding a plan of adjustment pursuant to provisions of this bill;

b) The local public entity and the interested parties were unable to reach an out-of-court agreement and the neutral evaluator has certified in writing that the parties have participated in the neutral evaluation process in good faith pursuant to provisions of this bill; or,

c) The local public entity initiated the neutral evaluation process and interested parties did not participate in the neutral evaluation process as specified in provisions of this bill, and has disclosed documents arising from the neutral evaluation process as specified.

2) Prohibited the local public entity from filing a petition and exercising powers under 1) above
if the neutral evaluator determines a local entity has failed to participate in the neutral evaluation process in good faith.

3) Specified that a failure to participate in good faith includes, but is not limited to, the failure to provide accurate and essential financial information, the failure to attempt to reach settlement with all interested parties to avert bankruptcy, or evidence of manipulation to delay and obstruct a timely agreement.

4) Provided that the California Debt and Investment Advisory Commission (CDIAC), when requested by a local public entity or a neutral evaluator, shall serve as a neutral third party to provide technical assistance in any neutral evaluation process conducted pursuant to provisions of the bill.

5) Allowed a local public entity to initiate the neutral evaluation process and provides that a neutral evaluator shall oversee the neutral evaluation process and shall facilitate all of the following requirements:

  a) The local public entity shall make complete disclosure of all documentation necessary to clearly demonstrate whether the local public entity is solvent, including, but not limited to, financial reports, expenditures, assets, and any other relevant documentation;

  b) The local public entity and any interested party shall make present information to each other, which shall include, but is not limited to, the status of funds of the local public agency that clearly distinguishes between general funds and special funds;

  c) The local public entity and any interested party shall present its proposed plan of readjustment; and,

  d) The local public entity and any interested party shall negotiate in good faith.

6) Provided that the neutral evaluation process shall be confidential and is subject to specified provisions contained in the Evidence Code.

7) Allowed a local public entity to initiate a neutral evaluation process when the local public entity is or is likely to become unable to meet its financial obligations when those obligations are due or become due and owing.

8) Provided that the neutral evaluation process will be conducted through an alternative dispute resolution program within the state and in accordance with provisions of the bill.

9) Provided that the role of the neutral evaluator shall be to assist all interested parties in reaching an equitable

settlement to avert a Chapter 9 filing.

10) Provided that the neutral evaluator may consult with alternate dispute resolution service providers, CDIAC, the Executive Office for U.S. Trustees, retired bankruptcy judges, or other appropriate entities in establishing and administering the neutral evaluation regarding issues that are not confidential.

11) Required a neutral evaluator to meet all of the following qualifications:

  a) At least 10 years of high level business or legal practice involving bankruptcy;

  b) Experience and training in conflict resolution and alternative dispute resolution; and,

  c) Completion of a mandatory training program in municipal organization, municipal debt restructuring, Chapter 9 bankruptcy, public finance, taxation, California constitutional law, California labor law, federal labor law, and municipal finance dispute resolution, provided through an alternative dispute resolution program within the state.

12) Stated that the neutral evaluator shall be impartial, objective, independent, and free from prejudice, and shall not act with partiality or prejudice based on any participant's personal characteristic, background, values or beliefs, or performance during the neutral evaluation process.

13) Required the neutral evaluator to avoid a conflict of interest or the appearance of a conflict of interest during and after a neutral evaluation and requires the neutral evaluator to make a reasonable inquiry to determine whether there are any facts that a reasonable individual would consider likely to create a potential or actual conflict of interest.

14) Required, prior to neutral evaluation, that the neutral evaluator shall not establish another relationship with any of the parties in a manner that would raise questions about the integrity of the neutral evaluation, except that the neutral evaluator may conduct further neutral evaluations regarding other potential local public entities that may involve some of the same or similar constituents to a prior neutral evaluation.

15)Required the neutral evaluator to conduct the neutral evaluation in a manner that promotes voluntary, uncoerced decisionmaking in which each party makes free and informed choices regarding the process and outcome.

16)Prohibited the neutral evaluator from imposing a settlement on the parties and requires the neutral evaluator to use his or her best efforts to assist the parties to reach a satisfactory resolution of their disputes.

17)Allowed, subject to the discretion of the neutral evaluator, the neutral evaluator may make oral or written recommendations for settlement or plan of readjustment to a party privately or to all parties jointly.

18)Specified that the neutral evaluator has a duty to instruct and inform the local public entity and all parties of the limitations of Chapter 9 relative to other chapters of the bankruptcy codes and requires that this instruction highlight the limited authority of United States bankruptcy judges in Chapter 9 such as the lack of flexibility available to judges to reduce or cram down debt repayments and similar efforts not available to reorganize the operations of the city, that may be available to a corporate entity.

19)Required the neutral evaluator to request from the parties documentation and other information that the neutral evaluator believes may be helpful in assisting the parties to address the obligations between them.

20)Allowed, in the event a complete settlement of all or some issues in dispute is not achieved within the scheduled neutral evaluation session or sessions, the neutral evaluator, at the neutral evaluator's discretion, to continue to communicate with the parties in an ongoing effort to facilitate a complete settlement in order to avoid a Chapter 9 filing.

21)Required the neutral evaluator to provide counsel and guidance

to all parties and specifies that the neutral evaluator shall not be a legal representative of any party and shall not have a fiduciary duty to any party.

22)Allowed, in the event of a settlement with all interested parties, the neutral evaluator to assist the parties in negotiating a prepetition, preagreed plan of readjustment in connection with a potential Chapter 9 filing.

23)Required the neutral evaluator to maintain the confidentiality of all the information obtained by the neutral evaluator in the neutral evaluation process, unless otherwise agreed to by the parties.

24)Required parties to exchange all documents including current financial information and projections addressing future financial obligations affecting the local public entity or that may hinder a resolution of the issues before the neutral evaluator, and allows the neutral evaluator to request the submission or exchange of memoranda on issues, including the underlying interests, and the history of the parties' prior negotiations.

25)Allowed information that a party wishes to keep confidential to be sent to the neutral evaluator in a separate communication clearly marked "CONFIDENTIAL."

26)Required each interested party to provide at least one representative to attend all neutral evaluation conferences, and states that each party's representative shall have authority to settle and resolve disputes or shall be in a position to present any proposed settlement or plan of readjustment to the governing body or membership for approval and implementation.

27)Required the local public entity to provide a representative who shall represent the local public entity's interest in the neutral evaluation and who shall be in a position to propose any settlement or plan of readjustment to the governing body of the local public entity.

28)Allowed an interested party to be represented by legal counsel, but must inform all parties of the representation.

29)Required the parties to maintain the confidentiality of the neutral evaluation process and prohibits the parties from disclosing statements made, information disclosed, or documents prepared or produced during the neutral evaluation process as specified in provisions of the Evidence Code related to mediation, unless all parties consent in writing to the disclosure.

30)Required the neutral evaluation process to end if any of the following occur:

a) The parties execute an agreement of settlement;

b) The parties reach an agreement or proposed plan of readjustment that requires the approval of a bankruptcy judge;

c) The neutral evaluator certifies in writing that one or more of the parties has not participated in good faith, that no resolution has been reached, and that further efforts at the neutral evaluation process would not contribute a resolution of the parties' dispute;

d) The neutral evaluator certifies in writing that the parties have participated in good faith but the parties have reached an impasse and further efforts at the neutral evaluation process would not contribute to a resolution of disputes; or,

e) The neutral evaluator certifies in writing that a neutral evaluation was initiated by the local public entity, but that no interested parties participated.

31)Added a new section that defines terms related to provisions of the bill.

32)Stated that the Legislature finds and declares that certain sections contained in the bill impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies pursuant to the California Constitution Article I, Section 3 and provides that the reason to demonstrate the interest protected by this limitation and the need for protecting that interest is to

facilitate the process to avoid municipal bankruptcy; therefore, it is necessary to provide for secure documents.

33)Makes other legislative findings and declarations.

FISCAL EFFECT : None

COMMENTS :

MUNICIPAL BANKRUPTCY UNDER FEDERAL LAW

1)The list of eligibility requirements for a "municipal debtor" in federal law under chapter 9 is contained in 11 U.S.C Section 109(c) and specifies the following:

First, an entity may be a debtor under Chapter 9 only if such entity:

a) Is a municipality;

b) Is specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by state law, or by a governmental officer or organization empowered by state law to authorize such entity to be a debtor;

c) Is insolvent;

d) Desires to effect a plan to adjust such debts; and,

e) Has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in case under such chapter:

i) Has negotiated in good faith with creditors and it has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that the municipality intends to impair under a plan of adjustment of claims;

ii) Is unable to negotiate with creditors because such negotiation is impracticable; or,

iii) Reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under section 547 of this title.

A municipality must meet all of these conditions for the bankruptcy petition to be accepted by the court.

1) According to the U.S. Courts, "the purpose of Chapter 9 is to provide a financially-distressed municipality protection from its creditors while it develops and negotiates a plan for adjusting its debts. Reorganization of the debts of a municipality is typically accomplished either by extending debt maturities, reducing the amount of principal or interest, or refinancing the debt by obtaining a new loan."

Chapter 9 provides a municipal debtor with two primary benefits: a) a breathing spell with the automatic stay; and, b) the power to readjust debts through a bankruptcy plan process. The process enables municipalities to continue to provide essential public services while allowing them to adjust their debts.

2) Federal law regarding municipal bankruptcy rose out of the financial crises of the 1930s.
Chapter 9 federal law was created in 1934 and after several revisions, was made a permanent part of the Bankruptcy Act in 1946, and incorporated into the new Bankruptcy Code in 1978. In 1994, Congress amended the Bankruptcy Code to require that municipalities be "specifically authorized" under state law to file a petition under Chapter 9 - this was an express invitation to the states to revisit the types of local agencies that could seek federal relief. SB 1323 (Ackerman), Chapter 94, Statutes of 2002, sponsored by the California Law Revision Commission (CLRC), accomplished this by bringing state law in line with the "specific authorization" as required under federal law.

CALIFORNIA'S RESPONSE TO CHAPTER 9

3) In response to the federal creation of Chapter 9, the California Legislature enacted bankruptcy authorization for municipalities in 1934. The general state statutes authorizing bankruptcy filings by local governments were codified in 1949 and those provisions were not amended until SB 1323 (Ackerman) became law in 2002.

There were several attempts in the 1990s to streamline California law with federal law requiring specific authorization:

a) SB 1274 (Killea) of 1995 and AB 2 X2 (Caldera) of 1995 would have granted the broadest authority permissible under federal law by adopting the federal definition of "municipality;"

b) AB 29 X 2 (Archie-Hudson) of 1995 would have provided authority for a municipality as defined by federal law to file "with specific statutory approval of the Legislature" and required the plan for adjustment of debts under Bankruptcy Code Section 941 to be "submitted to the appropriate policy committees of the Legislature prior to being submitted to the United States Bankruptcy Code;" and,

c) SB 349 (Kopp) of 1995 would have modernized the obsolete references and adopted the "municipality" definition language in federal law. The bill would have established a Local Agency Bankruptcy Committee to determine whether to permit a municipality to file a Chapter 9 petition, and the Committee would have contained the State Treasurer, State Controller and Director of the Department of Finance. The bill passed the Legislature, but was vetoed by then-Governor Wilson.

These bills were introduced mainly in response to the Orange County bankruptcy filing in 1994. According to a study done by the Public Policy Institute of California on the Orange County bankruptcy, "the financial difficulties leading to the bankruptcy were the direct result of an enormous gamble with public funds taken by a county treasurer who was seriously under-qualified to deal in the kinds of investments he chose." At that time, Orange County and its investment pool - which suffered nearly $1.7 billion in investment losses - filed for bankruptcy protection on December 6 in two separate cases. The bankruptcy judge ruled that only the County, and not the investment pool, could file for bankruptcy.

The California Law Revision Commission (CLRC) studied California's municipal bankruptcy statute and released their report in 2001. CLRC recommended that the Legislature revise the state law to conform to the federal provisions and what resulted was SB 1323 by Senator Ackerman. However, the CLRC's

report only suggested that California law be updated to provide explicit authority for municipalities, per the federal statute requiring states to have explicit authorization. The report did not recommend any other substantive policy changes or pre-conditions, or "gate-keeping" in order to access the federal bankruptcy process, and instead, the report noted that "there does not appear to be any general agreement on the best approach to reform, or even as to the need for additional protections or controls."

The California State Legislature has a long history, dating back to the Orange County bankruptcy filing in 1994, of debating access to federal municipal bankruptcy laws every few years (see Comments under 3) and 4)) above, and ultimately in 2002, made the decision to seek the broadest authority for municipal bankruptcies that exists under federal law.

4) Currently, California state law authorizes federal bankruptcy filing by a "local public entity" - "a county, city, district, public authority, public agency, or other entity, without limitation, that is a municipality as defined in paragraph (40) of Section 101 of Title 11 of the United States Code, or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities". As referenced, federal law defines "municipality" as a political subdivision or public agency or instrumentality of a state (11 U.S.C. Section 101 (40)). However, the California Law Revision Commission notes that the definitions in state and federal law create some ambiguity as to what exactly falls under the definition of "municipality" and can therefore seek financial relief through the Chapter 9 bankruptcy process.

BANKRUPTCY PRACTICES IN OTHER STATES

5) The 10th amendment to the United States Constitution says that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people," otherwise known as the sovereign rights of the states. In the context of municipal bankruptcy filing, it is up to each state to decide whether to empower its municipalities to utilize federal bankruptcy laws.

Other states approach authorization for municipalities in various ways - some explicitly authorize municipalities and provide unlimited access, or explicitly authorize certain types of municipalities, some states are silent, one state expressly prohibits municipalities from filing, and yet others have their own state pre-conditions, processes or "gate-keeping" requirements.

Those states comparable to California in terms of population, like Texas and Florida, provide explicit authorization for municipalities in their state statutes. The state of New York allows a municipality or its emergency financial control board to file any petition within any United States district court or court of bankruptcy and explicitly notes in the statute that "nothing contained in this title shall be construed to limit the authorization granted by this section Ýfor municipalities to file a petition under federal bankruptcy law]."

RECENT LEGISLATION

6)The Legislature saw two municipal bankruptcy bills in the 2009-10 legislative session,
AB 155 (Mendoza) and SB 88 (DeSaulnier), Chapter 304, Statutes of 2000, following on the heels of the City of Vallejo bankruptcy filing in May of 2008. Both bills would have prohibited a local public entity from exercising its rights under applicable federal bankruptcy law unless granted approval by CDIAC, and would have specified procedures in which the local public entity could override a decision of denial by CDIAC. AB 155 (Mendoza) died on the Senate Third Reading File and SB 88, was chaptered but no longer included provisions relating to municipal bankruptcy.

7)For both AB 155 (Mendoza) and SB 88 (DeSaulnier), the authors argued that a municipal bankruptcy filing has repercussions in terms of credit rating and spillover effects that will raise borrowing costs for other California municipalities and the state. Arguably, a municipal bankruptcy, depending on the size of the entity, could potentially affect other local agencies and the state as a whole.

PROPOSED LAW

8)AB 506 (Wieckowski) places conditions on how and when a local public entity could seek Chapter 9 relief under federal

bankruptcy law. Current law authorizes local governments to file a petition under the federal bankruptcy process without any prior state approval or pre-conditions to filing. Instead of full and unfettered access, this bill requires a local government go through a 60-day neutral evaluation process first. The bill's provisions alternatively allow a local government to declare a fiscal emergency and adopt a resolution by a majority vote of the governing board, at a noticed public hearing, that includes findings that the financial state of the local public entity jeopardizes the health, safety or well-being of the residents in that jurisdiction absent the protections of Chapter 9.

The bill allows a local public entity to initiate the neutral evaluation process if the entity is or likely will become unable to meet its financial obligations. The entity initiates the neutral evaluation by providing notice to all interested parties and requires those parties to respond within 10 business days. Through a mutually agreed upon process, as specified, the local public entity and interested parties would select the neutral evaluator to facilitate the process. The bill requires that the neutral evaluator have experience in conflict resolution and alternative dispute resolution, as well as other qualifications, and sets up a process for the interested party or local public entity to object to the chosen evaluator.

The bill's provisions prohibit the neutral evaluation process from lasting more than 60 days from the date the evaluator is selected, unless the local public entity or a majority of participating interested parties elect to extend the process for 30 more days. Costs of the neutral evaluation, including the fees of the evaluator, would be split between the local public entity (50%) and the remaining about would be paid for by the creditors, unless otherwise agreed to by the parties.

The bill requires the neutral evaluation process to end in any of the following situations: 1) The parties execute a settlement agreement; 2) The parties reach an agreement or proposed plan of readjustment that requires the approval of a bankruptcy judge; 3) The neutral evaluation has exceeded 60 days and neither the entity nor a majority of participating interested parties elect to extend the neutral evaluation process; 4) The local public entity initiated the neutral evaluation process but no responses from interested parties were

received within the specified time frame; or, 5) The fiscal condition of the local public entity deteriorates to the point that a fiscal emergency is declared and necessitates the need to file a petition for bankruptcy.

9)The author argues that the state has a vested interest in protecting taxpayers from the effects of an ill-advised bankruptcy and believes that this bill will help local public entities and elected officials make the most responsible decisions for the communities they represent. Additionally, the author notes that "in the absence of clear standards or oversight, local elected officials considering bankruptcy and the communities impacted by such a bankruptcy have little guidance about whether Ýthe bankruptcy] is merited or necessary." The author argues that under current law, there is nothing to prevent a frivolous bankruptcy petition or one that is politically motivated.

10)The California Professional Firefighters, writes that the "2008 bankruptcy filing by the City of Vallejo has only serviced to further devastate a struggling community, including local businesses that were already feeling the adverse impact of a stagnant economy." As well, "Upon ÝVallejo's bankruptcy filing] the city's bond interest rates converted to their maximums and the city's filing claimed a deficit of approximately $12 million, and Vallejo's litigation costs have escalated to over $9.5 million, thereby further encumbering an already dried-up general fund budget."

11)Support arguments: According to the California Labor Federation, in support, "in the absence of clear standards or oversight, local elected officials considering bankruptcy and the communities impacted by such a bankruptcy have little guidance about whether it is merited or necessary." Additionally, "the state has a vested interest in protecting taxpayers from the effects of an ill-advised bankruptcy, and all major creditors, workers, retirees, and investors have a stake in reaching a fair resolution without resorting to bankruptcy, as do local elected officials."

Opposition arguments: In order for a bankruptcy petition to be accepted by the court for a Chapter 9 filing, certain conditions must be met by the local public entity. The local public entity must be insolvent, have the desire to effect a plan to adjust

debts, and must attempt to negotiate in good faith with creditors, as long as such negotiation is not impracticable. In situations where the local public entity has not met these conditions, the court can reject the bankruptcy petition. The Legislature may wish to consider whether the bill's neutral evaluation process is duplicative of what is already required for local governments before they can file a bankruptcy petition for Chapter 9 protection.

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FN: 0002848

EXHIBIT KKK

S. REP. 89-1159, S. Rep. No. 1159, 89TH Cong., 2ND Sess.
1966, 1966 U.S.C.C.A.N. 2456, 1966 WL 4309 (Leg.Hist.)
***2456** P.L. 89-495, BANKRUPTCY-- LIENS-- TRUSTEE'S POWERS
House Report (Judiciary Committee) No. 89-686,
July 27, 1965 (To accompany H.R. 136)
Senate Report (Finance Committee) No. 89-999,
Feb. 16, 1966 (To accompany H.R. 136)
Senate Report (Judiciary Committee) No. 89-1159,
May 12, 1966 (To accompany H.R. 136)
Cong. Record Vol. 111 (1965)
Cong. Record Vol. 112 (1966)
DATES OF CONSIDERATION AND PASSAGE
House Aug. 2, 1965
Senate June 21, 23, 1966
The Senate Reports are set out.

(CONSULT NOTE FOLLOWING TEXT FOR INFORMATION ABOUT OMITTED MATERIAL. EACH COMMITTEE REPORT IS A SEPARATE DOCUMENT ON WESTLAW.)

SENATE REPORT NO. 89-1159

May 12, 1966

THE Committee on the Judiciary, to which was referred the bill (H.R. 136) to amend sections 1, 17a, 64a(5), 67(b), 67c, and 70c of the Bankruptcy Act, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to establish the priority of liens in bankruptcy.

STATEMENT

The Committee on the Judiciary favorably reported to the Senate the companion Senate bill, S. 1912, on June 8, 1965 (S. Rept. 277).

The committee reaffirms its favorable recommendation of this legislation and recommends that H.R. 136 be enacted.

The Senate bill S. 1912 was referred to the Senate Committee on Finance on July 28, 1965, for that committee's recommendations. Subsequently, the companion House bill, H.R. 136, was approved by the House of Representatives and was referred to the Senate Committee on Finance. On February 16, 1966, the Senate Committee on Finance reported S. 1912 and H.R. 136 to the Senate with their recommendations (S. Rept. 997 and S. Rept. 999). The bills were then referred by the Senate on March 9, 1966, to the Senate Committee on the Judiciary. The Committee on the Judiciary now favorably reports to the Senate H.R. 136.

In its favorable report on H.R. 136, the Committee on the Judiciary of the House of Representatives said:

This bill deals with two problems in the administration and distribution of a bankrupt estate. The first of these is the problem of preserving the recognized interest of security holders. The second concerns the powers of the trustee.

One of the fundamental purposes of the Bankruptcy Act is to assure an equitable distribution of the bankrupt's assets. Ideally, this would be accomplished by giving each creditor a pro rata share of the estate. However, the demands of social, economic, and political policy have resulted in deviations from a strict rule of equality among creditors. Through the creation of priorities and the recognition of security interests, favored treatment has been accorded to certain classes of creditors. Thus, the Bankruptcy Act has traditionally recognized that a lien is a valid property right which must be satisfied out of the assets to which it attaches before any part of those assets becomes available for distribution to unsecured creditors. Among unsecured creditors, the act established an order of payment which favors the costs of administering the estate, wages, taxes, and rent over general creditors.

As a result of these prior payments to lien holders and priority claimants, the amount available for distribution to general creditors is considerably diminished and often entirely consumed. To increase their share of the estate, various classes of general creditors at first sought priority status under State law. However, in ***2457** 1938, in the interest of national uniformity in distributions, the Chandler Act eliminated the recognition of State priorities in bankruptcy proceedings, except for a limited priority for landlords, which was placed on the lowest of the five rungs of the priority ladder erected by section 64. The act also gave explicit recognition for the first time to the general validity of statutory liens. Thus, if a class of creditors could obtain State legislation transforming their debts into liens, they would then be in a position superior not only to all other general creditors but to priority claimants as well. This would be the result not only in the case of liens creating a noncontingent property interest in a specific asset but also in the case of liens which became effective only in the event of insolvency or which did not attach to any particular asset. These spurious liens were in reality disguised priorities and the effect of their recognition in bankruptcy would be to distort the federally ordered scheme of distribution by depressing the position of priority claimants.

The problem was intensified by the contemporary development of a proliferation of taxes at all levels of government. With little formality and frequently without any of the normal attributes of a lien interest, these claims were raised to the dignity of statutory liens.

It became obvious that if all statutory liens, regardless of what they were in substance, were to be treated as liens in bankruptcy the order of federally created priorities would be completely disrupted. In an attempt to protect what it considered to be the most important of the priorities, Congress in the Chandler Act subordinated the most transparent liens to the priorities for costs of adminis-ration and wage claims. Thus, section 67c of the Bankruptcy Act provided that statutory liens on personal property not accompanied by possession were to be postponed in payment to the debts specified in clauses (1) and (2) of subdivision of a section 64, namely costs of administration and wages. In addition, section 67c postponed liens of distress for rent whether statutory or not and whether or not accompanied by possession. Here, too, the purpose was to protect costs of administration and wages from a type of claim which frequently consumed all of the assets especially in the smaller estates. Section 67c also limited postponed liens for wages and rent to the same extent as they were restricted as to priority in section 64. In the case of rent, this meant only the liability for actual occupancy accruing within 3 months prior to bankruptcy. For wages it meant not more than $600 to each claimant earned within 3 months before bankruptcy.

The purpose of restricting these liens was to protect unsecured creditors rather than junior lien holders. The Chandler Act therefore prescribed that liens should be restricted 'except as against other liens. ' Unfortunately the effect of this exception was to produce unanticipated results where, as a result of the fortuitous intervention of a junior lien, the rent or wage lien became unrestricted at the expense of the general creditors (***2458** In re Eakin Lumber Co., 39 F.Supp. 787 (N.D.W. Va. 1941), aff'd sub nom. R.F.C. v. Sun Lumber Co., 126 F.2d 731 (4th Cir. 1942)).

The problem raised in the Eakin decision had its legislative repercussion when Congress in 1952 amended the Bankruptcy Act by deleting this exception and adding a provision subrogating the trustee to the amount of the lien in excess of the priority restriction. The position of the general creditors was additionally buttressed by the invalidation as against the trustee of all statutory liens created or recognized by State law on personal property not accompanied by possession, levy, sequestration, or distraint. By this amendment, which became section 67c(2), Congress sought further to implement the established policy of

EXHIBIT LLL

H.R. REP. 94-686, H.R. Rep. No. 686, 94TH Cong., 2ND Sess. 1976, 1976 U.S.C.C.A.N. 539, 1975 WL 12383 (Leg.Hist.)

****539** P.L. 94-260, BANKRUPTCY ACT-- DEBTS OF MUNICIPALITIES

House Report (Judiciary Committee) No. 94-686,
Dec. 1, 1975 (To accompany H.R. 10624)
Senate Report (Judiciary Committee) No. 94-458,
Nov. 18, 1975 (To accompany S. 2597)
House Conference Report No. 94-938,
Mar. 22, 1976 (To accompany H.R. 10624)
Cong. Record Vol. 121 (1975)
Cong. Record Vol. 122 (1976)
DATES OF CONSIDERATION AND PASSAGE
House December 9, 1975; March 25, 1976
Senate December 10, 1975; March 25, 1976

The House bill was passed in lieu of the Senate bill. The House Report and the House Conference Report are set out.

(CONSULT NOTE FOLLOWING TEXT FOR INFORMATION ABOUT OMITTED MATERIAL. EACH COMMITTEE REPORT IS A SEPARATE DOCUMENT ON WESTLAW.)

HOUSE REPORT NO. 94-686

Dec. 1, 1975

***1** The Committee on the Judiciary, to whom was referred the bill (H.R. 10624) to revise chapter IX of the Bankruptcy Act, having considered the same, report favorably thereon with amendments and recommend that the bill as amended to pass.

* * * *

***2** REASONS FOR AMENDMENTS

The first amendment specifies that the Chief Judge of the circuit in which the district in which the petition is filed is located shall designate the judge that will hear the case. For an especially large case, this allows greater flexibility in selection of a judge, for the Chief Judge of the circuit may appoint a judge that is retired, or does not sit in the district in which the petition was filed. The Chief Judge may thus manage the flow of judicial business better, because he may select from any judge in the circuit, depending on the volume of business pending in various parts of the circuit.

The second amendment deletes the proviso found in current section 83(i), which was added in 1946 to overrule Faitoute Iron and Steel Co. v. City of Asbury Park. [1] Though it is desirable to have a procedure that adjusts the rights of security holders be uniform throughout the country, the Committee feels that the Contracts Clause of the Constitution ****540** places such close restrictions on what the States may accomplish through their own composition procedures, that any nonuniformity that might result from the deletion of the restriction would be minimal and would not outweigh the interests of the States in the management of their own fiscal affairs, where they are able to manage effectively without the aid of a Federal municipal adjustments statute.

The third and fourth amendments fix the time within which creditors may object to a petition more precisely than is currently in the bill, and expedite the publishing of notice required by section 85(d). They also expedite the hearing on the petition by preventing any delay in the filing of the list of creditors required by section 85(b) from delaying a hearing on the petition, and the determination of the propriety of the filing.

The fifth amendment conforms language to bankruptcy style.

***7** The elimination of the requirement also allows Chapter IX relief to a petitioner who is sorely besieged by its creditors, but who is unable to obtain the required consents, perhaps because of recalcitrant bond holders, or because its creditors are holders of bearer bonds and are unknown to the petitioner.

The prior consent requirement worked well when municipal bond refundings were accomplished with the assistance of the Reconstruction Finance Corporation, which bought a large portion of the outstanding bonds at the proposed composition rate directly from their holders, and then voted those bonds in favor of the plan. With one entity in control of such a large block of votes, obtaining the 51% prior consent was not difficult. Now, however, the requirement makes little sense, and prevents a petitioner from seeking the shelter of a bankruptcy court while its attempts to negotiate with its creditors a plan of adjustment. Without that shelter, it is not unlikely that set-offs against a petitioner or other creditor actions, both judicial and otherwise, or actions by its suppliers or employees could prevent the performance of governmental functions. A similar requirement was eliminated from Sec. 323 of Chapter XI in 1958 because it was found to be 'unrealistic and has resulted in either a pro forma compliance by the filing of a hastily drafted plan, or the adoption by some judges of extralegal practices permitting the filing of the petition without an accompanying plan. It takes time and careful study to work out a realistic appropriate plan . . . ' [14]

****545** The filing of the petition operates as an automatic stay of all actions, judicial or otherwise, and of the commencement or continuation of any action which seeks to enforce a lien against the petitioner, its property, its officers, or its inhabitants. This feature is new as well. It gives the petitioner the breathing spell it may need to get back on its feet financially, and the time it needs to negotiate and develop a plan of adjustment with its creditors.

The filing of a petition also makes unenforceable certain contractual provisions, such as those that terminate or modify, or permit a party to a contract other than the petitioner to terminate or modify, the contract for the reason that the petitioner is insolvent or has filed a petition for relief under the Bankruptcy Act. These clauses, known generally as ipso facto clauses, are often found in the commercial context. Their existence and enforceability may severely hamper a successful reorganization or arrangement proceeding under Chapter X or XI, so they are made unenforceable in those chapters. It is unknown how widespread such clauses are in the municipal context, because they are usually included only when there is some suspicion on the part of one contracting party that the other may become insolvent, and seldom is such an occurrence found in the municipal context. Nevertheless, it is felt that their existence could be detrimental to a successful municipal adjustment, and they are made unenforceable in Chapter IX in the same way as in Chapter X and XI-- only if past defaults in performance are cured and adequate assurance of future performance is provided. This gives protection to the other contracting party, who may have entered into the contract relying on the petitioner's credit, which, after a filing, is markedly reduced.

***8** After the filing of the petition, the court must give notice to the petitioner's creditors. The notice is by publication, and by mailing to those creditors whose addresses are known. Notice is also given to the Securities and Exchange Commission, and to the State in which the petitioner is located. The notice to the S.E.C. is designed to allow it to participate in an investor protection role. The municipal bond market is sufficiently interstate in character, involving investors in much the same way that the corporate bond market does, that it is felt that the S.E.C. may have an investor protection role to play in municipal adjustments the same as it does in corporate reorganizations.

The state is formally notified for two reasons. First, because the language of the eligibility section, section 84, allows an entity to file if the state has not prohibited it; and because withdrawal of State consent at any time will terminate the case, it is felt that the State should formally be put on notice so that it may object if it does not wish its subdivisions to proceed under a Chapter IX. Second, if the State does permit the municipality to proceed, the State is notified in order that it may participate with the municipality in formulating and implementing a plan of adjustment in a case in which the petitioner is unable to effect a feasible plan without the State's assistance. The intent is to make the proceeding a cooperative one with the State involved to the extent necessary to make the petitioner's plan successful.

****546** Any creditor or party in interest may file a complaint within 15 days after the mailing of notice is completed. The court is directed to hear and determine such complaints, to the extent practicable, in a single proceeding, in order to expedite the determination of the propriety of the petition. The grounds for objection to a petition are basically that the petitioner does not meet the eligibility requirement of section 84.

The bill grants the court two powers which a bankruptcy court has under Chapters X and XI, and under section 77, but which had not previously been granted under Chapter IX. The first is the power to permit the petitioner to reject executory contracts. Section 88(c) makes the rejection of an executory contract a breach of the contract as of the date of the petition, giving rise to a claim for damages. A landlord's claim for rejection of a lease of real property is limited, however, to the rent reserved under the lease for the year following surrender of the premises or reentry of the landlord. In some instances, it will be necessary for the petitioner to renegotiate a contract which has been rejected with the approval of the court. Such renegotiation and formulation of a new contract would, of course, have to be in accordance with applicable Federal, State or municipal law. For example, if a collective bargaining agreement had been rejected, applicable law may provide a process or procedure for the renegotiation and formation of a new collective bargaining agreement. A rejection would also be sufficiently similar to a termination of such a contract so that again, applicable law, if any, would apply to the rights of the other contracting party between rejection and conclusion of the bargaining process. For example, if State or other applicable law requires maintenance of terms and conditions of employment existing under a terminated or rejected contract during the interim period, that applicable law would apply under section 83 to a contract rejected ***9** under the bill. That section does not permit Chapter IX to interfere with or derogate from any State law that regulates the way in which municipalities may execute this governmental function.

The second power the court is given is the power to authorize the petitioner to issue certificates of indebtedness, with such priority and security as the court determines to be equitable. The process of the issuance of certificates of indebtedness is a method which enables a financially embarrassed municipality to enter the private credit market again. The municipality seeks out a private lender who is willing to lend for either a short or long term. Because the petitioner is in a Chapter IX case, few if any lenders would be willing to lend without some assurance of payment. The court can supply that assurance by giving the lender security and priority over existing obligations. Normally, a priority over a previous secured lender might run afoul of the Due Process Clause. [15] But as the Supreme Court explained in the Regional Rail Reorganization Act Cases, [16] by facilitating borrowing to meet current expenses, the court was actually preserving former secured creditors' collateral by preserving the business as a going entity. Thus, there was no actual or effective taking of property prohibited by the Fifth Amendment in giving new security that would prime the former liens of secured creditors. In the municipal context, this reasoning is similarly applicable. While the ‘business‘ of government ****547** will continue whether it is insolvent or not, without cash to continue to provide essential governmental services, the only asset available for the creditors, the municipality's tax base, may be seriously eroded by flight of the city's businesses and residents. In any case, the requirement that the court may only give security and priority to the extent equitable incorporates this constitutional requirement, and renders it immune from constitutional attack.

The powers of the court are subject to a strict limitation-- that no order or decree may in any way interfere with the political or governmental powers of the petitioner, the property or revenue of the petitioner, or any income-producing property. The purpose of this limitation derives from Ashton v. Cameron Water Improvement District No. 1, [17] which held the first Municipal Bankruptcy Act unconstitutional on the basis of infringement of State sovereignty. This limitation was included in the second Act, and was relied upon in Bekins v. United States, [18] which upheld the second municipal adjustments statute. The Court quoted extensively from the Committee Report on this point:

In Ashton v. Cameron County District, supra the court considered that the provisions of Chapter IX authorizing the bankruptcy court to entertain proceedings for ‘readjustment of the debts‘ of ‘political subdivisions‘ of a State ‘might materially restrict its control over its fiscal affairs,‘ and was therefore invalid; that if obligations of States or their political subdivisions might be rejected to the interference contemplated ***10** by Chapter IX, they would no longer be ‘free to manage their own affairs.‘

In enacting Chapter (IX) the Congress was especially solicitous to afford no ground for this objection. In the report of the Committee on the Judiciary of the House of Representatives, which was adopted by the Senate Committee on the Judiciary, in dealing with the bill proposing to enact Chapter (IX), the subject was carefully considered. The Committee said:

EXHIBIT MMM

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California city looks to quit Calpers, fears it can't afford to

Wed, Aug 27 2014

By Tim Reid

LOS ANGELES, Aug 27 (Reuters) - Officials in Villa Park are considering pulling the tiny California city from Calpers, saying the monthly costs of the state's giant public pension system are crippling the municipal budget.

But Villa Park fears that pulling out of its contract with the California Public Employees' Retirement System could be prohibitively expensive because of a termination fee that could exceed the city's annual budget.

Calpers, America's biggest public pension fund with assets of $300 billion, last provided the city with a hypothetical termination fee of nearly $3.6 million as of June 2012. The city's annual budget is $3.5 million.

"Getting out of Calpers is like getting out of jail," said Rick Barnett, mayor of Villa Park, population 5,800. The City Council will vote next month on a resolution to begin the process of quitting Calpers.

Many California cities are chafing at the rising contributions demanded by Calpers, which administers benefits for more than 3,000 city, state and local agencies, or nearly 3 million people.

Calpers recently voted to raise rates roughly 50 percent over the next seven years, citing its responsibility to maintain the fiscal soundness of the fund.

Two other California cities, Pacific Grove and Canyon Lake, tried to quit Calpers last year, but both balked when they learned the termination fee.

Michael Sweet, a bankruptcy attorney with Fox Rothschild in San Francisco, called the termination fee "the Calpers handcuffs". For Villa Park and other cities, Sweet added, "the hit that they will take...will be extraordinary."

If a city quits, Calpers continues to administer pension payments for the current and retired workers already on the books at the time of termination.

To do that, Calpers generally asks for an up-front sum to pay for potential future pension costs for all current and retired workers on city rolls.

Canyon Lake, with an annual budget of $3.6 million, was handed a termination bill last year of $1.3 million.

Keith Breskin, Canyon Lake's city manager, said: "It would have been a serious depletion on our reserves, so the city decided not to proceed."

If a city quits, Calpers also places that city's funds in a more conservative risk pool, which lowers the potential return rate on its investments and in turn boosts the termination fee.

In making its calculation for Villa Park, Calpers lowered the long-term projected return rate on the city's investments from 4.82 percent to 2.98 percent.

Calpers says the city contacted officials at the fund in June to review the termination process.

According to city documents, payments to Calpers have risen from 13.8 percent of payroll in 2005 to a projected 30.6 percent this fiscal year.

"We are looking to a get a number from Calpers, and then to get out," Barnett added: "If they give us a huge and horrendous termination number, then we probably can't get out. But at least we then have a true number for our liability." (Reporting by Tim Reid; Editing by David Gregorio)

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