



CITY OF
HAYWARD
HEART OF THE BAY

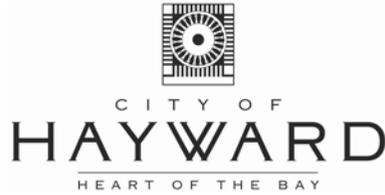
CITY COUNCIL AGENDA

MARCH 8, 2011

**MAYOR MICHAEL SWEENEY
MAYOR PRO TEMPORE FRANCISCO ZERMEÑO
COUNCIL MEMBER BARBARA HALLIDAY
COUNCIL MEMBER OLDEN HENSON
COUNCIL MEMBER BILL QUIRK
COUNCIL MEMBER MARVIN PEIXOTO
COUNCIL MEMBER MARK SALINAS**

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CITY COUNCIL MEETING FOR TUESDAY, MARCH 08, 2011

CLOSED SESSION
Closed Session Room 2B – 6:00 PM

1. **PUBLIC COMMENTS** *(Limited to items agendized for Closed Session)*
 2. Performance Evaluation
Pursuant to Government Code 54957
 - City Clerk
 3. Adjournment to Regular Meeting
-

SPECIAL JOINT CITY COUNCIL/REDEVELOPMENT AGENCY MEETING
Council Chambers - 7:00 PM

CALL TO ORDER Pledge of Allegiance Council/RA Member Salinas

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION Business Recognition Award

PUBLIC COMMENTS: *(The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Work Session, or Informational Staff Presentation items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.)*

HAYWARD CITY COUNCIL, 777 B STREET, HAYWARD, CA 94541
[HTTP://WWW.HAYWARD-CA.GOV](http://www.hayward-ca.gov)

NON-ACTION ITEMS: *(Work Session and Informational Staff Presentation items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.)*

WORK SESSION (60-Minute Limit)

1. Developer-Proposed Revisions to the Transit-Oriented Development Mixed-Use Project at the South Hayward BART Station
[Staff Report](#)
-

ACTION ITEMS: *(The Council will permit comment as each item is called for the Consent Calendar, Public Hearings, and Legislative Business. In the case of the Consent Calendar, a specific item will need to be pulled by a Council member in order for the Council to discuss the item or to permit public comment on the item. Please notify the City Clerk anytime before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

CONSENT

2. Approval of Minutes of the City Council Meeting on February 15, 2011
[Draft Minutes](#)
3. Resolution to Approve Temporary Staffing of the Director of Finance and Budget Officer Positions and to Approve an Appropriation in the Amount of \$160,000
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COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Oral reports from Council Members on their activities, referrals to staff, and suggestions for future agenda items

MARCH 8, 2011



ADJOURNMENT

PUBLIC COMMENT RULES: The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. Speakers will be asked for their name and their address before speaking and are expected to honor the allotted time. A Speaker's Card must be completed by each speaker and is available from the City Clerk at the meeting.

PLEASE TAKE NOTICE that if you file a lawsuit challenging any final decision on any public hearing or legislative business item listed in this agenda, the issues in the lawsuit may be limited to the issues that were raised at the City's public hearing or presented in writing to the City Clerk at or before the public hearing. PLEASE TAKE FURTHER NOTICE that the City Council has adopted Resolution No. 87-181 C.S., which imposes the 90 day deadline set forth in Code of Civil Procedure section 1094.6 for filing of any lawsuit challenging final action on an agenda item which is subject to Code of Civil Procedure section 1094.5.

****Materials related to an item on the agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office, City Hall, 777 B Street, 4th Floor, Hayward, during normal business hours. An online version of this agenda and staff reports are available on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ****

NEXT REGULAR MEETING – 7:00 PM, TUESDAY, MARCH 15, 2011

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400 or TDD (510) 247-3340.



DATE: March 8, 2011

TO: Mayor and City Council
Redevelopment Agency Board of Directors

FROM: Development Services Director
Public Works Director

SUBJECT: Developer-Proposed Revisions to the Transit-Oriented Development Mixed-Use Project at the South Hayward BART Station

RECOMMENDATION

That Council reads this report, receives presentation from project developers, and provides general guidance on the future of this project.

SUMMARY

For various reasons as discussed in this report, the project Developers (Eden Housing, and a private development group (Wittek Development, LLC and Montana Properties, Inc., aka Wittek & Montana) are exploring reducing their participation in the approved South Hayward BART mixed-use transit-oriented development project (Project) by proposing a modification in the project unit type mix. The Developers have requested an opportunity to explain to the Council (and thereby to the community) their proposed revisions to the Project.

Specifically, the major project components involving the Developers is proposed to only entail development on the former Perry & Key auto body repair shop site and the BART overflow parking lot between Dixon Street and Mission Boulevard. Specifically, such participation would be reduced from 788 residential units, including 341 ownership units and approximately 60,000 square feet of retail space, to 346 residential rental units (more fully described below) and no retail. This proposal raises a number of questions as outlined in this report.

Fundamentally, the question before the Council is: Is the proposed modified project acceptable to Council at this time?

BACKGROUND

On March 17, 2009, the City Council approved a Preliminary Development Plan for a mixed-use transit village project (the "Project") at the South Hayward BART station. Thereafter, in the spring of 2009, the City, the Redevelopment Agency, BART, and the Developers joined forces to

apply for State Housing & Community Development (HCD) Department Proposition 1-C grant monies to develop a transit village at the South Hayward BART Station. The Project entails utilizing the South Hayward BART Station parking lots on both sides of Dixon Street, the privately-owned former Perry & Key site along Mission Boulevard, and some surplus property owned by the State Department of Transportation associated with the previously proposed Route 238 Bypass Freeway project.

The two Proposition 1-C applications were successful and the City and the Developers were awarded a total of \$47 million in HCD Proposition 1-C Round II monies. Of the award, \$30 million is a grant from the Infill Infrastructure Grant (IIG) Program and \$17 million is a loan for the affordable housing. The Project entails a mixed-use retail and housing development that includes 788 units of market-rate housing, a full-sized grocery store, ancillary retail stores, 125 affordable family apartments, 81 affordable senior apartments, and two public parking garages. One garage is a replacement parking garage for BART patrons and the other would provide parking under the grocery store. (It should be noted that the 206 affordable units in this Project might also serve as Rte 238 replacement housing.)

Additional public funding had been conditionally committed by the Hayward Redevelopment Agency in the form of up to \$7.1 million from Housing set-aside funds, and up to \$12.7 million for infrastructure and site improvements. Project costs are currently projected to be approximately \$280 million, exclusive of land costs.

The Project is to be constructed on the former Perry & Key property that fronts Mission Boulevard and two sites currently owned by BART: (a) the BART Station main surface parking lot and (b) the BART East Lot (or satellite overflow lot) across Dixon Street. The main lot is approved to be the site of the grocery and public parking garage, family affordable housing (above the grocery) and the senior affordable housing, the 241 market-rate apartments, and the BART replacement parking garage. The East Lot, together with the Perry & Key parcel, owned by the Montana Group, would be the site of the 341-unit market-rate condominium project.

DISCUSSION

The Developers have advised that the Project may no longer be feasible and have asked the City and the Agency to consider approving modifications to the Project. The feasibility of the Project is challenged by several factors:

- Locating a grocery (or even an alternate retail store) has proven difficult. While the community and Council has expressed a strong interest in having a full-service grocery in the Project, various grocery stores have declined and are not interested in locating at the site at this time. Safeway had shown significant interest in occupying the space planned for a grocery store during the initial design and zoning entitlements phase of the project, but is no longer interested in the site. While Wittek-Montana continues to conduct outreach to the universe of possible tenants for the space and to consider alternatives acceptable to the community, including ethnic grocers, the HCD schedule guidelines may be too constraining to allow time for the economy and market to rebound sufficiently to improve the likelihood of securing an acceptable retail tenant(s).

- Governor Brown’s recent budget proposal calls for the elimination of all Redevelopment Agencies in the State of California. While the RDA has identified funds from the Housing set aside to support a portion of the \$7.1 million commitment to the project, the Agency does not have the additional \$12.7 infrastructure dollars. While staff has been working on a possible scenario to create those dollars, the Governor’s current budget proposal to eliminate redevelopment across California would eliminate the ability of the Redevelopment Agency to bond for future tax increment, which is a core component to developing financing for the approved Project. The Agency cannot provide such funds at this time without seeking third-party funding, due to several factors: (a) the recession has impacted property values such that the receipt of tax increment funds into the RDA has been reduced, and (b) funds totaling \$4.4M have been required to be paid by the Agency in the past year to the State pursuant to SERAF, with an additional almost \$1M more this year.

Alternative Plan - The Developers are therefore considering proposing a re-phasing and rearrangement of the Project, which would entail development of the eastern portion of the Project first and development of the main lot portion of the project at some future time (by another developer).

The Developers propose to reposition approximately 151 affordable units and 195 market rate apartments from the main BART lot site west of Dixon Street to the east side of Dixon Street. The Developers further contend that, at some future time, another developer could come into the Project and construct housing, retail, and a BART replacement garage on the main lot. The chart below compares the entire approved Project and the Developers’ proposed alternative plan/approach.

Summary Project Comparison Table

	Approved Project	Phase 1 of Alternative Approach
# Residential Units	788	346
# Market Rate Units		
Rental	241	195*
Condos	341	*rental units constructed and mapped for future sale
# Affordable Units	206 (125 family and 81 senior units)	151 (87 family and 64 senior units)
Retail	60,000 SF	None
BART Main Lot	site of retail, affordable units, MR rental units and replacement BART garage	Potentially future phases
BART East (overflow) Lot	sold by BART - merged with Perry & Key parcel for condos	sold by BART - merged with Perry & Key parcel for market rate rental and affordable rental units
Acreage of Development Site	15.51	4.35
Gross Density of Residential	51 du/acre	80 du/acre
Net Density of Residential (excludes road areas)	75du/net acre (excludes BART replacement garage site)	80 du/net acre
HCD Proposition 1-C Grants		

	Approved Project	Phase 1 of Alternative Approach
Infrastructure	\$30M	\$15.8M*
TOD Grant	\$17M	\$17M*
Redevelopment Agency Participation		
RDA Funds	\$12.7M	None
Housing Set-aside Funds	\$7.1M	\$7.1M
Joint Powers Authority (JPA)	yes	Probably, yes
City/Agency Participation in State Proposition 1-C Grants	Yes (for Infill Infrastructure Grant)	undecided
Residential Parking Benefit District	yes – in the future as needed	Probably yes
RDA Tax Increment Funding	yes (if RDA still exists)	no

**projected by Developers, although HCD has not confirmed to the City or approved in writing*

The Developers’ proposal raises several issues and questions, including:

1. **Community Vision** – Is the proposed smaller Project consistent with the community’s vision for the South Hayward BART Area and with the concept of Transit Oriented Development assuming it may be many years before any further building activity occurs on that site?
2. **BART approval is needed** – the Developers and City staff have met with BART staff and they have indicated that approval of the Alternative Plan would be contingent upon adherence to BART’s TOD Policy and approval by the BART Board of Directors. Also, it is anticipated that BART would have no objection to the Alternative Plan as long as system ridership increases and improvements related to the access needs of BART patrons are adequately addressed and funded (likely by means of implementation of both a JPA and a Parking Benefit District).
3. **HCD funding** – the developers have commenced discussions with HCD, but it is unclear as to HCD’s receptivity to the Alternative Plan or as to the level of funding, which would likely be determined in part by whether additional discretionary approvals would be required from the City.
 - a. If the proposed revisions are deemed a “major modification” to the approved Planned Development (PD) District requiring Planning Commission and City Council public hearings and discretionary review, including environmental analysis per the California Environmental Quality Act, then HCD would most likely rescore/reevaluate the grants, which would most likely make the Project ineligible for funding (ineligible for the original \$47million and also ineligible for the estimated \$32.8 million that HCD could grant to the Alternative Plan. If the HCD application is thus reevaluated and all HCD funding lost, the Developers have advised the City that they would not proceed to develop the project at all.
 - b. City/Agency participation as a co-applicant in the revised HCD application would probably still be required, but this is unclear at this time.
 - c. Postponement of the development of the BART replacement garage at this time with HCD funds would likely result in loss of those funds and future funding of the construction of such a garage would be speculative at best.

4. **Likely Loss of Ownership Units** - In the approved Project, the Perry & Key/BART overflow lot site was planned as for-sale condominiums, and the main lot was the site for rental units (subject to a BART ground lease). It is highly unlikely that if/when the main lot is developed in the future, that condos will be approved by BART to be built and sold on that lot, given BART typically enters into long-term leases with developers for such developments that do not involve ownership units. Therefore, loss of condos on the Perry & Key/BART overflow lot site would mean probable loss of for-sale units in the entire Project. (It should be noted that the Developers have indicated that the market-rate rental units per the Alternative Plan would be “mapped as condos” and most probably rented initially, but could be sold at some future time.)
5. **Future Project Staging/Phasing Challenges** - In the approved Project, the Perry & Key/BART overflow lot site was planned to be operated as a temporary parking lot for BART patrons while the BART replacement garage was being built. If the Perry & Key/BART overflow lot site is developed first, then future temporary parking and construction staging while a replacement garage is being built would be a significant challenge, but could be addressed using attended parking on BART property during construction.
6. **Loss of Ancillary Funding** - The approved Metropolitan Transportation Commission’s \$2.2 million TLC¹ grant for streetscape/landscape improvements along Dixon Street and within the BART main lot development site will be in jeopardy and will likely be lost.

ECONOMIC IMPACT

The successful development of the Project will have an immense positive economic impact on south Hayward. Initial development under the proposed Alternative Plan would also have a positive economic impact by creating immediate construction jobs and new housing in the area, which could spur other development in the area. Both will increase BART ridership and decrease vehicle miles traveled and thus will move Hayward one step closer to meeting the goals in the City’s Climate Action Plan. If the Developers do not proceed at all with the Project, then development of this site and nearby sites would be delayed and stimulation of development in this area would be delayed.

FISCAL IMPACT

Approval of the Project conditionally committed the Agency to a contribution of \$19.8 million (\$7.1 million from the Housing set-aside funds), but the Agency is currently challenged to fund either of those two amounts. Alternatively, the proposed Alternative Plan seeks only the \$7.1 million from the Housing set-aside funds, which the Agency reasonably believed it could fund over a period of years prior to the Governor’s proposal to eliminate Redevelopment Agencies. If the elimination of redevelopment agencies is completed, the Agency or the Successor Agency has no immediately identifiable way to honor even the commitment of \$7.1 million.

¹The MTC Transportation for Livable Communities (“TLC”) Grant was originally approved for \$6 million, then later reduced to \$2.2 million for improvements in an around the Approved Project. It is unclear if MTC would accept a revised application such that the improvements along the south end of Dixon (Phase 2) could receive the Grant at this time.

If either the Project or Alternative Plan proceeds with HCD funding, the City/Agency would likely have a joint liability with the Developers to complete the Project. The City's possible liability for the Alternative Plan related to HCD funding is considerably less than for the approved Project.²

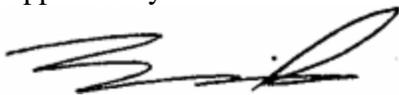
NEXT STEPS

First, Council and the Agency Board should hear the presentation by Wittek-Montana and Eden Housing. After that presentation, staff is seeking guidance from Council/Agency Board on the following options and considerations:

- Is a reduced plan acceptable? If so, are there any specific points of concern or interest? Items to consider in this assessment are:
 - Is this a major or minor modification? If the proposed modifications to the original Project are determined to be a "minor" modification to the approved Planning Development (PD) District, it will likely allow the Developers to "stay on track" and to proceed to submit their Precise Plan to the Planning Commission for final design review and approval and to seek revisions to HCD Proposition 1-C grant funding proposal.
 - If this is thought to be a major modification to the approved Planning Development (PD) District, it will entail discretionary review at public hearings by the Planning Commission and City Council (including CEQA review), which will likely result in loss of HCD Proposition 1-C grant funding and abandonment of the Project by the Developers.
- If it is not acceptable, what is Council/Agency Board Direction regarding the original proposal? Some alternatives that appear to be available include (a) continuing to attempt to find funding for the larger Project; (b) declaring the existing Project unattainable and allow the developers to walk away from the Project, and all partners turn back the HCD and TLC funding; and (c) continue forming the JPA with BART and hope to identify another developer willing to engage in the Project, including finding replacement funding for the HCD funds if HCD cannot be convinced to stay in the Project.
- Continue the status quo and direct staff to obtain more information with respect to (a) HCD status and approval process, (b) BART status and approval process, (c) alternate RDA financing of the Agency's conditional commitment, and/or (d) the Governor's plan related to redevelopment.

Recommended by: David Rizk, AICP, Development Services Director
John H. DeClercq, Project Manager

Approved by:



Fran David, City Manager/Agency Executive Director

²Note: in the approved Project, the City/Agency would receive \$20 million (of the total \$47 million) to construct the BART replacement garage and if less than 727 residential units were constructed, then the City/Agency could be subject to a possible claim by HCD to repay, prorata, funds that had been paid. (The Developers would be jointly liable for such a claim.)



**MINUTES OF THE CITY COUNCIL MEETING OF
THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, February 15, 2011, 7:00 p.m.

MEETING

The Meeting of the City Council was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Quirk.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Quirk, Halliday, Peixoto, Salinas,
Henson
MAYOR Sweeney
Absent: COUNCIL MEMBER None

CLOSED SESSION ANNOUNCEMENT

Mayor Sweeney reported that Council met pursuant to Government Code 54957, regarding the City Clerk's Performance Evaluation and pursuant to Government Code 54956.9, regarding Swanson, et al v. California Department of Transportation et al, Alameda County Superior Court Case No. RG09476468. There were no reportable items.

PUBLIC COMMENTS

Ms. Wynn Grcich, Industrial Parkway SW resident, spoke about State Assembly Bill 2283 and the dangers of using biochemical cremations and recyclable toilet water and urged others to stop the bill by contacting their legislators. She referred to a San Mateo County Times newspaper article titled, "Treated Sewage Still Contaminated" and the book "The Deadly Feast" by Richard Rhodes, regarding Mad Cow disease and cannibalism.

Mr. Jim Drake, Franklin Avenue resident, favored the current Noise Ordinance and pointed out that the wording of the proposed Noise Ordinance is unclear. Mr. Drake was reminded that the public hearing for proposed amendments to the Noise Ordinance was forthcoming.

WORK SESSION

1. Draft Mission Boulevard Corridor Specific Plan

Staff report submitted by Senior Planner Pearson, dated February 15, 2011, was filed.

Development Services Director Rizk announced the report and introduced Senior Planner Pearson who in turn introduced the consultants from Hall-Alminana and then provided a synopsis of the report. Mr. Pearson noted that there was an error in the report related to the design of Mission

Boulevard, north of A Street, Option Three, and confirmed that the two traffic lanes would be reduced from 11 feet to 10 feet and sidewalks kept at 10-foot-wide, as noted in the Form-Based Code.

Senior Planner Pearson noted he received an e-mail from Greg Jones, President of the Prospect Hill Neighborhood Association (PHNA), which suggested that the three-story designation be made in feet-above-grade rather than “story” limitation, and for the actual design to incorporate the extension of the medians across Sunset and Simon Streets, and perhaps Rose Street, in order to eliminate left turns into the neighborhood. Mr. Pearson noted that staff has scheduled a meeting with the PHNA for March 23, 2011, to discuss further. Mr. Pearson also mentioned that an e-mail was received from Dr. Sherman Lewis related to the Mobility Plan and added that Mr. Lewis suggested that staff place more emphasis on non-automobile travel and less emphasis on parking. In response to Mr. Lewis’ mention of the retail opportunity at the corner of Mission and Carlos Bee Boulevards, Mr. Pearson noted that there is no minimum amount of parking required, but staff expects the retailer would want to have parking.

Senior Planner Pearson added that comments expressed at the February 10, 2011, Planning Commission Work Session were in regards to the potential impacts to the properties west of the Dollar Street area because of the building height limits that are allowed in the T4-2 zone. Mr. Pearson pointed out that there is a significant buffer of 150 feet between the properties on the west side of Whitman Street and Dollar Street.

Council Member Zermeño commented that he liked the conceptual drawings for Opportunity 2-east side of Mission Boulevard at Carlos Bee Boulevard, and favored landscaped medians and asked if plans for expanding the “Big Mike” park include displacing existing businesses. Development Services Director Rizk noted that staff is laying the foundation for the land use designation in the Form-Based Code.

Council Member Henson referred to the PHNA e-mail and expressed concern regarding the increased traffic impact to the Prospect Hills neighborhood caused by the mini-loop and cut-through traffic. Council Member Henson mentioned that there was a representative from a dealership in the audience. In response to Mr. Henson’s concern regarding hardship to existing auto dealerships, particularly on the northern side of Mission Boulevard, Senior Planner Pearson replied the draft Code, which does not allow display/parking lots along a street frontage, does not apply to existing auto dealerships. Mr. Henson told staff he would like more discussion on the light industrial proposal and the acceptable uses.

Council Member Salinas mentioned that during the field trip to San Francisco last year, he noticed that businesses that were fronted by the extended sidewalks were able to accommodate more people by having outdoor seating. In reference to the PHNA e-mail, he mentioned that he lives in the neighborhood, west side of Mission Boulevard, and agreed that Mission Boulevard is a major gateway into the City. He favored the idea of having auto dealership displays enclosed as this would help keep the streets clean and visually appealing. Mr. Salinas also agreed with the three-story height limit and about the importance of having clearly defined language. He also mentioned Program 20: Extremely Low Income and Special Needs Housing, and expressed concern about the amount of time and resources the City is investing on the draft Mission Boulevard Corridor Specific



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Plan and stated he would like to see the development be a revenue generator.

Council Member Halliday commended staff and consultants for incorporating community ideas into the proposed plan and was glad to see the Form-Based Code applied to a City project. She was in agreement with the proposed sidewalks with medians. She was content that staff continues to work with the PHNA and mentioned that it is important not to obstruct this neighborhood's westerly views. Ms. Halliday mentioned the mini-loop and concurred with the idea of slowing traffic down before getting into the loop. She commented on the PHNA e-mail regarding height in feet rather than in stories and asked staff to make sure this language is clear. Ms. Halliday favored mixed-uses and supported the T3 zone and inquired if retail use is permitted in this area. Senior Planner Pearson said that personal services with a use permit are allowed in T3 zones. She was pleased to see the inclusion of vegetable gardens.

Council Member Peixoto expressed concern that the two traffic concepts are conflicting, noting there are traffic calming measures in one area that eventually feed into five lanes that will cause traffic to speed up. Mr. Peixoto was also concerned with allowing Emergency Homeless Shelters in the General Commercial (CG) District, as there have been problems in the past with Single Room Occupancy and noted he would like other areas utilized that could meet the requirements for Program 20. Mr. Peixoto asked Robert Alminana of Hall-Alminana to explain the height designation related to feet versus stories and inquired if this will address PHNA concerns regarding height limits and obstruction of views. Mr. Alminana said height is commonly regulated in feet, but the disadvantage could be that some developers could try to cram as many stories in the height limit. As far as the advantage to having story heights, he mentioned that the use from residential to commercial/retail can be changed without demolishing the building. Mr. Alminana mentioned that studies were done for each property to ensure that views would not be obstructed. In response to Mr. Peixoto regarding the advantages of slip lanes, Mr. Alminana said slip lanes slow traffic down, are safer, are better for retailers, and create parking areas. Mr. Peixoto favored bringing the auto dealership structures close to the street.

Council Member Quirk agreed with the preservation of historic buildings and noted that when the time comes he would like to know the criteria for the selection process. Mr. Quirk said that the PHNA has a valid concern regarding height limits and the obstruction of views and added that there was Council consensus to not obstruct residential views. Mr. Quirk expressed concern regarding the actual heights for three and four stories and suggested the need for an overlay zone that addresses height as well as stories. Mr. Quirk suggested staff consider Dr. Lewis' suggestions of shifting from auto dependency to alternative transportation. He also requested that staff research the minimum space needed for Program 20 compliance. Mr. Quirk expressed concern about prohibiting locations for houses of worships and Mr. Pearson responded that the prohibition is limited to parcels that front Mission Boulevard and that there are other locations within the project area.

Mayor Sweeney was in agreement with Council Members regarding the need to ensure views are

protected for the area north of A Street and suggested a lower T zone through that stretch. Mayor Sweeney expressed concern that future opportunities for commercial and light industrial would be lost if the area in Variable #7, T4-2 zone, west of Mission Boulevard, ends up being all residential and suggested staff consider how residential will interface with commercial/light industrial uses and cautioned staff that conflicts may arise. Mayor Sweeney requested staff address the issue of how they will adjust their strategies if the redevelopment agency is eliminated.

Council Member Henson asked staff to screen light industrial uses carefully as not all uses may be appropriate.

CONSENT

2. Approval of Minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting on January 25, 2011

It was moved by Council/RA/HA Member Quirk, seconded by Council/RA/HA Member Zermeño, and carried unanimously, to approve the minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting of January 25, 2011, as amended in the City Clerk's memorandum.

3. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting on February 1, 2011

It was moved by Council/RA Member Henson, seconded by Council/RA Member Zermeño, and carried unanimously, to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of February 1, 2011.

4. Adoption of Ordinance Reclassifying Portions of the Hayward Executive Airport to Zone Change Application No. PL-2010-0029

Staff report submitted by City Clerk Lens, dated February 15, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:

Ordinance 11-02, "An Ordinance Reclassifying Portions of the Hayward Executive Airport to Zone Change Application No. PL-2010-0029"

5. Revisions to the Council Member Handbook

Staff report submitted by City Clerk Lens and City Attorney Lawson, dated February 15, 2011, was filed.

It was moved by Council Member Henson, seconded by Council Member Zermeño, and carried unanimously, to adopt the following:



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Resolution 11-011, "Resolution Accepting the Additions and Revisions to the Council Member Handbook"

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño highlighted the Daily Review article, "Teen stays focused – on college," about Mt. Eden High School senior Cindy Dam, who is also a secretary for the Hayward Youth Commission. He commended the positive article.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 8:38 p.m., in memory of Soledad Rica Llorente, a longtime City employee, a friend, a great mom, a Hayward resident, a scholar, and a leader from the Eden Shores Homeowners Association. Rica passed away on February 7, 2011. Council Member Halliday noted that Rica was a devoted servant and her death was a great loss to the City. She added that Rica was the Planning Commission Secretary and later became the Executive Assistant in the City Manager's Office where she performed an outstanding job. Council Member Henson noted that Rica's death was a tremendous loss to the City and added that, along with Council Members and many City employees, he attended a Celebration of Life Service for Rica on February 12, 2011 at Eden Shores. He mentioned that Rica had earned a Ph.D., was a professor at California State University East Bay, was a published author, and instilled her talents in her children and those whose lives she touched. Council Member Salinas noted that Rica was also a scholar in the area of Filipino American Studies and made significant research contributions with respect to Filipino families and their immigration patterns into this country. Council Member Zermeño mentioned that Rica moved to the area around 1991 and since then made significant strides. He mentioned she was a warm person and thanked Dios "God" for such a precious gift. Mayor Sweeney also mentioned that Rica had an underappreciated sense of humor. Mayor Sweeney asked staff to work with her family to find a suitable place to plant a tree in her memory. City Manager David relayed to everyone, on behalf of her children Andrew and Joanna, the family's appreciation for the City's outpouring of support in a time of need.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

Miriam Lens, City Clerk, City of Hayward

DATE: March 8, 2011

TO: Mayor and City Council

FROM: Director of Human Resources

SUBJECT: Resolution to Approve Temporary Staffing of the Director of Finance and Budget Officer Positions and to Approve an Appropriation in the Amount of \$160,000

RECOMMENDATION

Staff recommends that Council approve the attached resolution authorizing the City Manager to temporarily fill the vacant positions of Director of Finance and Budget Officer and authorize an appropriation in the amount of \$160,000 to accomplish this.

DISCUSSION

The responsibilities of the Director of Finance and Budget Officer positions in the Finance Department are currently being performed by temporary staff. The functions of these positions are essential to the City of Hayward's operation. In order to ensure continuity of service throughout the budget development and update of the ten year financial plan, as well as to provide leadership in the Finance Department, it is necessary to temporarily fill the Director of Finance position until such time as a recruitment and selection process can be completed. The recruitment process for the Director of Finance is currently scheduled to begin in July 2011. Of the \$160,000 appropriation, \$95,000 funds the Director position from January 24, 2011 through July 1, 2011.

Under the direction of the Interim Director of Finance, the person selected to temporarily fill the vacant Budget Officer position will provide critical budget functions necessary to complete the budget development process in a timely manner. The recruitment for the Budget Officer position is currently underway and a regular appointment is expected to be complete by July 1, 2011. Of the \$160,000 appropriation, \$65,000 funds the Budget Officer position from December 5, 2010 through July 1, 2011.

ECONOMIC IMPACT

There is no direct economic impact associated with the actions requested in this report.

FISCAL IMPACT

If contract services cannot be absorbed within the existing budget, there will be a fiscal impact of \$160,000, which provides funding in the amount of \$95,000 for the Director of Finance position and \$65,000 for the Budget Officer position in fiscal year 2011. Up to \$160,000 would be appropriated from the contingency reserves, which currently has a balance of \$4.2 million.

Prepared by: Fran Robustelli, Director of Human Resources

Approved by:



Fran David, City Manager

Attachments:

Attachment I- Resolution approving temporary staffing and an appropriation for \$160,000

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AGREEMENTS FOR TEMPORARY STAFFING OF THE DIRECTOR OF FINANCE AND BUDGET OFFICER POSITIONS AND APPROVING AN APPROPRIATION IN THE AMOUNT OF \$160,000

WHEREAS, the Director of Finance and Budget Officer positions are vacant; and

WHEREAS, continuity of service during the budget development, Ten- Year Planning project and recruitment and selection process is essential; and

WHEREAS, it is necessary to fill the vacant positions on a temporary basis to provide staffing for these essential City functions at a cost of \$95,000 for the Director of Finance and \$65,000 for the Budget Officer through July 1, 2011.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hayward that the City Manager is authorized to negotiate and execute agreements for the direct hiring and/or use of a temporary agency to staff the vacant Director of Finance and Budget Officer positions, in a total amount not to exceed \$160,000, in a form to be approved by the City Attorney.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that Resolution No. 10-083, as amended, the Budget Resolution for fiscal year 2010-2011, is hereby further amended by approving an appropriation of \$160,000, for temporary staffing of the Director of Finance and Budget Officer Positions from the General Fund, Fund 100-1711

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____

City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DATE: March 8, 2011

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Resolution Authorizing the City Manager to Negotiate and Execute a Commercial Aviation Site Lease and Associated Letter of Agreement with Field Aviation LLC, at the Hayward Executive Airport

RECOMMENDATION

That the City Council adopts the attached resolution authorizing the City Manager to negotiate and execute a new lease and associated Letter Agreement with Field Aviation LLC

BACKGROUND

Bud Field Aviation, an existing tenant on the airfield for many years, occupies the leasehold at 22005 Skywest Drive. The company currently provides aircraft storage, service, repair, and maintenance in hangar buildings constructed at this address.

The Airport Master Plan approved in 2002, identified development of the land on the south side of the Airport with a Fixed Base Operator (FBO) as a planned improvement. In 2006, Bud Field proposed to invest in developing the south side of the Airport. He originally discussed his proposal to establish new leasehold as a third (FBO before the Council Airport Committee (CAC) in October 2006 and again in June 2007. Members of the Committee and representatives of the two existing FBOs at Hayward Executive Airport expressed concern about the viability of having three providers of fuel services on the Airport. Mr. Field responded to those concerns by stating that the fueling aspect of his operation was meant to fulfill the needs of his existing and new hangar tenants and not to directly compete with the existing operators on the Airport. Additionally, Airport staff and the developer agreed that any new lease would allow the lessee to sell fuel only on the south side of the Airport.

At its June 28, 2007 meeting, the CAC concurred with staff's recommendation to approve Mr. Field's proposal for a new FBO on the south side of the Airport. Since that time, lease negotiations were delayed, pending completion and FAA approval of the Airport Layout Plan Update (ALP). The approved ALP now includes this proposed development, among other changes. Any new development on the Airport must be included in an approved ALP.

Mr. Field passed away in February 2010; however, his company continues as Field Aviation LLC and, with the recent FAA approval of the ALP, is now ready to proceed with the originally planned full service FBO development. The FBO development will include a number of aircraft storage hangars, a fueling facility with above ground storage tanks, and all necessary appurtenances to conduct aviation commercial services and activities in compliance with the Hayward Airport Rules and Regulations and Minimum Standards pertaining to the operation of an FBO. The leasehold premises contain approximately 15.6 ± acres located on the south side of the Airport. Proposed development will occur in two phases (see Attachment II).

While not a part of this lease approval, Field Aviation has pursued the possibility of further developing the south side of the Airport with two additional phases of development. To accommodate this possibility, and considering the large investment needed to develop the infrastructure on the south side, staff also recommends execution of a Letter Agreement (see Attachment III). This Agreement would grant Field Aviation LLC first right of negotiation with the City for the lease of additional property adjacent to the present leasehold premises for further development of Phases III and IV of its master planned development, assuming there is sufficient demand for the additional hangars. Phases III and IV would be covered under a separate lease in the future.

DISCUSSION

Development under Phase I includes a 20,000 sq. ft. FBO office facility, a 40,000 sq. ft. hangar, and the fueling facility. Phase II adds five additional hangars totaling 143,000 sq. ft. The lease calls for completion of Phase I improvements within five (5) years of its execution. Phase II development of the site is anticipated to occur after the initial five-year period. As noted below, Phase II development would require additional NEPA environmental review and approval.

In order to qualify for a fifty-year lease, Field Aviation LLC must provide a minimum investment of four million dollars in improvements to the leasehold premises. In addition, as with other recent major leasehold developments, the lease requires a contribution of \$100,000 to the Airport's Aircraft Rescue and Firefighting (ARFF) expenses, which will be utilized for future operations and equipment replacement for the ARFF apparatus and cost of ARFF services at the Airport. Payment of the ARFF contribution is required prior to building permit approval for any construction.

Staff recommends that the City Council authorize the City Manager to negotiate and execute the referenced documents with Field Aviation LLC as this new lease is beneficial to both the City and the lessee.

FAA Approvals and Environmental Review - As noted above, the recently FAA approved Airport Layout Plan Update (ALP) does include this proposed development, which is a requirement for any new development on the Airport. In addition, the FAA who is the lead agency for all National Environmental Policy Act (NEPA) requirements on the airport has issued to the City a Categorical Exclusion from further environmental assessment under the NEPA for construction of the Phase I

improvements, including the proposed fuel storage facility. Additional NEPA clearance will be required prior to any construction related to the Phase II improvements.

Staff has reviewed and considered the plan of action to build the new FBO development, in accordance with the California Environmental Quality Act (CEQA), finding that the Phase I and Phase II developments are consistent with the Airport's Environmental Impact Report (EIR) completed for the current Airport Master Plan. The EIR and Master Plan considered various levels of facility development, including the long-term development of the Airport's south side with Fixed Base Operator and a projected increase in annual aircraft operations. . The proposed lease authorizes activities within the scope of the Airport Master Plan examined in the EIR, and, as no new impacts are anticipated to occur, no new mitigation measures are required. Thus, no additional CEQA environmental review is required and the City can rely on the previously approved EIR in approving the lease.

FISCAL IMPACT

The revenue impact of the proposed development to the Airport would be significant. The lease calls for the payment of rent for the property as a staged development with reduced rent during construction of each Phase. Payments for each stage are outlined in the draft lease and are as follows:

Phase I: Ground Lease Rent of \$8,939 per month, based on the City's current aviation ground lease rate of \$0.30/sq ft/yr and subject to the City's standard rent adjustments as specified in all lease documents. During the construction period for Phase I (not to exceed five years), rent would be at 50% of the City's aviation ground lease rate or presently \$4,469 per month.

Phase II: Ground Lease Rent of \$8,061 per month, based on the City's current aviation ground lease rate of \$0.30/sq ft/yr but will be raised subject to the City's standard rent adjustments. Prior to completion of Phase II construction, two payment levels are identified: the first five years at 33% of the City's aviation ground lease rate or currently \$2,687 per month; and the following three years, when construction for Phase II should be underway, rent at 50% of the City's aviation ground lease or currently \$4,030 per month.

In addition, the tenant will be collecting and paying to the City fuel flowage fees for the sale of aviation fuel and commercial landing fees for non-Hayward based commercially operated aircraft accessing its FBO facilities. As with other FBOs, fuel flowage and landing fees will be based on the Hayward Executive Airport Rates in the City's Master Fee Schedule.

After the eighth year, when both Phases I and II are required to be complete, the leasehold will be contributing at least \$205,000 per year to the Airport operating fund, as the lease requires periodic adjustments consistent with other leases. In addition, fuel flowage fees would conservatively add another \$75,000 per year.

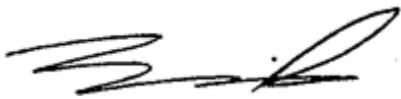
NEXT STEPS

Upon execution of the lease, the lessee will be required to prepare detailed plans for development of Phase I of the project and submit those plans to the City for issuance of the various permits required for construction. Lessee will, in addition, be meeting with representatives of the Hayward Fire Department to receive approval for siting and design of its fuel storage facility.

Prepared by: Michael Covalt, Interim Airport Manager

Recommended by: Robert A. Bauman, Director of Public Works

Approved by:



Fran David, City Manager

Attachments:

Attachment I - Resolution

Attachment II - Development Site Plan

Attachment III - Letter of Agreement Future Phases III and IV

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-_____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A NEW FIXED BASE OPERATION LEASE AGREEMENT AND NONBINDING LETTER OF INTENT WITH FIELD AVIATION LLC FOR LEASE OF A PARCEL OF LAND AT THE HAYWARD EXECUTIVE AIRPORT.

WHEREAS, the City of Hayward owns and operates the Hayward Executive Airport; and

WHEREAS, representatives of Field Aviation LLC have been working on plans for the development of a fixed base operation business and hangar development on the Hayward Executive Airport that would be consistent with the terms set forth by the City, and still meet the needs of the airport and the developer; and wish to enter into a lease with the City of Hayward for approximately 15.6 acres of land for this development; and

WHEREAS, the Federal Aviation Administration has approved a new Airport Layout Plan showing this proposed development and further has issued a Categorical Exclusion from further environmental review for the proposed development; and

WHEREAS, Field Aviation LLC further wishes to enter into a nonbinding letter of intent with the city for the right to negotiate the lease of additional property for future phases of their planned development; and

WHEREAS, the City and Field Aviation LLC have reached agreement on acceptable terms to construct the improvements on the leasehold site and have agreed upon acceptable wording for the referenced nonbinding letter of intent.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is authorized to negotiate and execute the lease agreement and nonbinding letter of intent between the City of Hayward and Field Aviation LLC as described in the staff report, in a form approved by the City Attorney

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

- LEGEND**
-  PHASE I BUILDINGS
 -  PHASE II BUILDINGS
 - BRL- BUILDING RESTRICTION LINE
 - NBZ- NO BUILDING ZONE
 -  PROPERTY LINE

REVISIONS	BY



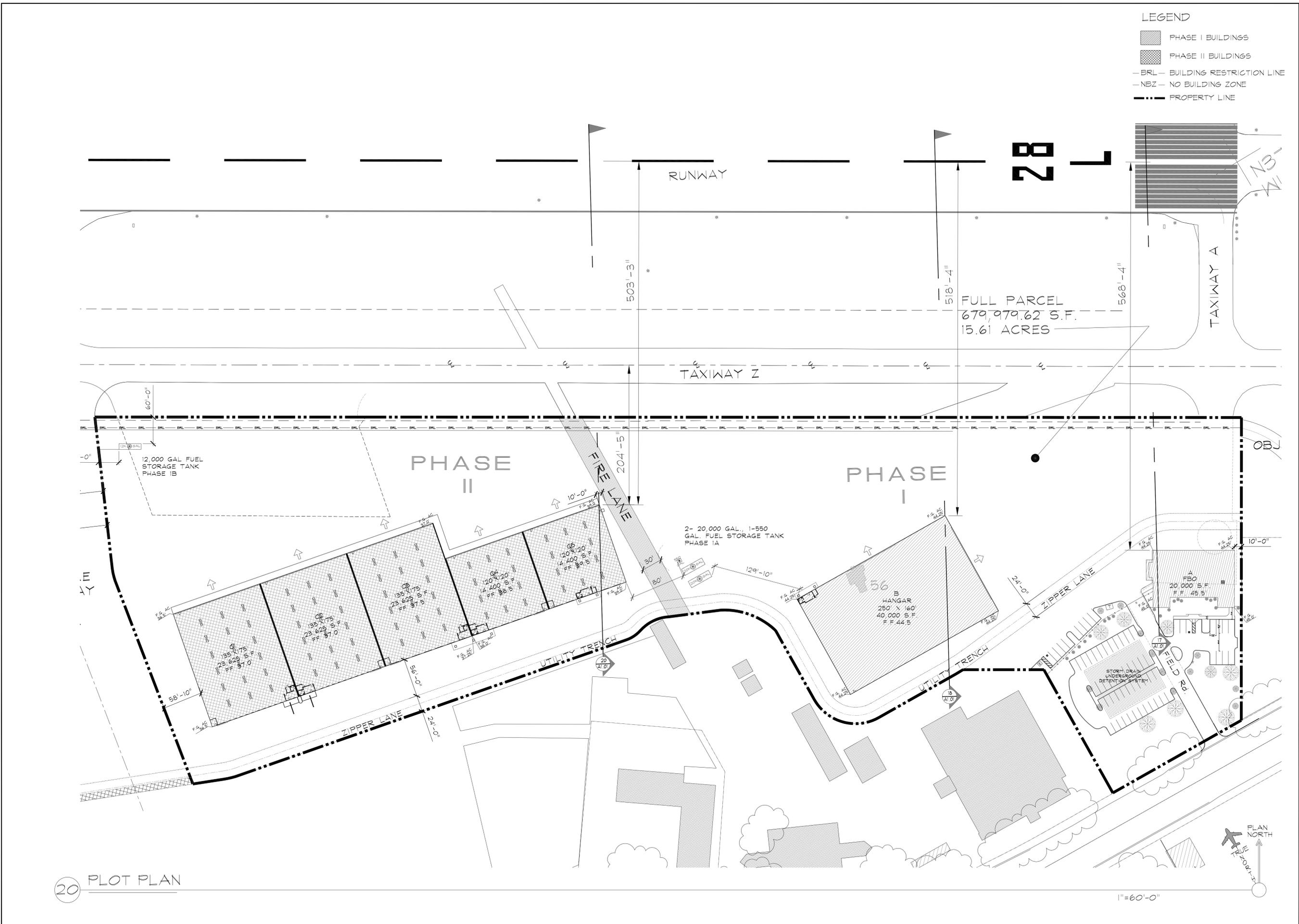
JOHNSON ARCHITECTURAL GROUP
 Architects & General Building Contractors
 PO Box 112
 Channel Valley, Ca 94524
 J.A.G @ Montereybay.com
 831-659-1160
 831-659-2582

**SOUTHSIDE EXECUTIVE HANGARS
 HAYWARD EXECUTIVE AIRPORT
 HAYWARD, CALIFORNIA**

THIS DOCUMENT AND THE IDEAS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE, ARE THE PROPERTY OF PHILIP C. JOHNSON ARCHITECT, AND IS NOT TO BE USED IN WHOLE OR IN PART FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF PHILIP C. JOHNSON ARCHITECT.

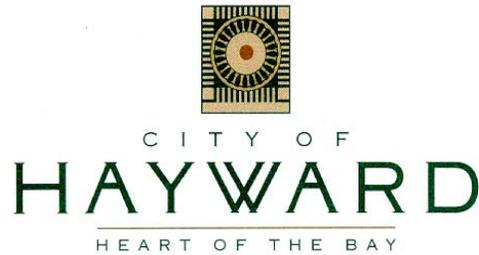
PLOT PLAN

Date **10/01/10**
 Scale **AS SHOWN**
 Drawn by **RR**
 Job **0903**
 Sheet **A1.01**
 Of Sheet



20 PLOT PLAN

1"=60'-0"



March 8, 2011

James Bowers
 President and CEO
 Field Aviation LLC
 22005 Skywest Drive
 Hayward, CA 94541

RE: Lease dated _____ 2011 between the City of Hayward and Field Aviation LLC

LETTER AGREEMENT

With regard to the ground lease dated _____, 2011, by and between the City of Hayward (City), and Field Aviation LLC (Tenant), a California Limited Liability Corporation, this Letter Agreement recognizes said lease, and the parties further agree, that in consideration of and conditional upon Tenant's completion of the following:

- a. A further commitment in addition to that stated in lease recital (g) by Tenant of a minimum investment in structures and infrastructure of \$2,000,000 (two millions dollars).
- b. Agreement by the Tenant to participate in one third of the cost of construction of the extension of Taxiway C during Phase II of the above referenced lease.
- c. Agreement by the Tenant to participate in one third of the cost of extension of Taxiway D during Phase VI of the Tenant's master planned development under a future lease but not a part of the referenced lease.

Tenant shall have first right of negotiation for parcels identified as Phases III and IV shown on the attached map under typical terms of agreement for parcels located at the Hayward Executive Airport and consistent with the original lease agreement to which this Letter Agreement refers.

That lease shall be for a term of fifty years for the parcels shown on the attached map as "Phase III" and "Phase IV". Should the original agreement and the final ground lease for areas "Phase III" and "Phase IV" have different origination dates, the terms of the original lease agreement (for Phase 1 and Phase 2) shall be extended to match the termination date of the term of the later agreement so that the terms of all four Phases shall expire on the same date.

This first right of negotiation for the areas mentioned shall remain in effect for a period of ten years from the date of the original ground lease of _____, 2011. (Eight years to complete

DEPARTMENT OF PUBLIC WORKS
 ADMINISTRATION

777 B Street • Hayward • CA • 94541-5007

Tel: 510-583-4700 • Fax: 510-583-36127 Website: www.hayward-ca.gov

Phases I & II per the original agreement, and two years to assess market conditions as changed by the development of the south side of the airport and negotiate a new lease.)

The City shall pursue grants for reimbursement from the FAA and other sources, as available, for the costs of the construction of the taxiway extensions, to include design, engineering, approval costs, etc., and, if successful, construct the taxiway extensions using those grants plus funding provided by Tenant. Tenant recognizes that this is by no means a guarantee of available grant funding or eligibility of these projects for such funding.

It is understood by both parties that the areas shown as Phase III and Phase IV may be modified through agreement by both parties. Final approval of any modifications rests solely with the City.

This letter reflects our present understanding of our discussions during negotiation and execution of the above referenced lease. Each party acknowledges that it will negotiate in good faith with respect to the proposed action.

The parties acknowledge that any tentative agreements that may result from further negotiations will be subject to the approvals of the City Council for the City, which approvals may be withheld in its sole discretion.

Sincerely,

Accepted by:

Robert A. Bauman
Director of Public Works

James Bowers
President and CEO
Field Aviation LLC

Attachment: Site Plan

DATE: March 8, 2011

TO: Chair and Agency Board

FROM: Assistant City Manager/Interim Redevelopment Agency Director

SUBJECT: Approval of Contract Amendment in an Amount Not to Exceed \$160,000 with AMEC Geomatrix, Inc. for Cinema Place Groundwater Remediation and Environmental Consultation

RECOMMENDATION

That Council adopts the attached resolution (Attachment I) authorizing the Executive Director to negotiate and execute a contract amendment in an amount not to exceed \$160,000 with AMC Geomatrix, Inc. for Phase II of the Cinema Place groundwater remediation and environmental consultation.

BACKGROUND

In September 2006, staff identified to the Agency Board that there were contaminated soil and groundwater issues associated with chlorinated solvents from historic on-site dry cleaning operations at the site of the Cinema Place project. Earlier in 2006, the Regional Water Quality Control Board (RWQCB) approved a Risk Management Plan (RMP) for the site, which allowed construction to commence with specific procedures outlined for soil handling. Around that time, the RWQCB identified requirements for a more proactive approach to dealing with groundwater contamination issues in general on the site. Of particular concern was a high level of contamination in the groundwater under the southern portion of the alley, which runs from B Street to C Street between the complex and the adjacent existing buildings.

The RWQCB asked for further vertical and horizontal characterization of the extent of the groundwater contamination with borings up to one hundred feet deep to obtain groundwater samples and borings up to forty feet deep for soil samples. At the time, the RWQCB indicated that they would likely require remediation of contamination in the groundwater and the Agency Board amended an existing contract with AMEC Geomatrix to perform the additional investigation and develop remediation options. The RWQCB did in fact approve the Technical Report, Additional Investigation Results and Proposed Remedial Alternative in late 2008.

Since that time, AMEC Geomatrix has been working with staff on a pilot program to test the proposed remediation and to determine how best to implement the final groundwater remedy. In

December 2010, AMEC Geomatrix presented the draft *Results of Pilot Test and Proposed Final Remedial Action* for Agency review. Following submission of this draft report, AMEC Geomatrix then submitted a scope of services and cost estimate to perform the activities necessary to implement the Final Remedial Action Plan. This will consist of the installation of zero-valent ion (ZVI) permeable filled borings (PEBs) to treat chlorinated volatile organic compound (COVC)-affected groundwater beneath Parcel 2 of the site. Attachment II outlines the proposed scope of services and budget for this work, which includes the semiannual required groundwater monitoring to assess the performance of the groundwater remedy and to satisfy the groundwater monitoring requirement of the June 2006 *Revised Risk Management Plan (RMP)* for the site. The scope of services covers anticipated costs through June 2012.

FISCAL IMPACT

The total estimated cost to perform the work outlined in the scope of services is \$281,700. The existing contract with AMEC Geomatrix had a remaining unspent balance of \$125,000 and the overall Cinema Place project budget has a remaining balance of approximately \$52,000. To complete the appropriation of funding for this project, the Agency Board approved a reallocation of funds within the RDA operating budget on March 3, 2011 to fund the remaining \$108,000 necessary to complete this work. The \$108,000 reallocated by the Agency Board provides a small contingency of \$3,300 for any additional items that may arise in the course of the remediation work. Staff is only requesting a contract amendment for \$160,000 because there is remaining contract authority of \$125,000 in the existing June 2009 contract with AMEC Geomatrix.

Contract Authority		Funding	
Total Estimated Contract	\$281,700	Total Estimate Cost	\$281,700
Total Contingency	<u>\$3,300</u>	Total Contingency	<u>\$3,300</u>
	\$285,000		\$285,000
Remaining 2009 Contract Authority	<u>(\$125,000)</u>	Remaining Contract Budget	(\$125,000)
		Remaining Project Budget	(\$52,000)
		Agency 3/3/2011 Budget Allocation	<u>(\$108,000)</u>
Contract Authority Needed	\$160,000		(\$285,000)
		Additional Funding Needed	-----\$0----

This is not a request for additional project funding, but only authorization for additional contract authority.

In recognition of the Agency’s budget situation, AMEC Geomatrix agreed to conduct work under this contract amendment in accordance with the terms and conditions set forth in the June 2009 agreement and will use the schedule of charges in effect at the time the work is performed. They are currently using the 2009 Schedule of Charges. In addition, they have agreed to reduce the standard subcontractor markup cost from 15% to 10% and will eliminate the 4% communication fee on labor costs. This contract amendment should cover implementation of the Final Remedial Action Plan.

There may be minor ongoing monitoring costs for some period of time to cover any required groundwater monitoring.

NEXT STEPS

Staff recommends that the Agency Board authorize the Executive Director to execute the amended contract to complete the environmental remediation work at the Cinema Place site.

Prepared by: Kelly Morariu, Assistant City Manager/Interim Redevelopment Agency Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Resolution

Attachment II: Proposed Scope of Services from AMEC Geomatrix, Inc.

Task One: Full-Scale ZVI PFB Installation Activities

This task will be conducted in accordance with Section 8.0 of the draft Final Remedial Action Plan. This task includes installing five additional ZVI PFB sections (Sections A through E) on Parcel 2 of the site, which will be constructed similarly to the pilot test ZVI PFB section. Each section will consist of three or four ZVI PFBs. In addition, two groundwater monitoring wells (wells MW-PFB2 and MW-PFB3) will be installed within one of the borings in Sections A and D. The purpose of groundwater monitoring wells installed with the ZVI PFNs will be to monitor the effectiveness to dechlorinate PCE-impacted groundwater in the treatment zone. All drilling will be performed using a hollow-stem auger drill rig fitted with 18-inch-diameter augers. For the purposes of this cost estimate, we have estimated that the borings will be filled with ZVI between approximately 10 and 30 feet below ground surface (bgs). An air knife rig will be used to advance all boring locations to approximately 8 feet below ground surface and to pothole and locate all utilities near the ZVI PFB sections.

The scope for this task includes obtaining drilling permits, clearing underground utilities, subcontracting and coordinating with subcontractors, and a 15% licensing fee on drilling contractor and iron costs to EnviroMetal Technologies, Inc. (ETI), for the use of the ZVI treatment technology. We have assumed that the ZVI PFB locations are on City property and that an encroachment permit is not necessary. We have included an allowance of \$10,000 to restore the asphaltic concrete at the locations of the ZVI PFB sections. We have estimated the pilot test PFB installation field activities will require 10 days of drilling field work. This scope of services also includes an estimated cost for field supplies and equipment, ZVI, and estimated permit and subcontractor fees. We have included an allowance of \$11,000 for sampling and disposal of the waste soil and water generated during the ZVI PFB and well installation activities, assuming that the waste would be classified as non-hazardous waste. We will consult with the City prior to removal of the waste from the site.

Task 2: Groundwater Monitoring Activities

This task consists of groundwater sampling activities during the 18-month period between January 2011 and June 2012; AMEC will perform three semiannual groundwater monitoring events during this time. As discussed in Section 8.2.5 of the draft Final Remedial Plan, PFB ZVI and RMP semiannual groundwater monitoring events will be combined and conducted in March and September of each year. Groundwater monitoring events will consist of the following:

- Depth-to-water Measurements: Piezometers P-1A, P-2A, and P-3A and Wells MW-5AR, MW-6AR, MW-PFB1, MW-PRB2, and MW-PFB3
- Groundwater Sample Collection: Well MW-5AR, MW-6AR, MW-PFB2, and MW-PFB3

All groundwater samples will be analyzed for HVOCs (halogenated volatile organic compounds; including CVOCs) using U.S. Environmental Protection Agency (EPA) Method 8260B.

The scope for this task includes contracting and coordinating with the analytical laboratory. We have assumed that each of the sampling events will require approximately one day of field work. This scope of services also includes field supplies and equipment, and estimated subcontractor

**Attachment II:
Cinema Place Environmental Work Scope of Services**

fees. We have included an allowance of \$750 for sampling and disposal of the waste water generated during the well sampling activities, assuming that the waste would be classified as non-hazardous waste. Again, we will consult with the City prior to removal of the waste from the site.

Task 3: Groundwater Monitoring Reporting

AMEC will prepare three semiannual groundwater monitoring reports (first and second semester events 2011 and the first semester event in 2012) to report the groundwater monitoring activities conducted during the previous reporting period. A draft of each report will be sent to the City for comment. For the purpose of this scope of services and cost estimate, we have assumed one set of comments from the City will be addressed and incorporated into the report. In addition, we have assumed we will produce up to three paper copies and one electronic (PDF format) copy of each groundwater monitoring report. In addition, AMEC will submit each report to the Water Board and to the Water Board's Geotracker database. Reports summarizing the results of the groundwater monitoring activities will be submitted to the Water Board within 30 days of the end of each semester; for example, the report for each first-semester groundwater monitoring event will be submitted to the Water Board by July 30.

Task 4: Project Management and Consultation

This task includes an allowance of \$20,000 for anticipated effort for regulatory interaction, additional consulting services that may be requested, and project management activities through implementation of the pilot test program. It is likely that several meetings with the Water Board to discuss the results of the pilot test will be required. This allowance is approximately 10% of the total of tasks 1 through 3. We will keep the City apprised of the status of the budget and will discuss potential ongoing activities under this task should it appear we will exceed this allowance.

Task 5: Contingency

This task consists of contingency budget for unknown or undefined changes to the scope of work that may be required. This allowance is approximately 10% of the total of tasks 1 through 3 (\$20,000). AMEC will discuss the changes with the City and will proceed only after the City issues written approval of the additional scope of work.

ESTIMATED COST

The total estimated cost to perform the work described above is \$281,700. The estimated cost to perform the work is shown by task below:

Task 1: Full-Scale ZVI PFB Installation Activities	\$212,000
• AMEC labor and direct costs: \$39,000	
• Subcontractor costs: \$173,000	
Task 2: Groundwater Monitoring Activities	\$9,700
Task 3: Groundwater Reporting Activities	\$20,000

**Attachment II:
Cinema Place Environmental Work Scope of Services**

Task 4: Project Management and Consultation	\$20,000
Task 5: Contingency	\$20,000
Total Estimated Cost	\$281,700
Budget Remaining in the Existing June 25, 2009 Contract:	\$125,000
Supplemental Budget Request	\$156,700

Our work will be conducted on a time-and-materials basis in accordance with our schedule of charges in effect at the time the work is performed (currently our 2009 Schedule of Charges) and the terms and conditions set forth in the June 25, 2009 Agreement for Professional Services between the City of Hayward Redevelopment Agency (RDA) and AMEC Geomatrix, Inc., with the exception that subcontractor markup will be 10% and a 4% communication charge will not be charged.