



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA

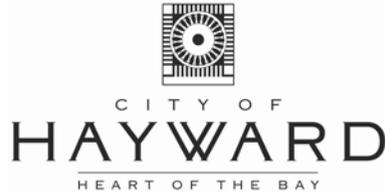
JUNE 14, 2011

**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, JUNE 14, 2011

CLOSED SESSION
Closed Session Room 2B – 5:30 PM

1. **PUBLIC COMMENTS** *(Limited to items agendaized for Closed Session)*
 2. Conference with Labor Negotiators
Pursuant to Government Code 54957.6
 - Lead Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager Morariu, Human Resources Director Robustelli, and Interim Finance Director Stark
 - Under Negotiation: All Bargaining Units
 3. Adjourn to Regular Meeting
-

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

CALL TO ORDER Pledge of Allegiance Council Member Quirk

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PRESENTATION Youth Commission Scholarship Awards

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.)*

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. City of Hayward, Hayward Redevelopment Agency, and Hayward Housing Authority Operating Budget for Fiscal Year 2012 (Continued)
[Staff Report](#)
[Attachment I](#)
[Attachment II](#)
[Attachment III](#)
-

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 CALENDAR

2. Approval of the Minutes of the Special City Council/Redevelopment Agency/Housing Authority Meeting on May 31, 2011
[Draft Minutes](#)
3. Sidewalk Rehabilitation and Wheelchair Ramps FY 2011 – Districts 2 and 3: Approval of Plans and Specifications and Call for Bids
[Staff Report](#)
[Attachment I - Resolution](#)
[Attachment II - Location Map Dist. 2](#)
[Attachment III - Location Map Dist. 3](#)
[Attachment IV - Location Map Dist. 7](#)
4. Adoption of a Resolution Authorizing the City Manager to Execute an Agreement for Workers’ Compensation Claims Administration Services
[Staff Report](#)
[Attachment I: Resolution](#)
5. Downtown Business Improvement Area Annual Report and Proposed Budget for FY 2012
[Staff Report](#)
[Attachment I](#)
[Attachment II](#)
[Attachment III](#)



The following order of business applies to items considered as part of Public Hearings and Legislative Business:

- *Disclosures*
 - *Staff Presentation*
 - *City Council Questions*
 - *Public Input*
 - *Council Discussion and Action*
-

PUBLIC HEARING

6. Public Hearing for City of Hayward, Hayward Redevelopment Agency, and Hayward Housing Authority Operating Budget for Fiscal Year 2012, and the Proposed Capital Improvement Program Budget for Fiscal Years 2012 through 2020

[Staff Report](#)

LEGISLATIVE BUSINESS

7. Approval of Certain Financing for Affordable Housing at the South Hayward BART Station Transit-Oriented Development Project

[Staff Report](#)

[Attachment I](#)

[Attachment II](#)

[Attachment III](#)

[Attachment IV](#)

8. Consideration of Alameda County Redistricting Proposals for the Five Supervisorial Districts

[Staff Report](#)

[Attachment Ia](#)

[Attachment Ib](#)

[Attachment II](#)

[Attachment IIIa](#)

[Attachment IIIb](#)

[Attachment IVa](#)

[Attachment IVb](#)

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

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

ADJOURNMENT

JUNE 14, 2011



3

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 MEETING – 7:00 PM, TUESDAY, JUNE 21, 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: June 14, 2011

TO: Mayor and City Council
Redevelopment Agency Board of Directors
Housing Authority Board of Directors

FROM: City Manager

SUBJECT: City of Hayward, Hayward Redevelopment Agency, and Hayward Housing Authority Operating Budget for Fiscal Year 2012 (Continued)

RECOMMENDATION

That Council and the Agency and Authority Boards of Directors continue their review and comment on the Recommended Operating Budget for Fiscal Year 2012.

BACKGROUND

On May 31, 2011, the City Manager presented the FY2012 Recommended Budgets for the City, the Redevelopment Agency, and the Housing Authority. That process was initiated by the City Manager presenting the budgets with an overview of the financial state of the City, the Agencies, and the Authority. The Interim Finance Director presented the financial information in support of the City Manager's recommended budgets.

Council and the Boards of Directors began discussion of the budget including hearing a presentation by the Police Department on their proposed FY2012 budget and associated work plan. On June 7, 2011, Council continued that process with presentations from Fire, Library, Development Services, Human Resources, City Clerk's Office, and Public Works. Council also heard a presentation of the Capital Improvements Program (CIP) budget. A recap of the presentation/work session schedule can be found at: <http://www.hayward-ca.gov/departments/finance/sfinanceFY2012ROB.shtm>. (Note: Human Resources and City Clerk were heard by Council on June 7, 2011.)

This session is a continuation of that process. Members of Council and the Agency Boards are asked to bring their FY2012 Recommended Budget book as the reference document for this session. A copy of this document can be found at: http://www.hayward-ca.gov/departments/finance/documents/FY_2012_ROB.pdf.

Attached again for Council's reference is an updated presentation of Council Priorities, which incorporate Council's comments from February 22, 2011 (Attachment I). Upon Council's final

approval of the budget, these priorities will be finalized and adopted by staff as the basis for the FY2012 work program. Items may be added or removed as a result of Council comments throughout the budget approval process.

DISCUSSION

Presentations will be made at this meeting by Technology Services, Maintenance Services, the City Attorney's Office, and the City Manager's Office. The presentation of the City Manager's Office will include a review of the recommended funding allocations under Community Promotions.

In addition, because Council approved Social Services funding for FY 2011 and FY 2012 so long ago, a recap of that funding decision is presented below for Council reference. A chart showing the resulting allocations is attached as Attachment II.

Social Services Funding Recap – Council received reports and held a work session on the FY 2011 and FY 2012 Social Services funding recommendations on April 6, 2010; and conducted a Public Hearing on April 20, 2010. <http://www.hayward-ca.gov/citygov/meetings/cca/2010/cca040610.htm> and <http://www.hayward-ca.gov/citygov/meetings/cca/2010/cca042010.htm>

At the April 6, 2010 work session and April 20, 2010 public hearing, the Council discussed and approved transitioning the Social Services funding allocations to a two-year funding cycle in FY 2011 and FY 2012. Furthermore, Council discussed and approved that, subject to funding availability and sub-recipient performance, contracts executed pursuant to Council's FY 2011 allocation to Social Service Funding would be extended for a second year, through FY 2012.

When the HSC established its Social Services Funding Recommendations for FY 2011 and FY 2012, recommended amounts of funding for each agency were expressed as a dollar figure as well as a percentage of overall funding available. This was done in the event Council approved less than \$400,000 for the Social Services Program in the FY 2011 or FY 2012 budgets. This was meant to assist Council in understanding the impact on each agency's funding request should there be less funding available and assuming, in the event of less available funding, Council would want to reduce each agency proportionately.

In response to City-wide resource limitations projected in FY 2012 and beyond, in the budget work session of June 7, 2011, staff recommended that the Social Services Program funding be reduced by 17% as a minimum reduction for FY 2012 consistent with what the entire General Fund is experiencing. For Council's reference, the Social Services funding recommendations for FY 2011 and FY 2012, with an additional column showing the impact of staff's recommended 17% reduction, are appended as Attachment II.

PUBLIC CONTACT

Social Services Funding Recap – A Public Notice was published on Saturday, October 17, 2009, announcing the availability of two-year funds for Social Services projects in FY 2011 and FY 2012 (Attachment III). During that week, paper copies of the Public Notice were mailed to currently funded agencies, previously funded agencies, applicants from previous years, and several hundred

individuals and local agencies with a possible interest in Social Services Program funding. The Public Notice was also posted on the City website.

On November 19, 2009, a Funding Forum and Technical Assistance Workshop was held to officially announce the availability of Social Services Program funds and to provide important information about the City's Social Services funding process to prospective applicant agencies. At that workshop, applicant agencies were notified that two-year funds were being made available for FY 2011 and FY 2012, subject to funding availability in the City's General Fund in each of those fiscal years as approved by Council.

All funding deliberations took place at properly noticed Human Services Commission meetings that were open to the public, and which took place on February 3, 2010 and March 3, 2010. During those deliberations, it was determined that the two-year recommended amounts of funding for each agency would be expressed as a dollar figure as well as a percentage of overall funding available. This was done in the event of less available funding being available in FY 2011 or FY 2012, with the assumption Council would want to reduce each agency's funding allocation proportionately in the event of less available funding in the General Fund.

On Tuesday, April 6, 2010, the City Council conducted its Work Session on the FY 2011 and FY 2012 Social Services Funding Recommendations.

On Tuesday, April 20, 2010, the City Council conducted its Public Hearing on the FY 2011 and FY 2012 Social Services Funding Recommendations, and approved the staff and HSC's two-year funding recommendations as submitted.

SCHEDULE

This concludes the work sessions for Council on the FY 2012 budget. The Council and Boards of Directors are scheduled to hold a Public Hearing on June 14, 2011, with adoption of the budgets scheduled for June 21 or June 28, 2011, as determined by Council.

Prepared and Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Updated Draft Council Priorities
- Attachment II: FY2011 and FY2012 Social Services Funding Recommendations
- Attachment III: Notice of Social Service Program Funding Availability

<u>SAFE</u>	<u>CLEAN</u>	<u>GREEN</u>
<ul style="list-style-type: none"> ✦ Improve public safety in targeted areas <ul style="list-style-type: none"> - Downtown - Neighborhoods (SMASH) - Entertainment areas - Retail areas - Schools - BART Stations ✦ Reduce gang violence in Hayward <ul style="list-style-type: none"> - Develop and implement an improved gang enforcement strategy, including a gang injunction program - Enhance Curfew & Truancy Ordinances - Support gang prevention and intervention programs ✦ Develop School Partnerships <ul style="list-style-type: none"> ✦ Improve Disaster Preparedness and disaster response in the organization and within the neighborhoods ✦ Complete and Adopt Multi-Jurisdictional Local Hazard Mitigation Plan 	<ul style="list-style-type: none"> ✦ Strengthen code enforcement citywide (SMASH) ✦ Implement Neighborhood Partnership Program beyond Phase I ✦ Strengthen and expand KHCG Task Force into neighborhood organizations ✦ Decrease litter in the city ✦ Decrease illegal dumping ✦ Prevention and rapid abatement of graffiti ✦ Improve graffiti prevention through increased use of public art in retail and commercial areas ✦ Control car sales in the Public ROW ✦ Reduce and clean up homeless encampments and address related issues ✦ Eliminate blight throughout RDA 	<ul style="list-style-type: none"> ✦ Continue implementation of the Climate Action Plan ✦ Increase Hayward's sustainability as a community ✦ Fund and implement residential and commercial energy efficiency, photovoltaic, and hot water solar programs ✦ Continue development of residential and commercial energy conservation programs ✦ Position Hayward and gain recognition as a "Healthy City" under the national and state program ✦ Increase use of clean and green energy such as solar photovoltaic and bio-gas to energy production at utility facilities ✦ Increase use of recycled water

NOTE: Red text above indicates activities moved to the top of the priority list by Council motion at meeting of February 22, 2011; blue text above indicates activities moved to the bottom by the same Council action.

<u>Organizational Health</u>	<u>Land Use</u>	<u>Fiscal Stability</u>
<ul style="list-style-type: none"> • Ensure a safe and healthy work environment • Complete implementation of the Computer Aided Dispatch & Records Management System • Select Financial Enterprise/Enterprise Resource Planning (ERP) system and begin implementation • Improve the organization’s ability to apply business process analysis in decision-making • Redesign the City’s WEB page • Continued staff development and succession planning • Develop an employee attraction and retention program • Continue the development, adoption, and maintenance of strategic plans for key functions <ul style="list-style-type: none"> - Finance Functions (develop) - Economic Development (implement) - Police (update & maintain) • Develop and adopt an organizational strategic plan 	<ul style="list-style-type: none"> • Continue implementation of the 238 Settlement Agreement • Resolve all zoning and related issues in the Corridor and develop a 238 Corridor land disposition strategy • Adopt and implement South Hayward BART Form-Based Code • Adopt and implement Mission Boulevard Corridor Specific Plan/Form-Based Code • Improve gateways and corridors • Continue implementation of South Hayward BART TOD Project <ul style="list-style-type: none"> — Secure a lifestyle grocery store for South Hayward — Identify financing/funding strategies and sources • Revise the City’s Sign Ordinance • Update Downtown Plan • Plan for update of the General Plan • Continue implementation of Airport development projects including CA Air National Guard reuse • Continue to implement Historic Preservation Program elements • Develop a housing strategy and implementation plan • Pursue and support City Center Project 	<ul style="list-style-type: none"> • Implement programs to resolve long-term structural deficit • Protect local revenues • Increase community property values <ul style="list-style-type: none"> - Increase academic performance in Hayward schools in partnership with HUSD and the community - Brand, market, and promote the community of Hayward • Strengthen and protect Hayward’s business community <ul style="list-style-type: none"> - Engage in and succeed at aggressive economic development - Protect and promote Hayward's industrial base - Strengthen Chamber & business/industrial partnerships • Seek and secure outside funding <ul style="list-style-type: none"> - Grants - Appropriations - Federal & State programs • Explore Public Facilities Bond Measure; develop supporting data

NOTE: Green text above indicates changes in priority level from last Council discussion either because projects have changed (e.g., So. Hayward BART), or circumstances have changed (e.g., Facilities Bond Measure.)

Social Services Funding Recommendations

App. #:	Agency/Project Name	SS Funding Requested for FY 10-11	SS Funding Received in FY 09-10	FY 10-12 & 11-12 HSC Funding Recommendations	% of total funding	FY 2012 17% Adj.	App. #:
1	Alameda County Community Food Bank	\$25,247	\$20,000	\$20,000	5.00%	\$ 16,600	1
2	Alzheimers Services	\$20,000	\$0	\$0			2
3	ARC of Alameda County	\$20,000	\$0	\$0			3
4	Bay Area Community Services / Hedco House	\$25,000	\$20,000	\$20,000	5.00%	\$ 16,600	4
5	Bay Area Youth Services / Sunny Hills	\$19,680	\$0	\$0			5
6	Bridge of Faith / Meals of Love	\$5,000	\$5,000	\$5,000	1.25%	\$ 4,150	6
7	Calico	\$17,500	\$17,500	\$17,500	4.38%	\$ 14,525	7
8	Community Alliance for Special Education	\$12,000	\$12,000	\$12,000	3.00%	\$ 9,960	8
9	Community Resources for Independent Living	\$35,718	\$35,000	\$30,000	7.50%	\$ 24,900	9
10	CURA	\$20,000	\$0	\$0			10
11	Davis St Family Resource Center	\$15,000	\$15,000	\$15,000	3.75%	\$ 12,450	11
12	EBAC/Child Assault Prevention	\$18,500	\$18,500	\$18,500	4.63%	\$ 15,355	12
13	Eden Housing	\$20,000	\$0	\$0			13
14	Eden Youth and Family Center	\$10,000	\$0	\$10,000	2.50%	\$ 8,300	14
15	Family Paths	\$30,000	\$0	\$0	0.00%		15
16	Hayward Community Gardens	\$15,000	\$5,000	\$0			16
17	Hope for the Heart	\$20,000	\$0	\$0	0.00%		17
18	Horizon Services	\$50,000	\$15,000	\$15,000	3.75%	\$ 12,450	18
19	International Institute	\$10,000	\$7,000	\$7,000	1.75%	\$ 5,810	19
20	LaFamilia/South Hayward Family Resource Center	\$41,420	\$15,500	\$15,500	3.88%	\$ 12,865	20
21	Legal Assistance for Seniors	\$25,000	\$22,000	\$22,000	5.50%	\$ 18,260	21
22	Lincoln Child Center / Kinship Support Program	\$16,540	\$10,100	\$10,000	2.50%	\$ 8,300	22
23	Lions Center for the Blind	\$20,000	\$0	\$11,100	2.78%	\$ 9,213	23
24	Literacy Council	\$20,000	\$10,000	\$10,000	2.50%	\$ 8,300	24
25	Reality Mentor	\$15,000	\$0	\$5,000	1.25%	\$ 4,150	25
26	Salvation Army	\$15,000	\$0	\$5,000	1.25%	\$ 4,150	26
27	SAVE - COPS Program	\$43,000	\$20,000	\$20,000	5.00%	\$ 16,600	27
28	Senior Services Foundation	\$20,000	\$15,000	\$15,000	3.75%	\$ 12,450	28
29	South Hayward Parish / Food Pantry	\$17,000	\$17,400	\$17,400	4.35%	\$ 14,442	29
30	Spectrum Community Services	\$34,000	\$29,000	\$29,000	7.25%	\$ 24,070	30
31	St. Rose/FACES Program	\$25,000	\$25,000	\$25,000	6.25%	\$ 20,750	31
32	Tiburcio Vasquez "Keepin' it Real" Program	\$35,000	\$15,000	\$15,000	3.75%	\$ 12,450	32
33	Tri-City Health Center	\$35,000	\$35,000	\$30,000	7.50%	\$ 24,900	33
34	Volunteers of America	\$85,000	\$0	\$0			34
		\$835,605	\$384,000	\$400,000	100.00%	\$332,000	



**Notice of Funds Available
for Social Service Programs
2-YEAR CYCLE: June 1, 2010 through July 30, 2012**

The City of Hayward announces that the City's Social Services Funding Forum and Technical Assistance Workshop will take place at the time and location identified below. Subject to funding availability, the City allocates funds from its General Fund to support social services for low-income members of the Hayward community. In FY 09-10, the amount of total funds allocated was \$400,000; the amount of funding for the upcoming two-year cycle (FYs 10-11 and 11-12) will be determined as part of the City's overall budget processes for each respective year.

Applicants must be non-profit agencies that propose services that support the Hayward City Council Priorities (www.hayward-ca.gov), and assist low income Hayward residents. Funding will be awarded through a competitive process that considers quality of services proposed, number of residents assisted (directly or indirectly), and cost. Among other requirements, applicants that receive a Social Services allocation must: 1) verify their non-profit, CA corporate status, 2) demonstrate the ability to meet the "local advisory component" requirements of the City, and 3) meet all of the City of Hayward Social Services Minimum Contracting and Reporting Standards.

Applications for Social Services funding will be available Thursday, November 19, 2009. On that day there will be a Funding Forum and Technical Assistance Workshop to officially announce the availability of funds and to provide important information about the City's Social Services funding process. **This is a mandatory meeting for all new and returning applicants.**

**1pm – 3pm
Thursday, November 19, 2009
City Hall, 2nd floor, Council Chambers
777 B Street, Hayward CA 94541**

Accommodations will be provided for those who have disabilities, in compliance with the Americans with Disabilities Act of 1990. Please request accommodations at least 72 hours in advance of the meeting by calling 510/583-4250, or by calling the TDD line at 510/247-3340. Please refrain from wearing scented products to these meetings, as people who have environmental sensitivities may be in attendance.

If there are any questions about the City of Hayward Funding Forum or Technical Assistance Workshop, or any other aspect of the Social Services funding process, please contact Anne Culver at 510-583-4238, or anne.culver@hayward-ca.gov.



**MINUTES OF THE SPECIAL CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF THE CITY OF
HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 31, 2011, 3:30 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Sweeney at 3:30 p.m., followed by the Pledge of Allegiance led by Council Member Henson.

ROLL CALL

Present: COUNCIL/RA/HA MEMBERS Zermeño, Halliday, Peixoto, Salinas,
Henson
MAYOR Sweeney
Absent: COUNCIL/RA/HA MEMBER Quirk

Council/RA/HA Member Quirk entered the Chambers at 3:45 p.m.

PUBLIC COMMENTS

Mr. Albert Proietti, Castro Valley resident, expressed support for the Hayward Municipal Band and hoped it would continue to be funded.

Ms. Lolita Morelli, Hayward Municipal Band Manager, noted the success the band has had since 1957 representing the City at various community events. Ms. Morelli expressed her desire for the band to continue to be funded.

Ms. Eileen Brougham Bond, Seventh Street resident, commented that the Hayward Municipal Band provides good entertainment for families, is a valuable contribution to diverse community, and hoped that it will be able to continue.

Ms. Kathy Catanho, Castro Valley resident and Hayward tax payer, spoke highly of the Hayward Municipal Band and acknowledged Council has to make difficult decisions during difficult times and suggested reducing concert series from six to five in an effort to reduce cost and maintain the great and free entertainment.

Mr. Nicholas Vigil, Blossom Way resident, spoke highly of the Hayward Municipal Band and hoped that the City would be able to support the Band.

BUDGET WORK SESSION

1. City of Hayward, Hayward Redevelopment Agency, and Hayward Housing Authority Operating Budget for Fiscal Year 2012

Staff report submitted by City Manager David and Interim Finance Director Stark, dated May 31, 2011, was filed.

City Manager David provided a synopsis of the report and the Transmittal of the FY2012 Recommended Budgets for the City, the Redevelopment Agency and the Housing Authority.

Mayor Sweeney asked for a recess at 4:03 p.m., to resolve technical difficulties, and reconvened the meeting at 4:15 p.m.

City Manager David introduced Interim Finance Director Stark who in turn presented the budget work session process noting that three budget work sessions were scheduled for May 31, June 7 and June 14, 2011, to provide an overview of the Recommended Operating Budget for Fiscal Year 2012 including presentations by department directors of their respective budget recommendations. She added that a public hearing was scheduled for June 14 and projected the budget's adoption on June 21, 2011. She added that the "Service Delivery Outcomes" section for each department would be completed after the work sessions. Lastly, she provided an overview of the citywide operating funds.

Council Member Quirk referred to the Recommended Operating Budget Fiscal Year 2012 and asked about the funding allocated toward the Hayward Municipal Band under the Community Promotions budget. Assistant City Manager Morariu responded the Community Promotions Program is supported by the General Fund and the Redevelopment Agency (RDA), provided RDA funds are available. Mr. Quirk asked staff to inform the Hayward Municipal Band and other Community Promotions recipients about the availability of funding. Mr. Quirk referred to a letter from the Eden I&R 211 Program and asked for its budget allocation. Ms. Morariu noted that the allocation would be discussed during the City Manager's budget presentation on June 14, 2011. Mr. Quirk referred to the General Fund-Reserve Summary on page 16 of agenda packet and suggested moving money from the Contingencies Fund to the Economic Uncertainty Fund and agreed with staff that the Emergencies Fund is severely underfunded. He appreciated that the staff report showed use of \$4.4M from the Reserve Fund to cover the deficit. He commented that the CalPERS assumed rate of return is unrealistically high, which would cause continued pension problems in the future.

Council Member Henson expressed support for funding the Eden I&R 211 Program and favored further discussion. Mr. Henson referred to the Redevelopment and Housing Authority Discussion on page 10 of the City Manager's Transmittal and asked about the transfer of funds to pay the Supplemental Educational Revenue Augmentation Fund (SERAF). City Manager David noted the SERAF payment was made as advised by the California Redevelopment Association. Assistant City Manager Morariu confirmed for Mr. Henson the transfer of funds from the Redevelopment Agency to the Housing Authority has already transpired. Mr. Henson suggested researching alternatives to CalPERS because of the high pension costs.

Council Member Zermeño asked how the staff reductions would impact City services. City Manager David said the impact to service levels will be addressed by the department directors. Mr. Zermeño favored maintaining the Eden I&R 211 Program and asked if the \$75,000 amount indicated in the Recommended Operating Budget FY 2012 was accurate. Assistant City Manager Morariu said the final budget will reflect the amount that will be allocated for Community



**MINUTES OF THE SPECIAL CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF THE CITY OF
HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 31, 2011, 3:30 p.m.**

Promotions.

Discussion ensued regarding Community Promotions funding and there was consensus that further discussion would occur on June 14, 2011.

In response to Council Member Halliday's inquiry about the Retirement Reserve Fund mentioned in the Recommended Operating Budget Fiscal Year 2012, Interim Finance Director Stark explained the Fund was for the Retirement Incentive Program in 2008 and as the program was completed, the remaining \$522,000 for Fiscal Year 2011 was redistributed back into the Economic Uncertainty Fund and other funds. Ms. Halliday noted that in prior years the Eden I&R 211 was supported through the Social Services funding.

City Manager David confirmed for Council Member Peixoto that, currently, the transfer of \$4.4 million from reserves to operations would result in a balanced budget. He inquired if the balanced budget was contingent on all bargaining units meeting the 13 percent target. City Manager David noted the recommended balanced budget was based on three bargaining unions remaining at five percent. Ms. David explained for Mr. Peixoto that the allocations in the General Fund-Reserve Summary are bound by Council action and thus could be changed at Council's prerogative. Mr. Peixoto favored funding the Eden I&R 211 Program and the Hayward Municipal Band.

Mayor Sweeney asked about the \$6,925,000 in Advances to Redevelopment Agency Fund, under the General Fund-Reserve Summary of the Recommended Operating Budget Fiscal Year 2012. Interim Finance Director Stark confirmed that it is an encumbered amount and a debt to the General Fund.

Police Chief Ace summarized the Police Department budget by highlighting the FY 2011 Department Performance, Significant Changes Planned for FY 2012, and Summary, as presented in the Operating Budget Fiscal Year 2012.

Council Member Henson thanked Police Chief Ace for the department's accomplishments and expressed concern about the staffing levels presented. In response to Mr. Henson's question, Police Chief Ace explained how the New World CAD/RMS system will help alleviate some of the staffing reductions because of its efficiency in the areas of records management, report writing, and geographic information.

Council Member Peixoto commended Police Chief Ace on the accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA) and the productive residential crime meetings. In response to the shift impacts that the loss of six patrol officers represent to the department, Chief Ace said, although the decision would be up to the captains and field operations, the night shift will probably not be impacted. In regards to the impact to downtown incidents or the School Resource Officers (SRO) program, Chief Ace noted that the budget reductions will not impact citywide emergency responses or SRO programs.

Council Member Halliday commended the Police Chief on accomplishments and noted that constituents expressed gratitude for the Police Department's efforts working with limited resources. Police Chief Ace explained the COPS grant is similar but independent to the one received prior. Ms. Halliday hoped the Animal Care Attendant that manages the Volunteer Program can be saved or at least delegate the Program to a staff. Police Chief Ace concurred.

Council Member Salinas congratulated Chief Ace for the CALEA accreditation and mentioned students participating in the Leadership Academy verbalized concern regarding the safety of neighborhoods during the summer. Mr. Salinas expressed support for maintaining the Youth and Family Services Bureau and making sure programs/services that directly affect children and families are protected. Police Chief Ace said the counselors of the Youth and Family Services Bureau are 100 percent grant-funded, and as long as the funding is available, the program will be in place. Chief Ace emphasized that there were no plans to cut programs offered by the Department.

Mayor Sweeney congratulated Chief Ace for the CALEA accreditation and the department's accomplishments. Mayor Sweeney announced that the Budget Work Session will continue on June 7, 2011.

Mayor Sweeney adjourned the Budget Work Session to a Closed Session at 5:49 p.m., and reconvened the special meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Mayor Sweeney reported that Council met with Labor Negotiators pursuant to Government Code 54957.6, and noted that Council took no reportable action.

PROCLAMATION

The Salvation Army Hayward Corps – 86 Years of Service

Mayor Sweeney read the proclamation and proclaimed May 31, 2011 as Salvation Army Hayward Corps Day in the City of Hayward and urged everyone to take time to congratulate the Salvation Army Hayward Corps on 86 years of service to the Hayward community. Mayor Kevin Hardon accepted the proclamation on behalf of The Salvation Army.

PUBLIC COMMENTS

Ms. Flo Samuel, Margaret Drive resident, felt that there was lack of communication regarding the proposed Residential Energy Conservation Ordinance (RECO) and noted that having the information on the website was not sufficient. Ms. Samuels recommended including a bold statement on the next water bill indicating that changes to ordinances or information that affects property/business owners will be included in water bill inserts and to send such inserts sixty days prior the start of a study. She was not in support of the proposed RECO.

Mr. Doug Ligibel, Grand Terrace Drive resident, mentioned property value deterioration has been



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escalating in the downtown area and how this affects revenue to the City. He expressed concern that through budget concessions there is a recommendation to eliminate sworn police officer positions. He noted that this decision will affect crime and retaining and attracting homeowners.

Ms. Heather Reyes, Leonardo Way resident, spoke against a mandatory RECO because of the current economic state and inquired about permits, should RECO become a volunteer program. Ms. Reyes noted that there were not too many cities considering a RECO program. She asked Council to consider the community when reviewing the proposal. Mayor Sweeney noted that the RECO proposal is voluntary.

Mr. Tom Silva, A Street resident and representing the Rental Housing Owners Association of Southern Alameda County, expressed the Association's support for a voluntary RECO and for developing positive voluntary programs that will allow the City to meet greenhouse gas reduction targets. Mr. Silva urged Council to vote in favor of the proposed RECO.

Mr. David Stark, Public Affairs Director for East Bay Association of Realtors, expressed full support of the staff and Council Sustainability Committee's recommendations, that energy efficiency improvements be promoted and be made on a voluntary basis, and that staff work with home owners and partner with real estate professionals in making the changes.

Mr. Jim Drake, Franklin Avenue resident, reported that on Mission Boulevard there was a water box meter with a cracked concrete lid that posed a safety hazard. Mayor Sweeney asked staff to report to Council about the status of the reported hazard and the corrective measures taken.

Mr. Charlie Peters, Main Street resident, provided a letter and supportive materials related to California Partial Zero-Emission Vehicles (PZEV) standards. Mr. Peters asked Council to review the items provided.

Mr. Omar Pacheco, Tennyson High School and Eden Area Regional Occupational Program student, thanked Council Members Zermeño and Henson for their donations, which enabled the class to go to the State conference. He announced the class won the gold medal in law enforcement and crime scene investigating and announced the class will compete nationwide in June 2011.

Ms. Tatiana Tendencia, also representing Eden Area Regional Occupational Program, thanked Council for their support and noted how the class has changed her life.

2. Update on Efforts to Develop a Residential Energy Conservation Ordinance (RECO) for Single-Family Homes

Staff report submitted by Senior Planner Pearson, dated May 31, 2011, was filed.

Development Services Director Rizk presented the item and introduced Senior Planner Pearson who provided a synopsis of the report.

Mayor Sweeney thanked Development Services Director Rizk and Senior Planner Pearson for the good work done by them in staffing the Council Sustainability Committee related to the Residential Energy Conservation Ordinance (RECO).

Council Member Quirk echoed the Mayor's comments and said he appreciated the input from various stakeholders over the last year and a half. In response to Mr. Quirk's inquiry about future loan programs to incentivize homeowners, Development Services Director Rizk responded that the federal program, Property Assessed Clean Energy Program (PACE), is not expected to happen soon, but staff will continue to monitor its progress and explore other programs that could provide financial opportunities for residents. Mr. Quirk urged staff to make sure the measures work in Hayward homes. Mr. Quirk noted that there is a problem with communication and Mr. Rizk mentioned staff will be attending Homeowner Association meetings and engaging the community and contractors to encourage participation in the program.

Council Member Zermeño asked if there were incentives for homeowners wanting to replace front lawns with drought resistant plants. Senior Planner Pearson relayed the question to Utility staff.

Council Member Henson mentioned there are small grants available through Bay Friendly Garden to help transfer a lawn. Mr. Henson agreed with staff's recommendation and mentioned there were Council Sustainability Committee meetings and two special meetings held in the Council Chambers to engage and inform the public, but also favored taking the information to the community. He said homeowners need information about applying for available incentive funds. Mr. Henson mentioned funds might be available through Assembly Bill 14 which has excess monies from the PACE program. Mr. Henson urged the community to consider the incentive programs to perform energy upgrades. In response to Mr. Henson, Senior Planner Pearson noted that staff has developed some energy savings tip sheets for the public that will be online soon. Mr. Henson requested copies for Council Members.

Council Member Halliday said she would like to participate in the RECO program and acknowledged staff and the Council Sustainability Committee for their efforts. Ms. Halliday said the City should continue to encourage residents to make their homes energy efficient and asked if permit fees were calculated into the project costs. Development Services Director Rizk noted permit fees were not included. He addressed the permit question raised during the public comments section, indicating not all of the work would require permits and staff would try to keep permit costs at a minimum and would give residents credit for work previously performed. In response to Ms. Halliday's question as how energy efficiency efforts would interact with historic preservation, Development Services Director Rizk said most of the work would be interior and when cases were not clear, staff would defer to the Historic Preservation Ordinance.

Council Member Peixoto noted that this was an excellent example of public process where information was available and people came forward to speak on the issue. He noted that when he was in the Council Sustainability Committee, he spoke against the RECO because most of the goals



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could be accomplished during the normal course of maintaining and repairing a home. He was glad the RECO came this far and was supportive of the staff recommendation.

Council Member Salinas noted that the level of energy efficiency awareness is present in the community. He mentioned that materials today for upgrades are environmentally friendly. He was glad a large part of the focus was on educating the community and encouraged everybody to regularly visit the City's website for information.

Mayor Sweeney thanked staff and Council and looked forward to the next steps.

CONSENT

3. Approval of Minutes of the Special City Council/Redevelopment Agency/Housing Authority Meeting on May 3, 2011

It was moved by Council/RA/HA Member Henson, seconded by Council/RA/HA Member Halliday, and unanimously carried to approve the minutes of the Special City Council/Redevelopment Agency/ Housing Authority Meeting of May 3, 2011.

4. Approval of Minutes of the City Council Meeting on May 17, 2011

It was moved by Council Member Henson, seconded by Council Member Halliday, and unanimously carried to approve the minutes of the City Council Meeting of May 17, 2011.

5. Park In-Lieu Fee Request for \$308,912.04 for Fiscal Year 2011 from the Hayward Area Recreation and Park District (HARD)

Staff report submitted by Associate Planner Emura, dated May 31, 2011, was filed.

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

Resolution 11-059, "Resolution Approving Request of Hayward Area Recreation and Park District for Allocation of Park Dedication In-Lieu Fees for the Purpose of Improving Handicapped Accessibility and Adding Playground Equipment and Other Improvements at Three Park Sites"

6. Modification to the Preferential Residential Permit Parking Program

Staff report submitted by Director of Maintenance Services McGrath, dated May 31, 2011, was filed.

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

Resolution 11-060, “Resolution Amending Section 3.95 of the Traffic Regulations for the City of Hayward, Concerning the Preferential Residential Permit Parking Program-Regulations”

Resolution 11-061, “Resolution Amending The Master Fee Schedule for the City of Hayward, by Amending Finance, Section B (8) to Establish Initial and Biennial Renewal Fees for Preferential Residential Parking Permits”

7. Opposition to AB 506 (Wieckowski) Local Government Bankruptcy

Staff report submitted by Assistant City Manager Morariu, dated May 31, 2011, was filed.

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

Resolution 11-062, “A Resolution Opposing AB 506 (Wieckowski) Local Government Bankruptcy”

8. Support of S. 781 (Feinstein) Ethanol Subsidy and Tariff Repeal Act

Staff report submitted by Assistant City Manager Morariu, dated May 31, 2011, was filed.

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

Resolution 11-063, “A Resolution in Support of S. 781 (Feinstein) the Ethanol Subsidy and Tariff Repeal Act”

9. Adoption of Ordinance Providing for the Revision of the City of Hayward Municipal Code Chapter 2, Article 3: Board and Commissions and Article 4: Employees to Align the Code with the City Charter and to Reflect Changes to Federal and State Anti-Discrimination Laws

Staff report submitted by City Clerk Lens, dated May 31, 2011, was filed.

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



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Ordinance 11-05, “An Ordinance Providing for the Revision of the City of Hayward Municipal Code Chapter 2, Article 3: Board and Commissions and Article 4: Employees to Align the Code with the City Charter and to Reflect Changes to Federal and State Anti-Discrimination Laws”

PUBLIC HEARING

10. City Councilmember Call-Up of Planning Director’s Approval of Administrative Use Permit PL-2011-0024 for an Exempt Transfer Facility at 30989 San Clemente Street in the Industrial Zoning District for Hazardous and Non-Hazardous Materials – David Buckner of Heritage Environmental (Applicant) / Robert Coussan (Owner)

Staff report submitted by Associate Planner Emura, dated May 31, 2011, was filed.

Development Services Director Rizk provided a synopsis of the report. Mr. Rizk noted there were errors in the staff report that should be corrected as follows: there would be no overnight security and the applicant would develop another plan for secondary containment in loading areas that would not entail a sprinkler system. Mr. Rizk mentioned that Attachment V- Conditions of Approval, is being amended by adding language in bold type and with minor alterations to three conditions. He mentioned receiving an e-mail from Sherman L. Balch, owner adjacent to the property, noting that Mr. Balch does not object to the facility as long as it does not emit odors. Mr. Rizk said the transfer station maintains closed containers and staff relayed this information to Mr. Balch. Mr. Rizk mentioned that Mr. Dave Buckner of Heritage Environmental, Fire Chief Bueno and Deputy Fire Chief Contreras were in attendance.

Mayor Sweeney noted that he appealed the application because of concerns about potential illegal dumping of materials and because the proposed service area would serve all of Northern California. Mayor Sweeney asked staff how the report addresses the potential issues. Development Services Director Rizk indicated that Condition of Approval #21 addressed illegal dumping in the vicinity; the revised condition clarifies that the intent is for the proponent to clean up waste associated with the facility; and service in Northern California is somewhat addressed in the resolution findings. Mayor Sweeney expressed concern that Hayward’s taxpayers will end up picking up the expense for illegal dumping and questioned where other similar transfer stations were located in California.

Council Member Henson thanked Mayor Sweeney for calling-up this item and asked staff about the amount of waste that will be handled. Development Services Director Rizk mentioned the facility does not handle regular household waste and explained there is a ten-day time limit before materials are transported to the disposal facility.

Council Member Quirk pointed out the proposed is a transfer facility that picks up properly contained materials and can only hold materials on-site for no more than ten days. Mr. Quirk posed two questions for the applicant: how many facilities in Northern California, and the number of truck loads. In response to Mr. Quirk's question about potential risks for the containers staying in the trucks overnight, Deputy Fire Chief Contreras said there is always a potential of risk, but stated the facility will be handling materials that are under the threshold of the Hazardous Materials Storage Ordinance.

Council Member Halliday asked if there will be signs identifying the facility as a hazardous waste facility, as she was concerned about people illegally dumping items. Deputy Fire Chief Contreras said it will appear to be a trucking operation behind locked doors under security surveillance and under contract with businesses. He said the City does not have the authority to require the facility to be responsible for anything outside of their property line but that it is desirable to have Heritage work with the City to mitigate any illegal dumping. Development Services Director Rizk confirmed for Ms. Halliday that any impacts to City roads from truck traffic would be minimal.

Council Member Zermeño stated he would prefer the facility take responsibility for cleaning the sidewalk outside the facility.

Deputy Fire Chief Contreras confirmed for Council Member Peixoto that the facility is within the Industrial Zoning Ordinance and the Fire Department is granted authority by the California Environmental Protection Agency (EPA) and Certified Unified Program Agency (CUPA). Council Member Peixoto confirmed that the Fire Department staff is trained as hazardous materials first responders, have the appropriate equipment to deal with hazardous substances, and has the support of regional resources.

Council Member Henson asked about the signage for a mid/high level toxic substance and Deputy Fire Chief Contreras said there is a labeling requirement within the Hazardous Materials Ordinance that requires the building and barrels be labeled indicating the hazard level.

Mayor Sweeney opened the public hearing at 8:50 p.m.

Mr. David Buckner, Regional Vice President for Heritage Environmental Services, noted he has been working with City staff for almost two years and thanked Robert Coussan, property owner at the proposed site, for his support of Heritage's efforts. Mr. Buckner mentioned the company is required to ensure compatibility of materials in the containers and there are two experienced chemists on staff to ensure everything is done correctly. He added there are three competitors located in Sunnyvale, Santa Clara and Rancho Cordova.

In response to Council Member Salinas's question about materials left at the door step, Mr. Buckner noted his business does not have a history of dealing with illegal dumping. Mr. Buckner added that the company strives to remain low-key and does not service walk-in business or residences.

Mr. Buckner confirmed for Council Member Henson that Heritage has not had any accidents while transporting materials, but there was a spill incident in Arizona. Mr. Buckner spoke about working



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with retailers on how to properly package materials and that Heritage employees' double check to ensure the packaging was performed correctly. He said the company, as required by law, cannot open containers or transport mislabeled and/or dented containers.

Council Member Peixoto inquired about corporate office monitoring. Mr. Buckner mentioned there is an annual corporate safety audit and annual corporate compliance audit. He added there is a Regional Environment and Safety and Health Manager on staff, who visits the facilities in California on a monthly basis. Mr. Buckner explained the security measures for the facility and the availability of daily inventory information that is placed in an outside locked box for the Fire Department.

In responding to Council Member Halliday's questions, Mr. Buckner mentioned that all materials picked up in California are transported to the disposal site in Arizona. In response to Ms. Halliday's question about service programs for the community including the high schools, Mr. Buckner said Heritage provides laboratory clean-up operations and clean-up days community programs.

Mayor Sweeney closed the public hearing at 9:06 p.m.

Council Member Quirk thanked Mayor Sweeney for calling up the item as he found the discussion fascinating. He believed that Mr. Buckner represents a good corporate citizen and provided the Mayor's questions were answered, he was in favor of moving the item as his questions regarding compatibility were answered.

There was a motion by Council Member Quirk per staff recommendations and a second by Council Member Zermeño.

Mayor Sweeney commented that calling this item has improved the Conditions of Approval and there is more control in place.

Council Member Henson supported the item and was confident that safeguards were in place. He said it is appropriate to be concerned when considering an operation dealing with hazardous waste.

It was moved by Council Member Quirk, seconded by Council Member Zermeño, and carried unanimously, to adopt the following, subject to the revised Conditions of Approval.

Resolution11-064, "Resolution Approving Administrative Use Permit Application PL-2011-0024, Concerning a Request to Allow an Exempt Transfer Station at 30989 San Clemente Street in the Industrial Zoning District for Hazardous and Non-Hazardous Materials "In Transit" to Treatment/Storage/Disposal Facilities"

11. Increase to Per Mile and Flag Drop Rates for Hayward Taxi Cabs

Staff report submitted by Assistant City Manager Morariu, dated May 31, 2011, was filed.

Assistant City Manager Morariu provided a synopsis of the report.

Mayor Sweeney asked staff to communicate to the taxicab drivers that their poor driving practices have been observed on B Street across BART near Montgomery Street. Assistant City Manager Morariu confirmed that rate changes could come back for Council review and added she will convey the message to the two assigned police officers who monitor the taxicabs in that area.

City Manager David confirmed for Council Member Henson that paratransit rates are set under a contract and would not be impacted by the proposed increase.

Council Member Salinas concurred with Mayor's comments about the unsafe driving practices of the cab drivers in the area.

Mayor Sweeney opened the public hearing at 9:15 p.m.

Mr. Raz Mohammad submitted a speaker card but did not speak.

Mayor Sweeney closed the public hearing at 9:16 p.m.

Council Member Zermeño moved the item per staff recommendation. Council Member Henson seconded the item, with direction to staff to communicate to taxi cabs that City Council has noticed unacceptable driving practices and if they are not corrected, the rates could come back to Council for further review.

It was moved by Council Member Zermeño, seconded by Council Member Henson, and carried unanimously, to adopt the following with direction to staff to communicate to taxi cabs that City Council has noticed unacceptable driving practices and if they are not corrected, the rates could come back to Council for further review.

Resolution 11-065, "Resolution Approving Rate Schedule for Taxicabs"

LEGISLATIVE BUSINESS

12. Adoption of a Resolution of Intention to Approve an Amendment to the City of Hayward Contract with the California Public Employees Retirement System (CalPERS)

Staff report submitted by Human Resources Director Robustelli, dated May 31, 2011, was filed.



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Human Resources Director Robustelli provided a synopsis of the report and noted that Mr. John Bartel with Bartel Associates, LLC was in the audience to serve as an actuary.

Council Member Salinas said he was pleased to see the Survivor Benefit for Spouse and Children included and shared that he and his mother are direct beneficiaries of this type of benefit.

Council Member Halliday commented on the challenges in reviewing the staff report and asked how the death benefit is calculated.

Mayor Sweeney opened the public hearing at 9:24 p.m.

Mr. John Bartel, President of Bartel Associates, LLC from San Mateo, explained that an individual is eligible for a special death benefit when he/she has 20 years of CalPERS service and explained the calculation based on age 50 or below.

Council Member Halliday noted the CalPERS benefits are being paid in full as part of the concession package and asked if this would be in place until the contracts are renewed. Human Services Robustelli noted that it would be part of future negotiations.

Council Member Henson said the concessions noted in the staff report are of tremendous benefit to the City and will save the City \$6.5 million over a two-year period. Mr. Henson thanked the groups that came forward with these concessions.

Council Member Zermeño thanked the Firefighters in attendance for their concessions and their leadership and acknowledged Human Resources Director Robustelli for her efforts.

Human Resources Director Robustelli confirmed for Mayor Sweeney that Fire and Police are paying for their package of additional CalPERS benefits with their concessions, but also reached the 13% target. Mayor Sweeney echoed Council's comments of appreciation for the Police and Fire groups for their leadership and accomplishments at arriving at these concessions.

Mayor Sweeney closed the public hearing at 9:28 p.m.

Council Member Zermeño moved the item and was seconded by Council Members Henson and Quirk.

City Manager David thanked Mr. John Bartel for his participation.

Council Member Quirk acknowledged Police and Fire groups for coming forward with the outstanding concessions and noted how much it was appreciated.

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

Resolution 11-066, “Resolution of Intention to Approve an Amendment to Contract Between the Board of Administration, California Public Employees’ Retirement System and the City of Hayward”

13. Reaffirmation of Fiscal Emergency Facing the City of Hayward

Staff report submitted by Assistant City Manager Morariu, dated May 31, 2011, was filed.

City Manager David provided a synopsis of the report.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 9:31 p.m.

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

Resolution 11-067, “Resolution Reaffirming a Fiscal Emergency for the City of Hayward”

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Salinas reiterated that the “Let’s Do Lunch Hayward” program will set up free breakfast and lunch sites for students under 18 years of age throughout Hayward during summer vacation. He added that the program needs volunteers.

Council Member Halliday, appointee to the Alameda County Mosquito Abatement District, shared that mosquitoes breathe in water and recommended that people pay attention to this.

Council Member Quirk indicated that there will be a delegation from Ghazni Afghanistan and Kabul visiting Hayward on June 9, 2011, at the City Hall Rotunda from 6:00 to 8:00 p.m., and invited all to attend.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 9:36 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward

ATTEST:

Miriam Lens, City Clerk, City of Hayward



CITY OF
HAYWARD
HEART OF THE BAY

DATE: June 14, 2011

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Sidewalk Rehabilitation and Wheelchair Ramps FY2011 – Districts 2 and 3:
Approval of Plans and Specifications and Call for Bids

RECOMMENDATION

That Council adopts the attached resolution approving the plans and specifications for the FY2011 Sidewalk Rehabilitation and Wheelchair Ramps project and calls for bids to be received on July 7, 2011.

BACKGROUND

The Sidewalk Rehabilitation Program for the repair of damaged concrete sidewalks consists of two components. The first is the removal of tripping hazards for sidewalk displacements or offsets up to 1¾ inches. These hazards are removed by saw cutting the uplifted sidewalk panel across the width of the sidewalk to produce a smooth and uniform surface. This trip hazard removal is performed under a separate purchase order contract annually. As part of the scope for that contract, the Contractor submits a report to the City that identifies the locations of sidewalk offsets that are greater than 1¾ inches and cannot be repaired by saw cut. The second component of the Sidewalk Rehabilitation Program removes and replaces, with new concrete, all sidewalk displacements exceeding 1¾ inches. This work is included in this call for bids.

DISCUSSION

This year's program will repair damaged sidewalks in the Orchard - Hayward Hills Area, District 2, and Huntwood - Tyrrell Area, District 3 (see Attachments II and III for project location maps). The project also includes: installation of handicap access ramps; repair of offset or raised concrete curb and gutter; tree trimming; root pruning of existing trees; and planting of new trees. As part of the project, the contractor will retain an arborist to examine the condition of existing trees and inspect all root-pruning work. Based on the preliminary inspection, staff anticipates removing three trees and planting eighty-six new trees in various locations. New trees will be planted where street trees are absent or where an existing tree must be removed because of disease or is in danger of falling. Approximately 260 separate locations of damaged sidewalks will be repaired and approximately seventy-five new wheelchair ramps will be constructed as part of the project. Additionally, fifty-three locations in District 7, which were left over from last year's sidewalk repair program, are included in this year's program.

The program offers the property owner the choice of completing the work themselves or having the repairs done by the City’s contractor with the payment of a flat fee of \$550 per single family property as established by Council in the master fee schedule.

This project is categorically exempt under the California Environmental Quality Act, Section 15301(c) that covers the operation, repair, maintenance or minor alteration of existing streets, sidewalks, and gutters.

FISCAL IMPACT

The estimated project costs are as follows:

Contract Construction	\$ 608,000
Trip Hazard Removal (under different contract)	200,000
Design and Administration	85,000
Construction Survey, Inspection, and Testing	<u>96,000</u>
TOTAL	\$ 989,000

The Recommended FY 2012 Capital Improvement Program (CIP) includes \$900,000 for the Sidewalk Rehabilitation Project in the Street System Improvements Fund. The Recommended FY 2012 CIP also includes \$89,000 in the Gas Tax Fund for the wheelchair ramps construction. The total appropriation for the two projects is \$989,000. Reimbursement from property owners for the sidewalk rehabilitation is estimated to be approximately \$100,000. Transportation Development Act funds will also reimburse the full amount of the wheelchair ramps installation work.

In FY 2009, the City successfully obtained funds through Proposition 1B, which can be utilized for paving and/or sidewalk-related projects. As a result, staff developed and submitted to the State a plan on how to utilize those funds; the plan included several projects incorporated in the FY 2010 CIP and approved as part of that document. However, as a result of lower than expected construction bids, the City has additional funds to spend from the FY 2009 allocation and, therefore, intends to add the FY 2011 Sidewalk Rehabilitation and Wheelchair Ramps project to that list. Per State requirements, in order to add projects to the previously approved list, this staff report needs to clearly define the inclusion of this project on that list.

SCHEDULE

The estimated schedule for this project is as follows:

Advertise for Bids	June 14, 2011
Receive Bids	July 7, 2011
Award Contract	July 26, 2011
Begin Construction	August 22, 2011
Complete Construction	December 5, 2011

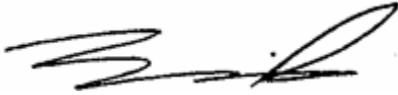
PUBLIC CONTACT

Owners of the affected properties will receive letters regarding the program along with a response form to return to the City indicating if they want to make the repairs themselves or pay the \$550 fee to have the City complete the work. On the response form, property owners are given two payment choices: a \$550 lump sum payment or an installment plan of twelve monthly payments. The response form also includes a choice of replacement trees. Additional outreach methods are being implemented to ensure that all property owners are clearly aware of the program and the options available to them.

Prepared by: Morad Fakhrai, Deputy Director of Public Works

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

Approved by:



Fran David, City Manager

Attachments:

- Attachment I – Resolution
- Attachment II – Project Location Maps – District 2
- Attachment III – Project Location Maps – District 3
- Attachment IV – Project Location Map – District 7

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-_____

Introduced by Council Member _____

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE
SIDEWALK REHABILITATION AND WHEELCHAIR RAMPS FY 2011
PROJECT, PROJECT NOS. 5135 and 5119, AND CALL FOR BIDS

BE IT RESOLVED by the City Council of the City of Hayward as follows:

WHEREAS, those certain plans and specifications for the Sidewalk Rehabilitation and Wheelchair Ramps FY 2011 Project, Project Nos. 5135 and 5119, on file in the office of the City Clerk, are hereby adopted as the plans and specifications for the project;

WHEREAS, the City Clerk is hereby directed to cause a notice calling for bids for the required work and material to be made in the form and manner provided by law;

WHEREAS, sealed bids therefore will be received by the City Clerk’s office at City Hall, 777 B Street, 4th Floor, Hayward, California 94541, up to the hour of 2:00 p.m. on Thursday, July 7, 2011, and immediately thereafter publicly opened and declared by the City Clerk in the Public Works Conference Room, 4D, located on the 4th Floor of City Hall, Hayward, California;

WHEREAS, the City Council will consider a report on the bids at a regular meeting following the aforesaid opening and declaration of same;

WHEREAS, this project is categorically exempt under California Environmental Quality Act Section 15301(c) for the operation, repair, maintenance, or minor alteration of existing facilities.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

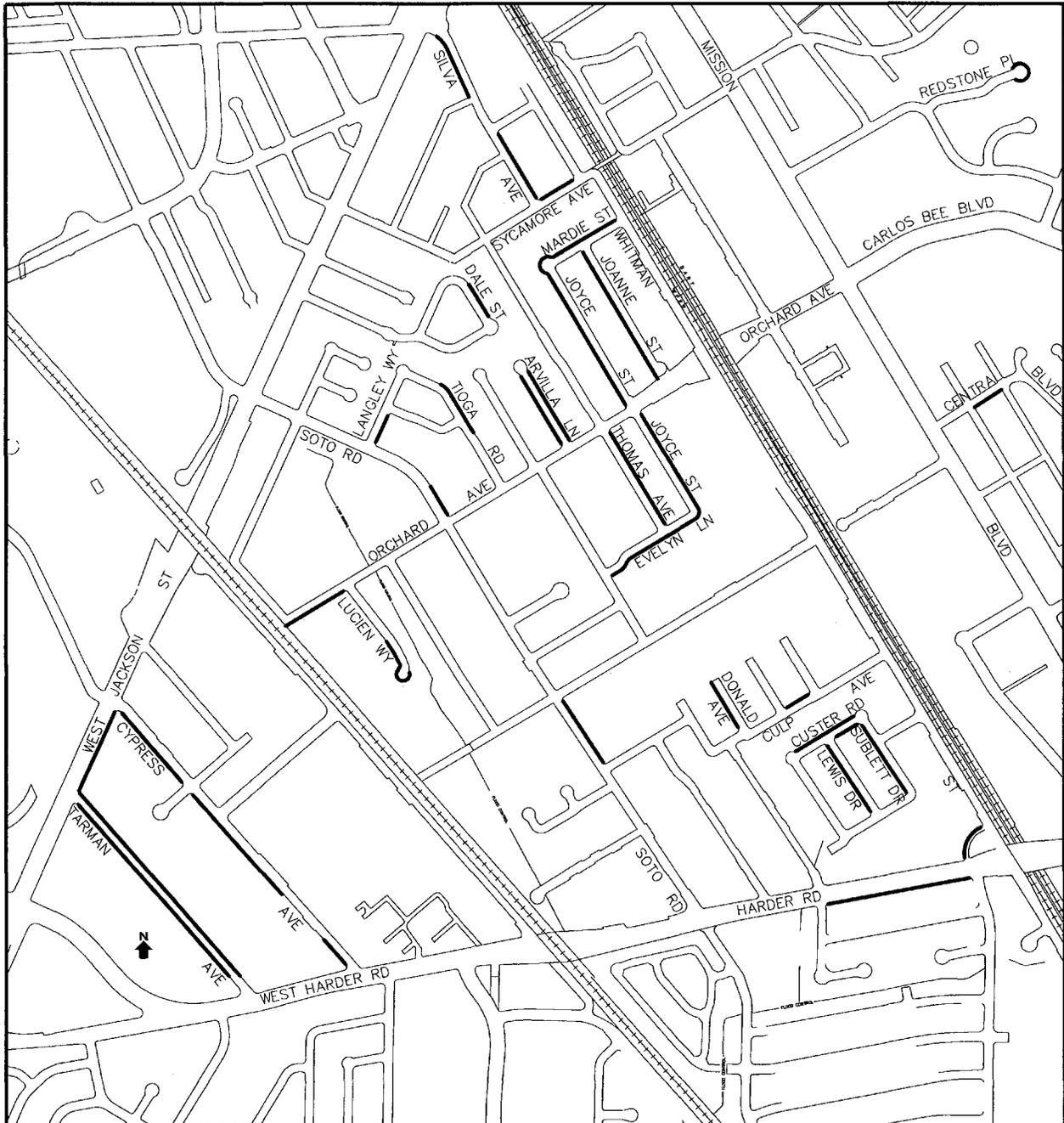
ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

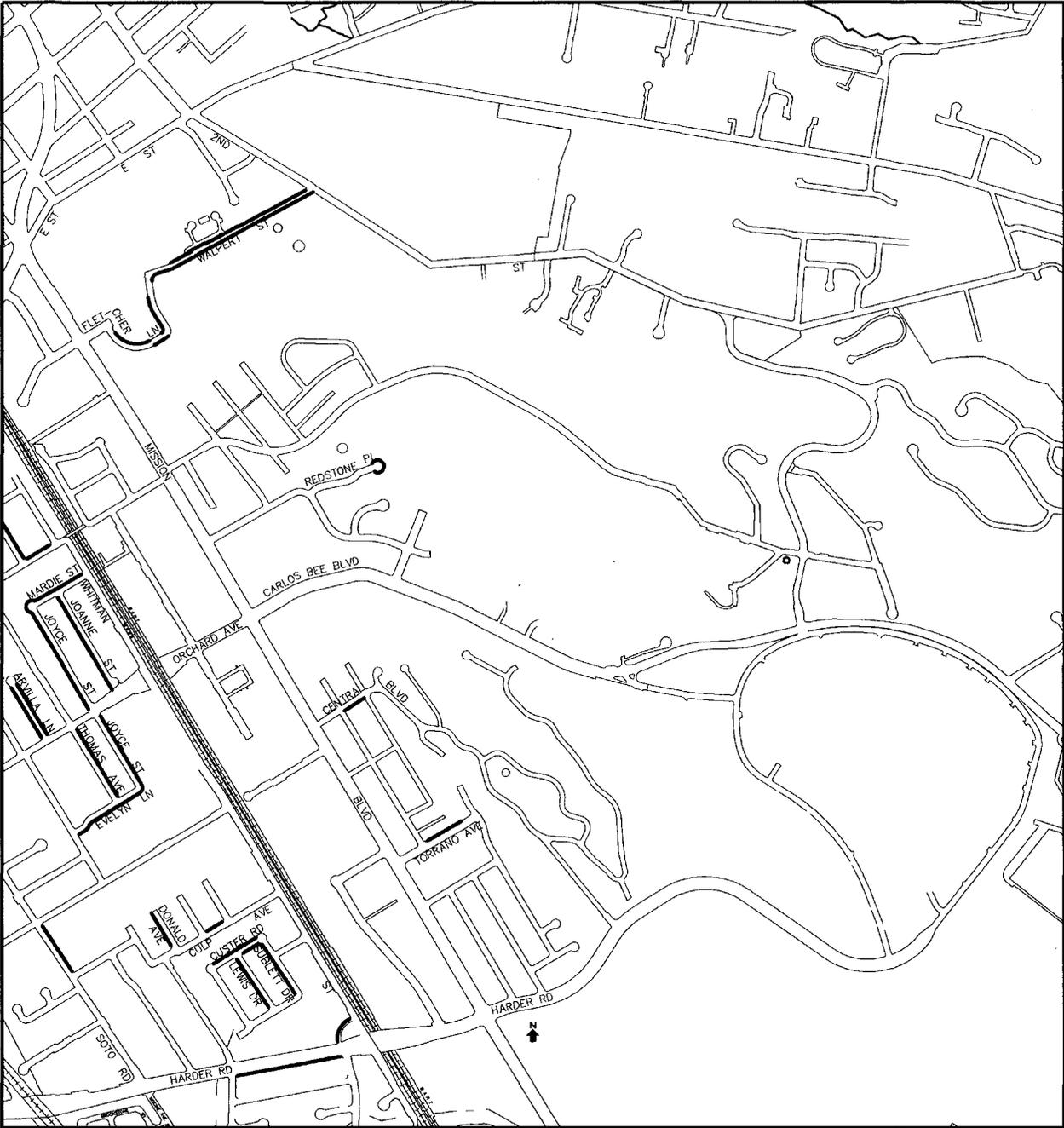
City Attorney of the City of Hayward



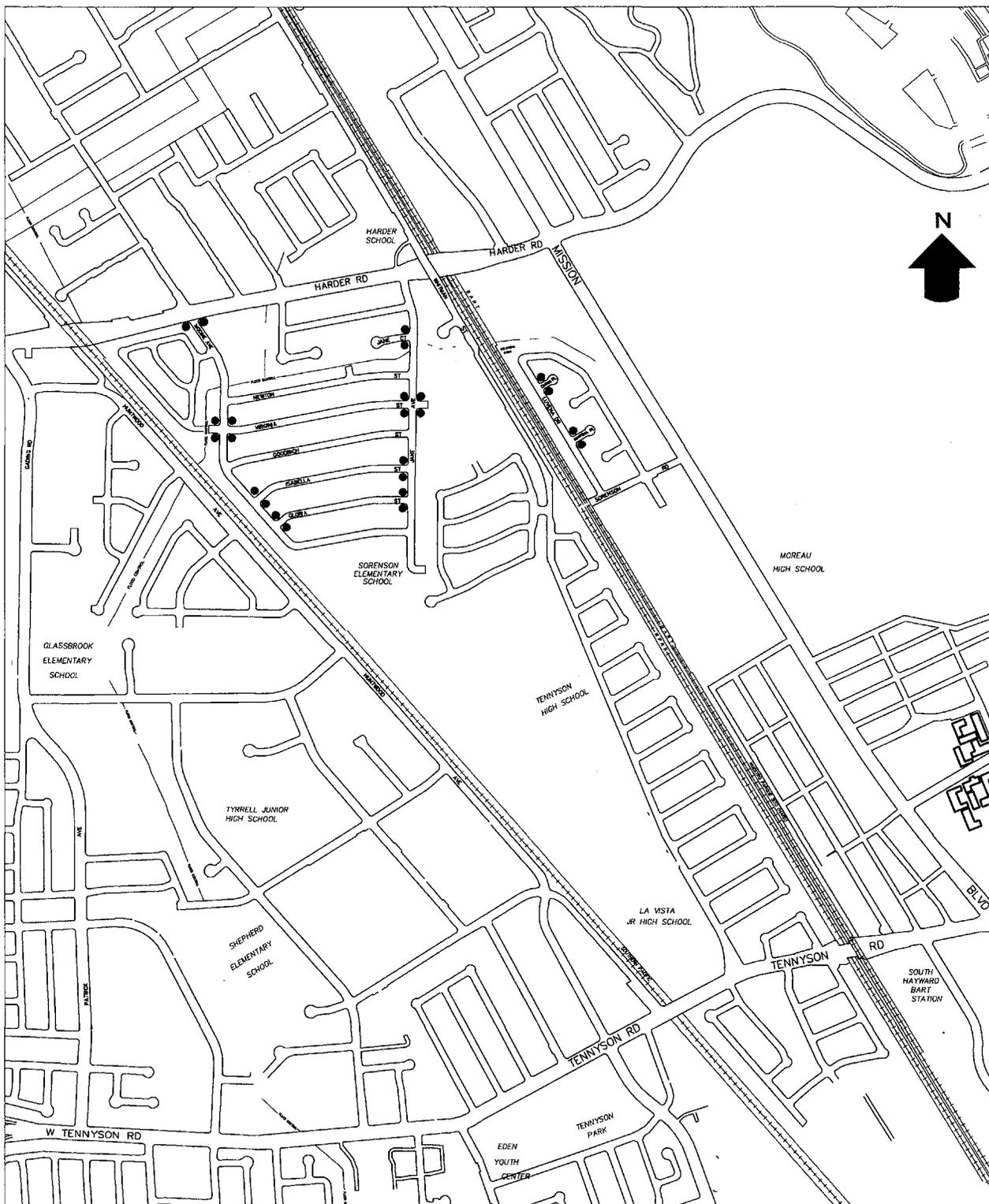
**LOCATION MAP
WHEELCHAIR RAMPS FY11
DISTRICT 2 - PROJECT NO. 5119**



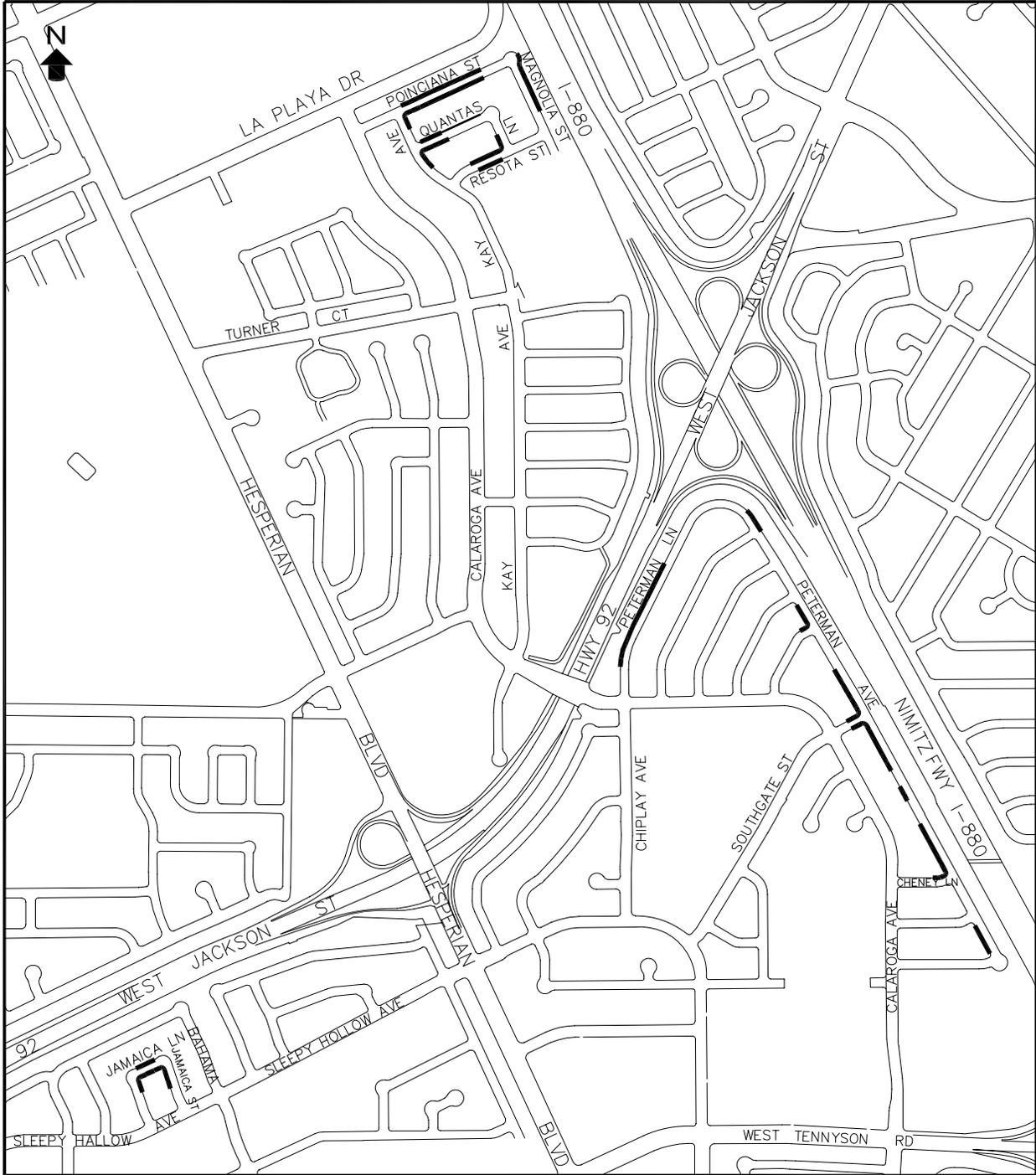
**LOCATION MAP
SIDEWALK REHABILITATION FY11
DISTRICT 2 - PROJECT NO. 5135**



**LOCATION MAP
SIDEWALK HABILITATION FY11
DISTRICT 2 - PROJECT NO. 5135**



**LOCATION MAP
WHEELCHAIR RAMPS FY11
DISTRICT 3 - PROJECT NO. 5119**



**LOCATION MAP
SIDEWALK REHABILITATION FY11
DISTRICT 7 - PROJECT NO. 5135**

DATE: June 14, 2011

TO: Mayor and City Council

FROM: Human Resources Director

SUBJECT: Adoption of a Resolution Authorizing the City Manager to Execute an Agreement for Workers' Compensation Claims Administration Services

RECOMMENDATION

That the City Council adopts the attached Resolution authorizing the City Manager to execute a five-year agreement for workers' compensation administration services with JT² Integrated Resources (JT²).

BACKGROUND

The City of Hayward is self-insured for the Workers' Compensation Program and uses the services of a third party administrator (TPA) for claims administration and statistical analysis of claims and cost. Since 2001, Innovative Claim Solutions, Inc. (ICS) has provided these services to the City. Improving the Workers' Compensation Program and decreasing associated costs is a high priority. As of May 13, 2011, the City of Hayward Workers' Compensation Program currently had 277 open indemnification claims, of which 152 are future medical and an additional 26 are medical only claims.

As part of the City's goal to improve the Workers' Compensation Program and decrease costs, a Request for Proposals (RFP) for TPA services was sent out in February 2011. Proposals were received from ICS, JT², and Corvel. The proposals were reviewed by Department Heads from Human Resources, Police, Fire, Public Works, and Maintenance Services. The evaluation process included rating the written proposals, oral presentations, and reference checks. JT² was identified as the most qualified firm to provide claims administration services.

DISCUSSION

Contracting with JT² for TPA services is anticipated to improve the City of Hayward Workers' Compensation Program in three key areas: technology; return to work program development; and implementation and reduction of workers' compensation overall administrative costs.

JT²'s use of technology and paperless processes will increase the capacity to communicate quickly and stay in compliance with legal reporting procedures. This is especially important to Human Resources staff, as program administrators, to assist in reducing costs and managing the administrative process efficiently. The business model also supports Hayward's Green Business Initiatives.

JT² has a track record of assisting organizations with the development and implementation of a comprehensive and successful return to work program. The City currently needs this proactive element added to its program to be successful in reducing costs. This will be the single most important element of any changes to the program over the course of the next few years and the success depends primarily on effective partnerships between the TPA, medical professionals, Human Resources, department management, and the employees.

The proposed agreement will result in a significant cost reduction in TPA administrative agreement services and bill review savings. The TPA agreement service cost will be reduced by a total of \$204,947 over the five-year period, an average annual savings of approximately \$41,000. The City currently pays \$332,000 annually for the existing TPA agreement. The proposed agreement is for the period of July 1, 2011 through June 30, 2016 and the proposed rates are included in Table 1.

Table 1 – Third Party Administrator Annual Rates

FY	Flat Annual Rate
2012	\$279,000
2013	\$279,000
2014	\$287,370
2015	\$298,864
2016	\$310,819

Another source of savings associated with the change in providers is related bill review services. The proposed agreement uses a flat rate charge for review of medical bills. In FY 2010, the City paid \$248,800 for bill review services on 4,487 medical bills based on a formula that utilized a percentage of savings from bill review. Under the proposed flat rate fee structure of \$39 per bill, the same services would have cost the City \$174,993 and the City would have realized an annual savings of at least \$74,000. Based on historical utilization, this new rate structure could result in a projected \$370,000 total savings over the next five years.

Human Resources staff will work closely with Department Heads, designated staff, and JT² to ensure a smooth transition and to meet the unique training and support needs of each Department. Upon execution of the agreement, JT² will take over the account and all associated claims services effective July 1, 2011.

ECONOMIC IMPACT

There is no direct economic benefit to the community. The contact will result in lower administrative costs for the City, thus conserving taxpayer dollars.

FISCAL IMPACT

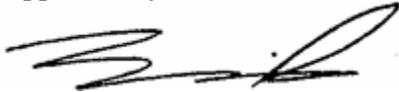
The TPA fees are budgeted in the Workers' Compensation Internal Service Fund, which is adopted annually and included as part of the General Fund Budget. Each fiscal year, departments are charged an internal service fee, which is a percentage of total program costs by job type and calculated based on a prior three-year utilization average. In addition to TPA services, the following items are also part of the Worker's Compensation Fund budget: medical expense; legal services; salary continuation; claim expenses; program related training; and ergonomic equipment and supplies.

In FY 2011, the workers' compensation budget was \$5.5 million. The FY 2012 proposed budget is \$5.8 million. The primary reason for this increase is due to the projected increases for healthcare and large claim settlements. In order to reduce costs associated with workers' compensation, staff is focusing efforts on implementation of processes that will decrease the amount of lost work time as a result of work-related injuries. This includes providing on-going preventative training, ensuring pre-employment physical evaluations are in alignment with actual job requirements, and reducing contractual costs of administering the program.

As outlined in the Discussion section above, over the five-year agreement period, there is a potential cost savings to the City of up to \$574,947¹ as a result of the reduction in contractual costs and fees and bill review fees.

Recommended by: Fran Robustelli, Human Resources Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Resolution Authorizing City Manager to Execute Agreement

¹ This includes the five year estimated savings of \$204,947 for TPA services and \$370,000 for bill review services.

HAYWARD CITY COUNCIL

RESOLUTION NO. 11-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR WORKERS' COMPENSATION CLAIMS ADMINISTRATION SERVICES

WHEREAS, the City of Hayward is self-insured for workers' compensation claims and uses the services of a third party to provide claims administration, legal services, statistical analysis or claims and costs and return to work program development and implementation; and

WHEREAS, the City of Hayward conducted a Request for Proposal process for the provision of workers' compensation claim administration services and JT² Integrated Resources was identified as the most qualified firm to provide these services;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby authorize and direct the City Manager to execute a five-year agreement with JT² Integrated Resources, effective July 1, 2011 through June 30, 2016, 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

DATE: June 14, 2011

TO: Mayor and City Council

FROM: Assistant City Manager/Interim Redevelopment Agency Director

SUBJECT: Downtown Business Improvement Area Annual Report and Proposed Budget for FY 2012

RECOMMENDATION

That the City Council accepts the Downtown Business Improvement Area “Annual Report and Proposed Budget for FY 2012,” and adopts the attached resolution setting a public hearing for June 28, 2011, to consider the Annual Downtown Business Improvement Area assessments.

BACKGROUND

Hayward’s Downtown Business Improvement Area (“DBIA”) was established by the City Council in 1984. The DBIA’s purpose is to promote the economic revitalization and physical improvement of the downtown business district and to attract new business to the downtown.

The DBIA Advisory Board’s Annual Report and Proposed Budget for FY 2012 is attached to this report as Attachment I. The Annual Report is mandated by the state enabling legislation. The Annual Report is required to discuss a variety of topics concerning boundaries, assessments, business classifications, recommended funding from the DBIA assessments, and other sources; and also recommends the DBIA activities for the upcoming fiscal year.

The DBIA’s boundaries and assessments are shown on Attachment I (a) of the Annual Report. This area includes more than 500 holders of Hayward business licenses. Within it are three benefit zones, each with different assessments. State law requires that assessments relate to the amount of benefit derived by the businesses being assessed. Zone 1A, which was adopted by City Council in FY 2001-02, is in the downtown core and has the highest rates, followed by Zone 1 and Zone 2. Business owners pay between \$75 to \$500 per year, depending on location and type of business.

BACKGROUND

Every year, the DBIA Advisory Board recommends an annual budget to the City Council. The annual budget is established to fund activities in the following categories: (1) promotions, which include “Summer Street Parties,” Light up the Season, banners, and promotional activities; (2) communications with DBIA members; and (3) sidewalk steam cleaning. The DBIA collects

approximately \$55,000 from business owners in the DBIA geographic area, and receives a \$55,000 subsidy from the Redevelopment Agency.

This year, the DBIA is at a critical point with the possible elimination of the Redevelopment Agency, which would result in a fifty percent (50%) budget reduction for the DBIA. A budget reduction of this size would severely impact the ability of the DBIA to deliver services. However, even prior to this potentially serious set-back, the DBIA Advisory Board was in the process of evaluating what activities will have the most impact in supporting a vibrant downtown. The DBIA Advisory Board for the first-time developed a “mission/vision statement” to support their funding decisions. The mission statement reads: *“To create a safe, clean, and inviting downtown that supports existing businesses, attracts new businesses, and increases the number of downtown visitors.”* Over the next fiscal year, the DBIA Advisory Board will continue to define their goals, objectives, and strategies and align future allocation of funds to help achieve their mission. (See Attachment II: City of Hayward Downtown Business Improvement District Vision.)

During budget discussions, the DBIA Advisory Board asked the following questions:

- Is the banner program worth the costs, or are there other expenditures that would have a bigger impact on the downtown? The DBIA Advisory Board will decide during the next fiscal year if fewer banner rotations, or alternatives such as flower baskets, would have a greater impact on the streetscape.
- Should there be more frequent pressure washing of area-wide sidewalks, with less cleaning focused on B Street or the downtown core? This year, the pressure washing contract will be re-bid with increased pressure washing of the whole DBIA twice-a- year instead of one-time per year.
- How can Summer Street Parties be improved and attract a broader cross-section of the community? The DBIA Advisory Board requested that the Chamber of Commerce, which sponsors the Summer Streets Parties, improve the event by: increasing activities for families with children; increasing the number of vendors selling retail goods; and decreasing the number of vendors selling services, nonprofit organizations, and government organizations.
- How can DBIA funds be used to address issues of homelessness, and/or loitering? The DBIA Advisory Board would like to explore how they as business owners can work to help reduce the impact of homeless people downtown. The DBIA Advisory Board will explore strategies to address this issue over the coming fiscal year.

Despite the DBIA Advisory Board’s desire to evaluate the use of assessments, the board did not make radical changes to funding recommendations from past years. The DBIA Advisory Board is recommending two budgets, one with a \$55,000 contribution from the Redevelopment Agency, and one without. The allocation of these funds is further described in Attachment I: Annual Report and Proposed Budget for FY 2012.

Proposed Budget FY 2012

Revenues	With RDA Funds	With Out RDA Funds
BIA Assessments	\$ 55,000	\$55,000
Redevelopment Agency Contribution	<u>\$ 55,000</u>	<u>\$0.00</u>
Total Revenues:	\$110,000	\$55,000
Expenses		
Summer Street Parties	\$ 30,000	\$22,500
“Light Up The Season”	\$ 18,000	\$9,300
Banners – Maintenance & Rotation	\$ 13,600	\$3,400
Marketing & Promotions	\$ 17,360	\$5,500
Sidewalk Cleaning	<u>\$ 31,040</u>	<u>\$14,300</u>
Total Expenses	\$ 110,000	\$55,000

FISCAL AND ECONOMIC IMPACT

DBIA assessment revenue is expected to remain static at the \$55,000 level in the upcoming fiscal year. The proposed elimination of Redevelopment Agencies would severely impact the frequency and level of services offered in the DBIA . The DBIA maintains a healthy budget reserve of approximately \$90,000; however, The DBIA Advisory Board is reluctant to spend reserve funds unless the benefits of doing so clearly help achieve their vision and goals of creating a clean, safe, and inviting downtown environment.

PUBLIC CONTACT

The DBIA Advisory Board met on the following dates: January 19, 2011, April 5, 2011, April 20, 2011, and May 18, 2011. These regularly scheduled meetings and the addition of special meetings, allowed the board to hear updates on the Governor’s proposal to eliminate Redevelopment Agencies, develop a mission/vision statement, and develop and approve the FY 2012 budget. On May 18, 2011, a quorum of the board adopted a motion approving the proposed FY 2012 budget.

Staff mailed notice of this Council meeting and the public hearing date to all businesses within the BIA assessment area. In addition, notice of the June 28 public hearing will be published in the Daily Review seven days prior to the public hearing.

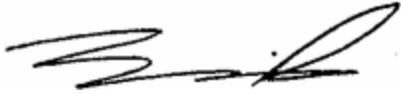
NEXT STEPS

The attached resolution sets a public hearing date of June 28, 2011 to consider the FY 2012 DBIA assessments.

Prepared by: Gloria Ortega, Redevelopment Project Manger

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

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Annual Report and Proposed Budget for FY 2012
- Attachment II: City of Hayward Downtown Business Improvement District Vision
- Attachment III: Draft Resolution

**DOWNTOWN BUSINESS IMPROVEMENT AREA
ANNUAL REPORT AND PROPOSED BUDGET FOR FY 2012**

BACKGROUND:

The Downtown Business Improvement Area (DBIA) was established in 1984. State law requires that an Advisory Board, appointed by City Council, submit an Annual Report identifying the activities, budget, boundaries, and proposed assessments to businesses within the Improvement Area. The report may propose changes, including such items as the boundaries or benefit zones within the area, the basis and method of levying the charges, and any changes in the classification of businesses. The City Council may approve the report as submitted by the Advisory Board or may modify any particular item contained in the report and approve the report as modified.

STATEMENT OF ACTIVITIES AND ACCOMPLISHMENTS FOR FISCAL YEAR 2011:

The DBIA's activities during the current fiscal year were funded by Business Improvement Area assessments, contributions from the Redevelopment Agency, and fund balance reserves from prior fiscal years. The DBIA revenues funded the following categories:

- 1) Promotions and Events: Summer Street Parties and Light Up the Season;
- 2) Downtown Banners: maintenance and rotation of banners located in the DBIA boundaries;
- 3) Newsletters: quarterly communications with DBIA members regarding events, City programs and other relevant news;
- 4) Sidewalk Cleaning: pressure washing DBIA area sidewalks.

The sources of funding and expenditures for fiscal year 2011 were:

2011 DBIA Budget

Revenues	Amount
BIA Assessments	\$ 55,000
Redevelopment Agency Contribution	\$ 55,000
Reserve Funds	\$ 2,140
Total Revenues:	\$112,140
Expenses	
Summer Street Parties	\$ 30,000
"Light Up The Season"	\$ 19,800
Banners – Maintenance & Rotation, New Hardware, & New Banners	\$ 14,400
Publications, Marketing & Promotions	\$ 16,900
Sidewalk Cleaning	\$ 31,040
Total Expenses	\$ 112,140

ACTIVITIES AND ACCOMPLISHMENTS FOR FISCAL YEAR 2011:

All major activities planned for FY 2011, have been, or are scheduled to be, accomplished by the end of the fiscal year and include the following:

“Summer Street Parties”

\$30,000

The Summer Street Parties are organized by the Hayward Chamber of Commerce (“Chamber”) under contract to the DBIA. The Chamber held three Thursday night Summer Street Parties, and a Saturday Art and Wine Festival with twenty-eight vendors selling arts and crafts and five wineries attending. Also in attendance, was City staff with Cinema Place brokers hosting an “open house” for commercial brokers to showcase available spaces at Cinema Place. Brokers did not respond favorably to the open house invitation, and it was decided that future broker events should be held during the week.

The \$30,000 budget for Summer Street Parties includes the costs of the June 22, 2011 Summer Street Party.

The DBIA Advisory Board directed staff to issue a “Request for Proposals” to encourage new ideas for a 2012 “art and wine” type festival. The Request for Proposals was issued on December 29, 2010 with a response date of January 25, 2011. The Chamber was the only vendor to respond. One additional vendor indicated a desire to respond, but found the timing of the response date difficult. The Advisory Board approved funding the Chamber’s Summer Street Parties for July, August September 2011, and June 2012. The Advisory Board, in approving funding requested that the Chamber increase the number of vendors selling arts and crafts, and less vendors selling services, nonprofit organizations, and government agencies.

“Light Up The Season”

\$19,800

This year’s budget for Light Up The Season was reduced from last year’s budget of \$22,000. Over the past several years, the Chamber’s event coordination fee of \$15,500 has been higher than the \$7,500 coordination fee for the Summer Street Parties. The higher amount is in part due to the cost paid by the Chamber of Commerce for entertainment located in downtown businesses. With less funds for the event entertainers who in the past were located indoor at business locations were asked to stroll B Street and City Hall and the plaza area.

Despite less funds, the winter chill and showers, attendance by families was significant. For the third-year the synthetic ice rink sold out early in the evening, giving 154 children a chance to enjoy the experience. Children also had a chance to enjoy the train and tea cup rides, the jump house on Main Street, Santa’s workshop with holiday craft projects, and face painting. As always, Santa was a big hit with 130 pictures taken of approximately 390 people.

Santa Paws Parade

This year’s Light Up the Season was extended to include the Santa Paws Parade on Saturday, December 4, 2010. Light showers did not stop, pet owners and their pets from parading down B Street to the Hayward Main Library. Helen Bignone and her Yorkshire Terrie, who was stolen from her as she walked near her home then returned by a Good Samaritan was the special guest of honor and rode with Mayor Sweeney in a convertible

in the parade. Also honored at the parade was Diamond, the hero dog who saved his Hayward family from a house fire. Awards were given out in the following categories: best dressed pet; holiday dressed pet; owner & pet look alike contest; group entry; just plain cute pet; and the best holiday float (float are anything on wheels!).

The paraded also included the Tap Dancing Xmas Trees, and Hayward Animal Shelter's Pets. Approximately \$2,000 was raised for the Animal Services homeless animal fund.

Banners Rotation, Maintenance & Replacement **\$14,600**

Banners were rotated four times: winter – spring displaying “Celebrating Hayward Performing Arts”; spring-summer – displaying “United in Diversity”, summer – fall: “Discover Downtown”, and winter – “Holiday” banners. The number of banners hung each season is compromised by aging, broken and missing hardware. The DBIA Advisory Board elected not to replace or repair hardware until the completion of RT 238, which will remove at least 40 to 50% of the hardware as a result of the installation of new light poles.

Newsletters **\$16,900**

The DBIA Advisory Board adopted the Chamber of Commerce's proposal to produce four quarterly DBIA newsletters for the DBIA business members. The Chamber produced one newsletter and is planning to issue a second newsletter in June. Funds reserved for additional downtown promotions, which included the Open House for brokers at Cinema Place did not require the additional funding reserved in this line-item. Funds not spent will be returned to the operating reserve.

Sidewalk Cleaning **\$26,945**

Sidewalks were pressure washed in the entire DBIA in late spring with a second cleaning in early fall along B Street between Watkins Street and Foothill Boulevard. For the area on B Street from Foothill to Watkins, sidewalks were spot cleaned (with a pressure washer) three times a week. Black decorative garbage cans were pressure washed every three months, and in support of the weekly Farmers Market, City Hall plaza is pressured washed once per month.

The Annual Report addresses the following six topic areas:

1. PROPOSED BIA BOUNDARY CHANGES DURING FY 2012

The Advisory Board is proposing no changes to the boundaries at this time.

2. STATEMENT OF PROPOSED BUDGET AND ACTIVITIES FOR FY 2012

With the threat of the potential elimination of Redevelopment Agencies, the DBIA Advisory Board is recommending two budgets, one with the \$55,000 contribution from the Redevelopment Agency and one without the contribution. If Redevelopment Agency is eliminated, activities for FY 2012 will be funded solely through annual business improvement area assessments. DBIA Assessments are expected to remain at the same level in FY 2012 as in the current year. Given the unstable economic climate, the Board does not recommend an increase in assessment fees. The Board also elected not to allocate funds from their budget reserves. In the past budget

reserves have been limited to the capital expenditures such as new banners, hardware, and/or permanent holiday decorations.

2012 DBIA Budget

REVENUES	FY 2012	FY 2012
DBIA Assessments	\$ 55,000	\$ 55,000
Redevelopment Agency Contribution	\$ 55,000	\$ -
Total Revenues	\$ 100,000	\$ 55,000
EXPENSE ITEM		
Summer Street Parties *	\$30,000	\$22,500
Light Up The Season	\$18,000	\$9,300
Decorative Banners	\$13,600	\$3,400
Marketing & Promotions	\$17,360	\$5,500
Sidewalk Cleaning Contract*	\$31,040	\$14,300
Total Expenses	\$110,000	\$ 55,000

PROPOSED ACTIVITIES FOR FISCAL YEAR 2012:

“Summer Street Parties” **\$30,000 – Reduced Budget: \$22,500**
 Four Summer Street Parties were approved which would include a June 2012 Summer Street Party. The Advisory Board recommended that Street Parties included more vendors with retail and less service-type businesses and nonprofits.

At the reduced budget amount, one of the four Street Parties would be eliminated.

“Light Up The Season” **\$18,000 – Reduced Budget: \$9,300**
 With fewer funds available for this event, it was proposed that activities be concentrated in and around City Hall. It was also noted that many of the B Street merchants do not participate in Light Up The Season festivities so concentrating activities to smaller location would not decrease the benefit of the event

A reduced budget would result in fewer activities for this seasonal event.

Decorative Banners: **\$13,600 – Reduced Budget: \$5,500**
 Four seasonal rotations will occur with planned interruptions during the RT 238 construction. The Advisory Board will need to evaluate a hardware replacement strategy for the FY 2013 budget. Some members of the Advisory Board are questioning the value of banners, and whether or not they add value to achieving the Advisory Board’s vision of “To create a safe, clean, and inviting downtown, that supports existing businesses, attracts new businesses, and increases the number of downtown visitors.”

A reduced budget would result in one banner rotation.

Marketing, Promotions, Clean & Safe Strategies: \$17,360 - Reduced Budget: \$5,500

Funds will be reserved for newsletter and other forms of communications with business owners in the assessment district. Other funds will be allocated toward activities that help achieve the Advisory Board’s vision for the downtown, and could include strategies to address homeless issues.

A reduced budget would limit the number of newsletters and/or promotion activities.

Sidewalk Cleaning Contract: \$31,040 - Reduced Budget: \$14,300

To increase the benefits of pressure washing throughout the DBIA, the DBIA Advisory Board requested that sidewalks in the entire DBIA, be cleaned twice-a-year instead of one-time a year, and decrease “spot” cleaning of B Street from three times weekly to two-times weekly. Other services would include: continued steam cleaning of City Hall Plaza monthly in exchange for on-going Farmers Market; and pressure washing of decorative garbage cans twice yearly.

3. PROPOSED BUDGET EXPENDITURES 2012

As noted above the total proposed budget for FY 2012 is \$110,000, or \$55,000 if the Redevelopment Agency is eliminated.

4. PROPOSED METHOD AND BASIS FOR LEVYING DBIA ASSESSMENTS

The DBIA zones and levy (fee structure) are indicated on Attachment I-(a) of this report. No changes are proposed at this time.

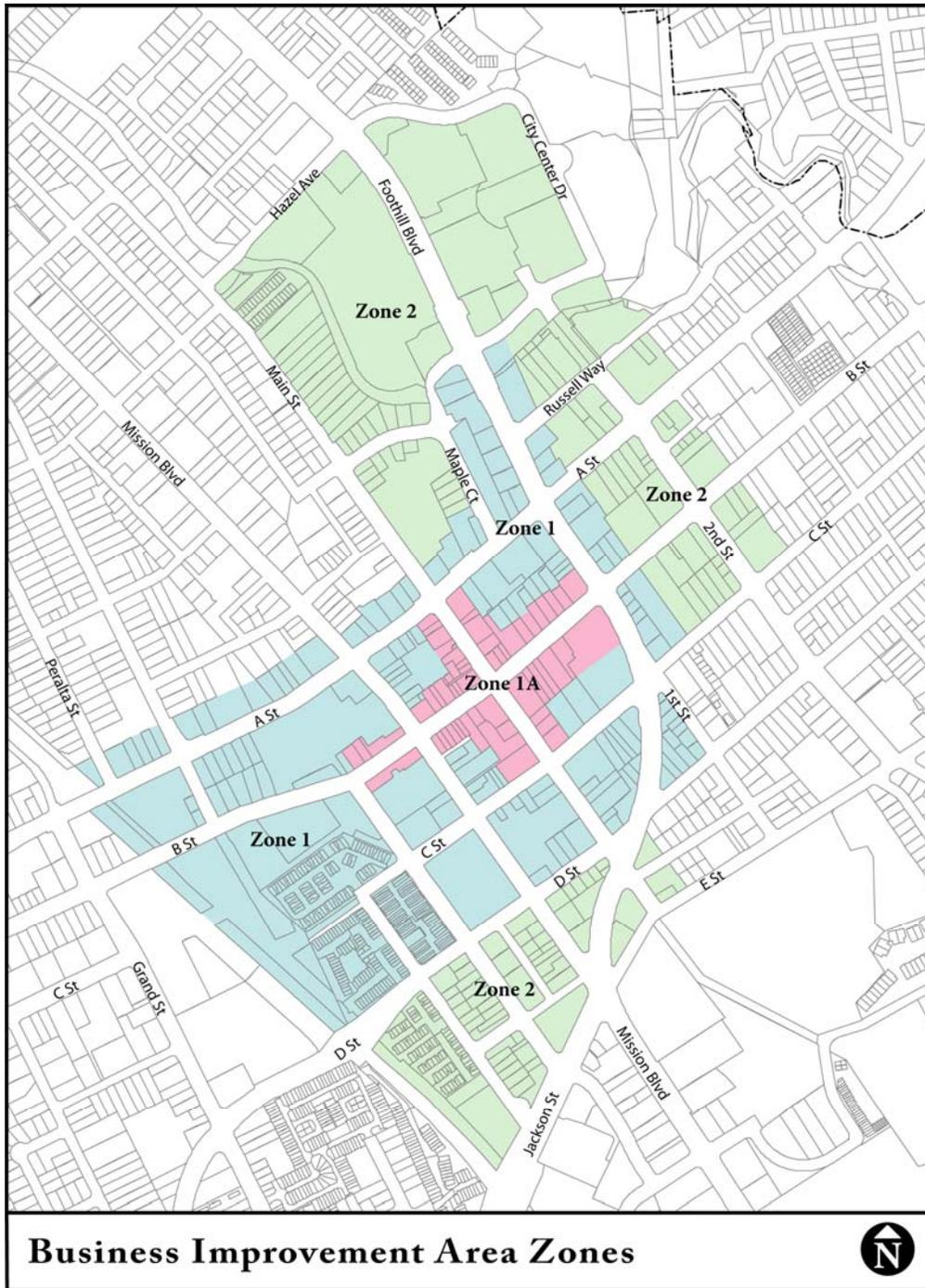
5. CONTRIBUTIONS FROM OTHER SOURCES

Other proposed sources of contribution for FY 2012 include a Redevelopment Agency contribution of \$55,000. If Redevelopment Agencies are eliminated, the \$55,000 Redevelopment Agency contribution would be eliminated as well, reducing the budget to \$55,000.

6. CLOSING STATEMENT OF THE BOARD

The DBIA Advisory Board is looking forward to continued progress and cooperation with the downtown merchants and the City in the upcoming year.

Business Improvement Area Zones



Services	Zone 1A	Zone 1	Zone 2
Banners	√	√	√
Holiday Wreaths	√		
Street Parties, LUTS, Parade, etc.	√		
Side Walk Cleaning (Twice)	√	√	√
Side Spot Cleaning (B St – 2x Weekly)	√		
BIA Members News Letter	√	√	√

BIA FEE STRUCTURE

All businesses classified as PROFESSIONAL SERVICE AND MISCELLANEOUS NON-RETAIL which are located in **Zone 1A** shall pay a flat fee of \$125.00 per year. **Zone 1** is a flat fee of \$75.00 per year.

All businesses classified as FINANCIAL which are located in **Zone 1A** shall pay a flat fee of \$325.00 per year. **Zone 1** is a flat fee of \$200.00 per year.

All businesses classified as PROFESSIONAL SERVICE AND MISCELLANEOUS NON-RETAIL which are located in **Zone 2** shall pay a flat fee of \$75.00 per year.

All businesses classified as FINANCIAL which are located in **Zone 2** shall pay a flat fee of \$200.00 per year.

All businesses classified as RETAIL shall pay an assessment based on the following gross receipts schedule:

GROSS RECEIPTS	ZONE 1A	ZONE 1	ZONE 2
Less than \$100,000	\$145.00	\$120.00	\$90.00
\$100,001 - \$150,000	\$175.00	\$150.00	\$115.00
\$150,001 - \$200,000	\$205.00	\$180.00	\$135.00
\$200,001 - \$300,000	\$255.00	\$230.00	\$175.00
\$300,001 - \$400,000	\$305.00	\$280.00	\$210.00
\$400,001 - \$500,000	\$355.00	\$330.00	\$250.00
\$500,001 - \$750,000	\$425.00	\$400.00	\$300.00
\$750,001 - \$1,000,000	\$495.00	\$400.00	\$300.00
\$1,000,001 and up	\$525.00	\$400.00	\$300.00

City of Hayward Downtown Business Improvement District

Vision

To create a safe, clean, and inviting downtown environment that supports existing businesses, attracts new businesses, and increases the number of downtown visitors.

Goals (specific priorities)	Objectives (how we measure goals)	Strategies (how we achieve goals & objectives)
<p>Utilize Assessment Fees to the Maximum Benefit of Downtown Business Owners</p>	<ul style="list-style-type: none"> · New contract to include “measures” to evaluate success · Report from the Revenue Department to determine how this could be done. 	<ul style="list-style-type: none"> · Increase Advisory Board with “over-sight” of contracts for services. Contractors should report to the committee on a regular basis (when appropriate) so quality of services can be evaluated. · Have more frequent Advisory Board meetings. The Advisory Board should meet once a month to allow more frequent and consistent feed-back from contractors, Downtown Ambassadors, and/or other stakeholders. · Survey existing businesses to ensure that all businesses have city business licenses, and are paying assessment fees. · Evaluate the current assessment fee structure to determine if all businesses are paying a fair share of fees. · Determine if there is a way to assess vacant spaces that have been vacant for more than a year. · Increase connection/communications between DBIA and big and small businesses.
<p>Maintain a Clean and Safe Downtown</p>		<ul style="list-style-type: none"> · Beautify downtown with flower baskets, lighting, and other amenities. · Continue and increase the use of downtown ambassadors. · Promote an expansion of the assessment district to property owners when the DBIA has a clear vision for the downtown and services delivered to support the vision.

Goals (specific priorities)	Objectives (how we measure goals)	Strategies (how we achieve goals & objectives)
<p>Maintain a Clean and Safe Downtown (continued)</p>		<ul style="list-style-type: none"> · Increase communication with other downtown stakeholders so that DBIA members are aware of downtown conditions. · Make sure downtown is clean, “walk-able”, and bicycle friendly. · Improve signage designating parking areas
<p>Increase the Number of Downtown Visitors</p>		<ul style="list-style-type: none"> · Develop strategies to get Cal State East Bay and Chabot College students downtown. · Develop a clear “picture” (brand/niche) of who Hayward is. · Have events that attract younger people (18-25).

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION ACCEPTING ANNUAL REPORT AND
DECLARING INTENTION TO LEVY ANNUAL
ASSESSMENTS FOR THE DOWNTOWN HAYWARD
BUSINESS IMPROVEMENT AREA FOR THE FISCAL
YEAR 2012 AND PROVIDING FOR NOTICE OF
HEARING THEREON

BE IT RESOLVED by the City Council of the City of Hayward, as follows:

1. On September 18, 1984, the City Council established the Downtown Hayward Business Improvement Area pursuant to section 36500 et seq. of the Streets and Highways Code of the State of California, which was commonly known as the Parking and Business Improvement Area Law of 1979 and, as now codified, is commonly known as the Parking and Business Improvement Law of 1989.

2. The Advisory Board for the Downtown Hayward Business Improvement Area prepared an annual report for the fiscal year July 1, 2011 to June 30, 2012, on behalf of the Downtown Hayward Business Improvement Area pursuant to section 36533 of the California Streets and Highways Code, which report, on file in the office of the City Clerk, is hereby accepted by the City Council. Said report may be referred to for the particulars as to the detailed descriptions of improvements and activities to be provided, the charges to be levied, the benefit zones within the area, the proposed charges to be levied on businesses, and exact boundaries of the area.

3. It is the intention of the City Council to levy and collect the charges within the Downtown Hayward Business Improvement Area for the fiscal year 2011 as set forth in the annual report or such report as hereafter modified. The charges may be used for parking facilities serving the area, decoration or music or advertising public events in public places in the area, and to promote business activities in the area. The area is generally described on the map attached hereto as Attachment III-a.

4. Notice is hereby given that Tuesday, June 21, 2011, at the hour of 7:00 p.m., in the regular meeting place of this City Council, 777 B Street, Hayward, California, a hearing will be held on the question of the levy of the proposed charges, at which time written and oral protests may be made in compliance with sections 36524 and 36525 of the Streets and Highways Code.

5. The City Clerk shall cause notice of hearing to be given by publishing a copy of this resolution in The Daily Review, a newspaper published and circulated in the City of Hayward, at least seven days prior to the date of the hearing specified above.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

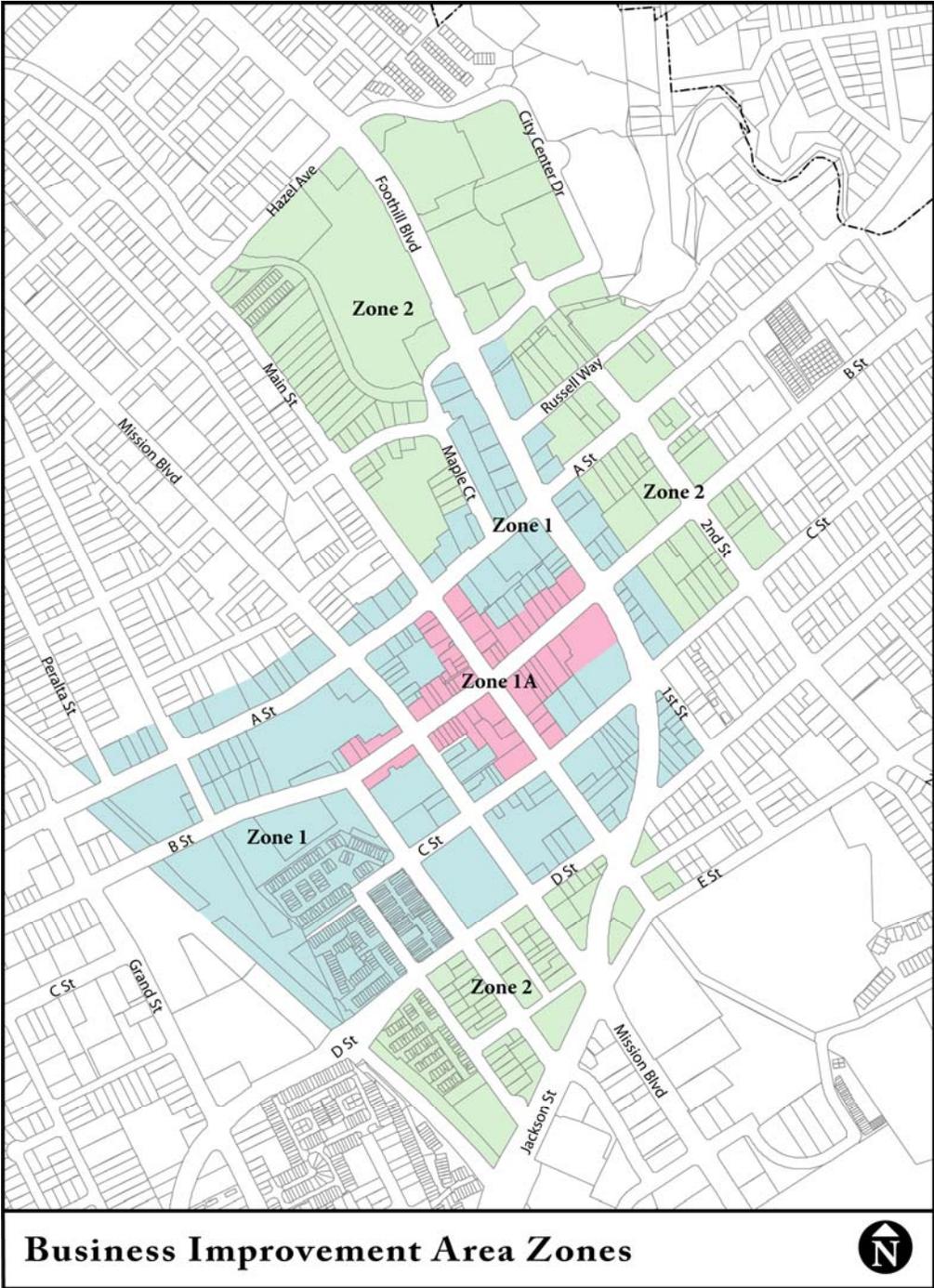
ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Business Improvement Area Zones



Services	Zone 1A	Zone 1	Zone 2
Banners	√	√	√
Holiday Wreaths	√		
Street Parties, LUTS, Parade, etc.	√		
Side Walk Cleaning (Annual)	√	√	√
Side Walk Cleaning (Second)	√		
Side Spot Cleaning (B St – 3x Weekly)	√		
BIA Members News Letter	√	√	√

BIA FEE STRUCTURE

All businesses classified as PROFESSIONAL SERVICE AND MISCELLANEOUS NON-RETAIL which are located in **Zone 1A** shall pay a flat fee of \$125.00 per year. **Zone 1** is a flat fee of \$75.00 per year.

All businesses classified as FINANCIAL which are located in **Zone 1A** shall pay a flat fee of \$325.00 per year. **Zone 1** is a flat fee of \$200.00 per year.

All businesses classified as PROFESSIONAL SERVICE AND MISCELLANEOUS NON-RETAIL which are located in **Zone 2** shall pay a flat fee of \$75.00 per year.

All businesses classified as FINANCIAL which are located in **Zone 2** shall pay a flat fee of \$200.00 per year.

All businesses classified as RETAIL shall pay an assessment based on the following gross receipts schedule:

GROSS RECEIPTS	ZONE 1A	ZONE 1	ZONE 2
Less than \$100,000	\$145.00	\$120.00	\$90.00
\$100,001 - \$150,000	\$175.00	\$150.00	\$115.00
\$150,001 - \$200,000	\$205.00	\$180.00	\$135.00
\$200,001 - \$300,000	\$255.00	\$230.00	\$175.00
\$300,001 - \$400,000	\$305.00	\$280.00	\$210.00
\$400,001 - \$500,000	\$355.00	\$330.00	\$250.00
\$500,001 - \$750,000	\$425.00	\$400.00	\$300.00
\$750,001 - \$1,000,000	\$495.00	\$400.00	\$300.00
\$1,000,001 and up	\$525.00	\$400.00	\$300.00

DATE: June 14, 2011

TO: Mayor and City Council
Redevelopment Agency Board of Directors
Housing Authority Board of Directors

FROM: Interim Director of Finance
Public Works Director

SUBJECT: Public Hearing for City of Hayward, Hayward Redevelopment Agency, and Hayward Housing Authority Operating Budget for Fiscal Year 2012, and the Proposed Capital Improvement Program Budget for Fiscal Years 2012 through 2020

RECOMMENDATION

That Council receives the City Manager's Recommended FY 2012 budgets for City operations, the Redevelopment Agency, the Housing Authority, and the proposed Capital Improvement Program budget for Fiscal Years 2012 through 2020; conducts a Public Hearing on each; and that following public testimony, the Council and Agency Board Members review and comment on:

- City of Hayward, Hayward Redevelopment Agency (RDA), and Hayward Housing Authority Recommended Operating Budget for FY2012; and
- Proposed Capital Improvement Program Budget for FY2012 through FY2020

BACKGROUND

On May 31, June 7, and June 14, 2011 the City held Council, Agency, and Authority budget work sessions. Those work sessions included formal presentations of both the recommended operating and proposed capital improvement program budgets, a time for public input, Council discussion, and responses by Department Heads to specific budget questions.

On April 27, the Council Budget and Finance Committee reviewed and discussed the CIP. On May 12, the Planning Commission held a public hearing and found the document in conformance with the General Plan. On June 7, the Council reviewed the CIP along with the operating budget in work session. The highlights of this year's proposal can be found in the City Manager's letter in the front of the document.

Tonight's meeting has been advertised and specifically set aside time to receive further public input and, upon closure of the public hearing, receive Council comments and direction to staff. This report captures any significant changes to each of the above budget elements, which may have occurred as a result of Council input during the May 31 or June 7 dates or staff preparation between May 31 and the writing of this report.

Any further budget changes occurring as a result of Council input during the June 14 work session or staff preparation subsequent to June 14 will be submitted for Council consideration in the June 21, 2011 staff report related to adoption of the FY2012 budget.

As a reminder to Council, the Social Services funding allocations for FY2012 were approved through the FY2011 budget approval process. They are again summarized for Council in the work session tonight. Any changes made by Council will be captured in the budget presented for adoption on June 21, 2011.

The Community Promotions funding allocations for FY2012 will be reviewed as part of the City Manager's Department presentation during the work session tonight. Any changes made by Council will be captured in the budget presented for adoption on June 21, 2011.

DISCUSSION

I. City Of Hayward Recommended General Fund Operating Budget

Subsequent to publishing the City of Hayward's Recommended Operating Budget, some changes have been identified and are outlined below.

General Fund Expenditures

- Police Department – Estimated Expenditure Reduction \$690,000

Department's Proposed Changes:

- As a result of continued discussions with the Police Officers Association, a concession has been arrived at that will reduce Police Department overtime from \$2,263,623 to \$1,573,623; a reduction of \$690,000 for FY2012.

Budget Impact:

- Police Department's "Net Staffing Expense" and the overall General Fund expenditures will be reduced by \$690,000.

- Fire Department – No Budget Impacts; Program Impacts are described below.

Department's Proposed Changes:

- At Council's direction on June 7, 2011, the City Manager and the Fire Chief reviewed the staffing needs of the Fire prevention Office, Hazardous Materials Program. Understanding Council's concern about balancing the protection of the City's CUPA standing with the need to achieve budget savings, Fire Command staff spent considerable time in communication with Cal-EPA program staff discussing various options for staffing within the requirements of the Cal-EPA CUPA program.

The City Manager also spent time reviewing the results of the last three Cal-EPA audits, which Cal-EPA is required to conduct every three years. The last audit was conducted in February 2010. That audit indicated that the City of Hayward's program dropped from "Meets or Exceeds Standards" in 2007 to "Satisfactory" in 2010.

Based on the research conducted and the resulting discussions, the City Manager is recommending that the two Hazardous Materials staff positions originally identified by the Fire Department in the FY2012 City Manager's Recommended Budget as reductions for FY2012 not be eliminated at this time. In FY2012, the Fire Department will be reviewing the Hazardous Materials program and assessing different alternatives for assuring that we are achieving maximum efficiency and customer service levels in that program, covering all costs, and protecting and enhancing our CUPA standing/designation through expanded program and technical knowledge. They will also assess what is needed to bring our performance assessment up to "Meets or Exceeds Standards" or higher by the next audit. Program changes, if any, resulting from this analysis will occur during or before the FY2013 budget process.

The amount of General Fund savings originally anticipated by the proposed reductions was approximately \$330,000. This will now be accomplished by a reduction in budgeted overtime for mutual aide (\$150,000) and by careful management of and reduction in general departmental overtime (\$180,000).

Enterprise Fund Expenditures

- Public Works Department – *Hayward Executive Airport Division*

Estimated Expenditure Reduction: \$200,000

Department's Proposed Changes:

- Public Works Department is reducing the Airport's Transfer Out amount from \$1.2 million to \$1.0 million to reconcile with the amount reflected in the Capital Improvement Program budget for the Airport.

Budget Impact:

- o Hayward Executive Airport and the overall Enterprise Fund total outlay will be reduced by \$200,000.

FISCAL IMPACT

The above items reflect the proposed changes received to date for the City of Hayward’s Recommended Operating Budget for Fiscal Year 2012.

Summarized in the chart below is the financial impact to the City’s General and Enterprise Funds should the above proposed changes be approved.

General Fund Expenditures

Changes to General Fund:

Total Expense	\$ 113.831 million
Net Staffing Expense / Police Dept	<u>(0.690)</u>
Adjusted Total Expense	<u>\$ 113.141 million</u>

Impact on (Use) / Add to Fund Balance

FY 2012 Recommended Budget	\$ 4.419 million
Impact of Expenditure Reduction	<u>(0.690)</u>
Adjusted Use Of Reserves:	<u>\$ 3.729 million</u>

Enterprise Funds Expenditures

Changes to Enterprise Funds:

FY 2012 Recommended Budget Total Outlay	\$ 70.197 million
Reduction to Airport’s Transfers Out	<u>(0.200)</u>
Adjusted Total Outlay	<u>\$ 69.997 million</u>

II. Capital Improvement Program (CIP) Budget

In addition to what was included in the council agenda report(June 7 Council Meeting Agenda), one additional change to the CIP presented at the June 7 meeting was to correct the amount of General Fund transfer to the Technology Services Internal Service Fund from \$1,935,000 to \$1,855,000 to be consistent with the operating budget.

PUBLIC CONTACT

A public notice was published in The Bay Area News Group – Daily Review on June 4 and June 9, 2011 announcing the date, time, location, and subject matter of this public hearing.

A notice advising residents about the Planning Commission’s public hearing on the CIP was published in the *Daily Review* newspaper more than the requisite 10 days in advance.

Furthermore, staff members from Alameda County Transportation Commission (ACTC) were contacted in the event that any members from the organization's Measure B Citizen Watchdog Committee were interested in learning more about City projects funded through Measure B.

The FY 2012 Recommended Operating Budget is currently available for public review in the City Clerk's Office at City Hall, at the Main Library and the Weekes Branch, and on the City's website at:

http://www.hayward-ca.gov/departments/finance/documents/FY_2012_ROB.pdf

A schedule of the FY 2012 Recommended Operating Budget work sessions, including a tentative schedule of departments to be discussed at each session, is available for public information on the City's website at:

<http://www.hayward-ca.gov/departments/finance/sfinanceFY2012ROB.shtm>

The Recommended Capital Improvement Program FY 12 Update is currently available for public review in the City Clerk's Office at City Hall, at the Main Library and the Weekes Branch, and on the City's website at: CIP FY 12 Update

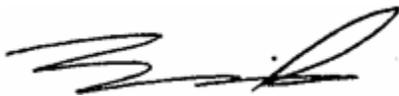
SCHEDULE

The proposed changes outlined in this report along with any further Council direction resulting from the June 14, 2011 budget work session, will be reflected in the resolutions prepared for formal budget adoption at the City Council meeting of June 21, 2011.

Prepared by:

Robert Bauman, Public Works Director
Susan M. Stark, Interim Director of Finance

Approved by:



Fran David, City Manager

DATE: June 14, 2011

TO: Mayor and City Council
Redevelopment Agency Board Chair and Board Members
Housing Authority Chair and Board Members

FROM: Assistant City Manager/Interim Redevelopment Agency Director/Authority
Assistant Executive Director

SUBJECT: Approval of Certain Financing for Affordable Housing at the South Hayward
BART Station Transit-Oriented Development Project

RECOMMENDATION

Staff recommends the following actions as part of this report:

- 1) That the Board of the Redevelopment Agency of the City of Hayward (the "Agency") adopts the attached resolution approving the assignment of an existing \$500,000 predevelopment loan (the "Existing Predevelopment Loan") from the Agency to the Housing Authority of the City of Hayward (the "Authority"), to assist Eden Housing, Inc. ("Eden") in the financing of an affordable housing development at the South Hayward BART Transit Village ("Affordable Housing Development").
- 2) That the Authority Board adopts the attached resolution authorizing the assumption of the Existing Predevelopment Loan by the Authority and further authorizing the Authority's Executive Director to negotiate and execute loan documents incorporating the Existing Predevelopment Loan and providing a loan of new Low and Moderate Income Housing Funds for a total loan not to exceed \$4,250,000 ("Authority Loan") to Eden for the Affordable Housing Development.
- 3) That the City Council adopts the attached resolution authorizing the City Manager to negotiate and execute an agreement between the City of Hayward (the "City") and the County of Alameda (the "County") providing Neighborhood Stabilization II ("NSP") Funds (totaling \$830,000) to the City to lend to Eden for the Affordable Housing Development and further authorizing the City Manager to negotiate and execute loan documents between the City and Eden, for the Affordable Housing Development, of Federal HOME and Neighborhood Stabilization II Funds in an amount not to exceed \$1,730,000.

BACKGROUND

In the spring of 2009, the City, Agency, Eden, and a for profit development team, Wittek Development, LLC and Montana Properties, Inc. (collectively, "Wittek & Montana"), applied for State Department of Housing & Community Development (HCD) Proposition 1-C Bond "Round II" Infill Infrastructure Grant and Transit Oriented Development Housing Program Funds (the "HCD Funds"). The City and its partners were awarded HCD funds totaling \$47 million, which were designated to finance the South Hayward BART Transit Oriented Development ("TOD Project"). The TOD Project entails a mixed-use project at the South Hayward BART Station on both sides of Dixon Street, consisting of 788 multi-family residential units (both market rate and affordable), retail space, and a BART parking garage. In 2009, it was contemplated that the Agency would provide up to \$19.8 million to the overall Project, including up to \$7.1 million in Low and Moderate Income Housing Funds for the affordable housing included in the TOD Project and up to \$12.7 million for infrastructure and site improvements.

In January 2011, Eden and Wittek & Montana (jointly "the Developers") re-phased the South Hayward BART Transit Oriented Development and advised that "Phase 1" of the Project would include 151 affordable units (65 senior units and 86 family units) and 203 market-rate rental units. A work session with Council was held on March 8, 2011 to explain the reasons for the rephasing. The Planning Director approved a minor modification to the approved Preliminary Development Plan on June 8, 2011 and filed a Notice of Determination with respect to such approval on June 9, 2011.

Because of the re-phasing, HCD recalculated the amount of the HCD Funds that could be provided to the Developer for Phase I. This equals \$31.2 million, consisting of \$16.2 million in Infill Infrastructure Grant Funds, which will be provided to the Developers as financing for the TOD Project, and \$15.1 million of Transit Oriented Development Housing Funds, which will be provided to Eden as permanent financing for the Affordable Housing Development. In addition, due to activities at the State and lower tax increment revenues received by the City and Agency, the Agency must reduce the proposed amount of tax increment funding provided to the TOD Project.

Eden has revised their request from the City and Authority to approximately \$6 million in affordable housing financing (more particularly, in NSP II funds, HOME funds, and Low and Moderate Income Housing funds) for the Affordable Housing Development to be constructed during Phase I. (The Authority, pursuant to the Cooperation Agreement between the Authority and Agency dated March 7, 2011, now controls the disposition of the Agency's Low and Moderate Income Housing funds.)

Earlier this year, the "B" and Grand senior housing project in Hayward received an allocation of NSP II funds and HOME funds. Eden has proposed, and County and City staff concur, that it would be prudent to redirect the City's NSP II funds and the HOME funds from "B" and Grand project to the Affordable Housing Development at South Hayward BART because the Affordable Housing Development will yield a higher number of affordable housing units in a shorter amount of time and would assist the City and County with timeliness issues in the

expenditure of Federal funds. Eden and City staff anticipate that construction of the Affordable Housing Development will commence at the end of 2012 whereas the anticipated construction commencement date for "B" and Grand is 2014. Eden believes that it will be able to identify and secure alternate financing for "B" and Grand when needed. The Affordable Housing Development, as part of the TOD Project, is a priority project for the City. The movement of HOME funds and NSP II funds from "B" and Grand to the Affordable Housing Development was approved by the Alameda County HOME and NSP2 Consortia technical advisory committees on April 21, 2011.

DISCUSSION

Eden is requesting that the approximately \$6 million in affordable housing financing be approved by the City and Authority at this time because Eden has incurred and will continue to incur predevelopment costs associated with moving the Affordable Housing Development forward. In particular, Eden needs to complete further design work on the Affordable Housing Development that would allow them to submit for and obtain Precise Plan approval from the City. In addition, committing funds to the Affordable Housing Development will assist Eden in obtaining other financing for the Affordable Housing Development and ensure that the Low and Moderate Income Housing funds remain available to the Affordable Housing Development.

City staff has reviewed Eden's proforma development budget for the Affordable Housing Development and recommends that the Authority approve a loan of \$4,250,000 in Low and Moderate Income Housing funds to finance various development costs associated with the Affordable Housing Development (the "Authority Loan"). The Authority Loan would incorporate and include the \$500,000 in predevelopment funds already loaned to Eden by the Agency. (In light of the Cooperation Agreement between the Authority and the Agency that was approved in March, it makes sense to assign the Existing Predevelopment Loan from the Agency to the Authority at this time.) The Authority Loan would be a residual receipts loan bearing 0% interest and would be due fifty-five years from completion of the Affordable Housing Development.

In connection with the Authority Loan, the Authority would record a fifty-five-year regulatory agreement ensuring that the Affordable Housing Development is affordable to very low income households for the fifty-five-year term. The Authority Loan will be secured by a deed of trust recorded against the Affordable Housing Development property after Eden acquires that property. Prior to that time, the City will have a contractual right to collect the predevelopment Authority Loan funds if the transaction does not move forward. In addition, the predevelopment funds will be secured by Eden's work product and its contractual rights and interest in the Affordable Housing Development property.

City staff further recommends that the City approve a loan with Eden for \$900,000 in HOME funds (the "HOME Loan"), and \$830,000 from NSP (round 2) funds (the "NSP II Loan"). Approximately \$30,000 of the NSP II funds are intended to pay for certain environmental review activities.

The HOME Loan would be a residual receipts loan bearing 0% interest and would be due fifty-five years from completion of the Affordable Housing Development. In connection with the HOME Loan, the City would require Eden to designate ten family units as HOME-assisted units and such units would remain affordable to very low income households for fifty-five years. The mix of the HOME-assisted units will reflect the overall unit mix of the family project, as required by HOME regulations. The HOME Loan funds will not be released until construction closing and will be secured by a deed of trust recorded against the Affordable Housing Development property.

The NSP II Loan will be primarily used for predevelopment costs. In accordance with Federal requirements, NSP II funds must be used for the development of blighted properties in qualifying census tracts. The Affordable Housing Development meets this criterion. In connection with the NSP II Loan, the City would also record a fifty-five-year regulatory agreement ensuring that the Affordable Housing Development is affordable to very low income households for the fifty-five-year term. The HOME Loan and NSP II Loan will be secured by a Deed of Trust recorded against the Affordable Housing Development property after Eden acquires that property. Prior to that time, the City will have a contractual right to collect the NSP II Loan if the transaction does not move forward. In addition, the loan will be secured by Eden's work product and its contractual rights and interest in the Affordable Housing Development property. In connection with the NSP II Loan, the City would record its NSP II Regulatory Agreement, concurrent with the disbursement of predevelopment funds, against the Perry and Key site currently owned by Wittek & Montana (where the Affordable Housing Development will ultimately be constructed) ("Perry & Key").

The Authority Loan, HOME Loan, and NSP II Loan would be used to cover predevelopment (in the approximate amount of \$2.5 million), acquisition, and construction costs associated with the Affordable Housing Development. It is anticipated that the deeds of trust securing these loans will be subordinated to private financing for the Affordable Housing Development.

The following is a recap of the sources and uses of funds:

Sources of Funds

Housing Authority	\$4,250,000
HOME	\$900,000
NSP II	<u>\$830,000</u>
Total	\$5,980,000

Uses of Funds

Borrowed to Date	\$413,850
Additional Predevelopment Funds	\$2,016,150
Subtotal Predevelopment	<u>\$2,430,000</u>
Subtotal Construction / Acquisition Costs	<u>\$3,550,000</u>
Total	\$5,980,000

ENVIRONMENTAL REVIEW

The City prepared and, by Resolution No. 09-025, approved the Mitigated Negative Declaration ("MND") studying the environmental effects under CEQA for the overall Project, of which the Affordable Housing Development is a part. As such, the City has already evaluated the environmental effects of the Affordable Housing Development.

In connection with the re-phasing of the TOD Project, City staff has prepared an addendum to the MND (the "Addendum"). As more particularly set forth in the Addendum: (1) there have not been substantial changes in the program of the TOD Project that would require major revisions to the MND; (2) there have not been substantial changes with respect to the circumstances under which the program for the TOD Project is being implemented that would require major revisions to the MND; and (3) no new information relevant to the consideration and approval of the MND has appeared, which was not known and could not have been known as of the original date the MND was considered and approved.

The Housing Authority, in approving the Authority Loan and the City in approving the HOME Loan and NSP II Loan, must consider the MND and Addendum. Staff recommends that the Authority and City adopt the mitigation measures and monitoring program and that such mitigation measures and monitoring program be incorporated into the documentation of the Authority Loan, the HOME Loan, and the NSP II Loan. A copy of the MND and Addendum is attached to this Report.

Because of the Federal financing included in the Affordable Housing Development, the Housing Authority Loan, HOME Loan, and NSP II Loan will be subject to Federal environmental review. Execution of the loan documents will not occur until completion of applicable Federal environmental review requirements

ECONOMIC IMPACT

The successful development of the overall TOD Project, including the Affordable Housing Development, will have a positive economic impact for the City. The commencement of the housing construction near the South Hayward BART Station should spur the development of the area. Proposed nearby projects would likely re-commence their planning, leading to construction. The development of housing in the area should lead to stronger interest from retailers, and thereby, planning and construction of retail centers. Initial development under Phase I would also have an initial positive economic impact by creating approximately 500 immediate high-quality construction, design and engineering service jobs through the four-year development. This development will also increase BART ridership and decrease vehicle miles traveled and thus move Hayward one step closer to meeting the goals outlined in the City's Climate Action Plan. Total General Project costs of Phase I are estimated to be more than \$100 million, exclusive of land costs.

Additionally, the local matching funds are necessary in order to secure HCD's grant of \$30.8 million, ensure that the Affordable Housing Development is competitive for additional financing,

and leverage the developers' and BART's continued participation in the TOD Project. Also, while the Affordable Housing Development will be exempt from property taxes, the development is a prerequisite to the HCD funding that will lead to the development of the market-rate housing. This will ultimately increase tax revenue for the City, especially as it will encourage retail development in the area.

FISCAL IMPACT

The proposed loans will not impact the City's General Fund. The Loan commitment will come from the Housing Authority Capital Improvement Program (CIP) Affordable Housing Fund 242, "South Hayward BART Affordable Housing," which will have \$4,250,000 in appropriations set aside for the Affordable Housing Project by June 30, 2011. In addition, the Affordable Housing Project will be eligible for \$900,000 from the City's Allocation of HOME funding, which resides in the Alameda County HOME Consortium line of credit, and \$830,000 from NSP II funds.

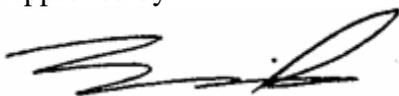
In the event the affordable units are not completed or operated in accordance with HUD requirements, HUD could require repayment of the HOME Loan and the NSP Loan. The documents evidencing the HOME Loan and NSP Loans will be structured to reduce the City's exposure related to this repayment obligation. For example, the NSP II Loan (and predevelopment component of the Authority Loan) will be secured by Eden's work product and its contractual rights and interest in the Affordable Housing Development property. In addition, the City will, concurrent with disbursement of NSP II funds, record a regulatory agreement against title to Perry & Key (although it is anticipated that the NSP II regulatory agreement will be subordinated to private financing). In addition, the City would have a contractual right to collect on the disbursed NSP II Loan funds and on the disbursed predevelopment Authority Loan funds.

To protect the City's HOME investment, a HOME regulatory agreement will be recorded prior to disbursement of HOME funds and the HOME funds will not be disbursed until construction commencement (once other lenders and investors have also been made comfortable that the deal will move forward toward completion). Once Eden acquires title to the Affordable Housing Development property, then all City loans will be secured by a deed of trust.

Prepared by: John DeClercq, Project Manager

Recommended by: Kelly McAdoo Morariu, Assistant City Manager/Interim
Redevelopment Agency Director/Housing Authority Assistant
Executive Director

Approved by:



Fran David, City Manager
Executive Director, Redevelopment Agency

Executive Director, Housing Authority

Attachments:

- Attachment I: Housing Authority Resolution
- Attachment II: City Council Resolution
- Attachment III: Agency Resolution
- Attachment IV: Mitigated Negative Declaration and Addendum

HOUSING AUTHORITY OF THE CITY OF HAYWARD

RESOLUTION NO. HA-_____

Introduced by Authority _____

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO NEGOTIATE AND EXECUTE AN ASSIGNMENT AND ASSUMPTION AGREEMENT FOR PREDEVELOPMENT LOAN MADE BY THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD AND TO NEGOTIATE AND EXECUTE LOAN DOCUMENTS BETWEEN THE HOUSING AUTHORITY OF THE CITY OF HAYWARD AND EDEN HOUSING, INC., FOR A LOW AND MODERATE INCOME HOUSING FUND LOAN TO FUND THE DEVELOPMENT OF APPROXIMATELY ONE HUNDRED FIFTY ONE UNITS OF AFFORDABLE HOUSING

WHEREAS, the Housing Authority of the City of Hayward (the “Housing Authority”) was formed to provide decent, safe and sanitary housing in the City of Hayward; and

WHEREAS, on March 23, 2010, the Board of the Redevelopment Agency of the City of Hayward (the “Agency“) approved Resolution No. RA-1 authorizing the negotiation and execution of a predevelopment loan agreement with Eden Housing, Inc., a California nonprofit public benefit corporation (“Eden”); and

WHEREAS, on July 16, 2010, the parties executed that certain Predevelopment Loan Agreement by and between the Agency and Eden in the principal amount of Five Hundred Thousand Dollars (\$500,000) (the “Predevelopment Loan Agreement”) to fund predevelopment costs and entitlement costs for the Affordable Housing Project (as defined in the predevelopment Loan Agreement); and

WHEREAS, on March 7, 2011, the Housing Authority and the Redevelopment Agency of the City of Hayward (the “Agency”) entered into that certain Affordable Housing Cooperation Agreement for the Downtown Hayward Redevelopment Project Area (the “Cooperation Agreement”); and

WHEREAS, pursuant to the Cooperation Agreement, the Agency granted Forty Million Dollars (\$40,000,000) of Agency Low and Moderate Income Housing Funds (“Housing Funds”) to the Housing Authority for use in a variety of affordable housing programs; and

WHEREAS, in the furtherance of the Cooperation Agreement, the Agency desires to assign to the Housing Authority all of the Agency’s rights, duties and obligations under the Predevelopment Loan Agreement and in furtherance of the Cooperation Agreement, the Housing Authority desires to accept the assignment of all of the Agency’s rights, duties and obligations under the Predevelopment Loan Agreement; and

WHEREAS, on June of 2006, the City Council adopted a South Hayward BART/Mission Boulevard Concept Design Plan (the "Design Plan") which seeks to encourage and provide the framework for redevelopment that will result in a transit village around the South Hayward Bay Area Rapid Transit Station and an enhanced Mission Boulevard corridor (the "TOD Project") including the construction of specified senior and multifamily affordable housing developments; and

WHEREAS, on March 17, 2009, the TOD Project received from the City Planned Development Zoning approval (Ordinance No. 09-04) and approval of a Mitigated Negative Declaration (Resolution No. 09-025) under the California Environmental Quality Act ("CEQA"). Each phase of the TOD Project must receive future Precise Plan approval, or design review approval, before moving forward; and

WHEREAS, on March 8, 2011, Eden together with their development partners, Wittek Development LLC and Montana Properties, Inc., proposed minor modifications to the TOD Project which include a rephrasing of TOD Project that will accelerate the development of, among others: approximately one hundred fifty one units of affordable housing (the "Affordable Development") to be located on a portion of the real property commonly referred to as the "Perry & Key Site" located in the Downtown Hayward Redevelopment Project Area; and

WHEREAS, Eden has engaged professionals and commenced the predevelopment planning and design of the Affordable Development under the Predevelopment Loan Agreement and needs to continue to incur expenditures for predevelopment activities in excess of the Five Hundred Thousand Dollars allocated to it under the Predevelopment Loan Agreement; and

WHEREAS, Eden has requested an additional funding to assist in the financing of the Affordable Development; and

WHEREAS, Eden wishes to borrow from the Housing Authority and the Housing Authority wishes to extend to Eden an additional Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) of Housing Funds to assist in the Affordable Development and together with the funds previously allocated under the Predevelopment Loan Agreement, that the Housing Authority is assuming, will bring the total project assistance to Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000) (the "Housing Authority Loan"); and

WHEREAS, the Housing Authority Loan will be evidenced by a loan agreement, promissory note, assignment agreement, deed of trust and a regulatory agreement; and

WHEREAS, the Housing Authority Loan is being made to finance the costs of the Affordable Development in order to make the development of the Affordable Development financially feasible and to increase the supply of affordable rental housing for seniors and families in the Project Area and the City of Hayward; and

WHEREAS, the City of Hayward (the "City") prepared and by resolution No. 09-025 approved the Mitigated Negative Declaration (the "Mitigated Negative Declaration") studying the environmental effects under CEQA for the TOD Project, of which the Affordable

Development is a part, and thereby evaluated the environmental effects of the of the Affordable Development; and

WHEREAS, City staff prepared an Addendum to such Mitigated Negative Declaration on June 8, 2011; and

WHEREAS, the Housing Authority acting as a responsible agency considered the environmental effects of Affordable Development as show in the Mitigated Negative Declaration and Addendum;

NOW THEREFORE, BE IT RESOLVED by the Housing Authority Board of the City of Hayward that the Recitals above are true and correct and by this reference makes them a part hereof.

BE IT FURTHER RESOLVED, that the Housing Authority Board has considered the Mitigated Negative Declaration and Addendum and determines that the applicable mitigation measures and monitoring program are to be incorporated into the documents evidencing the Housing Authority Loan;

BE IT FURTHER RESOLVED, that the Housing Authority Board authorizes and directs the Housing Authority's Executive Director or the Executive Director's designee, to file a CEQA Notice of Determination with the County Clerk of the County of Alameda pursuant to 14 California Code of Regulations Section 15075.

BE IT FURTHER RESOLVED, that the Housing Authority agrees to assume the Agency's rights, duties and obligations under the Predevelopment Loan Agreement.

BE IT FURTHER RESOLVED, that the Housing Authority's Executive Director may execute any and all documents and take all reasonable steps which may be necessary to effectuate the assignment of the Agency's rights, duties and obligations under the Predevelopment Loan Agreement to the Housing Authority in such forms as may be agreed to by the Housing Authority's Executive Director and the Agency and approved by the Housing Authority's General Counsel.

BE IT FURTHER RESOLVED, that the Housing Authority hereby approves a loan of an additional Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) of Housing Funds to assist the Affordable Development and to combine funds previously allocated under the Predevelopment Loan Agreement, thereby bringing the total assistance for the Affordable Development to Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000); and

BE IT FURTHER RESOLVED, that the Housing Authority hereby approves the execution and final negotiation by the Executive Director of documents consistent with the Staff Report evidencing the Housing Authority Loan, including a loan agreement, regulatory agreement, promissory note, assignment agreement, deed of trust, and notice of affordability restrictions together with all documents and to take all reasonable steps which may be necessary

to effectuate the approvals hereof, in such forms as may be agreed to by the Executive Director and approved by the Housing Authority's General Counsel.

BE IT FURTHER RESOLVED, the Housing Authority Loan approved by this resolution shall be subject to and specifically conditioned upon, the completion of all applicable environmental reviews and preparation and certification of all appropriate documents related thereto under and in accordance with the National Environmental Policy Act (NEPA) of 1969, as implemented by the United States Department of Housing and Urban Development regulations.

HAYWARD, CALIFORNIA, June __, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: BOARD MEMBERS:

CHAIR:

NOES: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ATTEST: _____
Secretary of the Housing
Authority of the City of Hayward

APPROVED AS TO FORM:

General Counsel

CITY COUNCIL OF THE CITY OF HAYWARD

RESOLUTION NO. 2011-_____

RESOLUTION AUTHORIZING THE CITY MANAGER TO
 NEGOTIATE AND EXECUTE LOAN DOCUMENTS BETWEEN THE
 CITY OF HAYWARD AND EDEN HOUSING, INC., FOR A LOAN TO
 FUND THE DEVELOPMENT OF APPROXIMATELY ONE
 HUNDRED FIFTY ONE UNITS OF AFFORDABLE HOUSING

WHEREAS, the City of Hayward (the "City") has or will receive Home Investment Partnership Act funds from the United States Department of Housing and Urban Project pursuant to the Cranston-Gonzales National Housing Act of 1990 ("HOME Funds"), through its membership in the Alameda County HOME Consortium. Such funds must be used by the City in accordance with 24 C.F.R. Part 92; and

WHEREAS, the City intends to receive Alameda County ("County") Neighborhood Stabilization Program 2 ("NSP2") funds from the United States Department of Housing and Urban Development ("HUD") pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-005. The funds provided under NSP2 (the "NSP2 Funds") are to be used to acquire and redevelop, abandoned, foreclosed, or vacant residential properties that might otherwise become sources of blight; and

WHEREAS, on June of 2006, the City Council adopted a South Hayward BART/Mission Boulevard Concept Design Plan (the "Design Plan") which seeks to encourage and provide the framework for redevelopment that will result in a transit village around the South Hayward Bay Area Rapid Transit Station and an enhanced Mission Boulevard corridor (the "TOD Project") including the construction of specified senior and multifamily affordable housing developments; and

WHEREAS, on March 17, 2009, the TOD Project received from the City Planned Development Zoning approval (Ordinance No. 09-04) and approval of a Mitigated Negative Declaration (Resolution No. 09-025) under the California Environmental Quality Act ("CEQA"). Each phase of the TOD Project must receive future Precise Plan approval, or design review approval, before moving forward; and

WHEREAS, on March 8, 2011, Eden Housing, Inc. ("Eden") together with their development partners, Wittek Development LLC and Montana Properties, Inc., proposed minor modifications to the TOD Project which include a rephrasing of TOD Project that will accelerate the development of approximately one hundred fifty one units of affordable housing and related improvements (the "Affordable Development") to be located on a portion of the real property commonly referred to as the "Perry & Key Site" located in the Downtown Hayward Redevelopment Project Area; and

WHEREAS, Eden has requested funding in the approximate amount of One Million Seven Hundred Thirty Thousand Dollars (\$1,730,000) in funding from the City to assist in the Affordable Development; and

WHEREAS, Eden wishes to borrow from the City and the City wishes to extend to Eden a loan of up to One Million Seven Hundred Thirty Thousand Dollars (\$1,730,000) (the “City NSP2/HOME Loan”) consisting of up to Eight Hundred Thirty Thousand Dollars (\$830,000) of NSP2 Funds and up to Nine Hundred Thousand Dollars (\$900,000) of HOME Funds to assist in the Affordable Development; and

WHEREAS, the City NSP2/HOME Loan will be evidenced by one or more loan agreements, promissory notes, assignment agreements, deeds of trust and regulatory agreements; and

WHEREAS, the City NSP2/HOME Loan is being made to make the development of the Affordable Development financially feasible and to increase the supply of affordable rental housing for seniors and families in the City of Hayward; and

WHEREAS, the City may be required to contract with the County as necessary to obtain NSP2 Funds from the County; and

WHEREAS, the City prepared and, by Resolution No. 09-025, approved the Mitigated Negative Declaration (the “Mitigated Negative Declaration”) studying the environmental effects under CEQA for the TOD Project, of which the Affordable Development is a part, and thereby evaluated the environmental effects of the of the Affordable Development; and

WHEREAS, City staff prepared an Addendum to such Mitigated Negative Declaration on June 8, 2011.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Recitals above are true and correct and by this reference makes them a part hereof.

BE IT FURTHER RESOLVED, that the City has considered the Mitigated Negative Declaration and Addendum and determines that the applicable mitigation measures and monitoring program are to be incorporated into the documents evidencing the NSP2/HOME Loan.

BE IT FURTHER RESOLVED, that the City Council authorizes and directs the City Manager or the City Manager’s designee, to file a CEQA Notice of Determination with the County Clerk of the County of Alameda pursuant to 14 California Code of Regulations Section 15075.

BE IT FURTHER RESOLVED, that the City Council hereby approves a loan of up to One Million Seven Hundred Thirty Thousand Dollars (\$1,730,000), consisting of up to Eight

Hundred Thirty Thousand Dollars (\$830,000) of NSP2 Funds and up to Nine Hundred Thousand Dollars (\$900,000) of HOME Funds, to assist the Affordable Development with eligible uses.

BE IT FURTHER RESOLVED, that the City may contract with the County to obtain the NSP2 funds and the City Manager will enter into such contract or other documentation as may be necessary to make the NSP2 Funds available to Eden in accordance with this Resolution.

BE IT FURTHER RESOLVED, that the City Council hereby approves the execution and final negotiation by the City Manager of documents consistent with the Staff Report evidencing the City NSP2/HOME Loan, including one or more loan agreements, assignment agreements, regulatory agreements, promissory notes, and deeds of trust, together with all documents and to take all reasonable steps which may be necessary to effectuate the approvals hereof, in such forms as may be agreed to by the City Manager and approved by the City Attorney.

BE IT FURTHER RESOLVED, the City NSP2/HOME Loan shall be subject to and specifically conditioned upon, the completion of all environmental reviews and preparation and certification of all appropriate documents related thereto under and in accordance with the National Environmental Policy Act (NEPA) of 1969, as implemented by the United States Department of Housing and Urban Development regulations.

HAYWARD, CALIFORNIA, June 14, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk, City of Hayward

APPROVED AS TO FORM:

City Attorney

REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD

RESOLUTION NO. _____

Introduced by Agency Member _____

RESOLUTION APPROVING ASSIGNMENT OF A PREDEVELOPMENT
 LOAN AGREEMENT BY AND BETWEEN THE REDEVELOPMENT
 AGENCY OF THE CITY OF HAYWARD AND EDEN HOUSING, INC., TO
 THE HOUSING AUTHORITY OF THE CITY OF HAYWARD

WHEREAS, the City Council of the City of Hayward (“City”) has adopted a redevelopment plan for the Downtown Hayward Redevelopment Project (the “Project Area”) by Ordinance No. 75-029 C.S. on December 30, 1975, as amended by Ordinance No. 86-041 on December 6, 1986, Ordinance No. 87-009 on April 21, 1987, Ordinance No. 92-21 on July 28, 1992, Ordinance No. 94-30 on December 20, 1994, Ordinance No. 98-16 on November 10, 1998, Ordinance No. 01-07 on June 25, 2001, Ordinance No. 04-03 on March 16, 2004, and Ordinance No. 06-10 on May 12, 2006 (collectively, the “Redevelopment Plan”), which is being implemented by the Redevelopment Agency of the City of Hayward (the “Agency”); and

WHEREAS, on March 7, 2011, the Housing Authority of the City of Hayward (the “Housing Authority”) and the Agency entered into that certain Affordable Housing Cooperation Agreement for the Downtown Hayward Redevelopment Project Area (the “Cooperation Agreement”); and

WHEREAS, in June of 2006, the City Council adopted a South Hayward BART/Mission Boulevard Concept Design Plan (the “Design Plan”) which seeks to encourage and provide the framework for redevelopment that will result in a transit village around the South Hayward Bay Area Rapid Transit Station and an enhanced Mission Boulevard corridor (the “TOD Project”) including the construction of specified senior and multifamily affordable housing developments; and

WHEREAS, in furtherance of the Redevelopment Plan and the Design Plan, on July 16, 2010, the parties executed that certain Predevelopment Loan Agreement by and between the Agency and Eden Housing Inc., a California nonprofit public benefit corporation (“Eden”) (the “Predevelopment Loan Agreement”) to assist various affordable housing developments; and

WHEREAS, on March 8, 2011, Eden together with their development partners, Wittek Development LLC and Montana Properties, Inc., proposed minor modifications to the TOD Project which include a rephrasing of TOD Project that will accelerate the development of, among others, approximately one hundred fifty one units of affordable housing (the “Affordable Development”) to be located on a portion of the real property commonly referred to as the “Perry & Key Site” located in the Downtown Hayward Redevelopment Project Area; and

WHEREAS, the Agency wishes to assign to the Housing Authority all of the Agency’s rights, duties and obligations under the Predevelopment Loan Agreement, and the Housing

Authority wishes to accept the assignment of all of the Agency's rights, duties and obligations;
and

WHEREAS, pursuant to State CEQA Guidelines 14 California Code of Regulations Section 15378"b)(5), approval of the assignment of the Predevelopment Loan Agreement is not a project subject to the California Environmental Quality Act ("CEQA"), because the assignment of the Predevelopment Loan Agreement is an administrative activity that will not result in a direct or indirect physical change to the environment; and

WHEREAS, Eden has requested an additional predevelopment and construction funding to assist in the planning, design and construction of the Affordable Development; and

WHEREAS, Eden wishes to borrow from the Housing Authority and the Housing Authority wishes to extend to Eden an additional Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000) of Housing Funds to assist in the Affordable Development and together with the funds previously allocated under the Predevelopment Loan Agreement, that the Housing Authority is assuming, will bring the total project assistance to Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000) (the "Housing Authority Loan"); and

WHEREAS, the Housing Authority Loan will be evidenced by a loan agreement, promissory note, assignment agreement, deed of trust and a regulatory agreement; and

WHEREAS, the Housing Authority Loan is being made to finance the costs of the Affordable Development in order to make the development of the Affordable Development financially feasible and to increase the supply of affordable rental housing for seniors and families in the Project Area and the City of Hayward; and

NOW THEREFORE, BE IT RESOLVED by Redevelopment Agency of the City of Hayward that the Recitals above are true and correct and by this reference makes them a part hereof;

BE IT FURTHER RESOLVED, that the Agency authorizes and directs the Agency Executive Director or the Executive Director's designee, to file a CEQA Notice of Exemption with the County Clerk of the County of Alameda pursuant to 14 California Code of Regulations Section 15062(c)(2).

BE IT FURTHER RESOLVED, that the Agency approves the assignment of all of the Agency's rights, duties and obligations under the Predevelopment Loan Agreement to the Housing Authority.

BE IT FURTHER RESOLVED, that the Agency's Executive Director may execute an assignment agreement and any and all other documents and take all reasonable steps which may be necessary to effectuate the assignment of the Agency's rights, duties and obligations under the Predevelopment Loan Agreement to the Housing Authority in such forms as may be agreed to by the Agency's Executive Director and the Housing Authority and approved by the City Attorney.

HAYWARD, CALIFORNIA, June 14, 2011

ADOPTED BY THE FOLLOWING VOTE:

AYES: AGENCY MEMBERS:

 CHAIR:

NOES: AGENCY MEMBERS:

ABSTAIN: AGENCY MEMBERS:

ABSENT: AGENCY MEMBERS:

ATTEST: _____
Secretary of the Redevelopment
Agency of the City of Hayward

APPROVED AS TO FORM:

General Counsel

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-025

Introduced by Council Member Quirk

RESOLUTION ADOPTING THE MITIGATED NEGATIVE
DECLARATION AND RELATED MITIGATION
MONITORING AND REPORTING PROGRAM AND
APPROVING ZONE CHANGE APPLICATION NO.
PL-2008-0547 FOR A MIXED-USE PROJECT IN THE SOUTH
HAYWARD BART/MISSION BOULEVARD CONCEPT
DESIGN PLAN AREA

WHEREAS, Zone Change Application No. PL-2008-0547, submitted by Wittek Development LLC (Applicants) and Big Sky Holdings and Bay Area Rapid Transit (Owners), concerns a request to: 1) Change the zoning district from Station Area Residential (SAR) District to Planned Development (PD) District and approve the preliminary development plan; and 2) amend the South Hayward BART/Mission Boulevard Concept Design Plan to address a revised circulation system, a relocated grocery store site and the BART parking structure in order to construct a mixed-use development consisting of 788 multi-family residential units and a grocery store, including 206 units of affordable housing and a 910-space BART parking garage (the "Project"), located generally at the South Hayward BART station, between the BART station and Mission Boulevard, at 28601 and 28850 Dixon Street and 28901-28953 Mission Boulevard, APN Nos. 078C-0441-001-16, -17, -23, -24, -28, & -29; and

WHEREAS, at the hearing on February 19, 2009, on the Project, the Planning Commission recommended that the City Council adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, and approve the Zone Change, the Preliminary Development Plan and the amendments to the Concept Design Plan; and

WHEREAS, a notice of the City Council Public Hearing was mailed to property owners and occupants within 300 feet of the project site and a notice of public hearing was published in the Daily Review, as required by law.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines that:

CEQA

1. The Project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA), and an Initial Study has been prepared for the Project. The Initial Study has determined that the Project, with the recommended mitigation measures, will not result in significant effects on the environment, and a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program have been prepared and are hereby adopted.

Zone Change- Planned Development

2. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies. The Project is consistent with the policies and designations of the City's General Plan designation of Station Area Density and the South Hayward BART/Mission Boulevard Concept Design Plan (75 to 100 units per net acre), in that the development is proposed at 76 units per net acre, and, excluding the BART parking structure on Parcel 4, the net density of the project would be 84 units per net acre. Also, the project will further the City's goal to provide ownership housing opportunities as expressed in the Housing Element of the General Plan and will help further the City's Housing Element policy to provide housing opportunities for all household income levels in that 206 rental housing units for low-income senior and family households would be provided in the City as a result of the Project.
3. Streets and utilities, existing or proposed, are adequate to serve the development, in that existing infrastructure and utility improvements, as conditioned, would be adequate to serve the development, which is proposed at a density that is consistent with existing General Plan designations. Also the project, as conditioned, would have no significant impact related to neighborhood traffic.
4. The development creates a residential environment of sustained desirability and stability, in that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse affect upon surrounding development. The Mission-Garin neighborhood is deficient in park space; however, the Project would provide its residents with a combination of both private and public internal recreation space. To mitigate the proposed shortfall of group open space, a condition of approval requires that the developer acquire, improve and offer to the public as parkland the adjacent Caltrans parcels along the southern edge of the project area between Dixon Street and Mission Boulevard. In addition, the project would contribute \$6,212,068 of park dedication in-lieu fees associated with the 582 market rate units proposed, to improve area park facilities. A full-sized modern Safeway store proposed as part of the Project would contribute to the viability and "synergy" of the area, affording nearby residents, BART commuters, and other convenient and desired retail services in this portion of Hayward, as well as incentive for future development in the immediate vicinity. Additionally, the Project is conditioned on participation in a future Community Facilities District, which would generate a funding source for public safety services, including police services.

5. Any latitude or exception(s) to development of regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards. The averaging of the density across the entire Project, rather than requiring it to be met on each parcel, is offset by the provision of the grocery store and public art as a neighborhood amenity; this amenity would be not only an asset to the project residents, but also the residents of the greater South Hayward area.

Findings In Support of Heights in Excess of Sixty Feet

6. The additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage. The conceptual design of the development reflects an urban design of high quality and interest. Also, the additional height is limited in area, is located within the interior of the site and would provide additional interest to this building from various vantage points. A condition of approval requires that more detailed plans be submitted as part of the Precise Development Plan and undergo design review approval, through which the Planning Commission will ensure the architectural features, materials and design are in accordance with this condition. A condition of approval also requires that a public art feature or features be provided to enhance the overall development. In summary, the Project, as conditioned, allows this finding to be made.
7. The additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way, or otherwise be detrimental to the public health, safety and welfare. The portions of the proposed building on Parcel 2 that would exceed the normal 60-foot height standard are limited in area and confined to the central portion of the site, minimizing impacts related to light and air. As with any development, the building construction drawings will be required to be prepared by a licensed professional and conform to current code requirements, which will ensure that no impacts associated with public health, safety and welfare will occur.
8. The additional height will support other policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better overall project. The additional height would not only provide a variation in building form and massing that would add interest to the building and overall

Project design, but the height would also afford additional opportunities to maximize west-facing window areas, to take full advantage of views and natural light.

BE IT FURTHER RESOLVED that, based on the above findings, Zone Change Application No. PL-2008-0547, the related Preliminary Development Plan and the amendments to the South Hayward BART/Mission Boulevard Concept Design Plan are hereby approved, subject to the adoption of the companion ordinance and the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA March 17, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS: Zermeño, Quirk, Halliday, May, Dowling, Henson
MAYOR: Sweeney

NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ATTEST: William Lens
City Clerk of the City of Hayward

APPROVED AS TO FORM:

Michael S. James
City Attorney of the City of Hayward

CONDITIONS OF APPROVAL

SOUTH HAYWARD BART STATION DEVELOPMENT 28601 DIXON STREET Zone Change Application No. PL-2008-0547 PD Wittek Development LLC (Applicant)

Planned Development District No. PL-2008-0547 PD to accommodate construction of a mixed-use development consisting of 788 multi-family residential units, including 206 units of affordable housing, a grocery store and other miscellaneous retail uses, and a 910-space BART parking garage shall be developed according to these conditions of approval and in substantial conformance with the preliminary development plan labeled in the City files as "Exhibit A." Prior to final inspection, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.

The Zone Change for the Planned Development District becomes void one year following the effective date of approval of the Preliminary Development Plan by the City Council, unless before that time, a Precise Development Plan is submitted. A one-year extension for the Preliminary Development Plan, approval of which is not guaranteed, may be granted by the City Council, provided the request for such extension is submitted at least 30 days prior to the expiration of the original approval. A request for a second one-year extension, approval of which is not guaranteed, may also be granted by the City Council, provided the request for such second extension is submitted at least 30 days prior to the expiration of the first extension.

The permittee shall assume the defense of, and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.

Any proposals for minor alterations to the proposed site plan and/or design that do not require a variance to the Zoning Ordinance standards must be approved by the Planning Director prior to implementation.

Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward. The applicant/developer's engineer shall perform all design work unless otherwise indicated.

All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.

PRIOR TO APPROVAL OF THE PRECISE DEVELOPMENT PLAN

1. Prior to submittal of improvement plans and/or final map(s) for the development, a Precise Development Plan consistent with the approved Preliminary Development Plan shall be submitted for approval by the Planning Commission, and shall include detailed landscaping and irrigation plans, detailed plans for all site amenities, including decorative

paving, decorative electroliers, fencing, sign and entry features, detailed architectural and lighting plans, samples of exterior colors and building materials, and screening of all above-ground utilities, transformers and utility meters. The Precise Plan shall also reflect the ultimate configuration of the streets and other public improvements. The Precise Development Plan shall include/address the following:

- a. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
- b. A color and materials board, consistent with that proposed with the preliminary development plan, shall be submitted for Planning Commission review and approval. No changes to colors shall be made after construction unless previously approved by the Planning Director.
- c. Decorative pavement shall be installed at the project entrances and at all interior private street intersections within the project. The Planning Director shall approve the material, color and design, and the City Engineer shall approve the pavement section.
- d. **Mitigation Measure 1:** Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas, including pathways. The Planning Commission shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of homes within the project. Lighting within the BART station plaza shall conform to BART standards.
- e. Regarding the architectural details/plans for submittal with the Precise Development Plan:
 - i. For the building proposed on Parcel 2, which is shown to exceed 60 feet in height, building design must be such that the Planning Commission makes the following findings: 1) the additional height makes a positive contribution to the overall character of the area and will be compatible with its surroundings in terms of site planning, scale, building design, color, exterior materials, roof styles, lighting, landscaping and signage; 2) the additional height will not result in unreasonable restrictions of light and air to adjacent properties or the public right-of-way; and 3) the additional height will support the policies and standards of the South Hayward BART/Mission Boulevard Concept Design Plan and will result in a better project. The following items would contribute to the ability to make these findings: 1) the provision of public art; and 2) a contribution towards the proposed community center at Mission Boulevard and Valle Vista Avenue, or at another location within the South Hayward BART/Mission Boulevard Concept Design Plan area.
 - ii. The ground floor of each mixed-use building should be proportionately higher and architecturally distinguished from the upper façade to afford generous and inviting commercial uses and to distinguish the change in use.
 - iii. Buildings on corner lots should give architectural emphasis to the building corner by incorporating a tower, plaza recess, or other architectural and urban design elements. Such elements should be well-proportioned in relation to the height of the building.
 - iv. Auto entries into buildings should be designed with articulation and detail similar to other window and door openings, such as jambs and headers.
 - v. Building form should provide a “base” and a “top” that are human-scaled.

- vi. Amenities shall be provided within the street/pedestrian corridor, connecting Dixon Street and the BART station, to support a pedestrian-oriented lifestyle, including, but not limited to, wireless access, tables and umbrellas.
 - vii. Store entries in retail sections should be spaced no farther than 50 feet apart. Entries should be recessed to enhance circulation space for pedestrians.
 - viii. Ground-floor residential units facing a street should be designed to ensure privacy, such as raised windowsill heights and elevated interior floor elevations.
 - ix. Residential lobby entries should be clearly defined and directly accessible from the main thoroughfare.
 - x. Where appropriate, accent lighting should be used to highlight interesting architectural features, signs, storefront displays, landscape features, and public art.
 - xi. Public art features, at a value of 1% of project construction costs for Parcels 1, 2 and 3, and the Perry & Key site, not including transit facilities and infrastructure improvements, shall be required and installed prior to build-out of the project. The design of such feature(s) shall be submitted with the Precise Development Plan.
 - xii. The senior housing project on Parcel 2 shall include multi-function rooms for passive recreation, which with on-site group open space, would total to an area of at least 20% of the building footprint.
- f. A street tree plan and landscape and irrigation plans shall be submitted for review and approval by the City, which shall include:
- ii. An overall landscape concept statement addressing the quality of the proposed landscape design, the quality of the pedestrian environment, safety, water conservation and stormwater treatment. Consult the South Hayward BART/Mission Boulevard Concept Design Plan for guidelines regarding development street landscape treatments and the quality of pedestrian environments.
 - iii. A comprehensive arborist report for all existing trees. The report shall be prepared by a licensed arborist and shall include the health, species, caliper, approximate height, canopy diameter and value using the latest edition of "Guide for Plant Appraisal" by the International Society of Arboriculture. Provide an ISA worksheet for each tree.
 - iv. Information providing the preliminary soil volume and structural support for the raised planters on the podium levels for trees and other planting.
 - v. A 24-inch box street tree provided at every 20-40 linear feet of street frontage.
 - vi. A table showing 1) total required and provided common open space for each parcel, and 2) total area of irrigated landscape area for each parcel.
 - vii. Conceptual plans for project entry monuments and identification signs.
 - viii. Plan showing the locations, types and description of enhanced paving throughout the project, as shown on the preliminary landscape plan.
 - ix. Conceptual plan showing linkages with nearby open space/park areas.
 - x. Conceptual plan for BART plaza improvements.
 - xi. Conceptual plan to "soften" the appearance of the structures on Parcels 2 and 4 with landscaping or alternative materials.

- xii. Screening for all above-ground utility equipment with either architectural or landscape features.
- g. Landscape plans shall specify site amenities such as, benches, tables, fencing, play equipment and barbecues, and public art for the common open space areas. The two Caltrans-owned properties adjacent to and south of the Perry & Key/BART overflow parking sites, and the emergency vehicle access area shown adjacent to Parcels 3 and 4 shall include pedestrian walkways and benches, and shall otherwise be developed to allow free-style play and recreation to meet the project's group open space requirements.
- h. Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
- i. All air conditioners and utility connections for air conditioners shall be located such that all external equipment is located within an area that can be screened, and located so as to minimize noise impacts on adjacent properties. Infrastructure for air conditioning systems is required to be installed as a standard feature.
- j. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened from the streets with minimum five-gallon shrubs and/or an architectural screen, to be approved by the Planning Director.
- k. No mechanical equipment shall be placed on the roof unless it is completely screened from view by the proposed roof structure. Roof apparatus, such as vents, shall be painted to match the roof color. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by Building Code.
- l. In accordance with the City's Tree Preservation Ordinance, trees shall be provided to mitigate for any protected trees that are removed, with such trees to be at least equal in value to the trees that are being removed. These mitigation trees are required to be in addition to any required street trees, screening trees, or parking lot trees.
- m. A phasing plan shall be submitted with the Precise Plan for approval by the Planning Commission, which shall include the possible phasing of common area improvements.
- n. Regarding circulation:
 - i. The plan must include a designated paratransit stop adjacent to the BART faregates, consistent with ADA standards.
 - ii. The placement of bollards may not interfere with the effective movement of vehicles or persons.
 - iii. The plan must indicate on-site bicycle circulation and its access to the City's existing and/or planned bicycle route network, particularly access from the station to the bicycle lanes on Dixon Street.
 - iv. Indicate how the planned future pedestrian/bicycle bridge across Tennyson Road would connect with pedestrian/bicycle access to the BART Station.
 - v. The driveway into the grocery store parking garage off Dixon Street shall be improved to ensure that right-in/right-out-only movements will be available for entering and exiting.
 - vi. Indicate how adequate provision of the kiss-and-ride and taxi area will be maintained to avoid conflicts.

- vii. Where pedestrian paths cross auto lanes, the path must be clearly delineated by contrasting color, pavement pattern, lighted pedestrian crosswalks and/or raised slightly to form a raised crosswalk.
- p. A subdivision map application shall be submitted in concurrence with a Precise Development Plan consistent with the approved Preliminary Development Plan for approval by the Planning Director and the City Engineer.
- q. A geotechnical report shall be submitted for review and approval by the City Engineer prior to approval of any tentative map or building permit applications. The report shall investigate the potential hydrostatic pressure exerted onto the underground parking structures and provide necessary mitigation measures.
- r. **Mitigation Measure 10:** Prior to approval of the Precise Plan, the applicant shall submit a noise study, prepared by a qualified acoustical engineer, that makes recommendations for construction techniques to be implemented within the residential units on parcel 2 and those that face Mission Boulevard on the Perry and Key property.
- s. **Mitigation Measure 11:** A site-specific acoustic report shall be prepared for the project. The report shall include a summary of existing noise levels, an analysis of potential noise exposure levels, consistent with City of Hayward noise exposure levels and specific measures to reduce exposure levels of indoor spaces and required outdoor open spaces to City of Hayward noise standards. The acoustical report shall be submitted as part of the Precise Plan application. Implementation of this mitigation measure will reduce impacts to a less than significant level.
- t. **Mitigation Measure 13:** The formation of a Community Facility District (CFD) shall be formed to pay for the cost of providing public services prior to occupancy of any residence. The developer shall post a deposit in the amount of \$10,000 with the City in concurrence with the submittal of the Precise Development Plan application to cover the City's costs for the formation of the CFD. The exact extent of the responsibilities and public services of the CFD shall be determined during the formation of the District. Formation shall be completed prior to occupancy of the first residential unit.
- u. The Precise Plan shall incorporate features encouraged to discourage crime, such as adequate lighting, visible and accessible areas, etc., and shall be reviewed and approved by the Hayward Police Department staff.
- v. An agreement between the developer, BART, the City, and Eden Housing, as appropriate, shall be executed regarding the consequences of partial or non-development of the project. Such agreement shall include requirements for project completion and timing. The developer shall obtain building permits and commence construction of Parcels 3N & 3S and 4 no later than five years beyond the date of the award of the Proposition 1C Infill Grant, and to complete the project for all residential development no later than eight years beyond the award of the Grant, unless otherwise mutually agreed upon by all parties.
- w. Concurrence by BART and AC Transit via formal agreements that their service needs will be met by the Plan and during construction shall be executed and submitted to the City prior to start of construction.
- x. An agreement between the developer and BART shall be executed regarding the land transaction elements, replacement parking and the Community Facilities District.

y. Regarding solid waste;

I. **General Comments**

1. **Trash Enclosures:** Trash enclosures with a roof are required (Federal Clean Water Act) and must be able to be serviced at street level, not below grade. Storage space for recyclables is required by state law and City regulations.
2. **Collection Requirements:** Collection vehicles will only service enclosures by following the direction of traffic and making right turns. Trucks will not make left turns on a street that would result in the truck obstructing on-coming traffic while servicing a trash enclosure.
3. **Servicing Containers Inside Enclosures:** Residential buildings will receive service between 6:00 a.m. and 6:00 p.m., Monday – Friday. If trash enclosures are sited close to residential units, residents must be apprised of the collection schedule since the hauler may not be able to accommodate a request for a later collection time. Trash containers at retail sites more than 200 feet from residences may be serviced between 5:00 a.m. and 7:00 p.m., Monday – Friday.
4. To facilitate service, on-site staff may remove and return all carts or bins for garbage or recyclables from trash enclosures, or the City's franchisee, Waste Management of Alameda County (WMAC), may do so. If on-site staff removes the containers, time-certain collection services would need to be scheduled with the City's franchisee to ensure that the containers are returned to the enclosure as soon as possible. If WMAC retrieves the bins from trash enclosures, WMAC will require a key or card key if enclosures are locked. Either arrangement will need to be made by calling (510) 537-5500. Locks are available from WMAC for a nominal fee. Bins can be serviced provided that curbs are collapsed.
5. **Trash Enclosure Dimensions & Layout for Retail and Residential Premises**
 - a. Dimensions of trash enclosures for various bin sizes, including equivalent storage space for recyclables:
 - 2cy bin: 10 feet deep x 10 feet long
 - 3cy bin: 10 feet deep x 12 feet long
 - 4cy bin: 10 feet deep x 15 feet long
 - b. If compactor bin(s) are proposed for some sites, then a larger trash enclosure will be needed to accommodate the larger space required for that bin type. The architect will need to obtain specifications for compactor bins from a leasing company and provide for City review.
6. **Layout**
 - a. A six-inch-wide curb or bumper along the interior perimeter of the enclosure walls to protect them from damage by containers.
 - b. A six-inch-wide curb or bumper, at least three feet long, between the garbage and recycling containers, in order to secure each container in its designated area.
 - c. A minimum space of 12 inches between the garbage and recycling containers and the walls of the enclosure to allow for maneuvering the containers.

- d. Enclosure gates that hinge from the right and left corners of the enclosure and open straight out to allow the bin(s), to be pulled straight out and returned to their original location.
 - e. Enclosures constructed on a flat area with no more than a 2% grade to ensure that the driver can adequately maneuver the bin(s) in and out of the enclosure.
 - f. Signage indicating that one-half of each enclosure is for “Recyclables Only”, while the other half is for “Garbage Only”. Signs must be posted at eye-level on the exterior gates, on the interior walls (if the enclosure fronts on public property), or both, or other highly visible place.
 - g. A concrete pad located just outside each enclosure is recommended in order to accommodate the weight of the truck while servicing the containers, since asphalt can fail over time at these locations.
7. Placement and Size of Trash Enclosures: Factors that were considered in determining number, size and general location of enclosures for garbage and recyclables include convenience to residents and businesses and space constraints due to the proposed layout. Regular collection services can be accommodated using bins that are smaller than those proposed but would require collection as often as 6x/week (Monday – Saturday; the maximum available), though increased services would result in more noise and increased use of the streets.
8. Retail Garbage and Recyclables Service
- a. Trash enclosures are required for each of the retail sites. Occasionally, businesses share a trash container, though most prefer not to do so.
 - b. Recommended garbage service for restaurants (fast-food or some combination of sit-down services): 4cy bin serviced 3-6x/week; book stores, gift/print shops and similar services assumed for the sites shown typically require a 2 or 3cy bin serviced one or more times weekly.
 - c. Each enclosure must allow equivalent storage space for recyclables.
9. Residential Garbage and Recyclables Service
- a. Recommended Options for On-Site Storage of Trash and Recyclables
 - i. Require Residents to Deliver Trash and Recyclables to Designated Trash Enclosures using Steps or Elevators. Trash enclosures located equidistant from one another provide convenience and help to reinforce good habits to properly dispose of unwanted items.
 - ii. Storage Rooms on Each Floor for Garbage & Recyclables Serviced by On-Site Maintenance Staff: On-site staff would empty the carts containing garbage into compactor bin(s) or if only one trash enclosure is provided for each parcel to minimize the inconvenience created for residents’ units that are the most distant from the single enclosure. Storage rooms would use 96-gallon carts for trash and recyclables provided by WMAC. All carts would have decals provided by WMAC indicating proper use.
 - b. Options **NOT** Recommended for On-Site Storage of Trash and Recyclables
 - i. Install Compactor Bin(s) or Roll-off Compactor(s) for Garbage: If a compactor bin or compactor is proposed, on-site staff would be required

to retrieve the carts and empty the contents into the compactor to eliminate access by residents to this equipment. This option may not be required if changes to the site plans can be made to accommodate the recommended number of enclosures and collection vehicles. Doing so would avoid the additional expense to construct, install and maintain the compactors. It is also very difficult to visually evaluate effective recycling programs when using compactor bins since the storage units may not be opened.

- ii. Construct Chutes for Garbage Collection Accessible to Residents on Each Floor: The door to each chute would need to have signage provided by the property manager indicating acceptable and unacceptable items. Chutes must be three feet in diameter to avoid obstructions. On-site staff would remove obstructions from the chutes, secure the bins so that they remain at the bottom of each chute, monitor the fill-rates of the trash bins, remove bins filled with trash and replace with empty bins, and push the filled bins to the trash enclosure. Chutes may only be used to collect garbage, not recyclables, since bins are not available to store and collect recyclables. If chutes are installed, storage areas on each floor would be required for recyclables and would need to be serviced by on-site staff.

II. **Parcel 1: Affordable Housing Over Retail**

1. Retail Garbage and Recyclables Collection: Includes proposed grocer, and two other retail stores with square footage from 1,500 - 2,000 SF.
 - a. Compactor for grocer: Maximum capacity to ensure that it can be serviced: 30cy; loading height required: 30 feet since the compactor will be serviced at a below-grade loading dock.
 - b. Large supermarket chains typically install a downstroke baler to bale cardboard boxes for backhaul to their distribution centers for recycling. State law also requires that such stores accept plastic grocery bags from the public for recycling, if they provide such bags to customers (See <http://www.ciwmb.ca.gov/LGCENTRAL/Basics/PlasticBag.htm>). Such material may also be backhauled, either in large plastic bags or in bales. Balers should be installed indoors with adequate fire suppression features for storage of loose and baled materials. Baled materials may not be stored outside. Some supermarket chains, including Safeway, are backhauling waste produce, which is composted in Southern California (See <http://www.jgpress.com/archives/free/001527.html>).
2. Residential Garbage and Recyclables Collection: 165 Units
 - a. Recommend four trash enclosures, each measuring 10x12 feet, two for each of the two, three-story residential complexes and located near each of the four ends of the multi-family complex. Residents would carry their trash and recyclables to the designated enclosures.
 - b. All bins for trash would be 3cy and would require service 2x/week. Layout would be as described in 5.b.

III. Parcel 2: Residential Over Parking Structure

1. Residential Garbage and Recyclables Collection: 65 Units
 - a. Recommend two trash enclosures, each measuring 10x12 feet, one near each end of the three-story residential complex. Residents would carry their trash and recyclables to the designated enclosures.
 - b. All bins for trash would be 3cy and would require service 2x/week. Layout would be as described in 5.b. *Trash Enclosure Dimensions & Layout*.
2. Retail Garbage and Recyclables Collection: One 1,920 SF retail – Trash enclosure dimensions and layout are described under General Comments, 5.a. and b. *Trash Enclosure Dimensions & Layout*.

IV. Parcel 3N: Residential; 138 Units

1. Recommend four trash enclosures, each measuring 10x15 feet, two located near each end of the two, three-story residential complexes. Residents would carry their trash and recyclables to the designated enclosures.
2. Trash bins would be 4cy and would require service 2x/week. Layout would follow 5.b. *Trash Enclosure Layout*.

V. Parcel 3S: Residential; 103 Units

1. Recommend three trash enclosures each of which would measure 10x12 feet.
2. Two on the street between Dixon and the BART parking structure; both enclosures should be near but not at each end of the complex for residents' convenience.
3. Enclosure #3 should be located near the intersection of Dixon and the entrance to the below-grade parking. Recommend enclosure not be visible from Dixon to avoid illegally-dumped trash.
4. Residents would carry their trash and recyclables to the designated enclosures.
5. Trash bins would be 3cy and would require service 3x/week. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.

VI. Parcel 4: Perry Site Residential (341 Dwelling Units and Four Retail Sites)

1. Building 1 (116 Units)
 - a. Recommend three enclosures each measuring 10x15 feet and located as follows:
 - i. Two on Dixon located at opposite ends of the dwelling units; both enclosures should be near but not at each end for the residents' convenience.
 - ii. Enclosure #3 should be located nearer the 25 dwelling units, rather than the proposed location near the B-2 garage entrance. However, if only two trash enclosures can be sited (i.e., one on Dixon and the other in the proposed location) due to the garage entrance and property line, then service to those 25 dwelling units would be inconvenient, but may not pose any other problems.
 - b. Residents would carry their trash and recyclables to the designated enclosures. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.
2. Building 2 (85 Units):
 - a. Recommend two enclosures, each measuring 10x12 feet, and located at opposite ends of the building site, i.e., along the fire lane and near the

property line. If the only trash storage area available is along the fire lane, then service to the 85 dwelling units would need to be a minimum of 4 or possibly 5 times per week. This level of anticipated service is not recommended since service could only be increased to 6 times per week, i.e., Monday - Saturday. To store the significant amount of trash generated, the only other option would be to require on-site staff to remove trash from storage areas (located on each floor of each building) and empty the contents into a compactor bin, as described in 9.b., *Options Not Recommended for On-Site Storage*.

- b. Residents would carry their trash and recyclables to the designated enclosures.
 - c. The two 3cy bins for trash would require service 3 times each week. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.
3. Building 3 (80 Units):
- a. Recommend two enclosures, each measuring 10x15 feet, and located at opposite ends of the building site, i.e., along the fire lane and near the property line. If the only trash storage area available is along the fire lane, then service to the 80 dwelling units would need to be 4 or possibly 5 times per week. This level of anticipated service is not recommended since service can only be increased to 6 times per week, i.e., Monday - Saturday. To store the significant amount of trash generated, the only other option would be to require on-site staff to remove trash from storage areas (located on each floor of each building) and empty the contents into a compactor bin, as described in 6.B., *Options Not Recommended for On-Site Storage*.
 - b. Residents would carry their trash and recyclables to the designated enclosures.
 - c. The two 4cy bins for trash would require service 2x/week. Layout would follow 5.b. *Trash Enclosure Dimensions & Layout*.
4. Building 4 (60 Units):
- a. Residential Trash and Recyclables Collection
 - i. Recommend two enclosures, each measuring 10x10 feet, and located at opposite ends of the building site, i.e., along the two fire lanes. None is recommended on Mission Boulevard for residents' use to minimize illegal dumping. If the only trash storage area available is along the fire lane between Dixon and Mission Boulevard, then service to the 60 dwelling units would need to be 4 or possibly 5 times per week from an enclosure that would need to measure 10x15 feet to accommodate a 4cy bin for garbage. This level of anticipated service is not recommended since service can only be increased to 6 times per week. To store the significant amount of trash generated, the only other option would be to require on-site staff to remove trash from storage areas (located on each floor of each building) and empty the contents into a compactor bin, as described in 9.b., *Options Not Recommended for On-Site Storage*.
 - ii. Residents would carry their trash and recyclables to the designated enclosures.

- iii. The two 2cy bins for trash would require service 3 times each week. Layout would follow 5.b. *Trash Enclosure Layout*.
- b. Four Retail Sites: Estimated trash generation rates for each of the two retail sites are described in Section i, *General Comments*. See also Section 5.a., *Trash Enclosure Dimensions & Layout*.

PRIOR TO APPROVAL OF, OR RECORDATION OF, THE FINAL MAP(S)

IMPROVEMENTS

Improvement plans, including a hydrology map and drainage calculations, and erosion and sediment control plan, a landscaping and irrigation plan, and street lighting plan, shall be submitted to the City Engineer for review and approval. Subject plans shall, in addition to the standard improvements, incorporate the following special design requirements:

Streets

1. An Encroachment Permit must be obtained prior to the start of any construction within the City of Hayward rights-of-way.
2. An Encroachment Permit must be obtained from the California Department of Transportation (CalTrans) prior to the start of any construction within their right-of-way.
3. Any damaged and/or broken sidewalks along the property frontages shall be removed and replaced as determined by the City inspector.
4. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association or commercial property owners association established to maintain the common areas within the subdivision boundary.
5. The site plan shall be reviewed with the Fire Department and Engineering and Transportation Division to ensure that the street and driveway layout is adequate to provide access for emergency, service and utility vehicles, and other commercial trucks. Changes may be necessary including increasing corner radii, driveway widths or intersection alignments.
6. The developer shall implement the signing and striping for the interior streets as shown on the site plan dated January 26, 2009. Signing and striping plans shall be approved by the City Engineer.

Mission Boulevard

7. Existing utilities shall be placed underground.

8. Mission Boulevard frontage improvements shall be consistent with the City's Route 238 Corridor Improvement Project plans. Required improvements, including streetlights, shall be installed, and paid for, by the developer at the time of construction on Parcel 4.
9. New decorative street lights shall be installed along the Mission Boulevard street frontage. The design and location shall be shown on the improvement plans and approved by both the Planning Director and City Engineer.

Tennyson Road

10. **Mitigation Measure 14:** The following improvements to the Dixon Street/Tennyson Road intersection shall be made to reduce impacts to an acceptable level: (1) provide split phasing on the Northbound and southbound approaches; (2) provide a right turn overlap (green arrows when the cross-street protected left phases are active) on the Southbound right turn; (3) restripe the northbound approach to provide an exclusive left turn lane and a shared through/right turn lane and prohibit on-street parking; (4) prohibit on-street parking on the southbound approach between the intersection and the driveway for the adjacent townhouses, a distance of about 100 feet back from the cross-walk; and (5) provide protected+permitted phasing for the eastbound and westbound left-turns. Implementation of this mitigation measure will reduce impacts to a less than significant level. Prior to construction, the design will be approved by the City Engineer. The developer will be responsible for 100% of the design and construction costs for this mitigation.
11. Handicap ramps shall be installed where required by the City Engineer.
12. Existing utilities shall be placed underground.
13. Decorative pavements shall be capable of supporting a 50,000 lb. gross vehicle weight load. Curb returns shall have a minimum radius of 30 feet at the curb face, except as otherwise permitted by the City Engineer to allow for truck and bus turning movements.
14. The entry features, signs and monuments shall be designed to not impede sight distances.
15. New decorative streetlights shall be installed along the Tennyson Road street frontage. The design and location shall be shown on the improvement plans and approved by both the Planning Director and City Engineer.

Dixon Street

16. New decorative street lights shall be installed along the Dixon Street frontage. The design and location shall be shown on the improvement plans and approved by both the Planning Director and City Engineer.
17. The existing curb, gutter and sidewalk shall be replaced as determined by the City Engineer.
18. The developer shall construct a traffic signal at the intersection of Dixon Street and the southern entrance into the project (BART parking structure). The design of the traffic signal

shall be approved by the City Engineer. The developer is responsible for paying 100% of the cost of design and construction of this signal.

19. Signage at the signalized intersection shall indicate the direction to the BART parking structure.

Interior Public Streets

20. Street intersections shall be designed and constructed per City Standard Detail SD-110A.
21. All interior streets within the development shall be private. The curb return radius shall be 30 feet from the face of the curb, except as otherwise permitted by the City Engineer to allow for truck and bus turning movements.
22. The sidewalk segments on either side of the northwesterly auto entrance to the grocery store parking garage shall be eliminated, as well as the crosswalk at that entrance, except to allow for access to required exits and service entries.
23. Decorative on-site private streetlights shall be installed along all interior streets. Pedestrian lighting shall be provided throughout the development, including interior walkways, to enhance safe pedestrian movement. The location of the lights shall be shown on the improvement plans and shall be approved by the City. Selected fixtures shall minimize “spill-over” lighting on adjacent properties that are not part of the development. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.
24. The party/parties responsible for the maintenance of all interior streets, traffic control, signage and amenities shall be identified.
25. A reciprocal agreement for ingress and egress, and parking, shall be executed between all involved parties, and that document shall be provided to the City for review and approval prior to approval of improvement plans.

Parking and Driveways

26. The applicant/developer shall provide sufficient parking spaces for the development to meet the requirements of the City of Hayward Municipal Code, and of BART for its parking structure. Parking stall dimensions and driveways shall meet City requirements as approved by the Planning Director and City Engineer, or as approved by BART for its parking structure.
27. The applicant/developer shall provide a deposit equal to the cost of funding a neighborhood parking survey, as determined by the Director of Public Works, to determine if adequate parking has been provided and whether any deficiency in parking has created parking impacts outside of the project area.

28. ADA compliant parking stalls and loading areas, and handicap ramps and accessible pathways shall be provided throughout the project, per federal and state standards and exceptions.
29. The entry drives of the grocery store and BART parking garages shall be designed to eliminate conflicts with movements into and out of parking spaces, as approved by the City Engineer.
30. Parking for residential uses shall not exceed one space per studio or one-bedroom unit, or 1.3 spaces for units with two or more bedrooms.
31. Parking for non-residential uses shall be provided at a minimum of one space per 315 square feet of gross floor area.

Landscaping and Irrigation

32. Prior to the approval of the improvement plans, a detailed landscaping and irrigation plan for all common areas, front yard areas to fence lines and all rear slope areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City's Landscape Architect. Planting and irrigation plans shall comply with the City's *Hayward Environmentally Friendly Landscape Designs & Checklist*.
33. Prior to issuance of building permits for Parcel 1, the developer shall form a Landscape and Lighting District to fund operation and maintenance of common areas within the development. Prior to approval of the first final map, the developer shall provide a \$10,000 deposit to the City to cover the costs associated with formation of the District. The exact limits of responsibility for the District will be determined during processing of the Precise Plan for the development.
34. Within all required landscape areas, a complete automatic sprinkler system with an automatic on/off mechanism shall be installed. A hose bib shall be provided within each private open space area.

Storm Drainage

35. The on-site storm drain system within the development, excluding that located within the public right-of-way, shall be a private system owned and maintained by the homeowners association or property owners.
36. The Hydrology and Hydraulics Criteria Summary, Alameda County Flood Control and Water Conservation District, latest edition shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be reviewed and approved by the Alameda County Flood Control and Water Conservation District and the City Engineer. Development of this site is not to augment runoff to the District flood control facility downstream, Zone 3A, Line D. The hydrology study shall substantiate that there will be no net increase in the quantity of

runoff from the site versus the flow rate derived from the original design of Line D and any augmented runoff will need to be mitigated on-site.

37. The proposed realignment of Alameda County Flood Control & Water Conservation District (Flood Control District), Zone 3A, Line D project, a 72-inch storm drain pipe traversing BART's parking lot shall be reviewed and approved by the Flood Control District prior to the approval of improvement plans by the City.
38. An encroachment permit shall be obtained from ACFC&WCD prior to commencement of any work within the Flood Control District right-of-way and for the construction, modification or connection to District-maintained facilities. All workmanship, equipment and materials shall conform to District standards and specifications.
39. **Mitigation Measure 8:** The applicant shall prepare a storm drainage report that includes storm drain calculations associated with expected runoff and downstream drainage facilities and remediate if necessary, to determine adequacy to serve the proposed development. The storm drainage report shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans. Implementation of this mitigation measure will reduce impacts to a less than significant level.
40. **Mitigation Measure 9:** A site-specific drainage plan shall be prepared for the project area prior to approval of the associated grading and improvement plans. The report shall include a summary of existing (pre-project) drainage flows from the project site, anticipated increases in the amount and rate of stormwater flows from the site and an analysis of the ability of downstream facilities to accommodate peak flow increases. The analysis shall also include a summary of new or improved drainage facilities needed to accommodate stormwater increases. The drainage plan shall be reviewed and approved by the Hayward Public Works Department staff and Alameda Flood Control and Water Conservation District staff prior to approval of the improvement and grading plans. Implementation of this mitigation measure will reduce impacts to a less than significant level.
41. The developer shall provide a copy of the Notice of Intent filed with the State Water Resources Control Board, prior to the issuance of a grading permit for the project site.
42. The project plans shall include storm water measures for the operation and maintenance of the project to be approved by the City Engineer. The project plans shall identify and incorporate Best Management Practices (BMPs) appropriate to the uses conducted onsite to effectively prevent the entry of pollutants into storm water runoff. Roof leaders shall discharge into a landscaped area, where available, prior to storm runoff entering a pipe system. **Mitigation Measure 2:** The applicant shall employ the following basic and enhanced control measures during site construction to address potential temporary air quality impacts: (a) water all active construction areas at least twice daily; (b) cover all trucks hauling soil, sand, and other loose materials; (c) pave, apply water three times daily, or apply soil stabilizers on all unpaved access roads, parking areas and staging areas; (d) sweep daily all paved access roads, parking areas and staging areas; (e) sweep streets daily if visible soil material is

carried onto adjacent public streets; (f) hydro seed or apply soil stabilizers to inactive construction areas or previously graded areas that are inactive for ten or more days; (g) enclose, cover, water twice daily or apply soil binders to exposed stockpiles of dirt, or sand; (h) limit traffic speeds on unpaved roads to 15mph; (i) install sandbags or other erosion control measures to prevent silt runoff to public roadways; (j) replant vegetation in disturbed areas as quickly as possible; (k) install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; and (l) suspend excavation and grading activity when winds exceed 25mph. Implementation of this mitigation measure will reduce the impact to a less than significant level.

43. The developer shall prepare a Maintenance Agreement for storm water BMP's constructed as part of this project. The Maintenance Agreement shall be reviewed and approved by the City prior to recordation with the Alameda County Recorder's Office. The Agreement shall be recorded to ensure that the responsibility for maintenance is bound to the property in perpetuity.
44. The project streets, driveways and parking areas shall be designed to facilitate street sweeping, including the layout of the tree and handicap ramp bulb-outs.
45. The project plan measures shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
46. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop work order.
47. The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all the areas tributary to the project area. The developer is required to mitigate augmented runoffs with off-site and/or on-site improvements.
48. All storm drain inlets must be labeled "No Dumping - Drains to Bay" using City approved methods.
49. Storm water inlets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.

Sanitary Sewer System

50. Sanitary sewer service is available subject to standard conditions and fees in effect at the time of application.
51. The development's sanitary sewer mains and manholes, where located on BART or State owned parcels, shall be public, owned and maintained by the City. In the Perry/Key parcel, the sewer main and manholes in the roadway along the northwest property line

shall also be public. Where public sewer mains and manholes are located in an unpaved easement, an all-weather utility truck accessible surface must be provided.

52. All public sewer mains, building court mains, building sewers and appurtenances, shall be constructed in accordance with the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12" Diameter or Less)," latest revision at the time of permit approval.
53. The proposed development will impact the existing City of Hayward Wastewater Collection System. The Development shall be responsible for its share of upsizing downstream sewer mains that have been identified by City staff as having inadequate capacity as a result of the Development's impact, and such share shall be determined by the City.
54. Per Section 11-3.501, "Parcel Frontage Extension for Sewer Mains," of the City Municipal Code, the applicant/developer is required to construct roughly 830 lf of 8" sewer main in Dixon St., from the existing manhole at Sea Mist Ct. towards Tennyson Rd.
55. To better distribute the impact the development will have on the City's Wastewater Collection System, the development's sewer system shall be designed to discharge wastewater to both the existing sewer main in Tennyson Rd. and the new sewer main to be constructed in Dixon St.
56. Each building and retail or commercial space with wastewater shall have an individual sanitary sewer lateral, at a minimum.
57. Any food service establishment shall install a grease control device to control the discharge of fat, oil and grease (grease trap or grease interceptor), unless this requirement is expressly waived by the Director of Public Works. The type, size and location of the device shall be approved by the Deputy Director of Public Works.

Water System

58. Water service is available from the City and is subject to standard conditions and fees in effect at the time of application.
59. All public water mains shall be constructed in accordance with the City's "Specifications for the Construction of Water Mains (12" Diameter or Less) and Fire Hydrants," latest revision at the time of permit approval.
60. The existing South Hayward BART station site is currently served by an 8" water main that connects to the 8" water main in Dixon St. and dead ends at a fire hydrant near the middle of the site. This existing water main will be insufficient for the proposed development. The proposed development will impact the existing City water system. To mitigate this impact and provide the area with sufficient fire flows for the proposed structures, the applicant/developer shall construct approximately 1800 LF of new 12" public water main that connects to the existing 12" water main in Tennyson Rd., heads

southeast across the South Hayward BART site, turns and heads northeast between parcels 3N and 3S, connects to the existing 8" water main in Dixon St., continues northeast across the Perry/Key parcel and connects to the existing 12" water main in Mission Blvd. Additional public water mains may be needed to provide water service to other areas of the development, as determined by the Director of Public Works and the Fire Chief.

61. The existing South Hayward BART 8" water main shall be abandoned and removed where it connects to the existing 8" water main in Dixon St, by City Water Distribution personnel at the applicant's/developer's expense. The existing on-site 8" and 6" asbestos cement water mains shall be removed and disposed of by the applicant/developer in accordance with State and Federal (EPA) requirements.
62. The development's water mains shall be public, owned and maintained by the City. The water mains shall be configured in a looped system and located 5 feet from the face of curb.
63. Where a public water main is in an unpaved easement or under decorative, stamped, or colored concrete (including turf-blocks), the water main shall be constructed of ductile iron. Shut-off valves are required where a water main transitions from a paved area to an unpaved easement.
64. Each dwelling unit and retail or commercial space shall have an individual domestic water meter.
65. Separate irrigation water meters shall be installed for landscaping purposes.
66. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each commercial and irrigation water meter, per City Standard SD-202.
67. All fire services shall have a Double-Detector Check and Trim/Fire meter installed by City Water Distribution Personnel at the applicant's/developer's expense, per City Standard SD-204. Minimum sizing shall be per Fire Dept. requirements.
68. All domestic, commercial and irrigation water meters shall be Radio-Read type.
69. Water meters and services shall be located a minimum of two feet from the top of driveway flairs, per City Standard Detail SD-213 thru SD-218.
70. Water mains and services, including the meters, must be located at least 10 feet horizontally from and one foot vertically above, any parallel pipeline conveying untreated sewage (including a sanitary sewer laterals), and at least four feet horizontally from and one foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade piping materials.

Utilities

71. All utility services shall be "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T, and Comcast regulations.

Transformers, and switch gear cabinets, shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.

72. The developer shall submit conceptual undergrounding plans with the Precise Plan submittal.
73. The developer shall provide and install the appropriate facilities; conduit, junction boxes, etc., to allow for installation of a City-owned and –maintained fiber optic network within the subdivision.
74. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.
75. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.

Fire Protection

76. The new site and circulation plan submitted appears to be suitable with the exception of the south areas of the Perry and Key mixed use residential / commercial project, as well as the west side of Parcel 2 (residential over parking structure) and Parcel 4 (BART Parking structure) where access is restricted on one side of the buildings mentioned above. Areas where access is restricted or ladder operations and aerial ladder operations are not possible, shall provide features matching the high rise requirements of the 2007 CFC and CBC, in order to make fire fighting operations possible including rescue and evacuation of the building. A request has been made to omit the installation of an emergency generator as one of the construction features matching the high rise requirements of the 2007 CFC and CBC. The request will be entertained at the time of construction plans submittal with an official AMP request to the Fire chief.
77. Fire department operations required to use a 26' access roadway with a 13'-6" vertical clearance in areas where the building exceeds 35' in height. All finished surface of fire department access roadways shall be designed and engineered to withstand the GVW of 50,000 lbs. Fire department access from the podium shall be in such way as to present a safe access way from grade level, up through the exterior stairwell to the podium to allow firefighters for safe laddering operations at the podium level. Roof firefighting operations will be performed from the 26' fire department access, providing the roof line of all buildings is accessible from the fire department access roadways.
78. Existing fire hydrants and fire flows need to be noted on improvement plans. Fire flows of the total square footage of the buildings will be verified at the time of submittal to identify the need for the fire hydrant spacing requirements. Fire hydrants on Commercial/High density projects need to be spaced within 300 feet of each other. The fire hydrants shall be capable of delivering a fire flow of 5000 GPM @ 20 PSI. (50% reduction of the fire flow is allowed due to the buildings being protected with an automatic fire sprinkler system thus

the fire flow per fire hydrant shall be 2500GPM @ 20 PSI). New private fire hydrants shall be Modified Double steamer with (1) 4-1/2" outlet and (1) 2-1/2" outlet. Public fire hydrants shall be equipped with (2) 4-1/2" outlets and (1) 2-1/2" outlet. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants. Vehicular protection may be required for the fire hydrants.

79. Underground fire service lines shall be reflected on the plans, establishing the locations of each underground fire service line for the commercial structures as well as the multi-family buildings, including underground fire sprinkler laterals, locations of PIV, FDC and fire hydrants. Installation of underground fire service line shall be installed as per NFPA 24 and COH Standard Requirements. Underground fire service lines shall be looped.
80. The proposed structures within this development shall be protected with an automatic fire sprinkler system as per NFPA 13 Standards. Buildings shall be provided with not less than one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections at accessible locations adjacent to such usable stairs. Standpipe systems shall be extended as construction progresses. At each floor landing a 2-1/2" valve outlet shall be provided for fire department use as well as inside the corridors of every floor. Where construction height requires the installation of class 1 standpipe, fire pumps and water main connections shall be provided to serve the standpipes. Standpipes shall be accessible in the finished building in the stairwells and interior corridors. Design and installation of the class -1 wet standpipe systems shall be in conformance with NFPA-14 Standards. Underground fire service laterals for fire sprinkler systems as well as fire department connections and post indicators valves shall be installed in acceptable locations as approved per the fire department.
81. Fire alarm system shall be provided as per NFPA 72 Standards for all buildings within the complex. Individual buildings shall be provided with their own designated fire alarm and each fire sprinkler system riser shall have exterior local alarm bell(s). Interior notification device(s) shall be installed within each living unit and within the commercial spaces. The alarm shall be activated upon any fire sprinkler system waterflow activity.
82. A manual and automatic fire alarm (evacuation) system shall be required for the buildings. The system shall include common areas, smoke detectors, manual pull stations and audible and visual devices. The system shall also meet ADA compliance and elevator recall system.
83. Each building with residential units shall have its own fire alarm addressing and its own fire control center tied into a PA system/ alarm enunciator system/ evacuation system.
84. Each building with residential units shall have its own fire alarm addressing and its own fire control center tied into a PA system/ alarm enunciator system/ evacuation system.
85. Pressurization/smoke removal/ rated corridors or any other building features that would be provided for high rise buildings would have to be incorporated to any floors where fire department ladder operations are not possible due to building construction features that would impede the deployment of the ladders or aerial ladder operations for rescue or fire

fighting operations. These features may include any part of the building exceeding 30' (Feet) in height from a fire apparatus access where the Fire Marshal feels it is essential to the safe evacuation of residents and firefighting operations during an actual fire situation.

86. Building exiting requirements shall meet the latest adopted edition of the 2007 CBC, Chapter 10, or such code in effect at the time of submittal of building permit applications.
87. Extinguisher placement shall conform to CFC, Chapter 9.
88. Address and premise identification approved numbers shall be placed on all buildings in such a position as to be plainly visible and legible from the road or street fronting the property. Dimensions of address numbers or letters on the front of the buildings shall be approved by the Fire Department.

Dedications, Easements and Deed Restrictions

89. The final map shall reflect:
 - a. Six-foot-wide public utility easements (PUE) along the edge of the public/private streets where necessary as determined by the City Engineer.
 - b. Dedication of all right-of-way and easements for the new water main extension, including access roads.

Subdivision Agreement

90. Execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements per Section 10-3.332, Security for Installation of Improvements, of the Municipal Code. Insurance shall be provided per the terms of the subdivision agreement.

PRIOR TO ISSUANCE OF GRADING PERMITS

91. **Mitigation Measure 4:** Prior to any grading or site earthwork, the applicant shall submit an Erosion and Sediment Control Plan to the City for review and approval, as part of improvement plans. The Plan shall incorporate measures consistent with the City's Grading Ordinance and Best Management Practices for construction projects. Implementation of this mitigation measure will reduce impacts to a less than significant level.
92. **Mitigation Measure 6:** Prior to construction/grading permits being issued and a certificate of occupancy being granted, the applicant shall obtain environmental and health based clearances from the department of Toxic Substances and Hayward Fire Department-Hazardous Materials Section. Some allowances for grading or construction may be granted if specifically requested in writing and allowed by the Department of Toxic Substances Control and the Hayward Fire Department.
93. **Mitigation Measure 7:** The applicant shall submit an erosion and sediment control plan and a stormwater pollution prevention plan (SWPPP) as part of the Grading and

Improvement Plan application submittal, utilizing best management practices in accordance with the Alameda County Clean Water Program NPDES Permit Section C.3, including but not limited to limiting periods during which grading occurs.

94. **Mitigation Measure 12:** A Construction Noise Management Plan shall be prepared for the project. The plan shall specify measures to be taken to minimize construction noise on surrounding developed properties. The Noise Management Plan shall be approved by City staff prior to issuance of grading or building permits and shall contain, at minimum, a listing of hours of construction operations, a requirement for the use of mufflers on construction equipment, limitation on on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor plans and specifications. Implementation of this mitigation measure will reduce impacts to a less than significant level.
95. The developer shall complete a Development Building Application Form Information comprised of 1) Impervious Material Form and 2) Operation and Maintenance Information Form.
96. A copy of the Notice of Intent (NOI) from the State Water Resources Control Board shall be provided to the City.
97. Prior to the issuance of a grading permit, the developer shall provide a tree preservation bond, surety or deposit, equal in value to the trees to be preserved on the site that are within 50 feet of any grading or construction. The bond, surety or deposit shall be returned when the tract is accepted if the trees are found to be in a healthy, thriving and undamaged condition, as determined by the City's Arborist.
98. Trees shall be preserved in accordance with the Tree Preservation Ordinance. Prior to the issuance of a grading or building permit, all trees to be preserved or removed shall be indicated on the grading, site and landscape plans, and trees to remain in place shall be noted and provided with tree protection measures in compliance with City codes and per tree preservation guidelines, including installation of tree protection fencing prior to the start of grading, as recommended by the project consulting arborist. A tree removal permit is required prior to the removal of any tree. Replacement trees shall be required for any trees removed, as determined by the City Landscape Architect.
99. A formal agreement with BART shall be delivered to the City for its review and approval regarding the construction of the BART parking structure, which shall identify project phasing and construction coordination to ensure that there is no disruption of bus service.
100. A formal agreement with AC Transit shall be delivered to the City for its review and approval regarding the construction of the bus transfer facilities, which shall identify project phasing and construction coordination to ensure that there is no disruption of bus service.

PRIOR TO ISSUANCE OF BUILDING PERMITS

101. Prior to the approval of improvement plans or issuance of the first building permit, detailed landscaping and irrigation plans for all common areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscaping and irrigation plans shall comply with the City's Hayward Environmentally Landscape Designs & Checklist.
102. Prior to issuance of the first building permit, the final map shall be approved by the City and filed with the County Clerk-Recorder Office.
103. **Mitigation Measure 3:** The applicant shall have prepared a geotechnical investigation by a licensed geotechnical engineer, which will outline recommendations for construction given the location of the project site near the Hayward fault. Submittal of the geotechnical report shall be submitted as part of the building permit application. Implementation of this mitigation measure will reduce impacts to a less than significant level.
104. **Mitigation Measure 5:** The applicant shall submit a detailed soils report, prepared by a licensed geotechnical engineer, as part of the building permit application that demonstrates the type of construction suitable for the project site, based on recommendations in the soils present. Implementation of this mitigation measure will reduce impacts to a less than significant level.

PRIOR TO CONSTRUCTION WITH COMBUSTIBLE MATERIALS

105. Required water system improvements shall be completed and operational prior to the start of combustible construction to the satisfaction of the Fire Chief.

DURING CONSTRUCTION

106. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
 - a. Grading and construction activities shall be limited to the hours 7:00 AM to 6:00 PM on weekdays and Saturdays; there shall be no grading or construction activities on Sundays or holidays;
 - b. Grading and construction equipment shall be properly muffled;
 - c. Unnecessary idling of grading and construction equipment is prohibited;
 - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
 - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information, including the residents/owners at properties in the Beatron Way neighborhood and within Spanish Ranch II Mobilehome Park.
 - f. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences

- find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction.
- g. The developer shall participate in the City's recycling program during construction;
 - h. Daily clean-up of trash and debris shall occur on Dixon Street, Tennyson Road and Mission Boulevard and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
 - i. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
 - j. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
 - k. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
 - l. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
 - m. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
 - n. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
 - o. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
 - p. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
 - q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
 - r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
 - s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
 - t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
 - u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "*Building Maintenance/Remodeling*" flyer for more information;
 - v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
 - w. The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division,

the Alameda County Department of Health and the Regional Water Quality Control Board.

107. A representative of the soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe grading operations with recommended corrective measures given to the contractor and the City Engineer.
108. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
109. The developer shall be responsible to adhere to all aspects of the Storm Water Pollution Prevention Plan (SWPPP) as approved per conditions of approval above.
110. Construction Administration services shall be provided by the project landscape architect. Services to include:
 - a. Observation of irrigation system before burying pipes;
 - b. Observation of plant material upon delivery to the site;
 - c. Observation of layout and placement of plant material upon delivery to the site;
 - d. Observation for maintenance period commencement; and
 - e. Observation for final acceptance.

PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY

111. The final map shall be filed and approved by the City and recorded in the County Recorder's Office prior to the issuance of a Certificate of Occupancy of any unit.
112. The developer shall pay all required fees, including those indicated below, with the amount of such fees to be in accordance with the fee schedule in effect at the time of issuance of the building permits, unless otherwise specified:
 - a. Supplemental Building Construction and Improvement Tax;
 - b. Building Construction and Improvement Tax;
 - c. School Impact Fee;
 - d. Water facilities Fee (payable prior to final inspection);
 - e. Sewer Connection Fee for each dwelling unit at the rate in effect when the utility service permit for the dwelling unit is issued; and
 - f. Park dedication in-lieu fees for each dwelling unit shall be calculated at the rate in effect when the building permit for unit is issued.
113. Subject to agreement with the developer, additional payment shall be made toward development of a community center at Mission Boulevard and Valle Vista Avenue, or at another location within the South Hayward BART/Mission Boulevard Corridor Concept Design Plan, associated with the 206 affordable housing units. Such contribution shall equal an in-lieu fee amount for the 206 affordable units, minus the cost of acquiring and developing the Caltrans parcels for group open space and recreation. Such areas shall be offered for public recreation use.

114. Any damaged curb, gutter and/or sidewalk along the Tennyson Road, Dixon Street and Mission Boulevard property frontages shall be repaired or replaced to the satisfaction of the City Engineer.
115. All common area landscaping, irrigation and other required improvements in the current phase shall be installed according to the approved plans.
116. The on-site street light electroliers shall be in operating condition as approved by the Planning Director and the City Engineer.
117. Prior to occupancy of all the Eden Housing units on Parcels 1 and 2, the grocery store shall be occupied and open for business to the public.

PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED

118. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
119. The developer shall submit a final statement of water main extension costs and notarized bill of sale to the Utilities Administration prior to application for water service.
120. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of 80% of the dwelling units, whichever first occurs. All individual lot landscaping shall be installed prior to occupancy of each unit and prior to the final acceptance of tract improvements.
121. Prior to completion of tract improvements for the development proposed east of Dixon Street, the developer shall acquire, improve, and offer for dedication for public use the adjacent Caltrans parcels. As an alternative, the developer shall make a contribution to the Hayward Area Recreation & Park District equal to the cost to fully acquire and improve these parcels. In the event that the requisite land for group open space is not acquired prior to completion of tract improvements, the developer shall (1) enter an agreement with the City to complete the improvements at such time the City acquires an interest in the land that will permit the improvements to be made, or (2) the developer shall pay the total amount of park in-lieu fees required for the requisite land, at the City's sole discretion. The developer shall also be responsible for any costs associated with City's efforts to acquire such land.
122. An AC overlay along Tennyson Road, Dixon Street and Mission Boulevard may be required by the City Engineer, if it is determined that it is necessary due to deterioration resulting from heavy traffic during the construction of the development.
123. The improvements associated with the Pacific Gas and Electric Company, EBMUD, Comcast and SBC shall be installed to the satisfaction of the respective companies.

124. Landscape improvements and street trees shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted prior to the issuance of a Certificate of Occupancy for each unit.
125. The subdivider shall submit an "as built" plan indicating the following:
 - a. All the underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric Company, SBC and Comcast, etc; and
 - b. All the site improvements, except landscaping species, buildings and appurtenant structures.

Homeowners Association

126. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping and open space amenities as depicted on the approved tentative tract map. The exact limits of responsibility for the Association will be determined during processing of the Precise Development Plan for the development.
127. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, Covenants, Conditions and Restrictions (CC&R's) shall be prepared for the project which shall be reviewed and approved by the Planning Director and City Attorney that shall include the following provisions:
 - a. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
 - b. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.
 - c. The association shall be managed and maintained by a professional property management company.
 - d. The homeowners' association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within 14 days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
 - e. A provision that if the homeowners' association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
 - f. A requirement that the building exteriors and amenities shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.

- g. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
- h. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.
- i. Any transformer shall be located underground and shall be located outside any front or side street yard.
- j. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- k. The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than 24 hours prior to collection and shall be removed within 24 hours after collection.
- l. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association established to maintain the common areas within the subdivision boundary.
- m. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.
- n. Contribution to the Community Facilities District to pay for proportionate share of the cost for public services, including police services.
- o. Contributions to fully fund implementation of measures to relieve potential overflow parking impacts, including such measures as implementing, funding and administering of a residential parking permit program according to City requirements, increasing the on-street parking supply through implementation of angled parking on appropriate streets, or managing the existing on-street parking, using time restrictions to improve turnover and provide a pool of short-term parking.

Commercial Property Owners' Association

- 128. Prior to the acceptance of site improvements, a Commercial Property Owners' Association (CPOA) shall be created to maintain the frontage landscaping and other amenities as depicted on the approved tentative tract map. The exact limits of responsibility for the Association will be determined during processing of the Precise Development Plan for the development. The City shall have the ability to place liens on all private properties within the development if the CPOA fails to fulfill its maintenance obligations.
- 129. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever first occurs, Covenants, Conditions and Restrictions (CC&R's) shall be prepared for the project which shall be reviewed and approved by the Planning Director and City Attorney that shall include the following provisions:
- 130. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
 - a. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association.
 - b. The association shall be managed and maintained by a professional property management company.

- c. The association shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The homeowner's association representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within 14 days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
- d. A provision that if the association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
- e. A requirement that the building exteriors and amenities shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.
- f. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
- g. Utility meters, when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen, allowing sufficient access for reading.
- h. Any transformer shall be located underground and shall be located outside any front or side street yard.
- i. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- j. The CC&Rs shall specify the outdoor collection locations of trash and recycle containers. In addition, trash and recycle containers shall not be moved to the collection location more than 24 hours prior to collection and shall be removed within 24 hours after collection.
- k. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the association established to maintain the common areas within the subdivision boundary.
- l. Streetlights and pedestrian lighting shall be owned and maintained by the association and shall have a decorative design approved by the Planning Director and the City Engineer.
- m. Contribution to the Community Facilities District to pay for proportionate share of the cost for public services, including police services.

ONE YEAR AFTER PROJECT BUILDOUT

131. **Mitigation Measure 15:** One year after build out and occupancy of the project, the developer or the developer's designee, shall conduct a neighborhood parking survey to determine if adequate parking has been provided. If the results of the survey indicate

substantial impacts to the surrounding areas, as determined by Hayward Engineering and Transportation Planning staff, then the developer or the developer's designee shall incorporate measures to reduce impacts to a less than significant level. The City of Hayward Traffic Regulations Section 3.95 indicates that a significance threshold for a residential parking permit program would be met if 75% of all on-street parking spaces within six adjacent block faces are occupied during any two one-hour periods between 8am and 6pm. Such measures to address potential impacts may include, but are not limited to: implementing, funding and administering a residential parking permit program according to City requirements, increasing the on-street parking supply through implementation of angled parking on appropriate streets, or managing the existing on-street parking, using time restrictions to improve turnover and provide a pool of short-term parking. Implementation of this mitigation measure will reduce impacts to a less than significant level.



**ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION
ADOPTED BY THE HAYWARD CITY COUNCIL ON MARCH 17, 2009**

INTRODUCTION

On March 17, 2009, the Hayward City Council adopted a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) for the South Hayward BART Mixed-Use project ("Project") (City Application Number PL-2008-0547 PD). Tiering off the 2006 South Hayward BART/Mission Boulevard Concept Design Plan Program Level Environmental Impact Report (SCH No. 2005092093), the Initial Study and MND associated with the Project evaluated the impacts of a mixed use development proposed at the South Hayward BART station involving 788 residential units, 206 of which would be affordable, a 910-space BART parking garage, and a 58,500 square-foot, full-service grocery store. The MND identified several mitigation measures to address and mitigate potentially significant impacts to less than significant levels. The impacts evaluated in the adopted MND include aesthetics, air quality, geology and soils, hazards & hazardous materials, hydrology and water quality, noise, public services, and transportation/traffic.

In May of 2011, the project proponents requested a Minor Modification to the 2009-approved Preliminary Development Plan associated with the Planned Development Zoning District that primarily proposes a rephrasing of the Project. This Addendum addresses the proposed modifications to the Project and potential environmental impacts associated with those modifications. The Addendum is an informational document intended to be used in the planning and decision-making process as provided for under Section 15164 of the CEQA Guidelines; it does not recommend approval or denial of the proposed modification to the Project.

The fundamental conclusion of this Addendum is that the proposed changes to the Project will not result in new environmental effects, nor substantially increase the severity of previously disclosed impacts beyond those already identified in the previously adopted Mitigated Negative Declaration. A subsequent Negative Declaration need not be prepared because, as evidenced in this Addendum, only minor technical changes to the Project are proposed and that no major revisions to the Project are necessary, there have been no substantial changes with respect to the circumstances under which the Project is being undertaken, and there is no new information of substantial importance that affects the conclusions found in the MND.

STATUTORY BACKGROUND

The City of Hayward is the California Environmental Quality Act (CEQA) lead agency for the Project. Per Section 15164 of the CEQA Guidelines, an Addendum to a certified Environmental Impact Report (EIR) or adopted Negative Declaration is allowed if only minor technical changes or modifications are necessary, but none of the conditions requiring a subsequent EIR or Negative Declaration have occurred under 14 California Code of Regulations Section 15162.

Under Section 15162, no subsequent EIR or Negative Declaration is necessary when: (1) there have not been substantial changes in the program of the project that would require major revisions to the EIR or Negative Declaration; (2) there have not been substantial changes with respect to the circumstances under which the program for the project is being implemented that would require major revisions to the EIR or the Negative Declaration; and (3) no new information relevant to the consideration and approval of the EIR or Negative Declaration has appeared, which was not known and could not have been known as of the original date the EIR or Negative Declaration was considered and approved.

The Addendum need not be circulated for public review, but shall be considered by the decision making body prior to making a decision on the proposed modifications to the Project. A Notice of Determination may be filed pursuant to 14 California Code of Regulations Section 15075.

SUMMARY OF ORIGINAL PROJECT DESCRIPTION

The Project comprises a total site area of approximately 12 acres centered along Dixon Street, generally bordered by Tennyson Road to the north, Mission Boulevard to the east, and the BART tracks and station to the west. Phase I of the approved Project would be the development of Parcels 1 and 2, as shown on the attached site plan, to include a 58,500-square-foot grocery store and other local-serving retail uses (Parcel 1). A 172-space subterranean public parking garage was proposed under the grocery store. Directly above the store were proposed 125 units of affordable family apartments to be designed, constructed, and managed by Eden Housing. Proposed on Parcel 2 were 81 affordable senior apartments, also to be designed, constructed, and managed by Eden Housing, over a three-level parking structure that would serve both affordable housing projects.

For Phase II, a seven-level, 910-space parking garage for BART commuters was proposed for Parcel 4, as shown on the attached plan.

Phase III of the approved Project entailed 241 market-rate apartments on parcels 3N and 3S of the attached plan. Subterranean parking would be continuous under the street between the two buildings, with one access point to each parcel off Dixon Street.

Phase IV of the Project would involve development of 341 market-rate ownership units over a podium and subterranean parking on the lands between Dixon Street and Mission Boulevard. A small commercial space and live work units were shown along/near Mission Boulevard.

DESCRIPTION OF PROJECT REVISIONS

The Minor Modification submitted by the project proponents proposes minor technical modifications to the Project and primarily consist of a rephasing of the Project. A site plan associated with project revisions is attached to this Addendum and a table summarizing basic components for the approved Project and modifications to it is included below.

The minor technical modifications can be summarized as follows: (1) while there is no change to the total number of residential units proposed (788) the phasing, affordability mix and location of the units has been slightly modified (as further described below); (2) there are no changes to the grocery store or BART parking garage; (3) nor are there changes to the massing and heights of buildings; and (4) the subterranean garage for Parcels 3N and 3S is no longer proposed, but an above-ground garage surrounded by the units on Parcel 3N is now proposed, which would result in much less excavation.

The Minor Modification proposes a rephasing of the Project, which would primarily accelerate the construction of approximately 151 affordable housing units (reduced from 206), as well as 203 market rate units on the Project site east of Dixon Street, with development of the west side of Dixon Street proposed to be built as a later phase.

Original configuration by parcel						
Parcel	Affordable Family Units	Affordable Senior Units	Market Rate Units	TOTAL UNITS	Number of Parking Spaces	Amount of Open Space (sf)
Parcel 1	125			125	190	18,000
Parcel 2		81		81	204	11,200
Parcel 3N			138	138	159	17,400
Parcel 3S			103	103	118	9,800
Perry/Key			341	341	420	42,500
TOTALS				788	1,091	98,900
Adjusted configuration after project modifications						
Parcel 1	38		87	125	190	18,000
Parcel 2		17	64	81	204	11,200
Parcel 3N			125	125	262	12,500
Parcel 3S			103	103		10,350
Perry/Key	87	64	203	354	353	53,330
TOTALS				788	1,009*	105,380

*Zoning Ordinance stipulates maximum, not minimum, standards for number of parking spaces

Phasing plans associated with the project modifications is attached.

As analyzed in the following section, BART commuters who drive to the station will be accommodated along public streets within a quarter-mile of the station during Phase I (east of Dixon Street construction), and will be accommodated by an on-site attendant parking program for Phase 2A, when the BART garage is being built. Once the 910-space BART garage is built, commuters who would normally park in spaces that would be unavailable during Phase 2B construction will be able to park in the garage.

The circumstances under which the Project, as revised under the Minor Modification, have not changed substantially that would require major revisions to the MND. No new projects have been proposed or approved in the vicinity of the Project that impact the analysis in the MND.

IMPACTS ANALAYSIS

City of Hayward staff reviewed the Initial Study in conjunction with its consideration of the proposed modifications to the Project and determined that the proposed changes described in this Addendum would not result in any new or significant adverse environmental impacts which have not already been identified in the Mitigated Negative Declaration. Analysis of the revised project compared to the previously approved Project follows.

AESTHETICS – The revisions to the project would entail three, versus four buildings for the portion of the project east of Dixon Street. However, since the heights and massing of buildings would not change, the impacts analysis and associated mitigation measure (Measure #1) from the MND remains adequate.

AIR QUALITY – The number of units/scope of the project and expected vehicle trips associated with the project will not be more than that analyzed in the MND and therefore, the impacts analysis and associated mitigation measure (Measure #2) from the MND remains adequate.

GEOLOGY AND SOILS – The total number of residential units and the scope of the project, including location of buildings, will result in the same impacts analyzed in the MND and therefore, the impacts analysis and associated mitigation measures related to proximity to the Hayward earthquake fault, erosion/sediment control, and project buildings design related to soils (Measures #3, #4, and #5) from the MND remain adequate.

GREENHOUSE GAS EMISSIONS – The MND and the Initial Study associated therewith reviewed the Project's impacts on global climate change and contained a discussion of the Project's impact on greenhouse gas emissions. The scope of review for

this Addendum focuses on evaluating the environmental effects of the proposed modification of the Project. The proposed modification to the Project will not result in any new or additional environmental impacts associated with greenhouse gas emissions that have not already been considered in the MND.

Subsequent to the City's consideration and adoption of the MND in March of 2009, the CEQA guidelines were amended to include 14 California Code of Regulations Section 15064.4 (related to determining significance of impacts from greenhouse gas emissions) and the Bay Area Air Quality Management District (the "Air District") issued CEQA guidelines and policies that adopted significance thresholds, for among others, greenhouse gas emissions. Notwithstanding the foregoing, no additional analysis is necessary for approval of this Addendum because: (1) the MND was approved in March 2009 prior to the adoption and effective date of Section 15064.4; and (2) the Air District's new policy (adopting the thresholds of significance) only apply to projects for which a Notice of Preparation is published, or environmental analysis begins, on or after June 2, 2010 (except for risk and hazards thresholds for new receptors that became effective May 1, 2011). The MND was adopted in March of 2009 and thus the changes in the CEQA and Air District guidelines are inapplicable and the analysis in the MND remains adequate.

HAZARDS AND HAZARDOUS MATERIALS – The number of units/scope of the project will be the same as that analyzed in the MND. Also, the type and number of buildings that would be demolished is not changing. Therefore, the impacts analysis and associated mitigation measure associated with such demolitions (Measure #6) from the MND remains adequate.

HYDROLOGY AND WATER QUALITY – The footprint of buildings/impervious surfaces and amount of grading will generally be the same or less than that analyzed in the MND, due to the elimination of the subterranean garage on Parcels 3N and 3S. Therefore, the impacts analysis and associated mitigation measure associated with erosion/sediment control and stormwater drainage (Measures #7, #8, and #9) from the MND remain adequate.

NOISE – Mitigation Measure #10 from the MND related to mitigating noise impacts for residential units on Parcel 2 by the BART tracks and units along Mission Boulevard on the Perry & Key site would sufficiently address impacts associated with BART trains and Mission Boulevard traffic. Mitigation Measure #11 from the MND addresses ways project-generated noise impacts on surrounding properties will be mitigated. Such measure would adequately address noise impacts of the revised project, since the layout of buildings is essentially the same. Construction noise impacts are addressed by Mitigation Measure #12 in the MND, which would be applicable to the revised project. In summary, the impacts analysis and mitigation measures from the MND remain adequate.

PUBLIC SERVICES – Given that the number of units and scope of the project will not change, the impacts analysis and associated mitigation measure from the MND associated with minimizing project-generated impacts associated with Police and Fire protection, which requires the project proponents to agree to annexation into the City’s Community Facilities District (Measure #13), would still be adequate.

TRANSPORTATION/TRAFFIC – The project revisions will not change the number of units or scope of the approved Project, but will result in the eastern portions of the project being constructed first. A portion of Mitigation Measure #14 is proposed to be revised, which would not generate new impacts, since such work would be done within the existing right-of-way, but would better mitigate impacts to the Dixon Street/Tennyson Road intersection based on more recent traffic analysis performed for the South Hayward Form Base Code adoption. This Addendum would replace the following language in Mitigation Measure #14: *(5) provide protected and permitted phasing for the eastbound and westbound left-turns*, with the following language: *(5) create an exclusive right-turn pocket and shared through/left-turn lane in the southbound direction*.

Also, as reflected in pages 21 and 22 of the MND’s Initial Study Project Narrative, the project as approved envisioned using the eastern portions of the project site (Perry and Key site and BART overflow parking lot) to accommodate BART commuter parking while the 910-space BART parking garage was constructed. However, because of the rephrasing of the project that involves construction on the eastern portion of the project site first, such accommodation cannot occur. Therefore, a plan/program to accommodate BART commuters during the construction of Phase 1 on the eastern portion of the site east of Dixon Street, and Phase 2A (when the BART garage is being built) must be developed/identified.

Regarding Phase 1 construction and the elimination of the 172 spaces in the BART overflow lot on the east side of Dixon Street, a sufficient number of spaces exist within a quarter-mile of the BART station along public streets to accommodate at least that number of vehicles. Although the overflow lot is rarely full, a total of 436 spaces exist within a quarter mile of the station, including 108 spaces along Tennyson Road (see attached exhibit prepared by City of Hayward Public Works Department staff), and 328 spaces along other public streets (see attached exhibit prepared by Nelson/Nygaard Consulting Associates). Given that the 172 spaces in the BART overflow lot is only 39.4 percent of the total number of spaces identified along public streets within a quarter-mile of the BART station, it is reasonable to expect that the commuters who would normally park in the overflow lot could be accommodated along the public streets. Given that commuters would be parking at various locations along streets, it is not expected that such parking would cause traffic impacts beyond those that already exist associated with the commuters all coming to and leaving one location: the BART overflow parking lot.

To accommodate the commuters who would not be able to park in the 349 spaces (14 of which are accessible parking spaces) that would not be available while the BART garage

is built as part of Phase 2A, an attendant parking program will be required to accommodate such drivers. Such a program, to be paid for by the developer of Phase 2, would entail paid attendants parking/retrieving the 349 vehicles in the remaining 700 parking spaces on the site (14 of which being accessible parking spaces). In other words, the attendant program would result in an additional 349 vehicles, or an increase of about 50 percent in the number of vehicles accommodated in the lot, being parked in the remaining portions of the main BART parking lot. (As identified above, parking spaces along public streets within close proximity of the BART station would also be available.) As indicated by BART staff, the Pleasant Hill BART station utilized a similar program where a 303-space parking lot accommodated 171 more vehicles (increase of 56 percent), for a total of 474 vehicles. With attendant program details to be developed as part of Phase 2A development, and based on the experience at the Pleasant Hill station, it is anticipated an attendant parking program will be sufficient to accommodate additional vehicles that would not be able to park in spaces displaced by the BART garage construction.

Buses and pedestrians/bicyclists would be accommodated as shown in the attached phasing plans. In summary, as reflected in attached phasing plans and based on experience of a similar parking attendant program at the Pleasant Hill BART station, modifications to the project phasing would not be expected to generate new impacts related to parking. Revised project conditions of approval require that the developer of Phase 2A pay for development and implementation of such program.

Mitigation Measure #15, which requires the project developer to pay for a survey after the entire project is completed, and pay for any programs that would be implemented to mitigate parking impacts in the neighborhoods, is still adequate to address “spillover” parking impacts after the project is completed.

FINDINGS

Staff has prepared this Addendum in accordance with the authority granted under 14 California Code of Regulations Section 15164. No subsequent environmental analysis is necessary because:

- (1) The proposed modifications to the Project are minor and technical in nature; and
- (2) The preparation of a subsequent MND is not necessary because, as demonstrated by the evidence contained in this Addendum:
 - (a) there have not been substantial changes in the program for the Project that would require major revisions to the MND due to the involvement of new significant environmental effects or increases in the severity of previously identified significant effects;

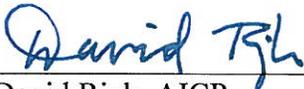
- (b) there have not been substantial changes with respect to the circumstances under which the program for the Project is being implemented which would require major revisions to the MND due to the involvement of new significant environmental effects or increases in the severity of previously identified significant effects; and
- (c) no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time of consideration and adoption of the MND, shows that the Project, as modified, will have significant effects not previously discussed in the MND.

PUBLIC REVIEW/DISTRIBUTION

Pursuant to Section 15164(c) of the CEQA Guidelines, an Addendum does not require circulation for public review. A Notice of Determination will be filed pursuant to Section 15075. Copies of the Addendum, the Mitigated Negative Declaration and Initial Study, the Mitigation Monitoring and Reporting Program, and Notice of Determination for Project may be obtained at:

City of Hayward Planning Division
 City of Hayward
 777 B Street
 Hayward, CA 94541

Contact:
 David Rizk, AICP, Development Services Director
david.rizk@hayward-ca.gov 510-583-4004



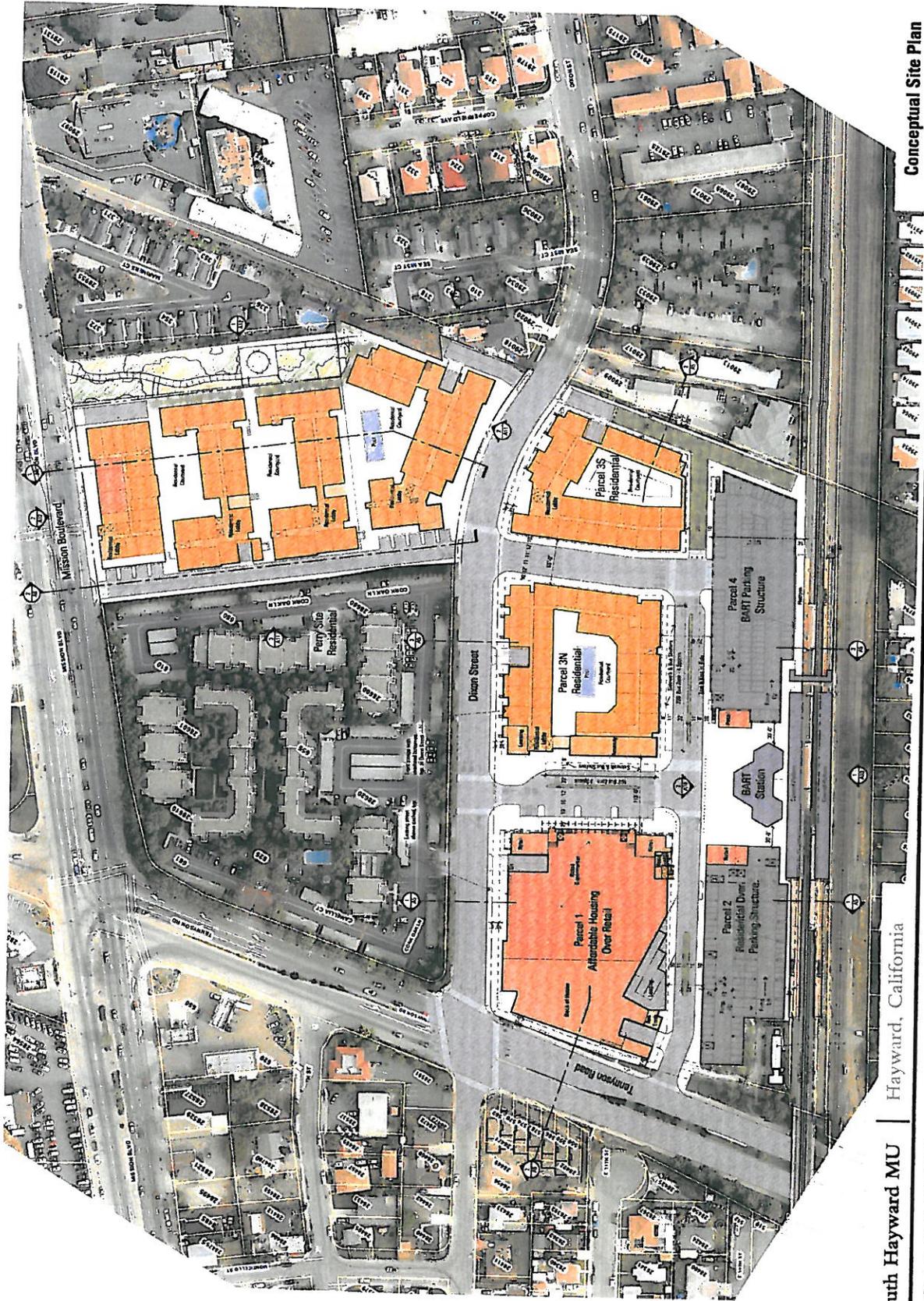
 David Rizk, AICP
 Development Services Director

June 8, 2011

 Date

Attachments

- Attachment I: Original Project Site Plan/Layout
- Attachment II: Revised Project Site Plan/Layout
- Attachment III: Phasing Plans for Revised Project
- Attachment IV: Identification by City Staff of 125 Parking Spaces along Tennyson Road within One-Quarter Mile of the South Hayward BART Station
- Attachment V: Identification by Nelson/Nygaard Consulting Associates of 328 Parking Spaces along Public Streets within One-Quarter Mile of the South Hayward BART Station



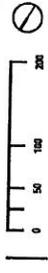
South Hayward MU | Hayward, California

BARARCHITECTS

540 Howard Street, San Francisco, CA 94105, T. 415 268 9700, F. 415 268 9701, WWW.BARARCH.COM

Conceptual Site Plan

A1

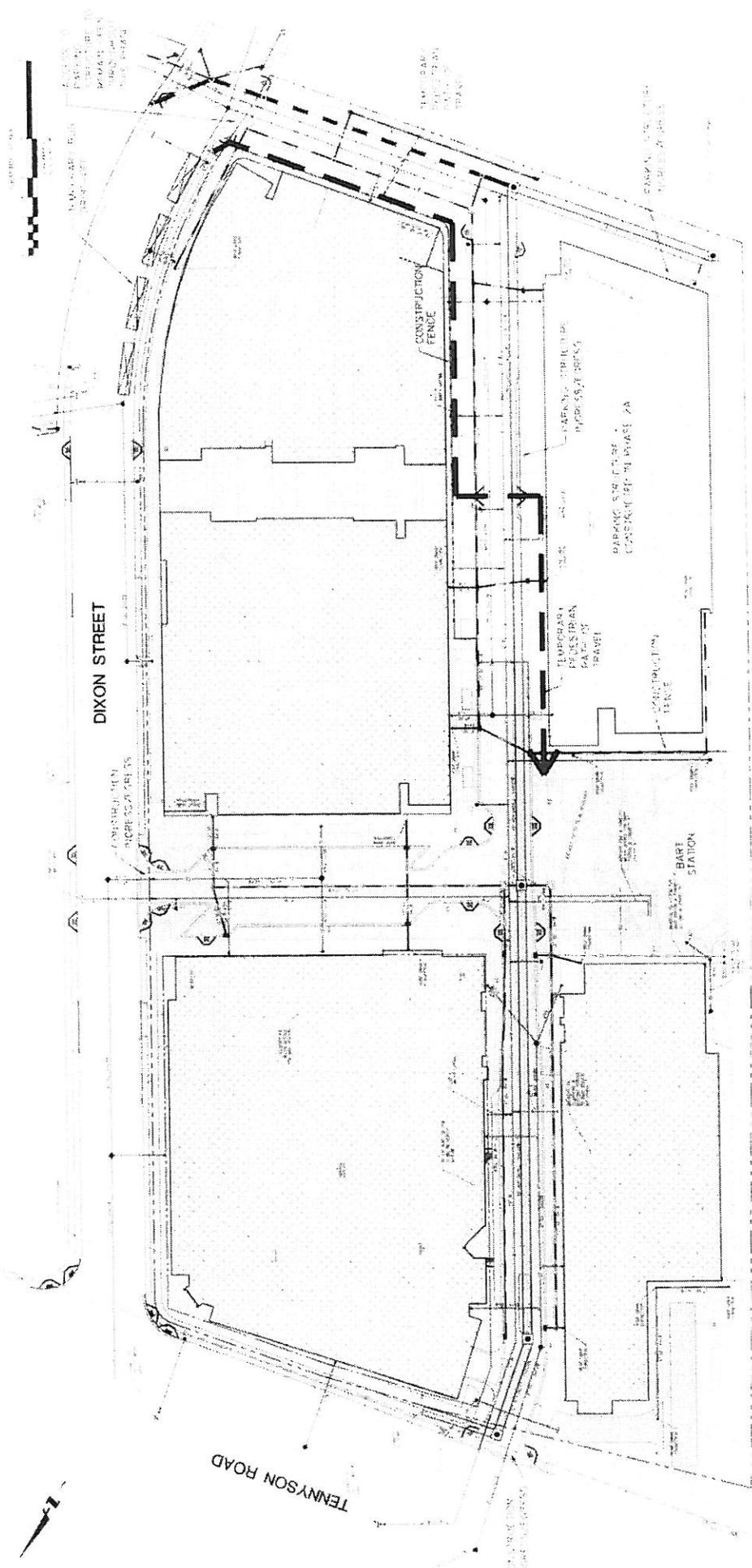


DATE: 01.26.09

ORIGINAL PROJECT APPROVED MARCH 17, 2009

11/10/09 10:00 AM

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PHASE 2B CONSTRUCTION

LEGEND

- PROPOSED IMPROVEMENTS WITH THIS PHASE, INCLUDING THE SITE EIGHT IMPROVEMENTS TO SUPPORT THIS PHASE
- PARKING SPACES TO BE DEMOLISHED IN THIS PHASE
- REFURBISH PARKING SPACES
- NEW PARKING SPACES
- THE BART STATION STRUCTURE BUILDING PHASE 2A PART OF THE PROJECT IS ACCOMMODATED WITHIN THE PHASE 2A SPACES

Figure 5-5 South Hayward BART Walking Distances



DATE: June 14, 2011

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Consideration of Alameda County Redistricting Proposals for the Five Supervisorial Districts

RECOMMENDATION

That Council reviews the following report and attached maps, gives staff direction on the preferred proposal/map, and authorizes the Mayor to formally communicate that position to the Board of Supervisors.

BACKGROUND

Every ten years, the Federal Government conducts a census to determine the number of individuals living in the United States. Following each decennial census, California Elections Code Section 21500 requires that the Board of Supervisors adjust the boundaries of any or all of the supervisorial districts of the county so that “*the districts shall be as nearly equal in population as may be*”. In addition, proposed redistricting plans must comply with requirements of the 14th Amendment to the United States Constitution and with the mandate of the Federal Voting Rights Act of 1965, as amended, 42 USC § 1973, et seq., to assure fair and effective representation for racial and language-minority groups.

In establishing the boundaries of the districts, State law, and the Alameda County Charter and Administrative Code state that the Board may give consideration to the following factors: (a) topography; (b) geography; (c) cohesiveness, contiguity, integrity, and compactness of territory; and (d) community of interests of the districts. The Administrative Code requires that at least one public meeting be held in each of the current five districts and that cities within a proposed district shall be maintained intact, insofar as possible.

The Board of Supervisors has established a redistricting ad-hoc committee to oversee the redistricting process. The ad-hoc committee advises the full Board on matters relating to the redistricting process.

At the June 7, 2011 meeting, Council asked for this item to come forward for discussion so that the Council could formulate a position on the Redistricting proposals, which position could be communicated to the Board of Supervisors. Time is of the essence in this matter.

DISCUSSION

The Alameda County Board of Supervisors has received four redistricting proposals: one from County staff (Map A), and three from the Alameda County Citizens Redistricting Task Force, an independent citizen's group (Maps B-D). Map B has subsequently been withdrawn by the Task Force and is no longer under consideration by the Board of Supervisors. The Maps are attached to this report as Attachments I-IV and can be found on the County web site at <http://www.acgov.org/redistricting/maps.htm> and <http://www.acgov.org/redistricting/meetings.htm>. Table I below summarizes the parts of each proposed map as it relates to Hayward; boundaries generally follow census tract lines.

Map A puts part of Hayward into District 2, and very tiny parts into District 3 and District 4. District 2 is comprised of parts of Hayward, Fremont, Pleasanton, and Unincorporated County; and all of Newark and Union City. This proposed District encompasses a population of 305,682, and includes 144,169 Hayward residents.

District 3 is comprised of parts of Hayward, Oakland, San Leandro, and Unincorporated Alameda County (parts of Ashland and San Lorenzo). This proposed District encompasses a population of 301,614, and includes 12 Hayward residents.

District 4 is comprised of parts of Hayward, Oakland, San Leandro, Pleasanton, Dublin, and Unincorporated County which is composed of part of Fairview and all of Castro Valley. This proposed District encompasses a population of 299,736, and includes 5 Hayward residents.

Map B (formally withdrawn by the Task Force) has Hayward in District 1 and District 3. District 1 is Dublin, Pleasanton, Livermore, Sunol, Unincorporated Alameda County (Castro Valley, Fairview, and Cherryland), and part of Hayward. This proposed District encompasses a population of 296,090, and includes 7,032 Hayward residents.

District 3 is comprised of San Leandro, part of Union City, part of Unincorporated Alameda County (San Lorenzo and Ashland), and part of Hayward. This proposed District encompasses a population of 299,279, and includes 137,154 Hayward residents.

Map C has Hayward in District 2 and District 3. District 2 is comprised of Union City and Newark, and parts of Fremont and Hayward. This proposed District encompasses a population of 295,812, and includes 63,477 Hayward residents.

District 3 is comprised of Alameda, parts of Unincorporated Alameda County (San Lorenzo, Cherryland, and Ashland) and parts of San Leandro and Hayward. This proposed District encompasses a population of 303,095, and includes 80,709 Hayward residents.

Map D has Hayward in District 2 and District 3. District 2 is all of Newark and Union City, and parts of Fremont and Hayward. This proposed District encompasses a population of 302,199, and includes 74,519 Hayward residents.

District 3 is comprised of Alameda, and parts of San Leandro, Oakland, and Unincorporated Alameda County (all of San Lorenzo, Cherryland, and Ashland). This proposed District encompasses a population of 303,376, and includes 69,667 Hayward residents.

TABLE I: Hayward as a % of Proposed District

MAP	DISTRICT	TOTAL POP	HAYWARD POP	
			Numbers	% of District
A	2	305,682	144,169	47.16
	3	301,614	12	--
	4	299,736	5	--
B	1	296,090	7,032	2.37
	3	299,279	137,154	45.83
C	2	295,812	63,477	21.46
	3	303,095	80,709	26.63
D	2	302,199	74,519	24.66
	3	303,376	69,667	22.96

The policy question of concern to our community is assuring the strongest possible representation at the County level with the best chance of having the City’s position on issues prevail in a vote on the Board of Supervisors. Clearly, of the above proposed maps, Map A offers Hayward the strongest position of influence while being almost 100% contained within one District.

Another perspective might be that the City being divided between two or more Districts provides the opportunity to interact with more than one County Supervisor. From that perspective, both Map C and Map D may be viewed as posing both challenges and opportunities.

PUBLIC CONTACT

Individuals and/or community groups are encouraged to participate in the redistricting process. A series of public hearings were held throughout the county where various redistricting alternatives were reviewed and public input sought. These public hearings, with at least one held in each of the current five districts, occurred between May 28 and June 10.

A public hearing was held at Hayward City Hall on June 1, 2011. Several members of Council and some community members attended that hearing.

SCHEDULE

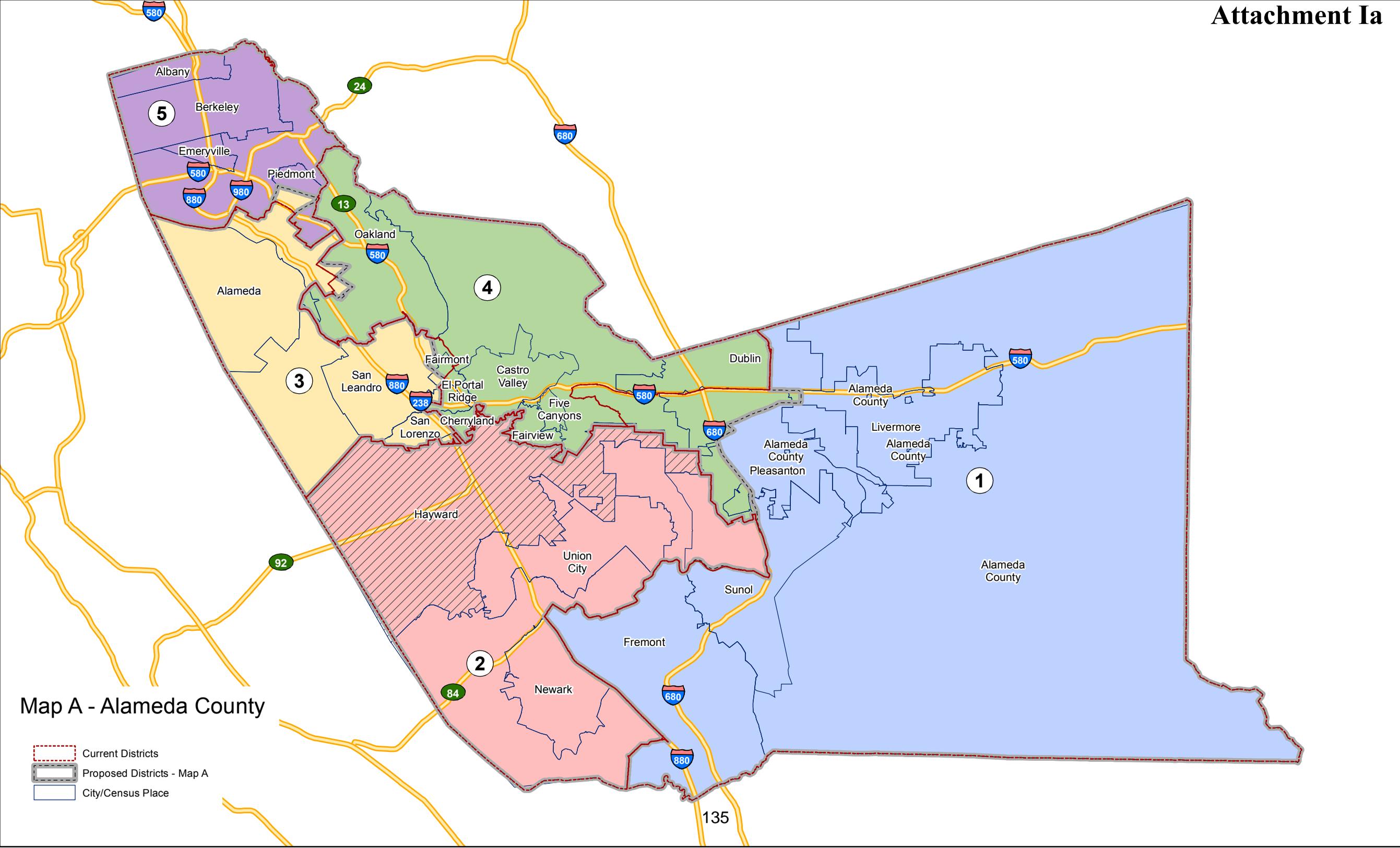
The deadline for the submittal of redistricting proposals was June 10. On or around June 13, the Ad-Hoc Redistricting Committee will advise the full Board and the public regarding the submitted proposals. Work sessions for the Board of Supervisors are currently planned between June 20 and June 30. A formal Public Hearing is scheduled for June 28, with the final redistricting plan scheduled to be adopted by the Board on July 12, with the second reading to be held on July 26

Prepared and Approved by:



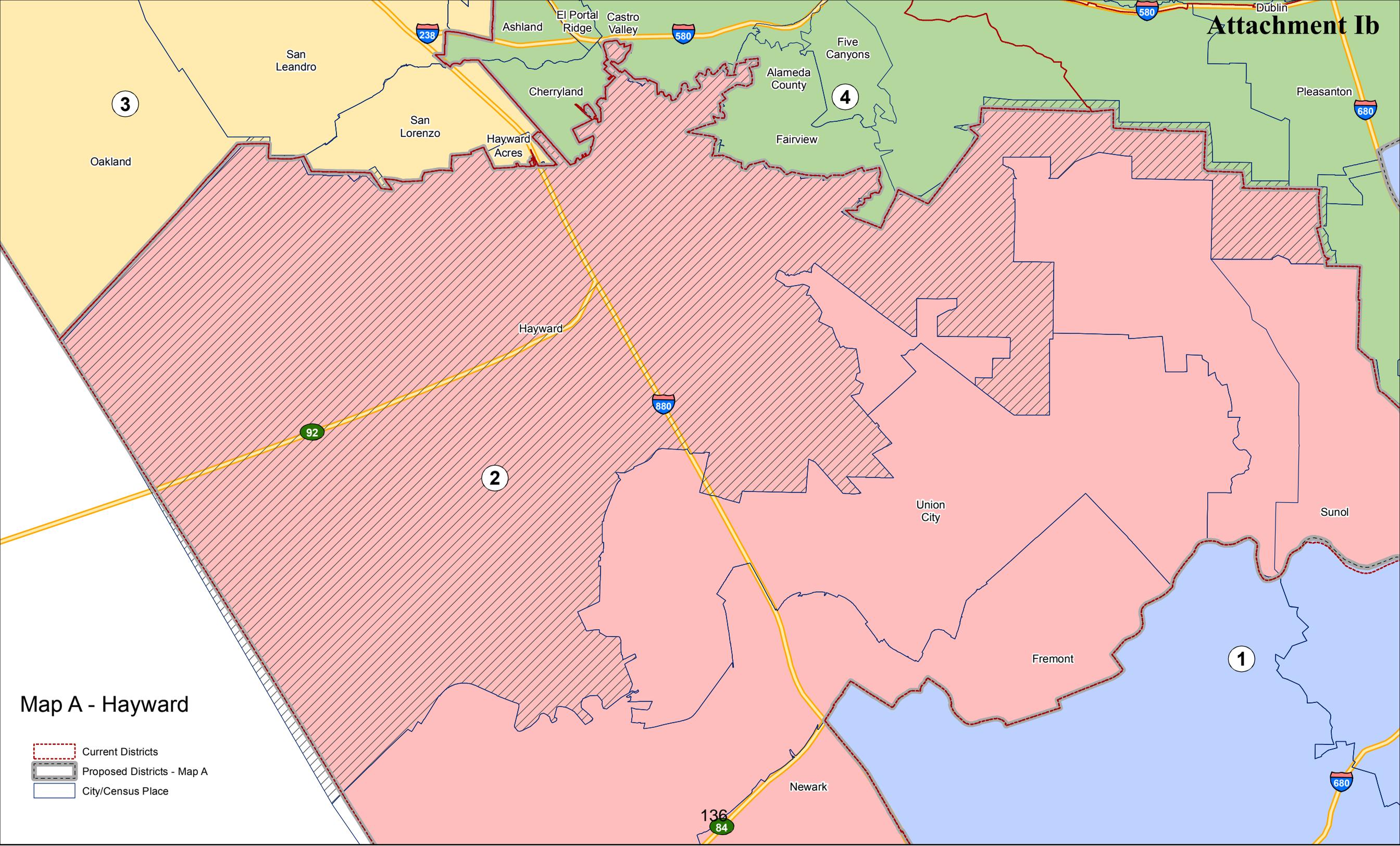
Fran David, City Manager

- | | |
|---------------------|---|
| Attachment I: a-b | Map A – Created by County staff |
| Attachment II: | Map B – Submitted and subsequently withdrawn by the Alameda County Redistricting Task Force |
| Attachment III: a-b | Map C – Submitted by the Alameda County Redistricting Task Force |
| Attachment IV: a-b | Map D -- Submitted by the Alameda County Redistricting Task Force |



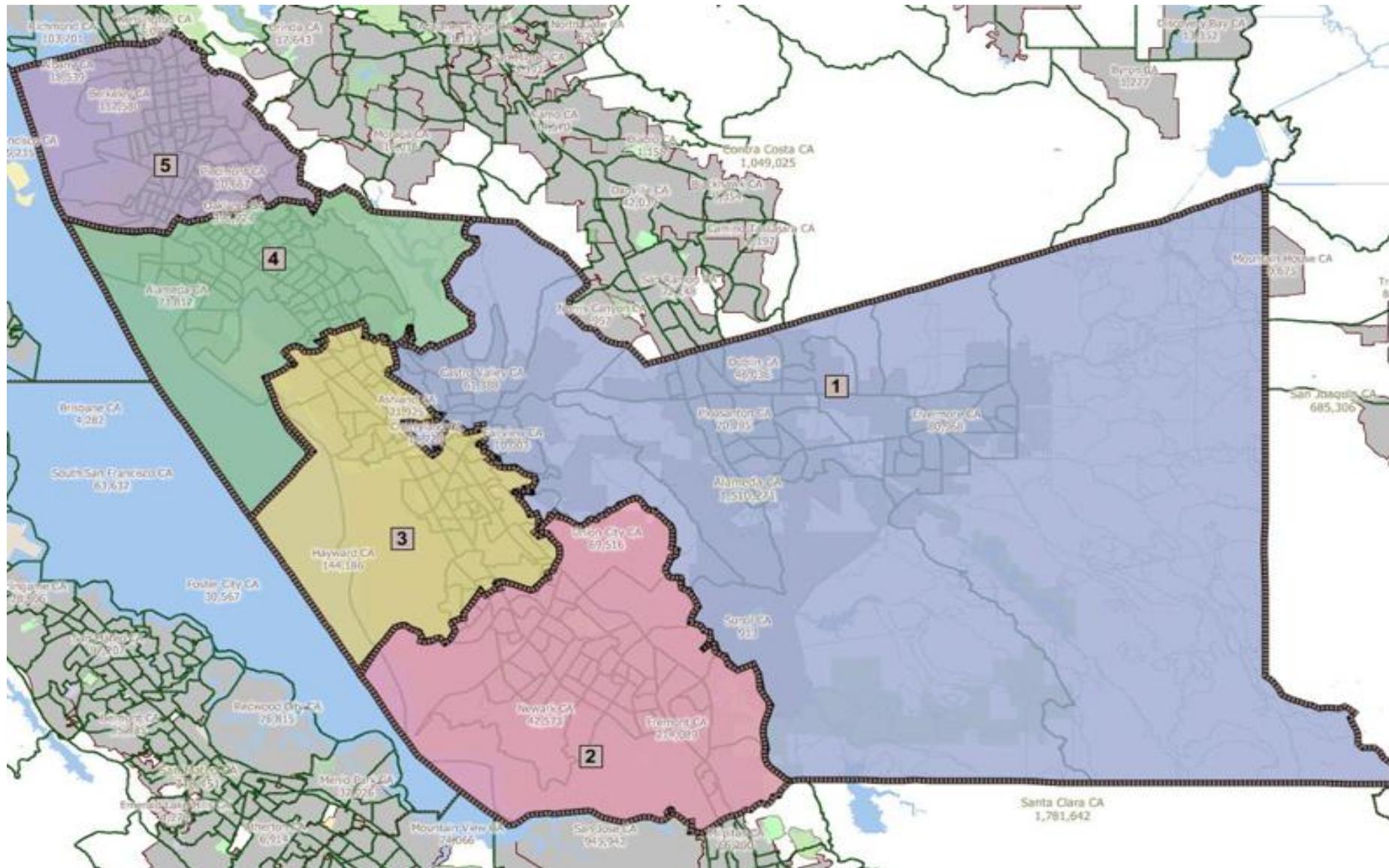
Map A - Alameda County

-  Current Districts
-  Proposed Districts - Map A
-  City/Census Place



Map A - Hayward

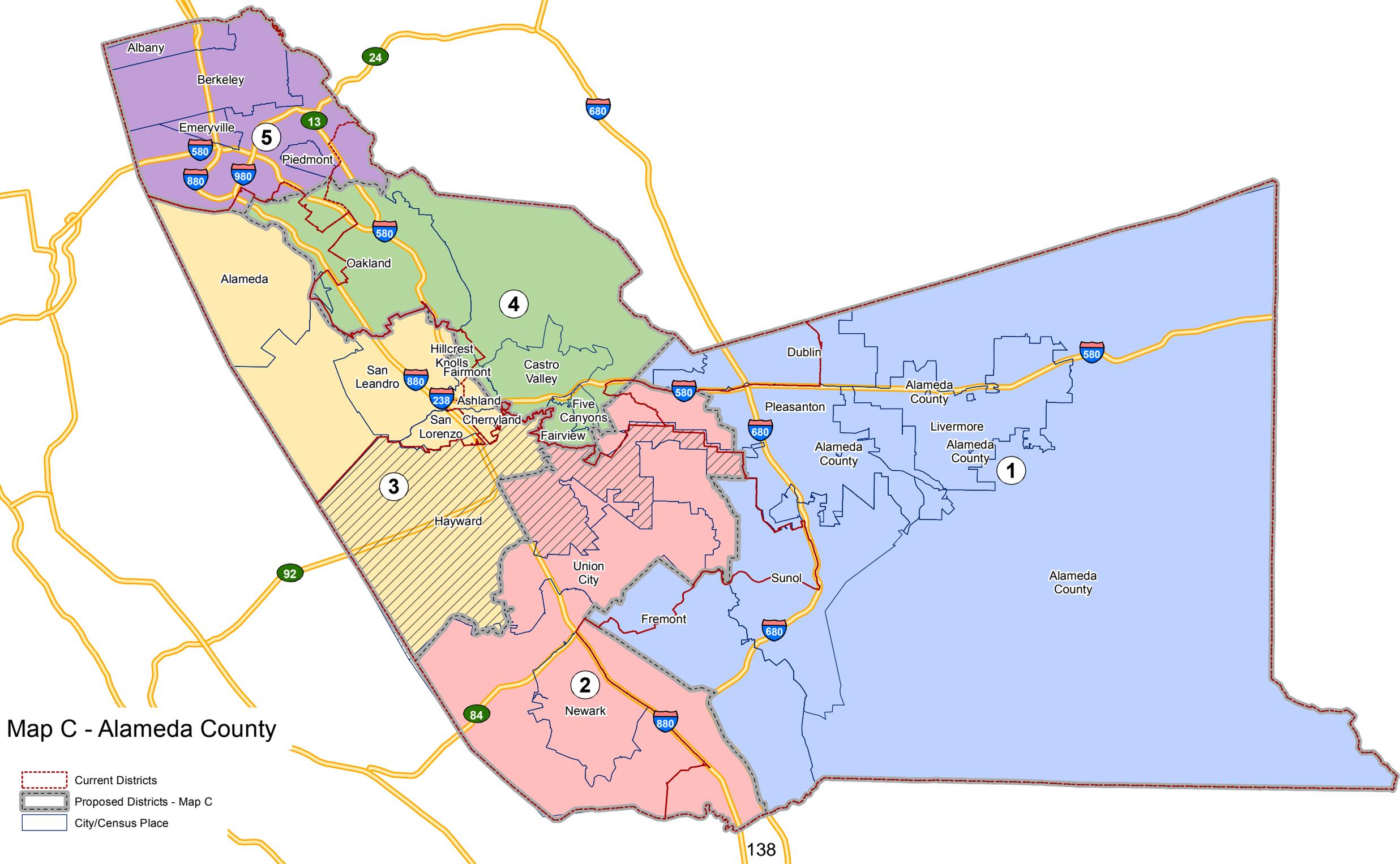
-  Current Districts
-  Proposed Districts - Map A
-  City/Census Place



District	Population	Deviation	[% Deviation]
1	296090	-5,964	-1.97%
2	297948	-4,106	-1.36%
3	299279	-2,775	-0.92%
4	309380	7,326	2.43%
5	307574	5,520	1.83%

Map B

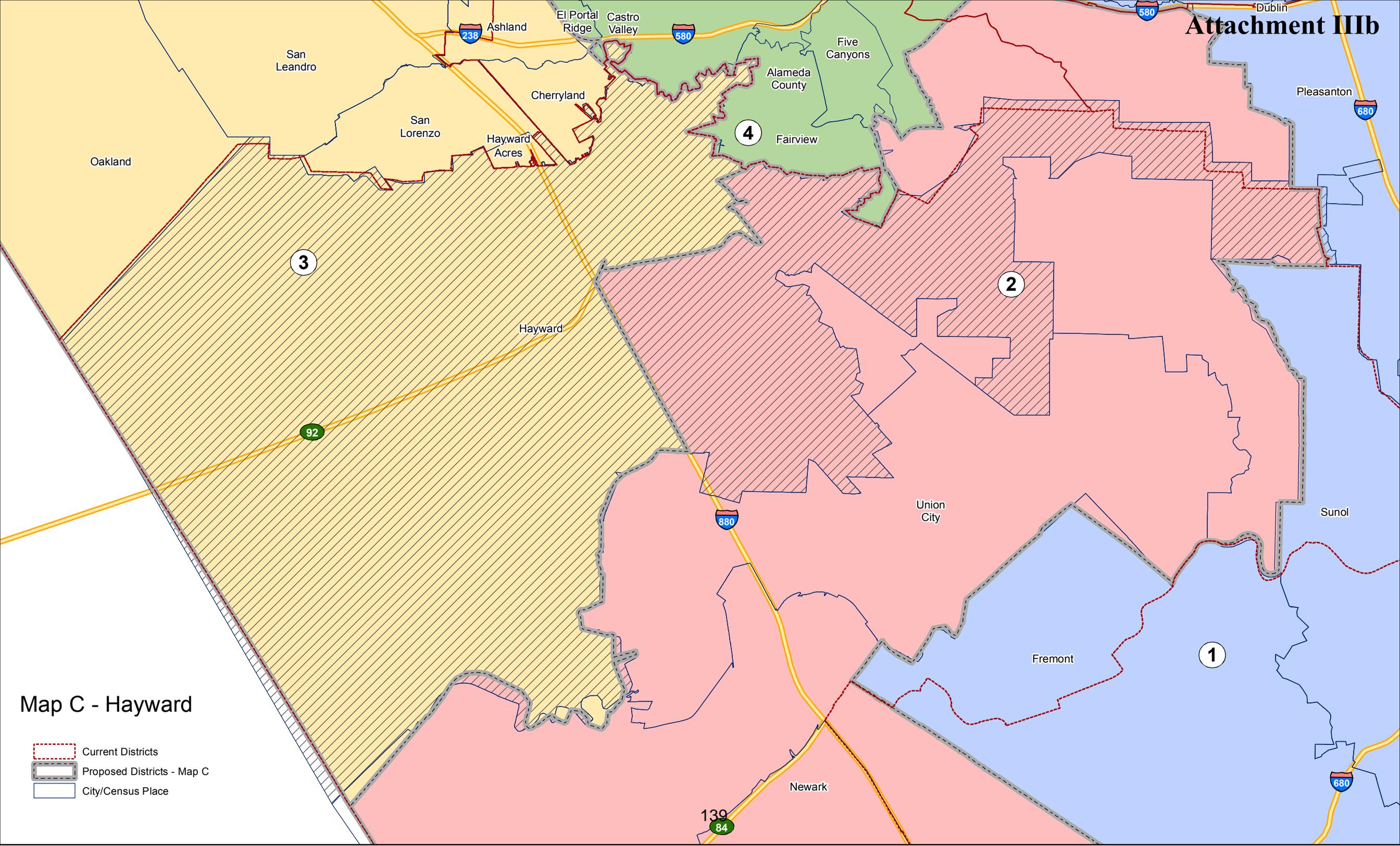
Map submitted and subsequently withdrawn by the Alameda County Citizens Redistricting Task Force

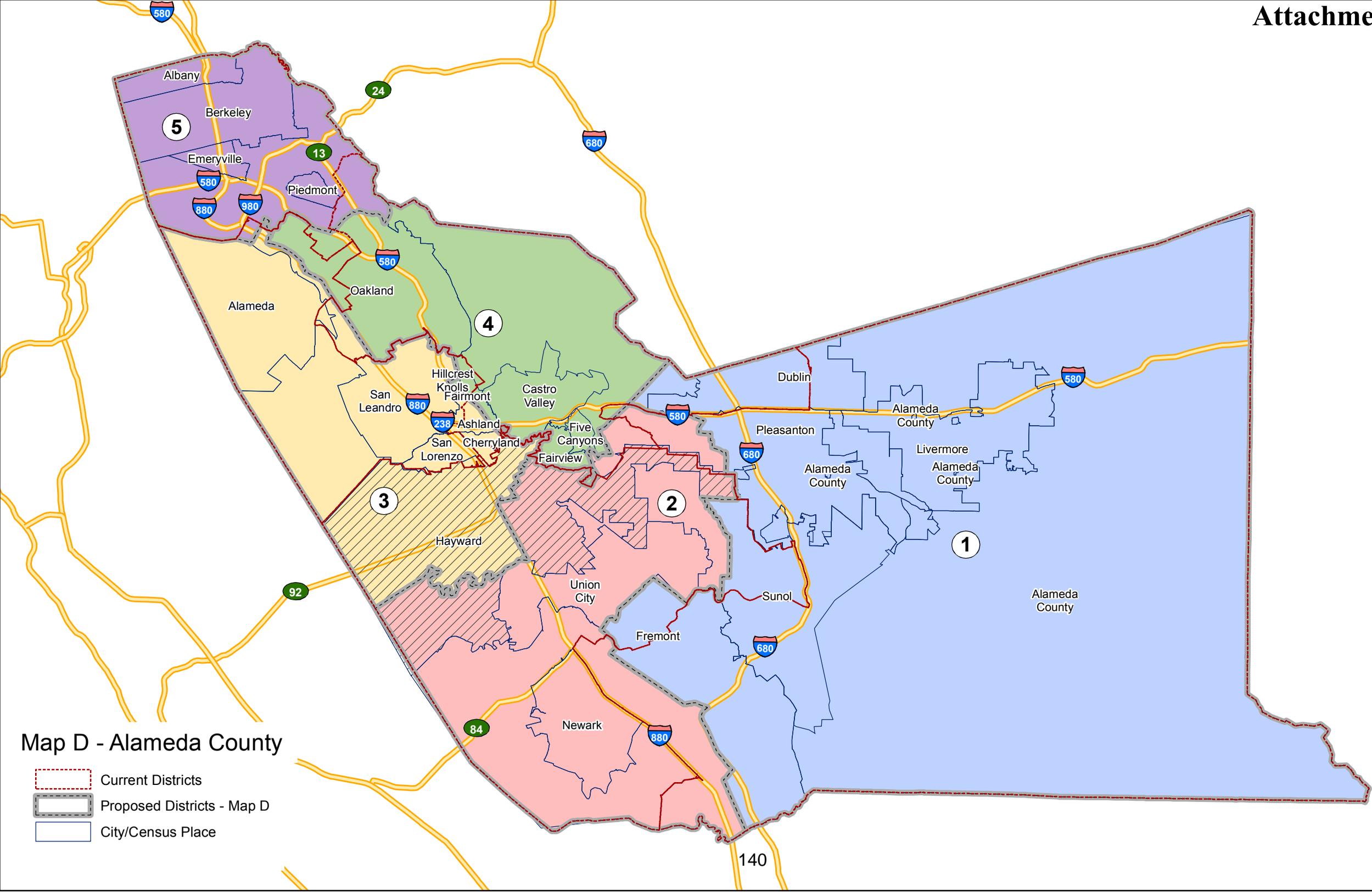


Map C - Alameda County

-  Current Districts
-  Proposed Districts - Map C
-  City/Census Place

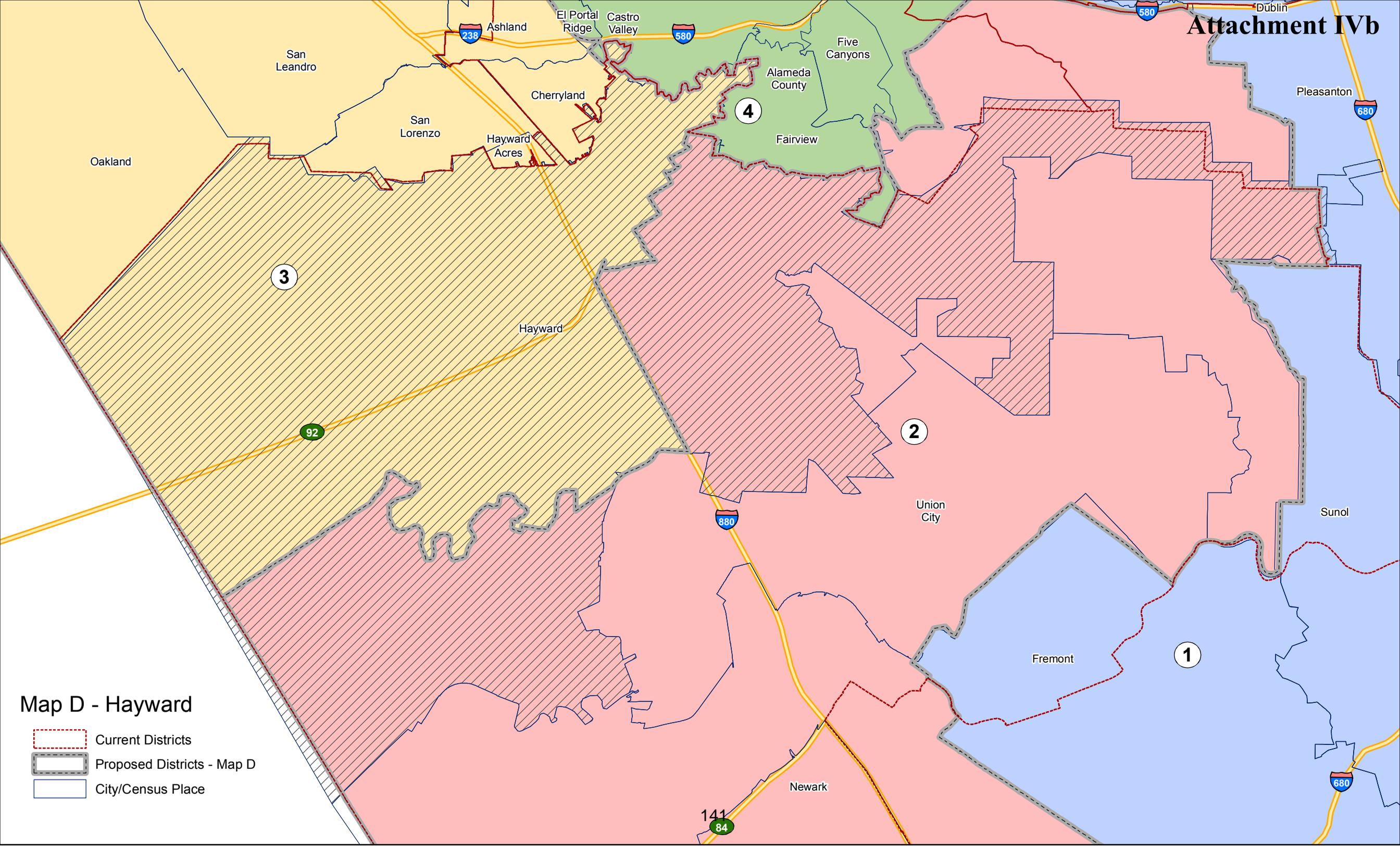
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Map D - Alameda County

-  Current Districts
-  Proposed Districts - Map D
-  City/Census Place



Map D - Hayward

-  Current Districts
-  Proposed Districts - Map D
-  City/Census Place