



CITY OF
HAYWARD
HEART OF THE BAY

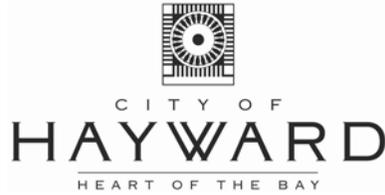
CITY COUNCIL AGENDA
JANUARY 10, 2012

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

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CITY COUNCIL MEETING FOR JANUARY 10, 2012
777 B STREET, HAYWARD CA 94541
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CLOSED SESSION
Closed Session Room 2B – 4:00 PM

1. PUBLIC COMMENTS

2. Public Employment

Pursuant to Government Code 54957

- Performance Evaluation
City Manager

3. Public Employment

Pursuant to Government Code 54957

- Performance Evaluation
City Attorney

4. Conference with Legal Counsel

Pursuant to Government Code Section 54956.9

- Pending Litigation
California Redevelopment Association, et al v. Matosantos, California Supreme Court Case No. S194861

5. Conference with Real Property Negotiators

Pursuant to Government Code 54956.8

- Under Negotiation: South Hayward BART Land Purchase and Requisition
Lead Negotiators: City Manager David, Assistant City Manager Morariu, City Attorney Lawson, Assistant City Attorney Conneely, Project Consultant DeClerq, Development Services Director Rizk, and Finance Director Vesely

6. Adjourn to Special Joint City Council/Redevelopment Agency/Housing Authority Meeting

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

CALL TO ORDER Pledge of Allegiance Mayor Sweeney

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

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.)*

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

1. Approval of Minutes of the Special City Council/Redevelopment Agency/Housing Authority Meeting on December 20, 2011
[Draft Minutes](#)
2. Adoption of an Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. PL-2011-0283 Relating to the Toyota Dealership Expansion and Remodel
[Staff Report](#)
[Attachment I Publication](#)
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5. Highland 250-Highland 500 16-inch Transmission Main Replacement and Highland 250 Pump Station Upgrade: Approval of Plans and Specifications, and Call for Bids
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6. Authorization for the City Manager to Execute a Professional Services Agreement for Design and Construction Administration Services for the Electrical and Mechanical Improvement to High School Reservoir Project

[Staff Report](#)

[Attachment I Resolution](#)

7. Approval of the Freeway Agreement for I-880/SR 92 Interchange Project and Approval of the Freeway Maintenance Agreement with Caltrans

[Staff Report](#)

[Attachment I Freeway Agreement Resolution](#)

[Attachment II Freeway Maintenance Agreement Resolution](#)

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*

LEGISLATIVE BUSINESS

8. Adoption of a Resolution Authorizing the City to Serve as Successor Agency to the Hayward Redevelopment Agency and a Resolution Authorizing the Hayward Housing Authority to Serve as the Successor Housing Agency Pursuant to Health & Safety Code Sections 34171, 34173 and 34176 (*Report from Assistant City Manager/Interim Redevelopment Agency Director Morariu*)

[Staff Report](#)

[Attachment I Council Resolution](#)

[Attachment II Housing Authority Resolution](#)

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

NEXT SPECIAL MEETING – 7:00 PM, TUESDAY, JANUARY 17, 2012

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. Written comments submitted to the Council in connection with agenda items will be posted on the City's website. All Council Meetings are broadcast simultaneously on the website and on Cable Channel 15, KHRT. ***

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.

Please visit us on:





**MINUTES OF THE SPECIAL JOINT CITY
COUNCIL/REDEVELOPMENT AGENCY/HOUSING
AUTHORITY MEETING OF
THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, December 20, 2011, 7:00 p.m.**

The Special Joint City Council/Redevelopment Agency/Housing Authority Meeting was called to order by Mayor/Chair Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council/RA/HA Member Peixoto.

ROLL CALL

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

CLOSED SESSION ANNOUNCEMENT

Mayor Sweeney reported that the Council met concerning four items: Public Employment regarding City Manager; Conference with Labor Negotiators pursuant to Government Code 54957.6; Public Employment regarding Public Works Director; and Conference with Real Property Negotiators pursuant to Government Code 54956.8. There was no reportable action.

PUBLIC COMMENTS

Mr. Ellis Goldberg, Danville resident, urged the Council to pass an ordinance similar to the cities of Richmond, Oakland, and Oakley, noting that SB 1137 enables municipalities to fine the legal owners of foreclosed properties, such as banks, up to \$1,000 per day for failing to maintain foreclosed properties. Mayor Sweeney asked the City Manager to consider the suggestion and report to Council.

Mr. Jim Drake, Franklin Avenue resident, reported that Monterey pine trees located at the junction of Soto and Harder roads were removed without permits and one tree mysteriously died. Mr. Drake encouraged the audience to contact the City Clerk with any information regarding the trees.

Mr. Peter B. Olney, representing the International Longshore and Warehouse Union, mentioned that the Union and Waste Management were having challenging labor negotiations concerning inadequate pay and job retention. Mr. Olney wanted the City to be informed about current issues with Waste Management.

Mr. Bart Robeson, Arundel Drive resident, opposed a Verizon cell tower being placed at Stonebrae, noting he did not receive notification about the tower. Mr. Robeson was concerned about the close proximity of the tower to Stonebrae Elementary School and favored relocating it to another site. He noted that residents in his neighborhood had started a petition to oppose the construction of the cell tower and requested that the Council evaluate if proper procedures were followed by Planning staff in selecting the location of the cell tower.

Ms. Sabina Ali, Arundel Drive resident, noted that the cell tower would pose a health hazard to the students attending Stonebrae Elementary School. Ms. Ali supported relocating the cell tower away from the school and the neighborhood. She added that she did not receive notice of the project and urged the Council to place the item back on the Planning Commission's agenda for reconsideration.

Ms. Yvonne Chen, Arundel Drive resident, noted that she did not receive notice of the cell tower and recently learned that the project was approved by the Planning Commission. Ms. Chen mentioned there were four proposed sites for the cell tower and the selected site was the closest to the school and residential areas. She noted that the application and the report failed to mention any potential health hazards and inquired if the Council could call up the Planning Commission's decision.

Mr. Bryan Chan, Arundel Drive resident and physician, spoke in opposition to the cell tower being in close proximity to the Stonebrae community and school because of potential health risks. Mr. Chan added that the noticing was defective as Arundel Drive residents were not notified of the project. He mentioned that there was a petition with over 200 signatures from residents and student's parents who favor moving the tower to open space areas, similar to other phone companies. Mr. Chan asked the Council to endorse this effort and review the Planning Commission approval.

Development Services Director Rizk stated that the cell tower was approved by staff through an Administrative Use Permit (AUP) in spring of 2010, and that decision was appealed to the Planning Commission. There were two public hearings before the Planning Commission, and during the last hearing the Commission approved the tower and the AUP with adjustments to the location. Mr. Rizk noted that the appeal period had already expired, but he said he would look into the procedure that was followed for noticing interested parties and would report back to the Council. Council Member Henson asked staff to also consider identifying alternative sites for the cell tower. Mayor Sweeney commented that if there were any irregularities with noticing interested parties, then staff should provide Council with recommendations for correcting them.

Mr. Charlie Peters, with Clean Air Performance Professionals, spoke about an article entitled, "Time to End Taxpayer Subsidies to the Corn Ethanol Industry," and submitted a copy for the record.

Mr. David Stark, Public Affairs Director for the Bay East Association of Realtors, noted that the City could play an active role in the response of banks to foreclosures and issues related to homeowners associations. Mr. Stark mentioned that vacant properties create issues for the City and also trigger challenges among realtors and banks. Mr. Stark added that state legislation can ameliorate the process and added that the California Association of Realtors (CAR) has a record of initiating laws regarding HOAs and added that the CAR will initiate legislation regarding bank behavior in California and urged Council's support for that piece of legislation.

Mr. Melvin L. Patterson, Industrial Boulevard resident, inquired if California has appropriate fire safety laws to alert deaf individuals in the case of an emergency. Mayor Sweeney asked staff to respond to Mr. Patterson.



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Mr. Quincy Carr, Amador Street resident, commented on the National Defense Authorization Act, which includes a provision that allows the U.S. military to arrest and detain individuals without a trial. As co-organizer of the Occupy event, he was concerned about the response of local law enforcement toward peaceful protestors when crisis occurs. Mr. Carr further commented that Senate Bill 1867 would give the federal government the right to assassinate American citizens.

Mayor Sweeney and the Council Members congratulated Public Works Director Bauman on his retirement. They expressed gratitude for his dedication and commitment to the City, his hard work and support on transportation and waste management projects, his knowledge and service as Chair of the Airport Committee, his contribution in saving City money, and his responsiveness to citizens. City Manager David spoke highly of Mr. Bauman's professionalism, knowledge, and commitment to the City.

CONSENT

Mayor Sweeney noted that City Manager David requested that Consent Item # 3 be continued until January 24, 2012. The City Council was amenable to the request.

1. Approval of Minutes of the Special City Council/Redevelopment Agency/Housing Authority Meeting on December 6, 2011

It was moved by Council/RA/HA Member Zermeño, seconded by Council/RA/HA Member Henson, and carried unanimously, to approve the minutes of the Special Joint City Council/Redevelopment Agency/Housing Authority Meeting of December 6, 2011.

2. Appointment to the Alameda County Mosquito Abatement District Board of Trustees

Staff report submitted by City Clerk Lens, dated December 20, 2011, was filed.

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

Resolution 11-184, "Resolution Appointing Council Member Halliday as City of Hayward Representative to the Alameda County Mosquito Abatement District Board of Trustees"

3. Resolution Authorizing the City Manager to Negotiate and Execute a Ground Lease for Phase I and an Option Agreement with Master Lease for Phases I-V with Hayward Airport Development, LLC on a Parcel of Land at Hayward Executive Airport

This item was continued until January 24, 2012.

4. Signal Timing and Controller Replacement Program Phase 2: Authorization for the City Manager to Execute an Amendment to the Professional Services Agreement with TJKM Transportation Consultants, Inc., for Traffic Signal Design and Signal Retiming, and for the City Manager to Execute a Fund Transfer Agreement with the Alameda County Transportation Commission (Alameda CTC)

Staff report submitted by Deputy Director of Public Works Fakhrai, dated December 20, 2011, was filed.

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

Resolution 11-185, “Resolution Authorizing the City Manager to Execute an Amendment to the Professional Services Agreement with TJKM Transportation Consultants for Traffic Signal Timing Design Services, Authorizing the City Manager to Execute a Transportation for Clean Air Fund Transfer Agreement with the Alameda County Transportation Commission and Appropriating Funds.”

5. Assignment and Assumption of Cinema Place First Amended Ground Lease and Related Documents from Hayward Cinema Place, LLC to Levy Affiliated Holdings, LLC or a Related Entity Pertaining to the Cinema Place Project

Staff report submitted by Redevelopment Project Manager Ortega, dated December 20, 2011, was filed.

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

Resolution 11-186, “Resolution Approving the Assignment and Assumption of the First Amended Ground Lease, as Amended, and Related Documents for the Cinema Place Project from Hayward Cinema Place, LLC to Levy Affiliated Holdings, LLC or a Related Entity”

6. Supplemental Appropriation of Forfeitures Funding

Staff report submitted by Administrative Analyst III Davis, dated December 20, 2011, was filed.

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

Resolution 11-187, “Resolution Amending Resolution No. 11-092 Budget Resolution for Fiscal Year 2012, as Amended, Authorizing an Additional Appropriation of Narcotics Asset Forfeiture Funds to



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Acquire Public Safety Equipment”

PUBLIC HEARING

7. Request for a Zone Change from High Density Residential District to General Commercial District, Repeal the Mission Corridor Special Design Overlay District, and Site Plan Review Associated with a Proposed Renovation of the Toyota Dealership - Zone Change Application PL-2011-0283 / Text Amendment Application PL-2011-0348 / Site Plan Review Application PL-2011-0215 – Stantec, Larry Tidball (Applicant) / Auto Mission Ltd. (Owner) – The Properties to be Rezoned are 24690 Through 24710 O’Neil Avenue, the Mission Corridor Special Design Overlay District Encompasses the Mission Boulevard Corridor Between Jackson Street and Harder Road

Staff report submitted by Associate Planner Koonze, dated December 20, 2011, was filed.

Development Services Director Rizk announced the item and introduced Planning Manager Patenaude who provided a synopsis of the report.

In response to Council Member Peixoto’s question, Planning Manager Patenaude stated that the new Toyota dealership’s signage would comply with the City’s Sign Ordinance. Council Member Peixoto asked staff how complaints regarding the Toyota dealership, not being held to the same architectural design standards, would be handled. Planning Manager Patenaude responded that upon removal of the Mission Corridor Special Design Overlay District, businesses could redesign their buildings.

Council Member Henson was glad that the Toyota dealership was planning to expand and noted that the dealerships’ presence in Hayward was valued. In response to Council Member Henson, Planning Manager Patenaude confirmed that the dilapidated structures on the proposed properties along the Mission Boulevard corridor are still boarded up and the fencing and half-walls would be replaced with new masonry walls. Planning Manager Patenaude indicated that the site plan for the Toyota dealership had been redeveloped so carrier trucks could load and unload vehicles directly on the dealership’s property. Council Member Henson was hopeful that the new changes to the Mission Boulevard corridor would create a healthy atmosphere.

Council Member Zermeño thanked the Toyota dealership for staying in Hayward, and as a customer, he showed support for the proposed design.

Council Member Halliday was concerned about the proximity of the dealership to the O’Neil Avenue residential area and the noise that would be generated from the car wash. Ms. Halliday asked if the hours of operation for the car wash could be modified to mitigate disturbance to the neighborhood. Planning Manager Patenaude noted that a masonry wall between the car wash

building and adjacent residential properties would help mitigate noise levels and added that the proposed project has a discretionary permit under which the hours of operation for the car wash could be modified. Council Member Halliday commented that as a customer of the Toyota dealership she agreed that the proposed design would help improve the flow of traffic through the dealership.

Council Member Salinas suggested that staff and the Toyota dealership join efforts, beyond sending notices in the mail, to inform the residents of the changes occurring in their neighborhood. Council Member Salinas noted the proposed building was modern, but was reluctant to support the project because it was moving away from the original intent of preserving an architectural harmony and having a Spanish theme along Mission Boulevard.

Mayor Sweeney opened the public hearing at 8:05 p.m.

Mr. Larry Tidball, architect with Stantec Architecture, Inc., stated that the project gave the Toyota dealership the opportunity to have a modern facility that would set the stage for continued growth and would benefit the entire community. He noted that an acoustic report was performed on the car wash and was found to meet standards. Mr. Tidball urged the Council to approve the proposal.

Mr. David Litty, with AutoNation, Inc., noted that the majority of car washes would occur early in the day and there would not be much car washing performed between the hours of 7:00 and 9:00 p.m. In reference to the timeline for the project, Mr. Litty stated that the goal would be to get through the permit process and complete the construction before the end of 2012.

Mr. Joey Kohistani, Hayward Toyota General Manager, noted that sales at the dealership were back to the 100% mark.

Mr. Tidball noted that Toyota's requirements were to build modern facility using clean and modern materials to reflect its automobiles. He acknowledged that the Mission Boulevard corridor is a key corridor for the City and major retailers, and noted that it would be difficult if business could not create the type of image they needed to appeal to their customers.

Mayor Sweeney closed the public hearing at 8:20 p.m.

Council Member Henson offered a motion per staff recommendation and Council Member Quirk seconded the motion.

Council Member Peixoto was delighted that an automobile company in Hayward was doing well and was seeking to expand despite economic challenges. He expressed support for the proposed identity theme and design for the Toyota dealership.

Council Member Quirk thanked Toyota representatives for sharing information with the Council and encouraged them to keep the Council informed of any challenges that they may encounter and noted that the automobile industry was important for the City.

Council Member Halliday was supportive of the project because it met the City's standard of a good



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design. Ms. Halliday was glad that Toyota was thriving and stated that the design overlay worked in some areas of the City such as Jackson Street, but could not be expected to work throughout Hayward because the architectural theme would not be applicable to all business types.

Council Member Henson supported the proposed design and was hopeful that this would serve as a catalyst for other auto dealerships on Mission Boulevard. He mentioned the sensitivity shown to the car wash concern and noted that the ambient noise would be absorbed and no longer pose a noise issue. He hoped that this project would lead to a renaissance of the historic auto row.

Council Members Zermeño and Salinas and Mayor Sweeney supported the motion on the floor.

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

Resolution 11-188, “Resolution Adopting the Negative Declaration and Approving Zone Change Application PL-2011-0283 and Text Amendment PL-2011-0348 and Site Plan Review PL-2011-0215 Pertaining to the Expansion and Remodel of the Toyota Dealership”

Ordinance 11-_, “An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. PL-2011-0283 Relating to the Toyota Dealership Expansion and Remodel”

Ordinance 11-_, “An Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Repealing the Mission Corridor Special Design Overlay (SD-2) District from the Zoning Ordinance in Connection with Text Amendment Application No. PL-2011-0348 Relating to the Toyota Dealership Expansion and Remodel”

LEGISLATIVE BUSINESS

8. FY 2011 General Fund Year-end Review

Staff report submitted by Finance Director Vesely, dated December 20, 2011, was filed.

Finance Director Vesely provided a synopsis of the report.

Council Member Peixoto asked staff to clarify the expenditure variance for Public Safety, which was \$936,000. Finance Director Vesely responded that when the City Council adopted the budget in FY 2011, the Fire Department had a reorganization which consisted of eliminating four positions and

adding three Battalion Chiefs. Ms. Vesely added that the funding for these three positions was not included in the budget and therefore it resulted in an over-expenditure of \$936,000.

Council Member Henson inquired about the revenue generated from the holiday sales tax. Finance Director Vesely responded that the holiday sales tax would appear on the March Quarterly Sales Tax Report, and noted that Alameda County had experienced a revenue increase and the City a mild growth. Ms. Vesely clarified that redevelopment agency funds had not been factored in the General Fund projections for the next fiscal year.

Council Member Halliday asked if the \$936,000 Public Safety variance was placed elsewhere in the budget. Director Vesely responded that the Public Safety variance was not appropriated into the expenditure budget at all, and therefore, it remained in the General Fund reserve.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 8:41 p.m.

The item only sought review and comments and therefore no action was taken.

9. Annual Report of Redevelopment Agency Activities for FY 2011

Staff report submitted by Assistance City Manager/Interim Redevelopment Agency Director Morariu, dated December 20, 2011, was filed.

Assistant City Manager/Interim Redevelopment Agency Director Morariu provided a synopsis of the report. Ms. Morariu pointed out that the memorandum, which was distributed prior to the meeting, provided two corrections to the Redevelopment Annual Report: 1) Project Area Report FY 2011 (Appendix B, pages 21-25) to ensure that activities outlined in the report were undertaken under the two Cooperation and Funding Agreements; and 2) Description of Agency's Activities Affecting Housing and Displacement (Appendix C) to address the use of Low Moderate Income Housing funds to make the Supplemental Educational Revenue Augmentation Fund (SERAF).

Council/RA Member Quirk asked what resources the City would have over the next few years to fund affordable housing projects and other projects, should the Court decision on AB 26x1 and AB 27x1 be favorable to the City. Assistant City Manager/ Interim Redevelopment Agency Director Morariu responded that the Council would have to make a policy decision on what projects to fund and mentioned that there would be approximately \$4 million resources from the Burbank Residual School site and the Council could utilize it to pay off more of the General Fund advance. Ms. Morariu stated that if both pieces of legislation were struck down and the League of California Cities and the Redevelopment Agency won the lawsuit, she anticipated that the State would then pursue redevelopment reform.

Assistant City Manager/Interim Redevelopment Agency Director Morariu confirmed for Council/RA Member Quirk that one option for the non-affordable housing could be paying off the loan to the City. Mr. Quirk asked what resources would be available over the next one to three years, if the City did not pay off the loan. Ms. Morariu noted that there would be approximately \$1 to \$3 million of discretionary revenue available for non-housing projects and approximately \$1



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million for housing projects.

Council/RA Member Peixoto mentioned façade upgrades on Foothill Boulevard and asked if they could be part of the façade improvement loan program. Ms. Morariu clarified that the City and the Redevelopment Agency were only funding improvement projects for façade/ street frontage which are exterior improvements. Mr. Peixoto expressed concern about the current condition of the parking lot located near the Cobblers business.

Council/RA Member Henson asked staff how the City performed during the audit. Assistant City Manager/Interim Redevelopment Agency Director Morariu noted that performing audits for redevelopment agencies was challenging, nonetheless the City had a clean audit and there were no major findings. She reported that there were two minor findings which did not affect the Redevelopment Agency's financial statements. One of the findings was that a discussion was omitted in the budget of a prior year's goals against the achievements of the goals, and the second finding was that the Agency failed to report time limits for when agencies can initiate imminent domain proceedings. She added that this was not a practice previously; however, going forward this would be performed.

There being no public comments, Mayor/Chair Sweeney opened and closed the public hearing at 9:05 p.m.

Council/RA Member Quirk offered a motion per staff recommendation and it was seconded by Council/RA Member Henson.

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

Resolution 11-189, "Resolution Acknowledging Receipt of the Annual Report of Redevelopment Agency Activities for Fiscal Year 2011"

Redevelopment Agency Resolution 11-18, "Resolution Adopting the Annual Report of Redevelopment Agency Activities for Fiscal Year 2011"

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño noted that Planning Commissioner Márquez was featured in a magazine article as a top volunteer for Local 21. Mr. Zermeño indicated that on December 23, 2011, along with some firefighters and Vicky Contreras, he would be collecting and then distributing toys for children at Vicky's boutique. He wished everyone a "Feliz Navidad."

Council Member Salinas wished everyone a happy holiday and encouraged folks to volunteer this season. Mr. Salinas reported that on December 10, 2011, his California State University East Bay (CSUEB) students served pancakes to the Glassbrook Neighborhood Clean-up volunteers. He also noted that the CSUEB Foundation was awarded with a 2011 Promise Neighborhood Implementation grant in the amount of \$3.9 million for the first year and \$3.9 for the subsequent five years. He noted that the project would be a collaborative effort of stakeholders such as the City of Hayward. He also spoke about his attendance at the 2011 Board, Commission, Committee and Task Force annual reception.

Council Member Henson encouraged everyone to shop Hayward.

Mayor Sweeney wished everyone a happy holiday season and a healthy 2012.

ADJOURNMENT

Mayor Sweeney adjourned the meeting at 9:10 p.m.

APPROVED:

Michael Sweeney, Mayor, City of Hayward
Chair, Redevelopment Agency/Housing Authority

ATTEST:

Miriam Lens, City Clerk, City of Hayward
Secretary, Redevelopment Agency/Housing Authority

DATE: January 10, 2012

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Adoption of an Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. PL-2011-0283 Relating to the Toyota Dealership Expansion and Remodel

RECOMMENDATION

That the City Council adopts the Ordinance introduced on December 20, 2011.

BACKGROUND

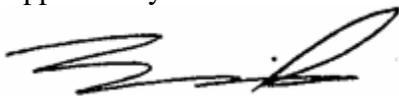
The Ordinance was introduced by Council Member Henson at the December 20, 2011, meeting of the City Council with the following vote:

AYES:	Council Members:	Zermeño, Quirk, Halliday, Peixoto, Salinas, Henson
	Mayor:	Sweeney
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

The ordinance was published in the Hayward Daily Review on Saturday, January 7, 2012. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachment:

Attachment I Summary of Ordinance Published on 1/7/2012

**PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD**

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION WITH ZONE CHANGE APPLICATION NO. PL-2011-0283 RELATING TO THE TOYOTA DEALERSHIP EXPANSION AND REMODEL

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Rezoning.

Section 2. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonable interpreted to give effect to intentions of the City Council.

Section 3. Effective Date. This ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held December 20, 2011, the above-entitled Ordinance was introduced by Council Member Henson.

This ordinance will be considered for adoption at the special meeting of the Hayward City Council, to be held on January 10, 2012, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 7, 2012
Miriam Lens, City Clerk
City of Hayward

DATE: January 10, 2012

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Adoption of an Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Repealing the Mission Corridor Special Design Overlay (SD-2) District from the Zoning Ordinance in Connection with Text Amendment Application No. PL-2011-0348 Relating to the Toyota Dealership Expansion and Remodel

RECOMMENDATION

That the City Council adopts the Ordinance introduced on December 20, 2011.

BACKGROUND

The Ordinance was introduced by Council Member Henson at the December 20, 2011, meeting of the City Council with the following vote:

AYES:	Council Members:	Zermeño, Quirk, Halliday, Peixoto, Salinas, Henson
	Mayor:	Sweeney
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

The ordinance was published in the Hayward Daily Review on Saturday, January 7, 2012. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachment:

Attachment I Summary of Ordinance Published on 1/7/2012

**PUBLIC NOTICE OF AN INTRODUCTION OF AN ORDINANCE
BY THE CITY COUNCIL OF THE CITY OF HAYWARD**

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REPEALING THE MISSION CORRIDOR SPECIAL DESIGN OVERLAY (SD-2) DISTRICT FROM THE ZONING ORDINANCE IN CONNECTION WITH TEXT AMENDMENT APPLICATION NO. PL-2011-0348 RELATING TO THE TOYOTA DEALERSHIP EXPANSION AND REMODEL

THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:

Section 1. Rezoning.

Section 2. Severance. Should any part of this ordinance be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided the remainder of the ordinance, absent the excised portion, can be reasonable interpreted to give effect to intentions of the City Council.

Section 3. Effective Date. This ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held December 20, 2011, the above-entitled Ordinance was introduced by Council Member Henson.

This ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 10, 2012, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 7, 2012
Miriam Lens, City Clerk
City of Hayward

DATE: January 10, 2012

TO: Mayor and City Council

FROM: Director of Public Works – Public Utilities & Environmental Services

SUBJECT: Water System Leak Detection Survey: Authorization for the City Manager to Execute a Professional Services Agreement with Water Systems Optimization, Inc., for Implementation of a System-Wide Leak Detection Survey

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to execute a professional services agreement with Water Systems Optimization, Inc., for implementation of a Water System Leak Detection Survey, in an amount not to exceed \$90,000.

BACKGROUND

The City owns and operates a water distribution network that delivers water to residents, businesses, and educational facilities in the City. All of Hayward's water supply is received from the San Francisco Public Utilities Commission (SFPUC). During the most recent fiscal year, ending in June, the City purchased an average of seventeen million gallons per day (mgd).

Over the past few years, there has been an increasing gap between the amount of water purchased from the SFPUC and the amount of water billed to the City's customers. While some water loss is inevitable and not economically recoverable, it is important to better understand and document the causes of the growing discrepancy, and to determine what remediation actions would be cost effective. To that end, the City engaged Water Systems Optimization, Inc. (WSO) to prepare a water balance and audit, based on the methodology recommended by the American Water Works Association. Among other findings, the study determined that a significant amount of so-called non-revenue water consumption, potentially as much as 14% of the water purchased from SFPUC, may be attributed to leaks and breaks in the water distribution system.

A small percentage of these occurrences are reported by customers, and corrective action is taken by City staff, while just under one-half of the losses are due to small, undetectable leaks. However, the water audit indicated that potentially as much as 7% of the water purchased from SFPUC, or 1.2 mgd in FY2011, may be from detectable, repairable leaks in the water system. Leakage tends to increase with the age of the distribution system. A significant portion of Hayward's water pipes, about 65%, are more than 40 years old. Another contributing factor may be the higher pressure at which the system is operated in order to ensure adequate water delivery for normal and emergency use. At the current wholesale cost of SFPUC water, and based on FY2011 wholesale water

purchases, such losses theoretically translate into \$1.5 million in water purchase costs that are not recovered from customer sales. It is important to note that actual recoverable losses may not be this high. However, a trial leak detection survey of approximately 10% of the City's water distribution network confirmed the fact that unreported leakage is a significant contributing factor to non-revenue water consumption.

DISCUSSION

Based on the results of the water audit and the trial leak detection survey, staff recommends that a system-wide leak detection survey be implemented, consisting of sound tests at each valve, hydrant, and service connection in the water distribution network. Modern water system leak detection techniques involve the use of acoustical sounding equipment, which basically detects the sound of water escaping from the pressurized water system. When a leak is identified, follow-up testing is performed with leak noise correlators, which compare leak sounds from locations on each side of the leak. This method of detection and correlation allows leak detection surveyors to accurately pinpoint the location of leaks and to estimate the water losses associated with each leak, enabling City staff to address the most serious leaks in a timely way. Over the years, leak detection equipment has become increasingly sophisticated and expensive. Given the cost of leak detection equipment and the expertise needed to effectively utilize all of the available functions, it is a better use of City resources to utilize contract services on an as-needed basis than to purchase and maintain the equipment, and to train personnel on its proper use. At this time, staff expects that identified leaks will be repaired by City staff.

Staff requested proposals from three qualified firms, each of whom was contacted by telephone to confirm their ability to do the required work and their interest in receiving the request for proposal. One proposal was received prior to the deadline from Water Systems Optimization, Inc. (WSO), and an additional proposal was submitted after the deadline. Staff reviewed the qualified proposal and determined that WSO has the necessary qualifications, experience, and equipment to conduct a comprehensive and thorough survey in accordance with the City's requirements. WSO satisfactorily performed the water balance and audit on the City's water distribution network, as well as the trial leak detection survey, and is recognized by the American Water Works Association, California Urban Water Conservation Council, and the Association of California Water Agencies as an approved provider of water loss and leak detection services. WSO has performed similar work for other California agencies, such as the City of Folsom and El Dorado Irrigation District, and throughout the United States. The team assigned to perform the field work has many years of experience and the equipment used will be state-of-the-art.

WSO proposed a cost of \$77,700, or \$220 per mile, for the basic services described in the request for proposal. Although the second proposal was received after the deadline, staff looked at the cost in order to assist in evaluating the reasonableness of WSO's cost. With a total per-mile cost of \$320, the second submittal was about 45% higher. Staff also compared WSO's cost with that of a leak detection survey that the City undertook in FY 2007. At that time, the City paid about \$35,000, or \$100 per mile, for a leak detection survey of valves and hydrants only, a total of about 10,400 connections. This effort was largely unsuccessful in identifying the extent of water losses, in part, because service connections were not tested. WSO would be more than quadrupling the number of sound tests for just over twice the cost per mile. Staff considers WSO's cost to be reasonable for the level of service and expertise to be provided.

City staff will work closely with the consultant to provide up-to-date information on the size and locations of all water mains, valves, hydrants and service connections, and to assist in the field as necessary to locate and operate valves and hydrants. Staff anticipates that some short-term road closures may be needed to facilitate leak detection at busy intersections, and such closures will be scheduled to minimize traffic impacts and inconvenience to the public.

ECONOMIC IMPACT

As the wholesale cost of water continues to rise, non-revenue water consumption will have an increasingly greater impact on the City's water rates. As acknowledged previously, a certain amount of such consumption is normal and expected, however, to the extent that the City can cost effectively reduce it, the ratepayers will benefit.

FISCAL IMPACT

The cost of the leak detection survey is estimated to be \$90,000, including \$12,300 in additional possible services should more work be required in some specific system areas. Additional services, which require prior staff evaluation and authorization, will only be approved if additional, unanticipated work becomes necessary in the course of performance of the project. The adopted FY2012 Water System Replacement Fund includes \$100,000 specifically for the leak detection survey. Detected leaks will be prioritized for repair by City staff, based on severity and estimated water loss. Repair work will be funded in the Water System Operating Fund.

PUBLIC CONTACT

No specific public contact is anticipated for this project; however, staff will notify any businesses or neighborhoods that might be affected during different stages of the work, and be prepared to respond to any inquiries received from the public.

NEXT STEPS

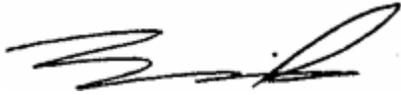
Following City Council approval, staff will finalize a professional services agreement with WSO Inc. The following schedule has been developed for this project:

Milestone	Completion Date
Issuance of Notice to Proceed	Late January 2012
Leak Detection Field Work	February to June 2012
Completion of Final Report	July 2012

Prepared by: Marilyn Mosher, Administrative Analyst III

Recommended by: Alex Ameri, Director of Public Works – Public Utilities and Environmental Services

Approved by:



Fran David, City Manager

Attachments: Attachment I - Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF HAYWARD AND WATER SYSTEMS OPTIMIZATION, INC., FOR PROFESSIONAL SERVICES TO CONDUCT A WATER SYSTEM LEAK DETECTION SURVEY IN AN AMOUNT NOT TO EXCEED \$90,000

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to execute, on behalf of the City of Hayward, a professional services agreement to conduct a water system leak detection survey in an amount not to exceed \$90,000, in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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: January 10, 2012

TO: Mayor and City Council

FROM: Director of Public Works – Public Utilities & Environmental Services

SUBJECT: Highland 250-Highland 500 Sixteen-inch Transmission Main Replacement and Highland 250 Pump Station Upgrade: Approval of Plans and Specifications, and Call for Bids

RECOMMENDATION

That Council adopts the attached resolution approving the plans and specifications for the Highland 250-Highland 500 sixteen-inch Transmission Main Replacement and Highland 250 Pump Station Upgrade Project, and calling for bids to be received on February 14, 2012.

BACKGROUND

The Highland 250 Pump Station transmits water from the Highland 250 to the Highland 500 Reservoirs through a sixteen-inch Concrete Cylinder Pipe (CCP). CCP is a steel pipe combined with a layer of reinforced cement mortar coating both on the inside and outside. This water main was constructed in the 1950s and is in poor condition. This is a backup pipeline to take water from the 250 zone to 500 zone when the primary pipeline is out of service. The primary pipeline is from the Walpert Reservoir to the Highland 500 Reservoir through a much newer water main constructed in 1999 along Second Street and Campus Drive. This project will replace the existing sixteen-inch CCP with a new eighteen-inch Welded Steel Pipe (WSP), and will also upgrade the existing Highland 250 Pump Station with new piping and valves to improve pumping efficiency.

DISCUSSION

The existing Highland 250 and 500 Reservoirs are located at 1122 and 1910 Highland Boulevard, respectively. The pump station at the 250 Reservoir delivers water to the 500 Reservoir via a 16-inch CCP, approximately 4,300 feet in length. The pipeline, along with the 250 Pump Station, was constructed in the late 1950s. Approximately 1,800 ft of the pipeline lies under Highland Boulevard; the rest of the water main is in an undeveloped easement area within the backyards of private properties, some of which are owned by Caltrans and are in the process of being sold under the Route 238 Bypass right-of-way land disposition program.

The overall condition of the sixteen-inch main is poor. In one previous repair project, the metal portion of the CCP was found to be thin and difficult to weld. Although this is not the main transmission line to the 500 zone and above, it does serve as a backup supply line when the primary line is shut down for maintenance and in cases of emergency. Therefore, it is important to replace this transmission main and return it to a serviceable condition.

This project will replace the existing CCP with a new eighteen-inch Welded Steel Pipe (WSP) by open trench method. A trench of approximately three feet in width will be excavated to the depth of the existing pipe. Once the water main is exposed, it is removed and replaced with new WSP. When the pipe installation is complete, the opened trench is backfilled, compacted, and paved to match the original pavement section, as appropriate.

The vast majority of the pipe replacement work on Highland Boulevard will be done within six feet from the edge of the road. The travel width on Highland Boulevard is thirty feet, which will permit two-way traffic on Highland Boulevard during much of the construction. At locations where more room is needed or during truck loading operations, flaggers will be used to allow through traffic to pass. Due to low traffic volume on Highland Boulevard, traffic backup is not expected to be a problem when flaggers are being used. Parking will be restricted at the specific area where pipe replacement work is being done during construction hours. The entire street will be reopened for normal access and parking after working hours.

This project will also upgrade the 250 Pump station to improve pumping efficiency. The pump station currently consists of three pumps, two of which have ten-inch valves and piping at the outlet, while one pump has eight-inch piping. The pump with eight-inch valves and piping will be upsized to ten-inch. Furthermore, the 90° elbows connecting the main line and pumps will be replaced with 45° elbows. This will facilitate a smoother flow in the piping system and require less power to operate the pumps.

The pipeline project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA). The Public Resources code states that CEQA does not apply to any project of less than one mile in length within a public street or highway or any other public right-of-way for the installation of a new pipeline or the maintenance, repair, restoration, reconditioning, replacement, removal, or demolition of an existing pipeline.

FISCAL IMPACT

The estimated project costs are as follows:

Design (by City staff)	\$ 60,000
Construction	1,300,000
Inspection & Testing During Construction	<u>80,000</u>
Total:	\$1,440,000

The FY 2012 Capital Improvement Program (CIP) includes \$1,400,000 for the Highland 250-Highland 500 sixteen-inch Transmission Main Replacement Project and \$400,000 for the Highland

250 Pump Station Upgrade Projects in the Water System Replace Replacement Fund for a total funding of \$1,800,000. These two projects have been combined in a single project for bidding.

PUBLIC CONTACT

Staff will obtain the needed encroachment permits from Caltrans and Right-of-Entry documents from affected property owners prior to construction. In addition, notices will be provided to all affected residents and property owners prior to and during construction to inform them of the nature and purpose of the work, potential impacts, work schedule, and City contact for additional information.

SCHEDULE

Open Bids	February 14, 2012
Award Contract	March 20, 2012
Begin Work	April 2012
Complete Work	October 2012

Prepared by: Alex Thomas Lam, Associate Civil Engineer

Recommended by: Alex Ameri, Director of Public Works – Public Utilities and Environmental Services

Approved by:



Fran David, City Manager

Attachments:

- Attachment I - Resolution
- Attachment II - Project Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 12- _____

Introduced by Council Member _____

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE 250-500 16-INCH TRANSMISSION MAIN REPLACEMENT AND HIGHLAND 250 PUMP STATION UPGRADE PROJECT, PROJECT NOS. 7045 & 7052, AND CALL FOR BIDS

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

1. That those certain plans and specifications for the 250-500 16-inch Transmission Main Replacement and Highland 250 Pump Station Upgrade Project, Project Nos. 7045 & 7052, on file in the office of the City Clerk, are hereby adopted as the plans and specifications for the project;
2. That 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;
3. That sealed bids therefore will be received by the City Clerk's office at City Hall, 777 B Street, Hayward, California 94541, up to the hour of 2:00 p.m. on Tuesday, February 14, 2012, and immediately thereafter publicly opened and declared by the City Clerk in Conference Room 4D, City Hall, Hayward, California;
4. That the City Council will consider a report on the bids at a regular meeting following the aforesaid opening and declaration of same.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

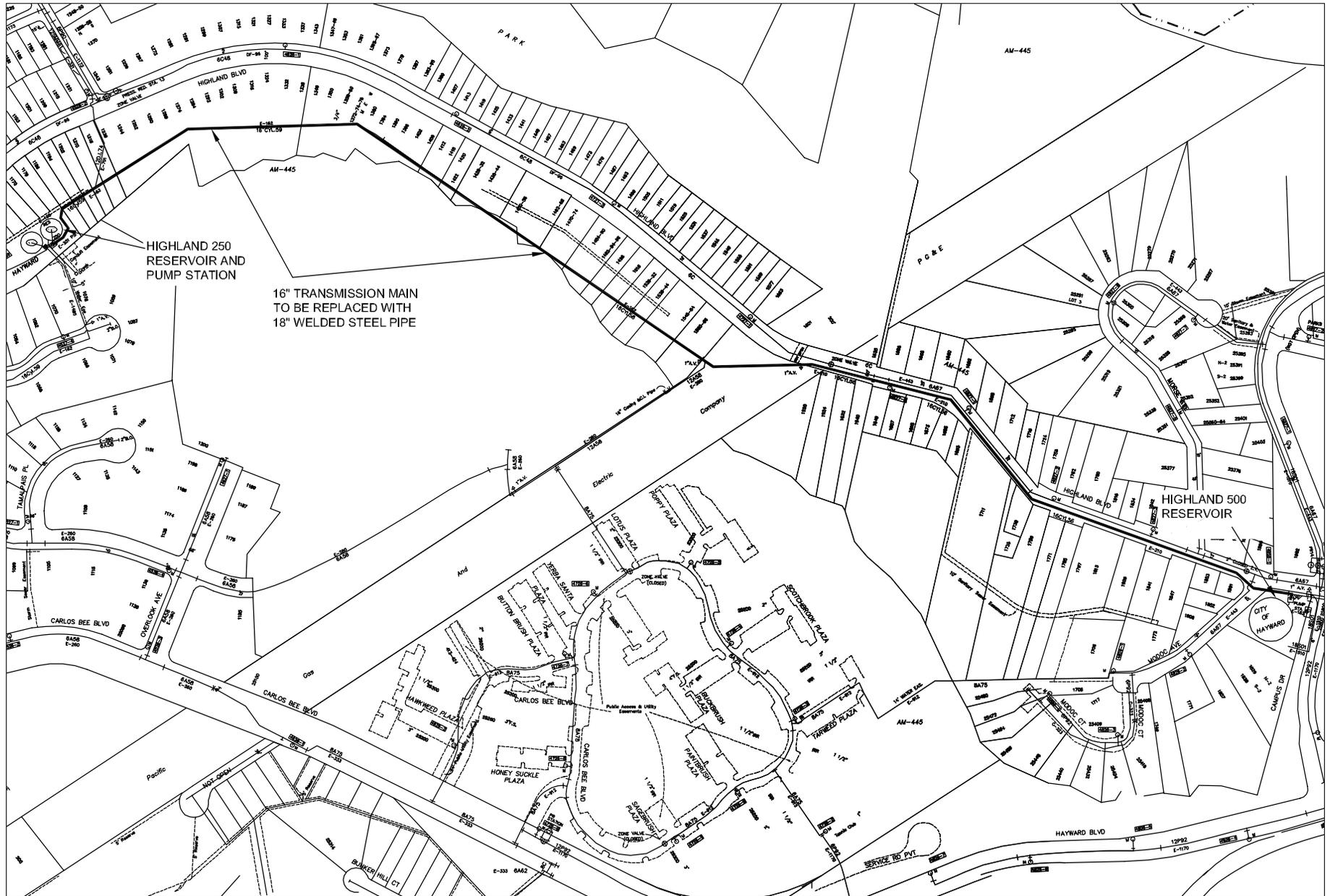
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



LOCATION MAP

DATE: January 10, 2012

TO: Mayor and City Council

FROM: Director of Public Works – Public Utilities & Environmental Services

SUBJECT: Authorization for the City Manager to Execute a Professional Services Agreement for Design and Construction Administration Services for the Electrical and Mechanical Improvement to High School Reservoir Project

RECOMMENDATION

That Council adopts the attached resolution authorizing the City Manager to execute a Professional Services Agreement with Psomas for design and construction administration services for the Electrical and Mechanical Improvement to High School Reservoir Project in an amount not to exceed \$55,000.

BACKGROUND

The Hayward water system is divided into various elevation zones. High School Reservoir, a reinforced concrete tank built in 1920 with a 1 million gallon storage capacity, serves the northern-most portion of the 250 zone. In late 2010, this tank was upgraded with a replacement roofing system. However there is still a problem with how long water resides in the tank. The pressure from the City's distribution system is generally higher than the pressure head in the tank because of its relatively low elevation. As a result, the water remains in the tank unless a big pressure drop occurs within the system. When water remains in the tank unused for long periods of time, it eventually loses its disinfection chloramine residual to a point that the water has to be drained. This was done during the early part of 2011. To prevent the water from having to be drained, Utilities staff has since stopped filling the reservoir and has temporarily taken it out of service.

In order to place the High School Reservoir back into service, the City plans to design and install a pumping system at the reservoir that will create adequate pressure to allow the water in the tank to be pumped back into the distribution system for use while it is still of high quality. The new pumping system will also include electrical and communication equipment, which will permit the City's SCADA system to monitor and control the pumps, and the tank's water level.

The High School Reservoir site currently does not have electrical service. The City is working with PG&E to provide electrical service to the site. This portion of the pumping system project is ongoing and should be completed in early 2012.

DISCUSSION

On October 19, 2011, staff sent a Request for Proposals to three engineering consultants to provide engineering services for the High School Reservoir Mechanical and Electrical Improvement Project. On November 10, 2011, staff received three proposals; they were from Psomas, West Yost Associates, and Carollo Engineers. After reviewing the proposals, staff finds Psomas best qualified to perform the work based on its approach in design of the pumping system, experience with similar projects, highly qualified team, and lowest overall cost. Therefore, staff recommends executing a professional services agreement with Psomas to provide design and construction administration services for the High School Reservoir Mechanical and Electrical Improvement Project.

A detailed scope of work and a proposal fee of \$55,000 have been negotiated with Psomas. The not-to-exceed amount of \$55,000 for the professional services agreement will allow \$15,100 for additional services that may be needed during the various phases of the project. This additional services amount is appropriate given several pump design issues that have yet to be resolved, such as whether to place the pump inside an underground vault or outside the existing fence, which would require acquisition of additional easements. If an additional easement is necessary, staff will negotiate with the property owner to acquire the needed right-of-way.

FISCAL AND ECONOMIC IMPACT

The estimated project costs are as follows:

Connect PG&E Electrical Service to Reservoir Site	\$90,000
Inspection and Testing - PG&E Service Installation	15,000
Mechanical Design and Construction	
Administration Services – Consultant	55,000
Design Administration – City Staff	20,000
Construction Contract	200,000
Inspection and Testing	<u>20,000</u>
Total	\$400,000

The FY 2012 Capital Improvement Program includes \$400,000 for the Electrical and Mechanical Improvement to High School Reservoir Project in the Water System Capital Improvement Fund.

PUBLIC CONTACT

Access to the High School Reservoir will require going through the Creekwood Apartment parking area at City Center Drive. During the design phase, staff will contact the property owner to discuss the project and potential impacts on apartment residents.

SCHEDULE

The estimated schedule for this project is summarized as follows:

Begin Design	January 2012
Complete Design	May 2012
City Council Approval and Call for Bids	June 2012
Receive Bids	July 2012
Award Construction Contract	August 2012
Begin Construction	September 2012
End Construction	January 2013

Prepared by: Thomas Lam, Associate Civil Engineer

Recommended by: Alex Ameri, Director of Public Works – Public Utilities and Environmental Services

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH PSOMAS FOR DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE ELECTRICAL AND MECHANICAL IMPROVEMENT TO HIGH SCHOOL RESERVOIR PROJECT, PROJECT NO. 7137

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed negotiate and execute a Professional Services Agreement with Psomas for design and construction administration services for the Electrical And Mechanical Improvement to High School Reservoir Project in an amount not to exceed \$55,000 in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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: January 10, 2012

TO: Mayor and City Council

FROM: Director of Public Works –Engineering & Transportation

SUBJECT: Approval of the Freeway Agreement for I-880/SR 92 Interchange Project and Approval of the Freeway Maintenance Agreement with Caltrans

RECOMMENDATION

That Council adopts the attached resolutions authorizing approval of a revised Caltrans Freeway Agreement and a revised Caltrans Freeway Maintenance Agreement.

BACKGROUND

The City has two types of agreements with the California State Department of Transportation (Caltrans). One is a Freeway Agreement, which makes provisions for State highways in Hayward to be constructed, modified, and maintained, including all the required right-of-way acquisitions, local street closures and detours, and all other construction affecting City streets as shown on the State’s highway construction and improvement plans. The other is a Freeway Maintenance Agreement, which details the City’s maintenance responsibilities for specific facilities affected by freeway construction, including pedestrian overcrossings.

On September 26, 2006, Council approved a revised Freeway Agreement with Caltrans related to the I-880/SR 92 Interchange Reconstruction project. That agreement was never executed by either the City or Caltrans, and Caltrans has submitted a slightly modified agreement to the City that, at staff’s request, supersedes all prior freeway agreements and covers all portions of the two freeways, I-880 and SR 92, in Hayward, including relevant pedestrian overcrossings. Staff recommends that Council authorize the City Manager to sign this agreement, which is essentially the same as the agreement proposed in 2006 with the added advantage of consolidating all past Freeway Agreements with Caltrans. At staff’s request, it also specifically excludes any responsibility for the pedestrian overcrossing on SR 92, which is being maintained by East Bay Regional Park District as part of the Bay Trail.

On December 10, 1957, the City entered into a Freeway Maintenance Agreement with Caltrans for the majority of I-880, including the original I-880/SR 92 Interchange. On August 12, 1975, the City entered into a Freeway Maintenance Agreement with Caltrans for the portion of SR 92 that was previously in the county. These agreements covered the City’s maintenance responsibilities for City streets and pedestrian overcrossings affected or constructed by the planned Freeways and referred to

the various executed Freeway Agreements, referenced above. A new Maintenance Agreement will need approval to amend those responsibilities as a result of the reconstruction of the interchange. The City has worked with Caltrans to ensure that the new Maintenance Agreement will not place an additional burden upon City staff and to ensure that the City maintains only what is appropriate. The new agreement supersedes both the 1957 agreement and the 1975 agreement. Staff recommends that Council authorize the City Manager to sign this agreement.

DISCUSSION

The 2006 Freeway Agreement, similar to all previous versions of it, makes provisions for Caltrans to construct, modify, and maintain freeways in Hayward, including all the required right of way acquisitions, local street closures and detours, and all other construction affecting City streets as shown on the State's highway construction and improvement plans. This latest revision to the Freeway Agreement will document changes in I-880 and SR 92 that resulted from the interchange project. While the changes that affect access to and from City streets are minimal, staff supports the proposed document, because it supersedes all existing freeway agreements signed in the 1950s and 1960s and consolidates all of SR 92 and I-880 into one updated document.

As is the standard in all Freeway Maintenance Agreements, the City is responsible for the street pavement, sidewalk, and any landscaping either under or over the Freeway that is part of Caltrans right-of-way and outside of their fenced areas. With the exception of new drawings to show the revised right-of-way, there is no change from the City's existing responsibility. Similarly, the City has also always been responsible for maintenance of all portions above the deck structure of any pedestrian overcrossings, with the exception of the fence screening. As noted above, maintenance of the new SR 92 freeway pedestrian overcrossing has not been added to the City's responsibility.

Of particular note, City staff and Caltrans staff have worked together to address the ongoing maintenance issues of the Eldridge Avenue overcrossing since its opening. Since the initial completion of construction of the overcrossing, the City and Caltrans have partnered in the maintenance, clean up, and safety of the overcrossing. However, now that the interchange reconstruction project is completed, the City is required by the existing agreements to assume full maintenance responsibilities.

Similar to the original overcrossing, construction of the new overcrossing has resulted in numerous complaints from residents, particularly on the Peterman Avenue (west) side regarding crime, graffiti, vandalism, garbage, and noise. In response to the complaints, City staff and Caltrans have undertaken a number of steps to address these concerns. These steps include lighting improvements, installation of four security cameras with live feeds, and increase in patrol by Hayward Police Department.

It should be noted that, as of the date of this agenda report, City staff has noticed a significant decrease in complaints about the overcrossing. Unfortunately, it is too early to determine the exact long-term impact of all the security and preventative measures taken at and on the overcrossing. However, staff will continue to monitor the overcrossing and to work with Caltrans on any on-going issues.

FISCAL IMPACT

As mentioned above, staff has worked diligently to ensure no significant additional maintenance responsibilities are added to the City. The one exception is the landscaped area on Peterman Avenue that was created on the City side of freeway sound wall with the interchange project. This planter box was based on a City request during design to reduce the impact of the sound wall. It was always understood that the City would be responsible for this landscaping, which is mostly on City right-of-way and only partially on Caltrans right-of-way. Staff estimates the annual landscape maintenance cost for this area to be approximately \$5,000, which will be included in the Maintenance Services Department's annual operating budget. Other maintenance costs for streets and sidewalks are already part of the City's maintenance workload and budget. Similarly, with the measures taken, graffiti removal on the Eldridge pedestrian overcrossing, will hopefully be less than expenses in the past for the old overcrossing. There will be some costs for the maintenance of both the lighting and the new cameras, which are estimated at \$3,000 to \$4,000 per year.

PUBLIC CONTACT

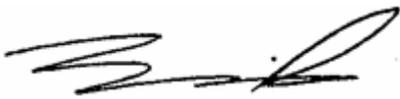
The September 26, 2006 freeway agreement was approved by Council at a public meeting. Since that time, City and Caltrans staff have provided regular updates to various neighborhood groups, particularly Southgate neighborhood residents, some of whom live near or adjacent to the rebuilt overcrossing and interchange. In addition, staff prepared several weekly reports to Council that provided updates on the interchange project as it was proceeding. However, there have been no public meetings specifically relating to the agreements.

The majority of the public contact with City staff has been related to the overcrossing, and staff has used the information obtained from the public to develop the courses of action to address the incidences of crime and graffiti that have been of most concern to the public

Prepared by: Don Frascinella, Transportation Manager

Recommended by: Morad Fakhrai, Director of Public Works – Engineering & Transportation

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution Approving Freeway Agreement
- Attachment II: Resolution Approving Freeway Maintenance Agreement

HAYWARD CITY COUNCIL

RESOLUTION NO. 12 - _____

Introduced by Council Member _____

APPROVING FREEWAY AGREEMENT BETWEEN THE STATE OF CALIFORNIA AND THE CITY OF HAYWARD RELATING TO THAT PORTION OF STATE HIGHWAY 92 FROM WEST CITY LIMIT TO SANTA CLARA STREET AND STATE HIGHWAY 880 FROM SOUTH CITY LIMIT NEAR WHIPPLE ROAD TO WEST A STREET

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

WHEREAS, the City Council approved a freeway agreement with Caltrans on September 26, 2006 for the I-880/SR 92 Interchange Reconstruction Project, and

WHEREAS, a slightly revised agreement has been presented to the City, and

WHEREAS, this agreement supersedes all prior freeway agreements and covers all portions of the freeways in Hayward, and

WHEREAS, the City Council has considered said agreement in full and is familiar with the content thereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to execute the agreement on behalf of the City in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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

HAYWARD CITY COUNCIL

RESOLUTION NO. 12- _____

Introduced by Councilmember _____

RESOLUTION APPROVING FREEWAY MAINTENANCE AGREEMENT BETWEEN THE STATE OF CALIFORNIA (STATE) AND THE CITY OF HAYWARD (CITY) RELATING TO MAINTENANCE OF RECONFIGURED LOCAL STREETS AND ROADS AFFECTED BY CONSTRUCTION OF THE I-880/SR 92 INTERCHANGE PROJECT INCLUDING THE ELDRIDGE AVENUE PEDESTRIAN OVERCROSSING

WHEREAS, the STATE has presented to the CITY a Freeway Maintenance Agreement covering the portions of State Route 92 from Mt. Eden Overhead to Santa Clara Street and on Interstate 880 from West A Street to Industrial Parkway; and

WHEREAS, this Agreement supersedes the Freeway Maintenance Agreement executed on December 10, 1957, and Freeway Maintenance Agreement executed on August 12, 1975; and

WHEREAS, the City Council has considered the said Agreement in full and is familiar with the content thereof.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to execute the Freeway Maintenance Agreement on behalf of the City of Hayward, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2012

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: January 10, 2012

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

FROM: Assistant City Manager/Interim Redevelopment Agency Director

SUBJECT: Adoption of a Resolution Authorizing the City to Serve as Successor Agency to the Hayward Redevelopment Agency and a Resolution Authorizing the Hayward Housing Authority to Serve as the Successor Housing Agency Pursuant to Health & Safety Code Sections 34171, 34173 and 34176

RECOMMENDATION

1. That the Council:
 - a. Adopts the attached resolution (Attachment I)
 - i. Electing to serve as the Successor Agency to the Hayward Redevelopment Agency,
 - ii. Electing not to serve as the Successor Housing Agency,
 - iii. Selecting the Housing Authority of the City of Hayward as the Successor Housing Agency to the former Redevelopment Agency, and
 - iv. Directing staff to file the appropriate notification of these elections in accordance with Health & Safety Code Sections 34171, 34173 and 34176 (also known as ABx1 26, the Redevelopment Dissolution Act).
2. That the Housing Authority Board adopts the attached resolution (Attachment II) agreeing to serve as the Successor Housing Agency to the former Redevelopment Agency and directing staff to file the appropriate notification of these elections in accordance with the Dissolution Act.

BACKGROUND

On December 29, 2011, the California Supreme Court delivered its decision in the *California Redevelopment Association v. Matosantos* case, finding ABx1 26 (the “Dissolution Act”) largely constitutional and ABx1 27 (the “so-called” Voluntary Redevelopment Program Act) unconstitutional. The Court’s bifurcated decision means that all California redevelopment agencies, including the Redevelopment Agency of the City of Hayward (the “Redevelopment Agency”), will be dissolved under the Dissolution Act, and none will have the opportunity to opt into continued existence under the “so-called” Voluntary Redevelopment Program Act (VARP).

The Hayward City Council had previously adopted an “opt-in” ordinance on August 2, 2011 to participate in the VARP.

As a result, the Hayward Redevelopment Agency will be dissolved effective February 1, 2012. The Redevelopment Agency's non-housing funds and assets will then be turned over to a successor agency (the “Successor Agency”) charged with the responsibility of paying off the former Redevelopment Agency's existing debts, disposing of the former Redevelopment Agency's properties and assets and winding down the affairs of the agency, redistributing remaining property tax revenues to the local government entities in the County that receive these revenues (the “Taxing Entities”), and eventually winding up the affairs of the former Redevelopment Agency.

The Redevelopment Agency's affordable housing assets, other than its existing housing fund balance, will be turned over to a successor housing agency (the “Successor Housing Agency”) to continue performing affordable housing activities. The former Redevelopment Agency's affordable housing fund balance will be used to repay existing housing fund debts and/or remitted to the County Auditor-Controller for distribution to the Taxing Entities. With the elimination of the Redevelopment Agency and associated locally accruing property tax increment revenues, there is no future funding stream to support additional affordable housing activities.

The Dissolution Act provides that the City of Hayward, as the entity that established the Redevelopment Agency, will be the Successor Agency to the former Redevelopment Agency unless the City elects not to serve as the Successor Agency, in which case the first other Taxing Entity making a proper election will be designated as the Successor Agency. If the City elects **not** to be the Successor Agency, it must adopt a resolution to that effect and notify the County Auditor-Controller no later than January 13, 2012. Even if the City elects to be the Successor Agency, the Agency's outside legal counsel has recommended that the City adopt a resolution affirmatively stating the City's intent to become the Successor Agency and that notice be provided to the County Auditor-Controller.

The Dissolution Act also authorizes the City to elect to become the Successor Housing Agency of the former Redevelopment Agency and to retain the housing assets (other than any existing housing fund balance) and affordable housing functions of the former Redevelopment Agency. If the City does not elect to become the Successor Housing Agency, then the local Housing Authority (or if there is no local Housing Authority, the California Department of Housing and Community Development) will become the Successor Housing Agency. If there is more than one housing authority in the territorial jurisdiction of the Agency (and in Hayward, both the Alameda County Housing Authority and the City of Hayward Housing Authority are within the territorial jurisdiction of the Agency), then the City that formed the redevelopment agency can elect which local housing authority to appoint as the successor housing agency. As additional background information, in March 2011, the Redevelopment Agency and Hayward Housing Authority executed a Cooperation and Funding Agreement that authorized the transfer of housing assets and funding to the Housing Authority in order to further the affordable housing goals of the City and the Redevelopment Agency.

DISCUSSION

The Successor Agency and the Successor Housing Agency will play a key day-to-day role in assuring that the existing obligations of the former Redevelopment Agency are properly paid, and that the former Redevelopment Agency's properties and other assets are disposed of in an appropriate manner. While the Successor Agency will be overseen by an "Oversight Board" of seven representatives selected largely by the County and various local education districts, the staff of the Successor Agency will have a strong role in initiating and implementing actions in a way that achieves the requirements of the Dissolution Act, is sensitive to the long-term development needs of the City and local community, and which protects the good name of the City in the financial markets by assuring timely repayment of the former Redevelopment Agency's existing debts. The key responsibilities and tasks of the Successor Agency generally include:

- 1) Making payments and performing other obligations due for Enforceable Obligations of the former Redevelopment Agency (RDA), which include bonds, loans, required Federal or State payments, legally binding and enforceable agreements or contracts, and other limited items;
- 2) Preparing a Recognized Obligation Payment Schedule for each six month period of each fiscal year;
- 3) Disposing of the former RDA's assets or properties expeditiously and in a manner aimed at maximizing value;
- 4) Effectuating the transfer of housing functions of the former RDA to its Successor Housing Agency;
- 5) Winding down all other affairs of the former RDA; and
- 6) Preparing administrative budgets and paying administrative costs

As mentioned previously, most if not all of the Agency's housing assets were transferred to the Housing Authority of the City of Hayward in March 2011 pursuant to a Cooperation and Funding Agreement between the Agency and Authority. The City indicated at that time, that it desired for the Housing Authority to assume Hayward's housing functions. As a Successor Housing Agency, the Housing Authority will provide Hayward with continued control over its housing activities.

Alternative to Electing to Become Successor Agency: If the City elects not to serve this role, the first Taxing Entity in the County that submits a resolution electing to become the Successor Agency to the County Auditor-Controller would assume this function. While this would relieve some of the administrative burden of unwinding the Redevelopment Agency's affairs, it would also place control over the disposition of the Redevelopment Agency's assets into the hands of another governmental entity other than the City. This other Taxing Entity may or may not have experience in redevelopment or financial and land disposition matters, and it will be highly unlikely that the other entity would take into account any of the interests of the City and local community in performing its functions as Successor Agency. The alternate Successor Agency would also be responsible for determining what would qualify as an enforceable obligation of the former RDA and making payments on these obligations.

In addition, if the City elects not to serve as the Successor Agency, the City would not be eligible to receive any of the administrative cost budget outlined in the Fiscal Impact section below, yet would likely still incur expenses, particularly staff time, in answering questions and responding to requests from the alternate Successor Agency as they dispose of the former RDA assets.

FISCAL IMPACT

The Dissolution Act provides that the liability of the Successor Agency is limited to the funds and assets it receives under the Dissolution Act to perform its functions. Thus, if it takes on the role of Successor Agency, the City would not expose its General Fund to liability to discharge the obligations of the former Redevelopment Agency (unless it was found to have mismanaged or misappropriated the funds and assets it does receive under the Dissolution Act). That said, it would be important for the City, if it becomes the Successor Agency, to exercise the same care and prudence in the management and protection of the funds and assets that it receives from the former Redevelopment Agency as the City applies with its own funds and assets.

Subject to the approval of the Oversight Board and to specified reductions if other funds are available for administration, the Dissolution Act permits the Successor Agency to receive an annual operating budget to defray its administrative costs in an amount up to five percent of the property tax allocated to the Successor Agency for FY 2011-12, and up to three percent of the property tax allocated to the Successor Agency each succeeding fiscal year to provide for program administration; provided, however, that the total annual amount shall not be less than \$250,000 for any fiscal year (or such lesser amount as agreed to by the Successor Agency). Staff currently estimates Hayward would receive the minimum amount of \$250,000 allowable for administrative costs.

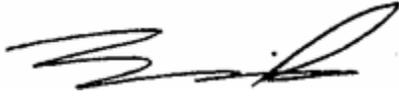
It is possible, but not clear in the currently written Dissolution Act, that the Housing Authority (or any other Successor Housing Agency to the Agency) could receive from the City a portion of the \$250,000 administrative cost allowance that the City will receive in its role as Successor Agency. Otherwise, the Housing Authority would need to fund its Successor Housing Agency activities from asset-related revenues it receives (e.g., affordable housing loan repayments and other program income generated by the housing assets it inherits from the former Redevelopment Agency) or from other revenue sources.

NEXT STEPS

There are many actions necessary to implement ABx1 26; these recommended actions are simply the first. Due to the compressed timeline identified in the legislation, staff brought this item immediately forward and will be returning to the Council over the next few meetings to deal with other issues related to the dissolution of the Hayward Redevelopment Agency.

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

Approved by:



Fran David, City Manager/Executive Director

Attachments:

Attachment I: City Council Resolution Expressing Intent for the City to Serve as
Successor Agency for the Hayward Redevelopment Agency

Attachment II: Housing Authority Board Resolution Electing to Retain the Housing
Assets and Functions Previously Performed by the Hayward
Redevelopment Agency

CITY COUNCIL OF THE CITY OF HAYWARD

RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD TO EXPRESS ITS INTENT TO SERVE AS THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD PURSUANT TO HEALTH AND SAFETY CODE SECTION 34171(j) AND SECTION 34173; AND TO ELECT NOT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176 AND TO SELECT THE HOUSING AUTHORITY OF THE CITY OF HAYWARD TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176(b)(3)

WHEREAS, Assembly Bill 1X 26 (the “Dissolution Act”) and Assembly Bill 1X 27 (the “so-called” Voluntary Redevelopment Program Act”) were enacted on June 28, 2011, to significantly modify the Community Redevelopment Law (Health & Safety Code §33000, et seq., the “Redevelopment Law”); and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association’s and League of California Cities’ petition challenging the constitutionality of the Redevelopment Restructuring Acts; and

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court’s decision means that all California redevelopment agencies will dissolve on February 1, 2012 pursuant to the Dissolution Act; and

WHEREAS, the Dissolution Act provides that the city that authorized the creation of the redevelopment agency shall be the “successor agency” to the dissolved redevelopment agency unless the city elects not to serve as the successor agency under Section 34173(d)(1) of the Redevelopment Law; and

WHEREAS, Section 34176(a) of the Redevelopment Law provides that the city that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, Section 34176(b)(3) of the Redevelopment Law provides that if the city that authorized the creation of a redevelopment agency elects to not retain the housing assets and

functions previously performed by the former redevelopment agency and there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, the city may select the local housing authority which will retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, the City of Hayward (the “City”) intends to, and shall serve as, the successor agency for the Redevelopment Agency of the City of Hayward (the “Agency”) in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law; and

WHEREAS, the City desires to elect not to retain the housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law and instead desires to select the Housing Authority of the City of Hayward (the “City Housing Authority”) to serve as the successor housing agency pursuant to Section 34176(b)(3) of the Redevelopment Law.

NOW, THEREFORE, BE IT RESOLVED, that the City hereby accepts the designation, and hereby declares its intent, to serve as the successor agency for the Agency in accordance with Section 34171(j) and Section 34173 of the Redevelopment Law.

BE IT FURTHER RESOLVED, the City hereby elects not to retain the housing assets and functions previously performed by the Agency in accordance with Section 34176 of the Redevelopment Law, but instead selects the City Housing Authority to serve as the as the successor housing agency pursuant to Section 34176(b)(3) of the Redevelopment Law.

BE IT FURTHER RESOLVED, that the City Manager is hereby directed to file a copy of this resolution with the Alameda County Auditor-Controller.

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to take such additional actions, and to execute all documents necessary and appropriate, for the City to transfer the assets of the Agency to the City in its capacity as successor agency to the Agency, pursuant to Section 34175 of the Redevelopment Law.

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to take such additional actions, and to execute all documents necessary and appropriate, for the City to transfer the assets of the Agency to the City Housing Authority in its capacity as successor housing agency to the Agency, pursuant to Section 34176(b)(3) of the Redevelopment Law.

IN COUNCIL, HAYWARD, CALIFORNIA, January 10, 2012

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

HOUSING AUTHORITY OF THE CITY OF HAYWARD

RESOLUTION NO. HA-_____

Introduced by Authority Member _____

RESOLUTION ELECTING TO RETAIN THE HOUSING ASSETS
AND FUNCTIONS PREVIOUSLY PERFORMED BY THE
REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD
PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176

WHEREAS, Assembly Bill 1X 26 (the “Dissolution Act”) and Assembly Bill 1X 27 (the ‘so-called Voluntary Redevelopment Program Act”) were enacted on June 28, 2011, to significantly modify the Community Redevelopment Law (Health & Safety Code §33000, et seq., the “Redevelopment Law”); and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association’s and League of California Cities’ petition challenging the constitutionality of the Redevelopment Restructuring Acts; and

WHEREAS, on December 29, 2011, the California Supreme Court ruled that the Dissolution Act is largely constitutional and the Alternative Redevelopment Program Act is unconstitutional; and

WHEREAS, the Court’s decision means that all California redevelopment agencies will dissolve on February 1, 2012 pursuant to the Dissolution Act; and

WHEREAS, Section 34176(a) of the Redevelopment Law provides that the city that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, Section 34176(b)(3) of the Redevelopment Law provides that if the city that authorized the creation of a redevelopment agency elects to not retain the housing assets and functions previously performed by the former redevelopment agency and there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, the city may select the local housing authority which will retain the housing assets and functions previously performed by the former redevelopment agency; and

WHEREAS, the City of Hayward (the “City”), by Resolution No. ____, adopted on January 10, 2012, elected not to retain the housing assets and functions previously performed by the Redevelopment Agency of the City of Hayward (the “Agency”) in accordance with Section 34176 of the Redevelopment Law and instead selected the Housing Authority of the City of Hayward (the “City Housing Authority”) to serve as the successor housing agency pursuant to Section 34176(b)(3) of the Redevelopment Law.

ATTACHMENT II

NOW, THEREFORE, BE IT RESOLVED, that the City Housing Authority hereby accepts the designation, and hereby declares its intent, to serve as the successor housing agency for the Agency in accordance with Section 34176(b)(3) of the Redevelopment Law.

BE IT FURTHER RESOLVED, that the City Housing Authority's Executive Director is hereby directed to file a copy of this resolution with the Alameda County Auditor-Controller.

BE IT FURTHER RESOLVED, that the City Housing Authority's Executive Director is hereby authorized to take such additional actions, and to execute all documents necessary and appropriate, for the Agency to transfer the assets of the Agency to the City Housing Authority in its capacity as successor housing agency to the Agency, pursuant to Section 34176(b)(3) of the Redevelopment Law.

IN BOARD, HAYWARD, CALIFORNIA, January 10, 2012

ADOPTED BY THE FOLLOWING VOTE:

AYES: BOARD MEMBERS:

NOES: BOARD MEMBERS:

ABSENT: BOARD MEMBERS:

ABSTAIN: BOARD MEMBERS:

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

APPROVED AS TO FORM:

General Counsel