



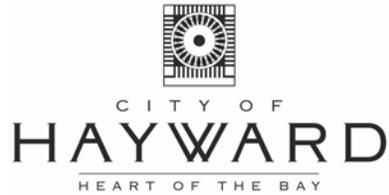
CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA
JANUARY 22, 2013

MAYOR MICHAEL SWEENEY
MAYOR PRO TEMPORE MARVIN PEIXOTO
COUNCIL MEMBER BARBARA HALLIDAY
COUNCIL MEMBER FRANCISCO ZERMEÑO
COUNCIL MEMBER MARK SALINAS
COUNCIL MEMBER GREG JONES
COUNCIL MEMBER AL MENDALL

Table of Contents

Agenda	2
Adoption of an Ordinance Providing Interim Relief from Certain Inclusionary Housing Provisions	
Staff Report	5
Attachment I Publication of Ordinance	6
Adoption of an Ordinance Authorizing Execution of Amendment to the Blue Rock Country Club Project Development Agreement	
Staff Report	7
Attachment I Publication of Ordinance	8
Resignation of Monica M. Schultz from the Library Commission	
Staff Report	9
Attachment I Resolution	10
Attachment II Resignation Letter	11
Conditional Approval of a \$775,000 HOME Loan and a \$1,100,000 HODAG Loan to Eden Housing, Inc. (Eden) for the Construction of a New Twenty Two-unit Senior Affordable Housing Development at 581, 585 and 597 B Street	
Staff Report	12
Attachment I Resolution Approving HOME and HODAG Loans for Senior Housing Project.	19
Attachment II Resolution Approving Appropriation of HODAG Funds	24



CITY COUNCIL MEETING FOR JANUARY 22, 2013
777 B STREET, HAYWARD, CA 94541
WWW.HAYWARD-CA.GOV

CLOSED SESSION
Closed Session Room 2B – 4:30 PM

1. PUBLIC COMMENTS

2. Conference with Labor Negotiators

Pursuant to Government Code 54957.6

- Lead Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager McAdoo, Human Resources Director Robustelli, Finance Director Vesely, Deputy City Attorney Vashi, and Director of Maintenance Services McGrath

Under Negotiation: All Groups

3. Conference with Real Property Negotiators

Pursuant to Government Code 54956.8

- Property Negotiators: City Manager David, City Attorney Lawson, Assistant City Manager McAdoo
APN 428-0066-024-00
APN 428-0066-039-00
APN 428-0066-038-02
APN 428-0066-038-01
APN 428-0066-037-00

4. Adjourn to City Council Meeting

CITY COUNCIL 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 any time before the Consent Calendar is voted on by Council if you wish to speak on a Consent Item.)*

CONSENT

1. Adoption of an Ordinance Providing Interim Relief from Certain Inclusionary Housing Provisions
[Staff Report](#)
[Attachment I Publication of Ordinance](#)
2. Adoption of an Ordinance Authorizing Execution of Amendment to the Blue Rock Country Club Project Development Agreement
[Staff Report](#)
[Attachment I Publication of Ordinance](#)
3. Resignation of Monica M. Schultz from the Library Commission
[Staff Report](#)
[Attachment I Resolution](#)
[Attachment II Resignation Letter](#)
4. Conditional Approval of a \$775,000 HOME Loan and a \$1,100,000 HODAG Loan to Eden Housing, Inc. (Eden) for the Construction of a New Twenty Two-unit Senior Affordable Housing Development at 581, 585 and 597 B Street
[Staff Report](#)
[Attachment I Resolution Approving HOME and HODAG Loans for Senior Housing Project](#)
[Attachment II Resolution Approving Appropriation of HODAG Funds](#)

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 29, 2013

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 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:



DATE: January 22, 2013
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adoption of an Ordinance Providing Interim Relief from Certain Inclusionary Housing Provisions

RECOMMENDATION

That the City Council adopts the Ordinance introduced on December 18, 2012.

BACKGROUND

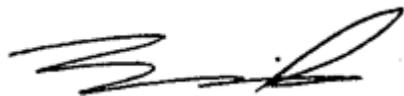
The Ordinance was introduced by Council Member Zermeño at the December 18, 2012, meeting of the City Council with the following vote:

AYES:	Council Members:	Zermeño, Jones, Halliday, Peixoto, Salinas, Mayor Sweeney
NOES:	Council Members:	None
ABSENT:	Council Members:	Mendall
ABSTAIN:	Council Members:	None

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 19, 2013. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:
Attachment I Summary of Ordinance Published on 01/19/2013

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

AN ORDINANCE PROVIDING INTERIM RELIEF FROM CERTAIN INCLUSIONARY HOUSING PROVISIONS

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

Section 1. Purpose. The purpose of this Ordinance is to provide incentives for the construction of residential dwelling units in the City of Hayward during a period in which residential construction has declined in the State of California and in the United States as a whole.

Section 2. Interim Relief Provisions. Notwithstanding the provisions of Chapter 10, Article 17, "Inclusionary Housing Ordinance," of the Hayward Municipal Code, the provisions of this Ordinance shall be applicable to Dwelling Units in Residential Development Projects which have: (a) received all discretionary planning approvals by December 31, 2013; and (b) obtained building permits by December 31, 2015. However, the provisions of this Ordinance do not apply to any Residential Development Projects or Dwelling Units that provided Affordable Units or paid In-Lieu Fees prior to the effective date of this Ordinance.

DEFINITIONS
PROVISIONS APPLICABLE TO RESIDENTIAL OWNERSHIP PROJECTS
PROVISIONS APPLICABLE TO RESIDENTIAL RENTAL PROJECTS
TIME OF PAYMENT OF IN-LIEU FEES
AMENDMENTS TO EXISTING INCLUSIONARY HOUSING AGREEMENTS
EXTENSION OF INTERIM RELIEF PROVISIONS
INCLUSIONARY HOUSING ORDINANCE

Section 3. Severance. Should any part of this ordinance be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the 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 that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 4. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

Introduced at the meeting of the Hayward City Council held December 18, 2012, the above-entitled Ordinance was introduced by Council Member Zermeño.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 22, 2013, 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 19, 2013
Miriam Lens, City Clerk
City of Hayward

DATE: January 22, 2013
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Adoption of an Ordinance Authorizing Execution of Amendment to the Blue Rock Country Club Project Development Agreement

RECOMMENDATION

That the City Council adopts the Ordinance introduced on January 15, 2013.

BACKGROUND

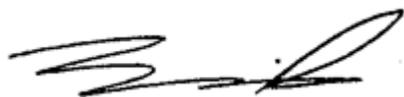
The Ordinance was introduced by Council Member Zermeño at the January 15, 2013, meeting of the City Council with the following vote:

AYES:	Council Members:	Zermeño, Jones, Halliday, Peixoto, Salinas, Mendall
	Mayor:	Sweeney
NOES:	Council Members:	None
ABSENT:	Council Members:	None
ABSTAIN:	Council Members:	None

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 19, 2013. Adoption at this time is therefore appropriate.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments: Attachment I Summary of Ordinance Published on 01/19/2013

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

**AN ORDINANCE AUTHORIZING EXECUTION OF AMENDMENT TO THE BLUE ROCK
COUNTRY CLUB PROJECT DEVELOPMENT AGREEMENT**

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

Section 1. Findings. This ordinance authorizes the execution of an amendment to the existing Blue Rock Country Club Development Agreement ("Amendment to Development Agreement"), now known as Stonebrae Country Club, located southeast of Fairview Avenue/Hayward Boulevard in eastern Hayward on Walpert Ridge. The findings and determinations contained in the resolution approving the extension of the Amendment to the Development Agreement are incorporated herein by reference. The following additional findings also support the adoption of this ordinance authorizing the execution of the Amendment to Development Agreement.

Section 2. Authorization to Execute Amendment to Development Agreement. Based on the findings set forth in this ordinance and in Resolution No. 13-003, as well as a review of the proposed Amendment to the Development Agreement relating to the Stonebrae Country Club project submitted to the City Council at the January 15, 2013 meeting, the City Council hereby takes the following actions:

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

Section 4. 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 the 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 that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Introduced at the meeting of the Hayward City Council held January 15, 2013, the above-entitled Ordinance was introduced by Council Member Zermeño.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 22, 2013, 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 19, 2013
Miriam Lens, City Clerk
City of Hayward

DATE: January 22, 2013
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Resignation of Monica M. Schultz from the Library Commission

RECOMMENDATION

That the City Council accepts the resignation of Monica M. Schultz from the Library Commission.

BACKGROUND

Ms. Schultz was appointed to the Library Commission on July 22, 2008. Ms. Monica Schultz's resignation is effective January 7, 2013. Ms. Monica M. Schultz's position will be filled as part of the annual appointment process for the City's Appointed Officials to Boards and Commissions.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:

- Attachment I Resolution Accepting the Resignation
- Attachment II Resignation Letter

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-

Introduced by Council Member _____

RESOLUTION ACCEPTING THE WRITTEN RESIGNATION OF MONICA M SCHULTZ FROM THE LIBRARY COMMISSION

WHEREAS, Ms. Monica Schultz was appointed to the Library Commission on July 22, 2008;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the Council hereby accepts the resignation of Ms. Monica M. Schultz; and commends her for her civic service to the City.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2013.

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

Monica M. Schultz
775 Muirfield Ct
Hayward, CA, 94544

Sean Reinhart
Library Director
Hayward Library Commission

January 7, 2013

Dear Mr. Sean Reinhart,

It is with regret that I am writing to inform you of my decision to resign my position on the Hayward Library Commission, effective immediately.

My other commitments have become too great for me to be able to fulfill the requirements of my position on the commission, and I feel it is best for me to make room for someone with the time and energy to devote to the job.

If I can be of any assistance during the time it will take to fill the position, please don't hesitate to ask.

Best Regards,

Monica M. Schultz

DATE: January 22, 2013

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Conditional Approval of a \$775,000 HOME Loan and a \$1,100,000 HODAG Loan to Eden Housing, Inc. (Eden) for the Construction of a New Twenty Two-unit Senior Affordable Housing Development at 581, 585 and 597 B Street

RECOMMENDATION

That the City Council:

- Adopts the attached resolution (Attachment I) that conditionally approves a loan of \$775,000 HOME Investment Partnership Act (“HOME”) Program funds and conditionally approves a \$1,100,000 loan of Housing Development Action Grant (“HODAG”) Program funds to Eden Housing, Inc. (“Eden”), or an affiliate, for the construction of a new twenty-two-unit senior affordable housing development at 581, 585, and 597 B Street (the “Project”), and authorizes the City Manager to negotiate and execute the respective loan documents.
- Adopts the attached resolution (Attachment II) approving the appropriation of \$1,100,000 of HODAG program income funds for a loan to Eden and the balance of the HODAG program income fund balance for administrative costs associated with the Project.

BACKGROUND

In July 2010, SCS Development, dba Citation Homes Central, donated various parcels to the City’s former Redevelopment Agency (the “Former RDA”) to meet part of its Inclusionary Housing Ordinance (the “Inclusionary Ordinance”) obligations in connection with the Cannery development. The donated property included three small parcels located at the corner of B and Grand Street, with addresses 581, 585, and 597 B Street, totaling nearly one half acre (the “Site”). Due to the site’s small size, its relatively irregular shape, and its proximity to the existing senior housing project located at the corner of C and Grand Streets (“Hayward Senior Housing”), built and operated by Eden, the City chose to partner with Eden, to develop the site. Eden’s proposal is to develop the site with twenty-two additional affordable senior housing units in order to complement the adjacent Hayward Senior Housing development and to allow for cost savings for the development of the Project through shared facilities and parking.

The Former RDA conveyed the site to the City in March 2011. The City later conveyed the Site to the Housing Authority of the City of Hayward (the “Authority”), in compliance with Health and Safety Code 34176 and the requirements that all housing assets of the former RDA transfer to the agency responsible for implementing the housing functions of the former RDA. In compliance with AB 1484¹, by August 1, 2012, the Authority submitted to the State a list of all of the housing assets, as defined in Health and Safety Code Section 34176(e), which were transferred to it by the former RDA. The Authority included the site on the list because the site met the definition of “housing asset” under Health and Safety Code Section 34176(e)(1), consisting of unimproved real property acquired for low- and moderate-income housing purposes. Upon a review of the housing assets list, the State Department of Finance issued a “Notification Letter” questioning whether the site was properly included on the Housing Asset Transfer List. The Authority has invoked its right to “meet and confer” with the State Department of Finance (DOF) to clarify that the site is in fact a housing asset. The Authority is confident that it will prevail in its treatment of the site as a housing asset as it was obtained as a result of a land use restriction and required to be dedicated for affordable housing purposes to meet inclusionary housing requirements imposed under the Inclusionary Ordinance.

On March 22, 2011, the Council and the Authority Board members approved financing for the proposed 22-unit development consisting of a \$250,000 loan from the Authority and a \$900,000 HOME loan from the funding allocation available to the City through the Alameda County HOME Consortium. At the March 22, 2011 meeting, Council also authorized the City Manager/Executive Director to negotiate and execute a Disposition and Development Agreement (DDA) between Eden and the Authority to memorialize the conditions to transfer the site to Eden². The DDA was executed on June 10, 2011. Council approved the project’s entitlements at the March 22, 2011 meeting as well.³ As a result of unforeseen delays and other funding issues, following the 2011 approvals, Eden Housing requested that the funds allocated to the B and Grand project be transferred to the South Hayward BART Project, a request that the City accommodated.

DISCUSSION

As required by the DDA, Eden submitted a funding application to the Department of Housing and Urban Development (HUD) for a Section 202 – Supportive Housing for the Elderly Program (HUD 202) Loan. HUD initially rejected the application (as well as those of all other Northern California projects). However, early in 2012, HUD issued a funding award to the Project in the approximate amount of \$3.5 million. The award was “leftover” funding from the overall allocation to all approved projects in California. Consequently, the Project became the only project in Northern California that was allocated HUD 202 funding.

¹ Approved by the State Governor on June 12, 2012, AB 1484 is the redevelopment trailer bill for the 2012-2013 State budget. Its purpose is to clarify matters associated with the dissolution of RDA’s and addresses substantive issues related to the administrative processes, affordable housing activities, repayment of loans from communities, use of existing bond proceeds, and the disposition or retention of Former RDA assets.

² The report is available at: <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2011/CCA11PDF/cca032211full.pdf>. See item No. 8

³ The report is available at: <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2011/CCA11PDF/cca032211full.pdf>. See item No. 7

The HUD 202 Program provides interest-free capital advances to private, nonprofit sponsors to finance the development of supportive housing for the elderly. The capital advance will not have to be repaid as long as the Project serves very low-income elderly persons for at least forty years. The HUD 202 Program is very competitive because it also provides project rental assistance funds to cover the difference between the HUD-approved operating cost for the Project and the tenants' contribution towards rent. Project rental assistance contracts are approved initially for three years and are renewable based on the availability of funds. This relatively steady source of income, allows Eden to set rents at 30% of the tenant's income, which allows the Project to serve very low-income seniors.

Eden's project pro-forma (financial projection) currently shows a \$1,875,000 financial gap, which is consistent with the gap previously identified for the Project. In order to partially fill this gap, Eden has requested that the City commit \$775,000 in HOME funds (the "HOME Loan"). Since new construction of affordable housing is an eligible use of HOME Program funds, staff is recommending that the City use a portion of its uncommitted HOME funds⁴ towards this project to pay for construction costs only. As proposed in the March 22, 2011 staff report, the funds will be provided to Eden in the form of a fifty-five year, 3% annual interest-rate loan with payments due from the project's residual receipts, which are typically defined as the amount by which the Project's operating revenues exceed the Project's operating expenses.

HOME regulations require funding recipients to restrict as affordable a number of units proportionate to the HOME funding provided to a project. Accordingly, the City will designate two (2) very low-income units as City HOME-restricted units. However, the City will restrict and monitor the affordability of all the units to comply with the Inclusionary Ordinance because the Site was donated to the City as a result of an inclusionary requirement.

In order to fill the remaining funding gap, staff is proposing to provide Eden a loan of \$1.1 million of HODAG program income (the "HODAG Loan"). As mentioned above, HODAG stands for Housing Development Action Grant Program, a HUD program that ceased to exist in the mid-eighties. During HODAG's existence, the City received a Grant of approximately \$1.0 million, which was provided to Eden as a loan for the development of Huntwood Commons, an existing forty-unit affordable rental housing complex. As required by the loan documents for the Huntwood Commons, Eden later repaid the loan and the program income funds were allowed to remain with the City. Due to the availability of tax increment funds from the former RDA, the HODAG program income funds had been held in reserve. To make up for the significant reduction in federal funding and the dissolution of the former RDA, staff now proposes to use the HODAG program income funds for the Project. Staff believes that the proposed use of the HODAG program income funds for the Project is consistent with the HODAG Program regulations that limit the use of this program income for the development of affordable rental housing. The terms of the HODAG loan will mirror those of the HOME loan described above and, consistent with the proportionality rule, three (3) units will be set aside as HODAG units.

The following are the proposed sources Eden has identified to pay for the Project's development costs, which total approximately \$10.2 million:

⁴ As of the date of this report, the total amount of uncommitted HOME project funds is approximately \$1,017,520.

Sources	Total
Alameda County NSP 2 Loan	\$ 400,000
City of Hayward HOME Loan	\$ 775,000
City of Hayward HODAG Loan	\$ 1,100,000
HUD 202 Capital Grant	\$ 3,494,245
Federal Home Loan Bank - AHP Loan	\$ 210,000
Low-Income Housing Tax Credits	\$ 3,939,011
Eden's Equity Contribution	\$ 312,034
	\$ 10,230,290

One of the sources of funding for the Project is tax-exempt bonds (the “Bonds”), which enable the use of Low-Income Housing Tax Credits (tax credits). Tax Credits and tax-exempt bonds provide the most favorable financing for the Project and allow Eden to effectively leverage the City’s funds. Eden has requested that the City serve as the issuer of the Bonds in an as yet undetermined amount. To this end, staff will come back to Council later this year to ask for approval of certain Council actions required for the issuance of bonds. At that time, staff will provide Council with an update on the status of the Site, the Project, and the final financing structure. The corresponding reports will also provide more information about tax-exempt bond financing.⁵

Eden must submit a request of a firm commitment of the HUD 202 funding before the end of next month (February 2013). To this end, Eden is required to show a commitment of both HOME funding and HODAG program income from the City through a Council resolution. However, the City’s funding commitment will be conditioned upon the following: a) DOF’s approval, or that the Authority is otherwise satisfied, that the Site is a housing asset, b) DOF’s approval of the Housing Fund Due Diligence Review required under AB1484, and c) the completion of the National Environmental Protection Act (NEPA) review required by HUD to release any funding for the Project. This review is being conducted by the County of Alameda, as the lead agency, and is within the final public comment period required under NEPA regulations.

Finally, both of the loans will be subject to all other federal laws and regulations applicable to the use of federal HOME funding and HODAG program income funding.

ECONOMIC IMPACT

The Project will help the City meet its affordable housing obligations from the Regional Housing Needs Allocation (RHNA). The RHNA for the current planning period (2007-2014) indicates a need in the City for 359 housing units affordable to extremely low-income households, 409 housing units affordable to very low-income households, 483 housing units affordable to lower-income households, and 569 housing units affordable to moderate-income households.

⁵ Council has already taken similar actions to initiate the process to issue tax-exempt bonds for the South Hayward BART project. The bond issuance process for this project will be very similar.

According to the 2010 Census, the City's total population is 144,186, of which approximately 10% is in the age group of sixty-five (65) and older. This means that approximately 14,400 of the City's residents may require senior housing. Although most seniors rely on fixed incomes to live, if only 30% of the City's senior population required affordable housing units, then, assuming occupancy by two seniors per unit (which is not typical), the City would need at least 2,160 units to house its lower income senior population. Currently, there are less than 400 affordable senior housing units within the City limits. This means that even using very conservative estimates, there is a need for over 1,700 affordable senior housing units. This gap is likely to increase as current demographic trends point to an aging population. Therefore, the Project will help the City meet the housing needs of a growing segment of its population.

Due to the federal moneys invested in the Project, Eden will pay prevailing wages during construction and has agreed to a best effort that 20% local trade hiring and materials purchases will occur within the City.

FISCAL IMPACT

The Project has no fiscal impact on the City's General Fund. The Site, currently under the ownership of the Authority, will be sold to Eden for one dollar pursuant to the DDA previously approved by Council. The expenses of the Authority towards occasional clean up and fencing of the Site are marginal. The HOME funding is part of previous allocations available to the City thanks to its participation in the Alameda County HOME Consortium. The HODAG funding for the Project was generated from the repayment of a loan the City originally made to Eden with HODAG Program Grant Funds from HUD. Thus, like the HOME funding, the HODAG funding is considered program income, which means that its use is subject to applicable federal regulations and must be spent to create affordable rental housing opportunities for low-income households.

As of the date of this report, the HODAG program income fund balance is approximately \$1.167 million. Staff is requesting the approval of a \$1.1 million loan to Eden. The balance (approximately \$67,000) will be used to pay for administrative expenses, including legal fees and part of staff's time spent on project management.

As mentioned previously, the City will utilize its capacity to issue tax-exempt bonds later this year. The issuance of tax-exempt bonds for the project does not represent a financial impact to the General Fund. However, the City will receive issuance and administrative fees, resulting in a positive fiscal impact. All costs associated with issuance of the bonds will be reimbursed through bond proceeds, including the City's bond counsel fees.

PUBLIC CONTACT

In addition to the public notices required for the March 22, 2011 approval of planning entitlements, the following are the public outreach steps that have been completed up to this date in connection with the Project:

- January 12, 2011: Project presented to the former RDA Advisory Committee (RAC)

- February 17, 2011: Project presented to the former Citizens Advisory Committee (CAC)⁶
- March 22, 2011: Council and Authority Board members' approval of a) a DDA memorializing the conditions for the transfer of the Site to Eden, and b) certain financing for the Project
- December 27, 2012: Fifteen-day public comment period started upon the Publication by the County of Alameda of a "Finding of No Significant Impact" ("FONSI") notice and a "Notice of Intent to Request Release of Funds" in order to comply with federal NEPA environmental review requirements.

Representatives from the Burbank Neighborhood Association were notified via e-mail of Council consideration of a funding reallocation for the Project. There is no additional public noticing required by the HOME or HODAG program regulations in connection with this Project.

NEXT STEPS

Upon Council's conditional approval of the loans, the City will start to negotiate the Regulatory Agreement and other loan documents with Eden to evidence the HOME Loan and HODAG Loan and to ensure the affordability and related requirements are satisfied. The Regulatory Agreement will also contain provisions to comply with the Inclusionary Ordinance requirements. The loan documents will require that the funds be disbursed on a draw-down basis. Draws are reviewed and approved by staff.

Although staff is requesting approval of an appropriation of HODAG program income funds, no appropriation of HOME funds is necessary because HOME funds originate from HUD and reside in the County Consortium's line of credit so the City does not receive the funds until it identifies an affordable housing project. Staff recommends that Council adopt the attached resolution (Attachment II) that appropriates the HODAG program income funds for the development of the Project and to pay for administrative costs associated with the Project.

The site will be conveyed by the Authority to Eden for one dollar if the Project moves forward. No future action will be required for this to happen as the DDA contains the conditions for the transfer.

Staff will keep the Council updated on an ongoing basis as the Project moves towards completion or when staff requests Council actions for the issuance of tax-exempt bonds later this year.

Prepared by: Omar Cortez, Housing Development Specialist

Recommended by: Kelly McAdoo, Assistant City Manager

⁶ Both the RAC and CAC were supportive of the Project

Approved by:



Fran David, City Manager

Attachment I Resolution Approving HOME and HODAG Loans for Senior Housing Project

Attachment II Resolution Approving Appropriation of HODAG Funds

HAYWARD CITY COUNCIL

RESOLUTION NO. 13 -

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
 HAYWARD AUTHORIZING THE CITY MANAGER TO
 NEGOTIATE AND EXECUTE LOAN DOCUMENTS
 BETWEEN THE CITY OF HAYWARD AND EDEN HOUSING,
 INC., FOR A HOME INVESTMENT PARTNERSHIP ACT
 LOAN AND A HOUSING DEVELOPMENT ACTION GRANT
 PROGRAM INCOME LOAN TO ENABLE THE
 DEVELOPMENT OF A PROPOSED TWENTY-TWO UNIT
 SENIOR HOUSING DEVELOPMENT LOCATED AT 581, 585,
 AND 597 "B" STREET

WHEREAS, the City of Hayward (the "City") participates with a consortium of cities in Alameda County that share funds received under the Home Investment Partnership Act from the United States Department of Housing and Urban Development pursuant to the Cranston-Gonzales National Housing Act of 1990 ("HOME Funds") that benefit the construction of housing for low to moderate income residents (the "Alameda HOME Consortium"); and

WHEREAS, the City, through its membership in the Alameda HOME Consortium, received an allocation of HOME Funds, which must be used by the City in accordance with 24 C.F.R. Part 92; and

WHEREAS, a result of the repayment of previously funded affordable housing development loans consisting of funds granted to the City by United States Department of Housing and Urban Development under the Housing Development Action Grant Program ("HODAG"), the City has program income ("HODAG Program Income") at its disposal which it is required to use for the construction of housing for low and moderate income residents; and

WHEREAS, as specified in California Government Code Section 65583(c)(2), the City has an obligation to assist in the development of adequate housing to meet the needs of low to moderate income households; and

WHEREAS, SCS Development Company, a California Corporation (DBA Citation Homes Central) conveyed the property located at the 581, 585, and 597 "B" Street (the "Property") to the Redevelopment Agency of the City of Hayward (the "Agency") in order to meet a portion of its obligations under the City's Inclusionary Housing Ordinance set forth in Chapter 10, Article 17 of the Hayward Municipal Code and pursuant to that certain Inclusionary Housing Agreement dated May 31, 2007 and recorded June 4, 2007 as Instrument No. 2007-208516, as amended by that certain Amendment to Inclusionary Housing Agreement dated December 12, 2009 and recorded December 31, 2009 as Instrument No. 2009-401857. The Agency did not use redevelopment tax increment financing to acquire the Property; and

WHEREAS, in March of 2011, the Agency transferred the Property to the City and the City and Eden Housing, Inc., a California nonprofit public benefit corporation (the “Developer”) subsequently executed that certain Disposition and Development Agreement dated as of June 10, 2011, under which the City agreed to convey the Property the Developer or its affiliate for the development of a twenty-two (22) unit affordable rental senior community (the “Project”); and

WHEREAS, on March 22, 2011, the City Council of the City of Hayward (the “City Council”), approved a loan of Nine Hundred Thousand Dollars (\$900,000) in HOME Funds to assist in the construction of the Project, but those funds were allocated to a different project at the request of the Developer; and

WHEREAS, on January 10, 2012 and pursuant to Health and Safety Code Section 34173, the City Council declared that the City would act as successor agency (the “Successor Agency”) for the dissolved Agency effective February 1, 2012 but elected not to retain the housing assets and functions previously performed by the Agency and instead, pursuant to Health and Safety Code Section 34176(b)(3), selected the Housing Authority of the City of Hayward (the “Housing Authority”) to retain the housing assets and functions previously performed by the dissolved Agency; and

WHEREAS, on January 10, 2012, pursuant to Health and Safety Code Section 34176(b)(3), the Governing Board of the Housing Authority, accepted the designation and declared its intent to serves as the successor housing agency for the dissolved Agency (the “Housing Successor”) and thereby agreed to retain the housing assets and functions previously performed by the dissolved Agency; and

WHEREAS, pursuant to Health and Safety Code Section 34176, all rights, powers, duties, obligations, and housing assets (as defined in Section 34176(e)) transfer to the Housing Successor; and

WHEREAS, because the Property is a “housing asset” as defined in Health and Safety Code Section 34176(e)(1), consisting of unimproved real property acquired for low- and moderate-income housing purposes, in compliance with Health and Safety Code Section 34176, the City Council approved the transfer of the Property to the Housing Successor; and

WHEREAS, the Housing Authority, as Housing Successor, received title to the Property though that certain Grant Deed dated July 25, 2012 and recorded in the Records of Alameda County as Document No. 2012247294, and included the Property on the list of housing assets the Housing Successor submitted to the Department of Finance on August 1, 2012, in accordance with Health and Safety Code Section 34176(a)(2) (the “Housing Asset Transfer List”); and

WHEREAS, the Department of Finance (the “DOF”) reviewed and commented on the Housing Asset Transfer List and, by a letter dated August 31, 2012, stated that the Property should not have been included on Exhibit A of the Housing Asset Transfer List. The Housing Authority as Housing Successor has invoked the meet and confer process specified in Health and Safety Code Section 34176(a)(2) to clarify that the Property is in fact a housing asset as such term is defined in Health and Safety Code Section 34176(e); and

WHEREAS, the Developer wishes to borrow from the City and the City wishes to extend to the Developer up to Seven Hundred Seventy-Five Thousand Dollars (\$775,000) in HOME Funds to assist in the construction of the Project (the “HOME Loan”). The HOME Loan will be evidenced by a loan agreement, a promissory note to be executed in favor of the City and secured by a deed of trust and will also require the Developer to enter into a regulatory agreement (referred to collectively as, the “HOME Loan Documents”); and

WHEREAS, the Developer wishes to borrow from the City and the City wishes to extend to the Developer up to One Million One Hundred Thousand Dollars (\$1,100,000) in HODAG Program Income funds to assist in the construction of the Project (the “HODAG Loan”). The HODAG Loan will be evidenced by a loan agreement, a promissory note to be executed in favor of the City and secured by a deed of trust and will also require the Developer to enter into a regulatory agreement (referred to collectively as, the “HODAG Loan Documents”); and

WHEREAS, the HOME Loan and the HODAG Loan will assist in the development of housing for very low income households and to further the purposes of the City's Inclusionary Housing Ordinance; and

WHEREAS, pursuant to the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) (“CEQA”) the City, as lead agency, approved a Mitigated Negative Declaration for the Project at its meeting on March 22, 2011 (the “Mitigated Negative Declaration”); and

WHEREAS, in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347) (“NEPA”), the County of Alameda (the “County”), as lead agency, is in the process of completing and approving all applicable environmental review for the activities proposed to be undertaken under this Resolution; and

WHEREAS, a condition of the City funding the HOME Loan and the HODAG Loan is that the County complete all necessary NEPA review; and

WHEREAS, an additional condition of the City funding the HOME Loan and the HODAG Loan is that the Housing Authority, as Housing Successor, receives the DOF's approval, or that the Housing Authority is otherwise satisfied, that the Property is a “housing asset” as defined in Health and Safety Code Section 34176(e); and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hayward that the above recitals are accurate.

BE IT FURTHER RESOLVED, that the City Council of the City of Hayward prior to reaching a decision on the Project has considered the environmental effects of the Project and Based on such review and consideration and in accordance with CEQA Guidelines Section 15162, the City Council hereby determines that that no subsequent environmental document is required, based on the findings in the Mitigated Negative Declaration that:

- a) No substantial changes are proposed in the Project which will require major revisions of

the Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously-identified significant effects;

- b) No substantial changes have occurred with respect to the circumstances under which the Project is undertaken which will require major revisions of the Mitigated Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously-identified significant effects; and
- c) As shown in the Mitigated Negative Declaration, no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Mitigated Negative Declaration was adopted, shows:
 - 1) The Project will have one or more significant effects not discussed in the Mitigated Negative Declaration, or
 - 2) Significant effects previously examined will be substantially more severe than shown in the Mitigated Negative Declaration, or
 - 3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project, but the Project proponents decline to adopt the mitigation measures or alternatives, or
 - 4) Mitigation measures or alternatives which are considerably different from those analyzed in the Mitigated Negative Declaration would substantially reduce one or more significant effects on the environment, but the Project proponents decline to adopt the mitigation measure or alternative.

BE IT FURTHER RESOLVED, that the City Council of the City of Hayward hereby conditionally approves a loan of Seven Hundred Seventy-Five Thousand Dollars (\$775,000) in HOME funds to Developer or its affiliate for the development of the Project, subject only to: (1) the County's completion of all necessary NEPA review; and (2) the DOF finding, or the Housing Authority otherwise being satisfied, that the Property is a housing asset as defined in Health and Safety Code Section 34176(e).

BE IT FURTHER RESOLVED, that the City Council of the City of Hayward hereby conditionally approves a loan of One Million One Hundred Thousand Dollars (\$1,100,000) in HODAG Program Income funds to Developer or its affiliate for the development of the Project, subject only to: (1) the County's completion of all necessary NEPA review; and (2) the DOF finding, or the Housing Authority otherwise being satisfied, that the Property is a housing asset as defined in Health and Safety Code Section 34176(e).

BE IT FURTHER RESOLVED, that the City Council of the City of Hayward authorizes the City Manager to negotiate and enter into the HOME Loan Documents and the HODAG Loan Documents and all ancillary documents, the forms of which will be approved by the City

attorney, with Eden Housing, Inc., or an affiliate thereof, for the HOME Loan and the HODAG Loan.

FURTHER RESOLVED that this Resolution shall take immediate effect from and after its passage and approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2013

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

HAYWARD CITY COUNCIL

RESOLUTION NO. 13-

RESOLUTION AMENDING RESOLUTION 12-119, AS AMENDED, THE OPERATING BUDGET RESOLUTION FOR FISCAL YEAR 2013, RELATING TO AN APPROPRIATION OF FUNDS FROM THE HODAG FUND, FUND 226

BE IT RESOLVED, by the City Council of the City of Hayward that Resolution No. 12-119, as amended, the Operating Budget Resolution for fiscal year 2013, hereby be further amended by approving and appropriation of \$1,100,000 from the HODAG Fund (Fund 226) to fund a construction loan to Eden Housing Inc., or an affiliate, for the construction of the second phase of the B and Grand Senior Project (the Project) and \$67,476 from the aforementioned fund to pay for administrative costs in connection with the Project.

IN COUNCIL, HAYWARD, CALIFORNIA, January 22, 2013

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