



CITY OF  
**HAYWARD**  
HEART OF THE BAY

**CITY COUNCIL AGENDA**  
**MAY 6, 2014**

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

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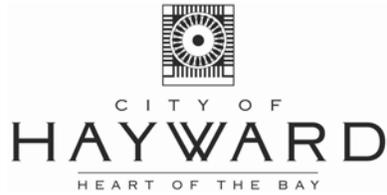
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**CITY COUNCIL MEETING FOR MAY 6, 2014**  
777 B STREET, HAYWARD, CA 94541  
[WWW.HAYWARD-CA.GOV](http://WWW.HAYWARD-CA.GOV)

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**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; Finance Director Vesely; Deputy City Attorney Vashi; Director of Maintenance Services McGrath; Acting Human Resources Director Collins; Senior Human Resources Analyst Monnastes; Jack Hughes, Liebert, Cassidy and Whitmore

Under Negotiation: All Groups

**3. Conference with Legal Counsel**

Pursuant to Government Code 54956.9

➤ Pending Litigation

- BART v. PPF Industrial Whipple Road, et al., Alameda County Superior Court No. RG13708269
- Chrysler Group Realty Company LLC v. City of Hayward, et al Alameda County Superior Court No. RG 14722275

**4. Conference with Property Negotiators**

Pursuant to Government Code 54956.8

- Property Negotiators: City Manager David, Assistant City Manager McAdoo, City Attorney Lawson, Assistant City Attorney Conneely, Assistant City Attorney Brick, Public Works-Engineering and Transportation Director Fakhrai, Finance Director Vesely, and Heather Gould and Rafael Yaquian of Goldfarb Lipman (Outside legal counsel)

Under Negotiation: 22632 Main Street (APN 428-0066-024-00); 22654 Main Street (APN 428-0066-039-00); 22696 Main Street (APN 428-0066-038-02); 1026 C Street (APN 428-0066-037-00); 1026 C Street (APN 428-0066-038-01)

**5. Conference with Property Negotiators**

Pursuant to Government Code 54956.8

- Property Negotiators: City Manager David, City Attorney Lawson, Public Works-Engineering and Transportation Director Fakhrai, Development Services Director Rizk, and Assistant City Manager McAdoo

Under Negotiation: 24874 Mission Blvd (APN 445-0150-052-01) and 24900 Mission Blvd (APN 445-0200-009-00)

6. Conference with Property Negotiators  
Pursuant to Government Code 54956.8
    - Property Negotiators: City Manager David, City Attorney Lawson, Public Works-Engineering and Transportation Director Fakhrai, Development Services Director Rizk, and Assistant City Manager McAdooUnder Negotiation: 9/11 Memorial Site
  7. Adjourn to City Council Meeting
- 

**CITY COUNCIL MEETING**  
**Council Chambers – 7:00 PM**

**CALL TO ORDER** Pledge of Allegiance Council Member Jones

**ROLL CALL**

**CLOSED SESSION ANNOUNCEMENT**

**PRESENTATIONS**

- Affordable Housing Week
- National Police Week in Hayward and Peace Officers’ Memorial Day
- World Book Night

**PUBLIC COMMENTS**

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*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.*

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

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**WORK SESSION (60-Minute Limit)**

1. Revisions to Hayward’s Draft Housing Element (Report from Director of Development Services Rizk)

[Staff Report](#)

May 6, 2014



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**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.)*

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## CONSENT CALENDAR

2. Approval of Minutes of the City Council Meeting on April 15, 2014  
[Draft Minutes](#)
3. Approval of Minutes of the City Council Meeting on April 22, 2014  
[Draft Minutes](#)
4. Resignation of Dana Caines from the Keep Hayward Clean and Green Task Force and the General Plan Update Task Force; and Laila Mufty from the Hayward Youth Commission and Appointment of Diego Lopez to Fulfill Mufty's Unexpired Term  
[Staff Report](#)  
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[Attachment II Resignation Letters](#)
5. Cast Iron Water Pipeline Replacement FY14 Project: Approval of Plans and Specifications, and Call for Bids  
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[Staff Report](#)  
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8. Adoption of a Resolution Supporting Measure AA, Alameda County Healthcare Safety Net Reauthorization, on the June 2014 Ballot  
[Staff Report](#)  
[Attachment I Resolution](#)

May 6, 2014



9. Authorization to Negotiate and Execute a Professional Services Agreement with Trident Professionals for Customer Service and Executive Communications Training

[Staff Report](#)

[Attachment I Resolution](#)

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

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

## **PUBLIC HEARING**

10. Final Map Tract 7737, Application No. 2006-0424, Stonebrae Country Club Village E - Stonebrae, L.P. (Subdivider) – Request to Amend Condition of Approval No. 3c-5, Approve Final Map and Authorize the City Manager to Execute a Subdivision Agreement – The Project is Located South and West of Stonebrae Road in Eastern Hayward on Walpert Ridge (Report from Development Services Director Rizk)

[Staff Report](#)

[Attachment I Stonebrae Index Map](#)

[Attachment II Tract Map 7737](#)

[Attachment III Resolution](#)

## **LEGISLATIVE BUSINESS**

11. Introduction of an Ordinance Repealing Section 10-3.1000 to Section 10-3.1060 of the Hayward Municipal Code, and Adding Chapter 10, Article 26, Regarding Mobile Home Park Closures and Changes of Use (Report from City Attorney Lawson)

[Staff Report](#)

[Attachment I](#)

[Attachment II](#)

12. Consideration of a Resolution in Support of the Bayview Quarry Village Concept Project (Report from City Manager David)

[Staff Report](#)

[Attachment I](#)

[Attachment II](#)



13. Authorization for the City Manager to Negotiate and Execute a Purchase and Sale Agreement with Matteson Real Estate Equities, Inc./Hayland Partners LLC to Acquire Three Parcels of Land Generally Located at the Corner of C Street and Main Street in Downtown Hayward (APNs: 428-0066-038-02; 428-0066-037-00; 428-0066-038-01). This action is Exempt from CEQA Pursuant to Section 15301 - Existing Facilities (Report from City Manager David)

[Staff Report](#)

[Attachment I Resolution](#)

[Attachment II Budget Resolution](#)

[Attachment III Site Map](#)

## 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, MAY 13, 2014**

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**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 before speaking and are expected to honor the allotted time. Speaker Cards are available from the City Clerk at the meeting.*

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**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.*

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**\*\*\*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, 4<sup>th</sup> 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. \*\*\***

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*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.*

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May 6, 2014





May 6, 2014



**DATE:** May 6, 2014  
**TO:** Mayor and City Council  
**FROM:** Development Services Director  
**SUBJECT:** Revisions to Hayward's Draft Housing Element

## **RECOMMENDATION**

That the City Council reviews and comments on this report.

## **SUMMARY**

This work session will provide the City Council with an opportunity to review and comment on the changes that have been made to the Housing Element since its adoption in June 2010. The revised [draft Housing Element](#) was reviewed by the Planning Commission on April 10 and a summary of their feedback is included below. Following the City Council work session, staff will forward the draft element incorporating feedback from the Planning Commission and City Council to the State's Housing and Community Development (HCD) Department for review and comment.

## **BACKGROUND**

The current Housing Element of the General Plan was adopted by the City Council on June 22, 2010 and certified by the State on July 9, 2010. State law requires the Housing Element to be updated every five years. Work on the current update began in September 2012 with the Council's approval to hire Mintier-Harnish to assist with the General Plan update including the update to the Housing Element. On January 28, 2014, after recommendation by the Planning Commission, the City Council approved zoning text amendments related to Transitional and Supportive Housing and Reasonable Accommodations, both of which were required to allow the City to take advantage of a streamlined review process for the Housing Element update. The public comment period on the draft Housing Element is open from March 6, 2014 through April 30, 2014.

## **DISCUSSION**

The California Department of Housing and Community Development (HCD) has a streamlined review process for jurisdictions that adopted a housing element in the fourth cycle that HCD found in substantial compliance with State law; the Streamlined review process only applies to certain, defined sections on housing site inventory and analysis, analysis of governmental and non-

governmental constraints, housing needs assessment, including special needs groups, units at-risk for conversion to market rate, general plan consistency, and coastal zone housing.

The streamlined update template, provided by HCD, allows the jurisdictions to show where changes were made in the previously adopted housing element. Use of the streamlined update does not relieve the jurisdiction of its obligation to address all statutory requirements of State housing element law, but it does provide a guide to updating necessary portions of the element and facilitates State review of housing element submittals.

For eligible jurisdictions like Hayward, HCD review will rely upon the element in compliance in the prior planning period (2009-2014) and will be limited to changes that have occurred since the prior planning period. HCD will not review areas that have not changed since the content continues to be sufficient to meet statutory requirements. For jurisdictions utilizing the streamlined update, the housing element must indicate where changes have been made. The yellow highlighting throughout the draft Hayward Housing Element identifies new information and information that has changed from the 2010 adopted Housing Element, and is only found in sections of the element that are subject to streamlined review.

The updated City of Hayward Housing Element establishes housing policies and programs for the planning period of 2015 through 2023. It serves as a guide to City officials in decision-making and provides an action plan to implement the housing goals. It is intended to direct residential development and preservation in a manner consistent with the General Plan and overall requirements of the State Housing Element law. The Housing Element identifies local housing issues within the broader regional context, determines associated housing needs, and sets forth a housing strategy to address those needs.

*Housing Element Changes* - Section 4.2 beginning on page 4-6 of the draft Housing Element outlines the changes to demographic data that serves as the basis for the development of any new policies or programs. Since the adoption of the previous Housing Element, there has been the loss of Redevelopment and the adoption of new Specific Plans and Form Based Codes for the South Hayward BART and the Mission Boulevard Corridor areas, so references to these have been made in the revised Element. The last significant change is the Sites Inventory so the City can provide documentation showing the ability to support the regional housing needs by category identified for Hayward.

One of the key areas with changes in the sites inventory is the Cannery area where most units have been constructed. Some additional units have been entitled, but not yet constructed, including for the former Burbank School Site and the Libitzky warehouse site. The second area where changes were made is the area covered by the Mission Boulevard Corridor Specific Plan and Form Based Code, which was primarily commercially-zoned, but through the form-based code, now presents opportunities for some housing development.

*Housing Element – Goals, Policies, and Programs* - For the most part, the integrity of the prior Housing Element has been retained. Goals, policies and applicable implementation programs have been carried forward into the update. There have been a few modifications to language and organization in keeping with the style of the Hayward2040 General Plan update. A new goal, Goal

6 - Housing for Persons with Special Needs, adds new policies to address senior housing needs, family housing needs and student/faculty housing needs. This was based on feedback received during the General Plan update process as well as at the August 2013 stakeholder meeting.

Regional Housing Needs Allocation (RHNA) – The Housing Element is required to demonstrate that the City has identified and zoned land to sufficiently and appropriately accommodate the development of the housing units identified in Hayward’s allocation, which is considered the City’s fair share of regional housing needs. The RHNA is not a production quota, but the City must show that the housing units can be *accommodated*. There is no mechanism at the State, regional or City level that requires the units identified in the RHNA to be constructed; however, it should be noted that the One Bay Area Plan and subsequent adopted, regional funding policies favor new transportation projects that are located within Priority Development Areas that tend to be mixed use areas with new housing, including affordable housing.

The RHNA is distributed by income category and covers January 2014 to October 2022. Hayward’s RHNA is 3,920 units, a 13% increase over the last reporting period, and is:

- Extremely Low-Income (up to 30 percent of area median income (AMI)): 425 units
- Very Low-Income (up to 50 percent of AMI): 426 units
- Low-Income (51-80 percent of AMI): 480 units
- Moderate Income (81-120 percent of AMI): 608 units
- Above Moderate-Income (more than 120 percent of AMI): 1,981 Units

Since the RHNA planning period begins on January 1, 2014, the City may count any new units planned or approved and not yet constructed as of January 1, 2014 toward the RHNA. The below table outlines the progress to date on meeting the RHNA. As shown below, the planned and approved units are sufficient to meet the RHNA for above-moderate-income units and the City has no remaining need in this category.

|                                                          | Number of Housing Units<br>(+ = surplus units over and above RHNA) |          |     |             |                |               |
|----------------------------------------------------------|--------------------------------------------------------------------|----------|-----|-------------|----------------|---------------|
|                                                          | Extremely Low                                                      | Very Low | Low | Moderate    | Above Moderate | Total         |
| RHNA                                                     | 425                                                                | 426      | 480 | 608         | 1,981          | 3,920         |
| Total Planned/Approved Units                             | 0                                                                  | 173      | 10  | 0           | 2,257          | 2,440         |
| Remaining RHNA                                           | 425                                                                | 253      | 470 | 608         | +276           | 1,756         |
| Potential Units (Sites Inventory)                        | 2,118                                                              |          |     | 768         | 190            | 3,076         |
| <b>Remaining RHNA (with Potential and Planned Units)</b> | <b>+970</b>                                                        |          |     | <b>+160</b> | <b>+466</b>    | <b>+1,320</b> |

As part of the analysis to demonstrate that the City can meet its RHNA during the balance of the planning period, the City conducted a sites inventory primarily focused on areas with vacant or underutilized sites. Utilizing the “default density standards” deemed appropriate by State law to accommodate housing for lower-income households, the City of Hayward can assume that sites with a minimum density of thirty units per acre are appropriate for accommodating housing for lower-income households. Based on the assessment of vacant and underutilized residential sites in the Cannery Area, Mt. Eden Neighborhood, South Hayward BART Station Area, Mission Boulevard Specific Plan Area, and Route 238 Study Area, Hayward can accommodate 3,076 units, including 2,118 units at higher densities that can facilitate the development of housing affordable to lower-income households. When including both planned and approved projects to this potential, the City’s sites inventory exceeds the remaining RHNA in all income/affordability levels, with a surplus capacity of 1,320 units.

April 10, 2014 Planning Commission Review –

There was a fair amount of discussion about the Regional Housing Needs Allocation (RHNA) for the City of Hayward and whether or not the City of Hayward had negotiated the RHNA requirements. While the City was able to successfully have the RHNA numbers altered via the appeal process, the below table is being provided to show how the City of Hayward’s RHNA numbers for very low and low compares with other Alameda County jurisdictions. As evidenced by the table, the City’s numbers have only slightly increased in the very low category and have gone down in the low category while for some other jurisdictions, like Berkeley, Emeryville, Fremont, and San Leandro, the RHNA requirements have increased in both categories from the last reporting period.

| <b>Alameda County Jurisdiction</b> | <b>2014-2022 RHNA Very Low Units</b> | <b>Percentage change from last reporting Period &lt;reduction&gt;</b> | <b>2014-2022 RHNA Low Units</b> | <b>Percentage change from last reporting Period &lt;reduction&gt;</b> |
|------------------------------------|--------------------------------------|-----------------------------------------------------------------------|---------------------------------|-----------------------------------------------------------------------|
| Alameda                            | 444                                  | <7>                                                                   | 248                             | <24>                                                                  |
| Albany                             | 80                                   | 25                                                                    | 53                              | 23                                                                    |
| Berkeley                           | 532                                  | 62                                                                    | 442                             | 4                                                                     |
| Dublin                             | 796                                  | <27>                                                                  | 446                             | <32>                                                                  |
| Emeryville                         | 276                                  | 32                                                                    | 211                             | 17                                                                    |
| Fremont                            | 1,714                                | 21                                                                    | 926                             | 4                                                                     |
| Hayward                            | 851                                  | 9                                                                     | 480                             | <1>                                                                   |
| Livermore                          | 839                                  | <19>                                                                  | 474                             | <28>                                                                  |
| Newark                             | 330                                  | 22                                                                    | 167                             | 4                                                                     |
| Oakland                            | 2,059                                | 7                                                                     | 2,075                           | <1>                                                                   |
| Piedmont                           | 24                                   | 45                                                                    | 14                              | 28                                                                    |
| Pleasanton                         | 716                                  | <33>                                                                  | 391                             | <46>                                                                  |
| San Leandro                        | 504                                  | 27                                                                    | 270                             | 15                                                                    |
| Union City                         | 317                                  | <43>                                                                  | 180                             | <54>                                                                  |
| Unincorporated                     | 430                                  | <20>                                                                  | 227                             | <33>                                                                  |

The Planning Commission also expressed some curiosity about providing for the housing units identified in the RHNA and the implications of approving projects on potential Housing Element sites that are inconsistent with the number of units identified. While the Housing Element sites inventory must identify where the housing units can be accommodated, there is no mandate to actually construct the units. Fortunately, the City’s capacity to provide the required units exceeds the City’s allocation. If, however, our capacity was close to our allocation, the City would have to make a finding that there was availability in the remaining parcels to meet the RHNA requirement.

The Planning Commission also expressed their support for new Goal 6 and the policies that support that goal for housing for persons with special needs including seniors, supportive housing, family housing and student and faculty housing.

Environmental Review - An Initial Study and required environmental impact analysis will be completed per the requirements of the California Environmental Quality Act (CEQA) after comments on the draft Housing Element are received from the State Department of Housing and Community Development.

## **FISCAL IMPACT**

The fiscal impacts associated with the General Plan Update were provided in the September 25, 2012 City Council agenda report. Below is a table showing the approved General Plan Update budget and the portion that has been spent and portion remaining as of April 10, 2014. Staff anticipates utilizing a portion, but not all of the remaining balance to complete the project.

| <b>Budget for General Plan Update 2012-2014<br/>(as adopted on 9/25/2012)</b> |                        |                    |                  |
|-------------------------------------------------------------------------------|------------------------|--------------------|------------------|
|                                                                               | <b>Approved Budget</b> | <b>Spent</b>       | <b>Remaining</b> |
| City Staff Time                                                               | \$475,000              | \$141,432          | \$333,568        |
| Contract Project Planner                                                      | \$266,800              | \$200,700          | \$66,100         |
| Public Engagement Activities/Tools                                            | \$13,000               | \$11,500           | \$1,500          |
| Mintier Harnish/MIG                                                           | \$1,157,840            | \$1,014,325        | \$143,515        |
| Miscellaneous Costs (outreach materials)                                      | \$7,000                | \$6,296            | \$704            |
| Subtotal                                                                      | \$1,919,640            | 1,374,253          | \$545,387        |
| 10% Contingency                                                               | \$191,964              |                    | \$191,964        |
| <b>Grand Total</b>                                                            | <b>\$2,111,604</b>     | <b>\$1,374,253</b> | <b>\$737,351</b> |

## **PUBLIC CONTACT**

As part of the Housing Element update process, the City implemented the State’s public participation requirements in Housing Element law, set forth in Government Code Section 65583 (c)(7), that jurisdictions “...shall make a diligent effort to achieve participation of all economic segments of the community in the development of the housing element.” On August 15, 2013, the

City of Hayward conducted a workshop with housing developers, service providers and other community stakeholders that represent the housing needs of residents of all economic segments of the community. The City also utilized the hayward2040.org town hall forum to solicit additional input on housing issues and potential solutions. The City also discussed housing issues with the General Plan Task Force in October of 2013 and shared the draft goals, policies, and implementation programs with the General Plan Task Force on January 23, 2014. Notice of this meeting was published in the Daily Review on April 26, 2014 and provided to all interested parties.

## **NEXT STEPS**

Hard copies of the Revised Draft Housing Element were provided to City Councilmembers. A hard copy may also be viewed in the Office of the City Clerk or in the Permit Center; and it is [available on line](#).

Staff intends to submit the draft City of Hayward Housing Element to the State HCD by late May incorporating any feedback received from the Planning Commission and City Council. HCD review is expected to take 60 days. After comments are received from HCD, further revisions, if necessary, will be made in order for HCD staff to indicate their intent to certify the Element, and then the Housing Element will be presented to the Planning Commission and City Council, along with environmental impact analysis, for consideration of adoption. Afterwards, the adopted Element will be forwarded to the HCD Department for formal certification.

*Prepared by:* Sara Buizer, AICP, Interim Planning Manager

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



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Fran David, City Manager



**MINUTES OF CITY COUNCIL MEETING  
OF THE CITY OF HAYWARD  
City Council Chambers  
777 B Street, Hayward, CA 94541  
Tuesday, April 15, 2014, 7:00 p.m.**

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

**ROLL CALL**

Present: COUNCIL MEMBER Zermeño, Jones, Halliday, Peixoto, Salinas, Mendall  
MAYOR Sweeney  
Absent: None

**CLOSED SESSION ANNOUNCEMENT**

Mayor Sweeney reported that the Council met in closed session with labor negotiators pursuant to Government Code 54957.6 regarding all groups; met with real property negotiators pursuant to Government Code 54956.8 regarding South Hayward BART Land Purchase and Requisition and City Center Properties: 22292 Foothill Blvd, APN 415-0250-111-02 (former Centennial Hall site), 22300 Foothill Blvd, APN 415-0250-112-00 (former City Hall site), 22321 Foothill Blvd, APN 415-0250-113-00 (parking structure site). There were no reportable items.

**PRESENTATION**

Council Member Halliday, as the City's representative to the Alameda County Mosquito Abatement District (ACMAD) Board, spoke about the District's accomplishments and introduced ACMAD Program District Manager Chindi Peavey who provided an update on the ACMAD and the services that are provided to county residents.

**PUBLIC COMMENTS**

Ms. Wynn Grich, Hayward resident, noted that the chemicals used to fluoridate drinking water are hazardous to humans and urged everyone to get involved to stop water fluoridation.

Ms. Kathryn Morris, Hayward resident and president of the Hayward Mobilehome Owners Association (HMOA), requested that Council consider updating the Mobilehome Park Conversions regulations as follows: 1) park owners should pay all costs associated with resident relocation; 2) value of mobile home should be based on appraised value; 3) payment of rent differential for a three year period following relocation; 4) HMOA would review the ordinance prior to Council's approval. Additionally, if Palo Alto's Conversion Ordinance was used as a template for Hayward, HMOA requested that sections 9.76.080 (c) and 9.76.120 be omitted.

Mr. Henry Guzman Villalobos, Hayward resident, reported that the lighting on Sycamore Avenue needs improvement.

Mr. S. Samiul, aka Citizen Sam, Hayward resident, commended Hayward Mayoral candidates, expressed appreciation for City staff, encouraged folks to join Hayward Neighborhood Alert, and supported Measure C.

## **WORK SESSION**

1. Consideration of Amendments to the Mobile Home Park Closure and Change of Use Regulations

Staff report submitted by Assistant City Attorney Conneely and Assistant City Attorney Alvarado, dated April 15, 2014, was filed.

City Attorney Lawson provided a synopsis of the report.

Discussion ensued among Council and City staff. City Council offered the following recommendations regarding amendments to the City's mobile home park closure and change of use regulations: focus on mitigation measures provided in closure and change of use regulations found in the Palo Alto and Sunnyvale ordinances; evaluate appraised value, replacement value, and fair market value; develop a clear and comprehensive ordinance; address personal property in the event a mobile home cannot be relocated; and consider rent subsidy for displaced residents. The Council thanked staff for continuing to collaborate with mobile home park residents and owners.

## **CONSENT**

2. Approval of Minutes of the City Council Meeting on March 25, 2014

It was moved by Council Member Peixoto, seconded by Council Member Salinas, and carried unanimously, to approve the minutes of the City Council Meeting on March 25, 2014.

3. Airport Pavement Rehabilitation FY15 - Airport Terminal Building Access Road: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated April 15, 2014, was filed.

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

Resolution 14-042, "Resolution Approving Plans and Specifications for the Airport Pavement Rehabilitation FY15 – Airport Terminal Building Access Road Project, Project No. 06821, and Call for Bids"

4. Approval of FY 2014-15 Measure B Annual Paratransit Program Plan

Staff report submitted by Senior Property Rehabilitation Specialist Bailey, dated April 15, 2014, was filed.



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

Resolution 14-043, “Resolution Authorizing the City Manager to Implement an Annual Paratransit Plan and Negotiate and Execute All Documents Related to and in Support of Paratransit Activities Including the Administration of the Central County Same Day Transportation Program”

5. Resolution Appropriating Funds and Authorizing the City Manager to Execute an Agreement for \$74,970 with Francisco & Associates to Provide Engineering and Administration Services Related to Analysis and FY2015 Assessments for the City’s Landscape and Lighting District and Two Maintenance Districts, Analysis Related to a Capital Reserve Study, and Work Related to a Proposition 218 Election to Increase Assessments for Certain Zones/Districts

Staff report submitted by Development Services Director Rizk, dated April 15, 2014, was filed.

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

Resolution 14-044, “Resolution Appropriating Funds and Authorizing the City Manager to Execute an Agreement for Up to \$74,970 with Francisco & Associates to Provide Engineering and Administration Services Related to Analysis and FY2015 Assessments for the City’s Landscape and Lighting District and Two Maintenance Districts, Analysis Related to a Capital Reserve Study, and Work Related to a Proposition 218 Election to Increase Assessments for Certain Zones/Districts”

6. Adoption of a Resolution Authorizing Amendment of the Salary and Benefits Resolution for the Unrepresented Management, City Attorney and Human Resources Employees

Staff report submitted by Acting Human Resources Director Collins, dated April 15, 2014, was filed.

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

Resolution 14-045, “Resolution Authorizing Amendment of the Salary and Benefits Resolution for the Unrepresented Management, City Attorney and Human Resources Employees”

## **PUBLIC HEARING**

7. Public TEFRA Hearing as Required by the Internal Revenue Code of 1986, and adoption of a Resolution Authorizing the Issuance of Bonds by the California Statewide Communities Development Authority in Connection with the Faith Manor Apartments

Staff report submitted by Housing Development Specialist Cortez, dated April 15, 2014, was filed.

Assistant City Manager McAdoo provided a synopsis of the report.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 8:10 p.m.

Council Member Salinas offered a motion per the staff recommendations and commended Glad Tidings Church and Bishop Macklin for his efforts with the community development corporation.

Council Member Halliday seconded the motion.

Council Member Zermeño supported the motion and thanked the Glad Tidings Church and individuals who continue to help revitalize the Tennyson community.

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

Resolution 14-046, "Resolution of the City Council of the City of Hayward Approving the Issuance of Qualified Residential Rental Project Bonds in Accordance with Section 147(f) of the Internal Revenue Code"

Mayor Sweeney noted that he works for Spectrum Community Services, a local non-profit and applicant for funding, and to avoid a conflict of interest, he turned the gavel over to Mayor Pro Tempore Salinas to preside over the meeting and left the Council Chambers at 8:15 p.m.

8. FY 2015 Community Agency Funding Recommendations including Community Development Block Grant (CDBG), Social Services, and Arts/Music

Staff report submitted by Administrative Analyst Kong, dated April 15, 2014, was filed.

Library and Community Services Director Reinhart acknowledged the efforts of the Community Services Commission (CSC) with the funding recommendations and recognized CSC members in attendance and Council Member Halliday for her assistance as the liaison to the CSC. Mr. Reinhart provided a synopsis of the report.

Discussion ensued among Council and City staff.



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Mayor Pro Tempore Salinas opened the public hearing at 8:28 p.m.

Ms. Silvia Brandon Pérez, Hayward resident, urged the Council to help fund the homeless program ran by South Hayward Parish-Community Action Network.

Mr. S. Samiul, aka Citizen Sam, Hayward resident, inquired about Federal funding to increase library hours so the libraries are open on Sundays.

Mayor Pro Tempore Salinas closed the public hearing at 8:34 p.m.

Council Member Halliday offered a motion to approve the Citizen Participation Plan and Community Development Block Grant Annual Action Plan for FY 2015.

Council Member Mendall seconded the motion.

Council Member Halliday commended the CSC for its funding recommendations, dedication and diligence during the application review process. In regards to Hayward Community Action Network (CAN), Ms. Halliday noted that County Supervisor Valle had agreed to fund \$8,000 of Hayward CAN's part-time counseling position for a year and she suggested that the community could fundraise \$4,000 to complete the amount needed for the counseling position. She added that South Hayward Parish was recommended to receive \$20,000.

Council Member Mendall reiterated the good work done by the CSC and he was happy to support the motion.

Council Member Zermeño commended the CSC for its commitment. Mr. Zermeño supported the motion and hoped that during the City's budget approval process the Council would consider identifying \$4,000 to complete the needed funds for CAN's part-time counseling position.

Mayor Pro Tempore Salinas acknowledged the work done by the CSC and commended individuals who work for non-profit agencies and for serving the community.

It was moved by Council Member Halliday, seconded by Council Member Mendall, and carried with Mayor Sweeney absent, to adopt the following:

Resolution 14-047, "Resolution Authorizing an Application for Federal Assistance Under the Community Development Block Grant Program for Fiscal Year 2014-2015 and Approving the Fiscal Year 2014-2015 Action Plan"

Mayor Sweeney returned to the dais at approximately 8:40 p.m.

## LEGISLATIVE BUSINESS

9. Residential Rental Inspection Program Updates: Introduction of Ordinance Repealing and Replacing Chapter 9, Article 5 of the Hayward Municipal Code establishing a Self-Certification Program; Introduction of an Ordinance Adopting the 2012 International Property Maintenance Code; and Adoption of a Revised Master Fee Schedule Relating to Fees and Charges for Administrative Hearing Appeals

Staff report submitted by Neighborhood Partnership Manager Bristow, dated April 15, 2014, was filed.

Assistant City Manager McAdoo announced the report and introduced Neighborhood Partnership Manager Bristow who provided a synopsis of the report. Assistant City Manager McAdoo noted that staff revised the ordinance adopting the International Property Maintenance Code (IPMC) to exclude references to international codes.

Discussion ensued between Council and City staff. Council Members offered the following recommendations: develop a stronger enforcement mechanism for the self-certification program; have a mechanism in place for chronic non-compliant landlords; have an annual review by the Council of the performance of the program; provide the Rental Housing Association (RHA) with additional time to review the Residential Rental Inspection Program (RRIP); and have appropriate incentives for non-compliant property owners to become responsible.

Mayor Sweeney opened the public hearing at 9:14 p.m.

Mr. Timothy May, Hayward Rental Housing Association (RHA) representative, spoke about the positive experience with City staff and respectfully requested that the Council continue the item to further review the proposed ordinance.

Mr. Tom Silva, Hayward landlord, submitted a document for the record and requested more time to work through issues such as the RHO v. Hayward lawsuit, the mandatory inspection program, and the self-certification program. Mr. Silva noted there needed to be a peer review of the RRIP.

Mayor Sweeney closed the public hearing at 9:22 p.m.

Council Member Salinas offered a motion to continue the item until May 6, 2014, to allow the RHA to review the proposed ordinance and City staff to address the issues raised.

Council Member Zermeño seconded the motion.

Mayor Sweeney offered the following friendly amendments: include an annual review of the program and report back to Council; draft clear language that penalizes poor performing landlords; have clear incentives for poor performing landlords to improve and become responsible; and clarify the criteria to qualify for the program.



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Council Member Zermeño suggested including incentives to reward good landlords other than the self-certification program.

It was moved by Council Member Salinas, seconded by Council Member Zermeño, and carried unanimously, to continue the item until May 6, 2014.

10. Adoption of Ordinance Adding Article 17 to Chapter 4 of the Hayward Municipal Code Regarding Camping and Storage of Personal Property on City-Owned Property

Staff report submitted by City Clerk Lens, dated April 15, 2014, was filed.

City Clerk Lens noted that the ordinance was introduced on April 15, 2014, and because the vote was not unanimous, the item was placed under Legislative Business to allow for further discussion.

Mayor Sweeney opened the public hearing at 9:31 p.m.

Ms. Silvia Brandon Pérez, Hayward resident, spoke about the criminalization of homelessness and spoke about poverty and homelessness. Ms. Brandon Pérez requested that the item be tabled for another meeting.

Ms. Maria Reyes, via interpreter, Hayward resident and immigration activist, opposed the criminalization of those who were homeless and urged Council to act properly.

Mayor Sweeney closed the public hearing at 9:36 p.m.

Council Member Halliday offered a motion to adopt the ordinance adding Article 17 to Chapter 4 of the Hayward Municipal Code regarding camping and storage of personal property on City-owned property.

Council Member Jones seconded the motion.

Council Member Salinas supported the ordinance and reiterated that the intent of the ordinance was to preserve a level of cleanliness and protect residents and children at parks in public areas. Mr. Salinas added the ordinance was not criminalizing homelessness.

Council Member Zermeño noted the City had the tools in place to maintain the standard of cleanliness and the safety of residents and did not feel the ordinance was necessary and therefore did not support the motion.

It was moved by Council Member Halliday, seconded by Council Member Jones, and carried with Council Member Zermeño voting against, to adopt the following:

Ordinance 14-11, “Ordinance of the City of Hayward, California Adding Article 17 to Chapter 4 of the Hayward Municipal Code Regarding Camping and Storage of Personal Property on City-Owned Property”

**COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS**

There were none.

**ADJOURNMENT**

Mayor Sweeney adjourned the meeting at 9:42 p.m.

**APPROVED:**

Michael Sweeney  
Mayor, City of Hayward

**ATTEST:**

Miriam Lens  
City Clerk, City of Hayward



**MINUTES OF CITY COUNCIL MEETING  
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The City Council meeting was called to order by Mayor Sweeney at 7:00 p.m., followed by the Pledge of Allegiance led by Council Member Zermeño.

**ROLL CALL**

Present: COUNCIL MEMBER Zermeño, Jones, Halliday, Peixoto, Salinas, Mendall  
MAYOR Sweeney  
Absent: None

**CLOSED SESSION ANNOUNCEMENT**

Mayor Sweeney reported that the Council met in closed session with legal counsel pursuant to Government Code 54956.9, regarding City of Hayward v. Depot Road LLC-Case No. HG13692328, City of Hayward v. Baryalai Feroz, et al.-Case No. HG13692333, City of Hayward v. OQ Enterprises, Inc.-Case No. HG13692335, City of Hayward v. Ghulam Rabani, et al.-Case No. HG13692337, City of Hayward v. Jasbir Nagra, et al.-Case No. RG13696610; met with legal counsel pursuant to Government Code 54956.9 regarding BART v. PPF Industrial Whipple Road, et al., Alameda County Superior Court No. RG13708269; and Sipple v. Hayward, et al., Court of Appeal, Second Appellate District, No. B24293; met with legal counsel pursuant to Government Code 54956.9 regarding two anticipated litigation cases; and with property negotiators pursuant to Government Code 54956.8 regarding 9/11 Memorial Site; met with labor negotiators pursuant to Government Code 54957.6 regarding all groups. There was no reportable action.

**PRESENTATION**

Mayor Sweeney announced the 2014 Environmental Achievement Awards presentation. It was noted that the awards honored residents and property managers for good environmental practices, and schools and businesses for implementation of energy and water conservation measures, waste reduction, reuse, and recycling programs. The efforts of the community were also acknowledged in recognition of Earth Day, April 22, 2014. All the recipients in attendance were congratulated by Mayor Sweeney. Council Member Halliday, also the City's representative on the Alameda County Waste Management Authority, acknowledged and announced outstanding schools, single-family residents and multi-family housing managers. Kim Huggett, President of the Hayward Chamber of Commerce, recognized and announced outstanding businesses for their environmental initiatives.

School Awards: Cherryland Elementary School and Faith-Ringgold School of Arts and Science.

Neighborhood Awards:

Single-Family Residents: Sara and Michael Chan, Debbie and David Deangelis, Dolores Ferreira, Connie and Douglas Johnson, José Vigil Jr. and Justin Nguyen, Virginia Fulkerson, Greg Garrity, Valerie and Russell Hutchinson, Karen and Felix Martinez, Shelly Nava, Stephen Pinocci, Gorge Sanchez.

Multi-Family Residents: Coral Gardens Apartments, Fletcher Garden Apartments, Eden Senior

Housing, Triangle Garden Apartments, and Ron Silva Properties.

Business Awards: Arteaga's Food Center; Dupont Pioneer; Hayward Produce Market Taqueria; Moreau Catholic High School; Lea's Christian School, Montesorri School and New Bridges Presbyterian Church.

## **PUBLIC COMMENTS**

Mr. Kim Huggett, Hayward Chamber of Commerce President, announced two events: a free workshop for Hayward restaurants on May 6, 2014, at City Hall, and a lunch with Masato Watanabe, Consul General of Japan, on June 6, 2014, at the Golden Peacock Banquet Hall.

Mr. Mike Cox, Hayward property owner, expressed concern about the nuisance created by vacant lots with overgrown weeds and construction materials left behind after completion of projects. Mr. Cox also noted that there were too many massage parlors in Hayward.

Ms. Suzanne Cox, Hayward property owner, reported nuisance issues such as vacant lots with overgrown weeds, which are deteriorating O'Neil Avenue, and requested that City regulations be enforced.

Ms. Vida Blakely, Hayward resident, expressed she was evicted from a rent-control unit and her lease was terminated without cause, and she suggested that there should be a hotline where victims can report unjust incidents.

## **CONSENT**

1. Approval of Minutes of the City Council Meeting on April 1, 2014

It was moved by Council Member Halliday, seconded by Council Member Peixoto, and carried unanimously, to approve the minutes of the City Council Meeting on April 1, 2014, with an amendment to the minutes.

2. Transportation Development Act Article 3 Funds FY 2015: Wheelchair Ramps - Authorization to File Application

Staff report submitted by Assistant City Engineer Owusu, dated April 22, 2014, was filed.

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

Resolution 14-048, "Resolution of the City Council of the City of Hayward Supporting Submission of Claim to the Metropolitan Transportation Commission for the Allocation of Fiscal Year 2015 Transportation Development Act (TDA) Article 3 Pedestrian/Bicycle Project Funding for Installation of Wheelchair Ramps"



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3. Pavement Rehabilitation Gas Tax FY15: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Assistant City Engineer Owusu, dated April 22, 2014, was filed.

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

Resolution 14-049, “Resolution Approving Plans and Specifications for the Pavement Rehabilitation Gas Tax FY15 Project, Project No. 05191, and Call for Bids”

4. Adoption of a Resolution Approving an Amendment for \$36,000 to a Professional Services Agreement for Associate Planner Services in the Planning Division

Staff report submitted by Administrative Analyst Kim, dated April 22, 2014, was filed.

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

Resolution 14-050, “Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement with West Coast Code Consultants (WC3) for Associate Planner Services”

**COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS**

Council Member Zermeño announced the Keep Hayward Clean and Greek Task Force clean up event at the Jackson Triangle neighborhood on April 26, 2014. He also announced upcoming events: “Cinco de Mayo” on May 3, 2014 at City Hall Plaza, and “4<sup>th</sup> of July” celebration on July 4, 2014, in the Tennyson neighborhood.

**ADJOURNMENT**

Mayor Sweeney adjourned the meeting at 7:47 p.m. in memory of Mr. Don Frascinella, Mr. Martin Eschen, and Mr. Richard Theodore Schultz.

Mr. Don Frascinella passed away on April 18, 2014. Mr. Frascinella was the City’s Transportation Manager, worked for the Stanislaus Area Association of Governments, participated in neighborhood partnership programs, and was well-respected expert in regional transportation issues.

Mr. Martin Eschen passed away on April 14, 2014. Mr. Eschen was a devoted and active Hayward Area Shoreline Planning Agency Citizens Advisory Committee member and contributed to environmental efforts.

Mr. Richard Theodore Schultz passed away on April 10, 2014. Mr. Schultz was a former Social Studies teacher at Hayward High School. Mr. Schultz and Mr. Yasuyuki Kikuchi, Sado High School English teacher in Sado Island, Japan, created a sister school and cultural exchange program. In 1972 Mr. Schultz took the first group of five Hayward students to Sado Island and students continue to participate in the Sado Exchange Program today.

Mayor Sweeney asked City staff to work with the three families and plant trees in memory of Don Frascinella, Martin Eschen and Richard Theodore Schultz.

**APPROVED:**

Michael Sweeney  
Mayor, City of Hayward

**ATTEST:**

Miriam Lens  
City Clerk, City of Hayward

**DATE:** May 6, 2014

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT:** Resignation of Dana Caines from the Keep Hayward Clean and Green Task Force and the General Plan Update Task Force; and Laila Mufty from the Hayward Youth Commission and Appointment of Diego Lopez to Fulfill Mufty's Unexpired Term

**RECOMMENDATION**

1. That the City Council accepts the resignation of:
  - a. Ms. Dana Caines from the Keep Hayward Clean and Green Task Force and the General Plan Update Task Force; and
  - b. Ms. Laila Mufty from the Hayward Youth Commission; and
  
2. That the City Council appoints Mr. Diego Lopez to fulfill Ms. Mufty's unexpired term.

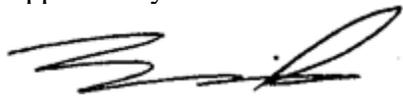
**BACKGROUND**

Ms. Dana Caines was appointed to the Keep Hayward Clean and Green Task Force on September 11, 2012; and to the General Plan Update Task Force on October 23, 2012. Ms. Caines submitted her resignation letter (Attachment II), effective April 16, 2014. Her vacated position will be filled as part of the annual appointment process for the City's Appointed Officials to Boards and Commissions.

Ms. Laila Mufty was appointed to the Hayward Youth Commission on June 26, 2012. Her resignation letter (Attachment II), became effective April 17, 2014. Mr. Diego Lopez will be selected from the Hayward Youth Commission Alternate List to fill Ms. Mufty's term, which expires June 30, 2014.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:



\_\_\_\_\_  
Fran David, City Manager

Attachments:

|               |                     |
|---------------|---------------------|
| Attachment I  | Resolution          |
| Attachment II | Resignation Letters |

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member \_\_\_\_\_

RESOLUTION ACCEPTING THE WRITTEN RESIGNATIONS OF DANA CAINES FROM THE KEEP HAYWARD CLEAN AND GREEN TASK FORCE AND THE GENERAL PLAN UPDATE TASK FORCE; AND LAILA MUFTY FROM THE HAYWARD YOUTH COMMISSION AND APPOINTING DIEGO LOPEZ TO FULFILL MUFTY’S TERM

WHEREAS, Ms. Dana Caines was appointed to the Keep Hayward Clean and Green Task Force on September 11, 2012, and to the General Plan Update Task Force on October 23, 2012; and Ms. Laila Mufty was appointed to the Hayward Youth Commission on June 26, 2012; and,

WHEREAS, Ms. Dana Caines submitted her resignation on April 16, 2014, effective immediately; and Ms. Laila Mufty submitted her resignation April 17, 2014, effective immediately.

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

NOW, THEREFORE, BE IT RESOLVED, the Council hereby accepts the resignations of Laila Mufty from the Hayward Youth Commission; and commends her for her civic service to the City,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Mr. Diego Lopez will be selected from the Hayward Youth Commission Alternate List to fill Ms. Mufty’s term, which will expire June 30, 2014.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2014.

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

**From:** Dana Caines  
**Sent:** Wednesday, April 16, 2014  
**To:** CityClerk  
**Subject:** City Commissions

Dear Miriam,

I have received your calls regarding the annual conflict of interest requirement. Unfortunately, my job responsibilities changed last year, such that I travel 2-3 weeks per month, and work very long hours. Lately, it has been more than 3 weeks per month that I am away on business. This was originally supposed to be temporary, but is a permanent part of my job responsibilities for the foreseeable future (at least through mid-2015).

As such, I have not, and will not be able to attend meetings and participate on either of the task forces as I planned or is required. It is therefore best that I officially resign from both the KHCG Task Force as well as the General Plan Task Force. I regret having to do so, but simply am not around enough to put in the effort as I originally anticipated.

Please let me know if there is something official I need to provide to resign.

Regards,

*Dana Caines*

From: Laila Mufty  
Sent: Thursday, April 17, 2014  
To: Pena, Yelitza  
Cc: Clio Hathaway; Michael Maine; Francisco Zermeño  
Subject: Thank you

Hello all,

I have had an amazing time at HYC and am so grateful for the opportunity to be part of such an outstanding group of people. Unfortunately, I will not be able to make the April 21st meeting due to a family emergency. Furthermore, I will not be able continue the rest of the year with HYC. I have been chosen to participate in the music program at Gettysburg College Sunderman Conservatory of Music which requires me to leave for Pennsylvania immediately for the month of June. Gettysburg has offered me a full ride for the next four years and I will be attending the college next fall.

I am incredibly thankful for the guidance and support from all of you and wish I could finish the year with HYC. You have not only provided me with a platform to make a difference and make an impact in my community, but you have given me a second family. Although Pennsylvania will be my temporary home, I will be sure to keep in touch and visit often. Thank you again for your love and support.

Best wishes,

Laila Mufty

**DATE:** May 6, 2014  
**TO:** Mayor and City Council  
**FROM:** Director of Public Works – Utilities & Environmental Services  
**SUBJECT:** Cast Iron Water Pipeline Replacement FY14 Project: Approval of Plans and Specifications, and Call for Bids

**RECOMMENDATION**

That Council adopts the attached resolution approving the plans and specifications for the Cast Iron Water Pipeline Replacement FY14 Project, and calling for bids to be received on June 3, 2014.

**BACKGROUND**

This project is part of a continuing program to maintain and upgrade the City’s water distribution system. The City has approximately 344 miles of water distribution pipeline; approximately 23 miles (7%) is cast iron (CI) pipe installed between 1926 and 1992. CI pipe has a life of roughly 50 years, depending upon when it was manufactured and the corrosion rate of the pipe due to soil conditions. In addition, the joints of old CI pipe can fail due to movement caused by the forces of water flowing in the pipe and seasonal changes in the surrounding soil.

Staff has prioritized water mains for replacement by rating pipe segments based on age, adequacy of size and flow, number of leaks or failures, and the difficulty to repair failed pipe considering location and traffic conditions. Replacement was also selected based on location; most of the replacement work will occur in one area of the City. As shown on Attachment II, the CI water mains selected by Utilities staff to be replaced at this time are West Jackson Street (from Santa Clara Street to Diadon Drive), Orchard Avenue (from Lucien Way to Tioga Road), Lucien Way, Pleasant Way, Park Street (from Winton Avenue to Meek Avenue), Park Street/Glade Street Easement, and Dean Street (from Sutro Street to D Street).

**DISCUSSION**

Water main replacement is typically done in segments to minimize the impact to customers. The work generally involves excavating a trench two to three feet in width and five-and-a-half feet deep, parallel to the water main to be replaced, typically offset from the existing water main by eight feet or more. After a segment of new water main has been installed and tested, service connections are expeditiously transferred from the old water main to the new one. Water service is typically restored within two hours. After all services have been transferred to the new water main, the remaining portions of the old water main are abandoned.

This project will replace and upgrade water mains with new Polyvinyl Chloride (PVC) or Ductile Iron (DI) water mains and new service connection pipes at the locations shown on Attachment II. The pipeline replacements on this project consist of replacing 2060 feet of 12” CI pipes with new 12” water mains and replacing 5,460 feet of substandard 4” and 6” CI pipes with new 8” water mains to improve reliability and minimize future maintenance needs.

The portion of the work on West Jackson Street will be done under a Caltrans Encroachment Permit, and the work will be done at night to minimize impact to traffic and businesses.

This pipeline replacement 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 and Construction Administration – City Staff | \$ 70,000     |
| Construction Contract                               | 1,300,000     |
| Inspection and Testing                              | <u>50,000</u> |
| Total                                               | \$1,420,000   |

The FY 2014 Capital Improvement Program includes \$1,000,000 for the “Cast Iron Water Pipeline Replacement” project and \$1,906,000 for the “Water Main Replacements at Jackson Mission, Winton and Grand Street” project in the Water System Replacement Capital Improvement Fund.

**PUBLIC CONTACT**

Prior to and during construction, notices will be provided to affected residents, property and business owners to inform them of the nature and purpose of the work, potential impacts, work schedule, and City contact for additional information. In addition, staff will directly contact any large employers and schools (i.e., John Muir School on Orchard Avenue) that may be affected by the project and coordinate work in order to minimize impact. Water customers shall be notified of temporary water service interruption both three days and at least one hour prior to shutdown of water service.

**SCHEDULE**

|                |               |
|----------------|---------------|
| Open Bids      | June 3, 2014  |
| Award Contract | June 24, 2014 |
| Begin Work     | July 2014     |
| Complete Work  | December 2014 |

*Prepared by:* Rod Schurman, P.E., Associate Civil Engineer

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

Approved by:



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Fran David, City Manager

Attachments:

Attachment I: Resolution

Attachment II: Project Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-\_\_\_\_

Introduced by Council Member \_\_\_\_\_

RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE CAST IRON WATER PIPELINE REPLACEMENT FY14 PROJECT, PROJECT NO. 07005, 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 Cast Iron Water Pipeline Replacement FY14 Project, Project No. 07005, 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, June 3, 2014, 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 \_\_\_\_\_, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

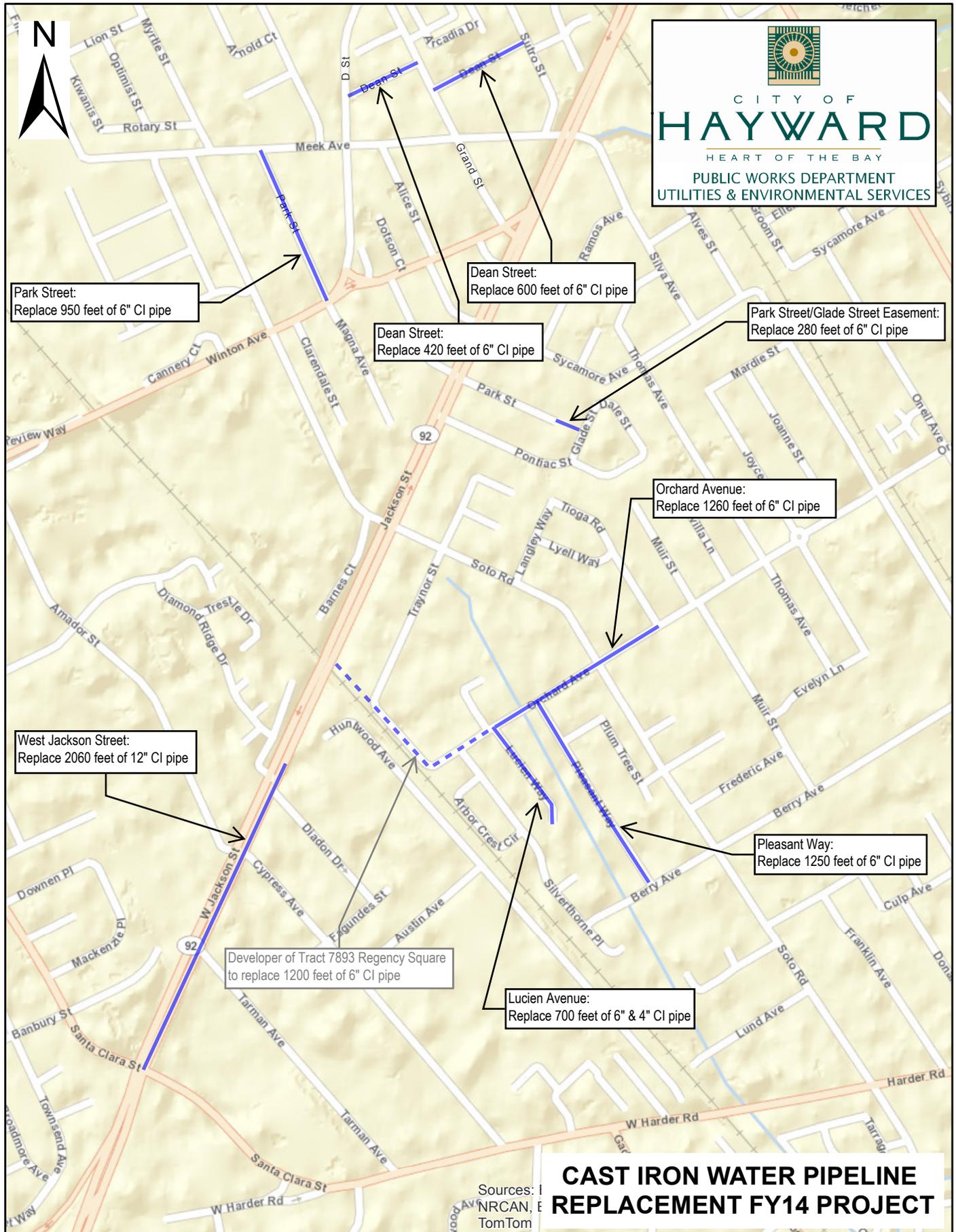
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward



**DATE:** May 6, 2014

**TO:** Mayor and City Council

**FROM:** Director of Public Works – Engineering & Transportation

**SUBJECT:** Resolution Authorizing the City Manager to Negotiate and Execute the Third Amendment to the Commercial Aviation Site Lease with Hayward FBO LLC (Successor in Interest to Atlantic Aviation FBO Holdings LLC)

## **RECOMMENDATION**

That Council adopts the attached resolution authorizing the City Manager to negotiate and execute the Third Amendment to the Commercial Aviation Site Lease with Hayward FBO LLC (Successor in Interest to Atlantic Aviation FBO Holdings LLC).

## **BACKGROUND**

Hayward FBO LLC became a commercial tenant at the Hayward Executive Airport (Airport) in December 2009 providing the services of a fixed base operator under the name of Airport Property Partners, LLC with a trade name of APP Jet Center. As a fixed base operator, APP Jet Center provides fueling services, space rental in hangars for the storage of aircraft, and office space rental. On April 19, 2011, Hayward FBO LLC assumed the commercial aviation site lease of former tenant Macquarie FBO Holdings dba as Atlantic Aviation. Hayward FBO LLC continues to have possession of both leaseholds and they are currently a tenant in good standing. The company is the only fixed base operator presently located at the Airport.

## **DISCUSSION**

In February 2014, the City was informed that Hayward FBO, LLC has undertaken certain internal restructuring, which involves the formation of a private corporation known as APP Properties, Inc. APP Properties, Inc. will replace Airport Property Partners LLC as the sole member of Hayward FBO LLC. The restructuring was done to allow the company to qualify as a Real Estate Investment Trust (REIT). Qualifying as a REIT will assist the company in raising operating and investment capital, minimizing taxes, among other benefits.

Staff has determined that Thom Harrow, CEO of Airport Property Partners, LLC will also control APP Properties, Inc. No changes in day-to-day operations or personnel will occur as a result of the restructuring.

In order to comply with requirements applicable to REITs, Hayward FBO LLC needs to form a wholly-owned subsidiary, Hayward FBO Services LLC, which will handle all of the service functions associated with the fixed base operation, such as aircraft fueling and servicing. Hayward FBO LLC will then sublease portions of the leasehold to Hayward FBO Services LLC. This will be accomplished through the sublease attached as Attachment III to this report. The current lease with Hayward FBO LLC requires the City's written permission prior to the proposed sublease; thus, necessitating the action sought here.

If the amendment is approved, Hayward FBO LLC will continue to handle all real estate matters, such as hangar and office rental matters. Hayward FBO Services LLC will at all times be controlled by and wholly-owned by Hayward FBO LLC. No change in services to the aviation public is anticipated.

The City and Hayward FBO, LLC have negotiated certain amendments to the primary lease to confirm the requested restructuring, and the parties have reached agreement on acceptable terms to amend the lease document. On April 24, 2014, staff presented the Council Airport Committee with an overview of the draft Third Amended Lease, including negotiating points. This information was presented as an information item under Committee Member and Staff Announcements and Referrals, and no action was taken by the committee.

## **FISCAL IMPACT**

There is no anticipated fiscal impact to the City as annual rent and other terms and conditions of the existing site lease remain unchanged.

*Prepared by:* Douglas McNeeley, Airport Manager

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

Approved by:



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Fran David, City Manager

### Attachments:

- Attachment I: Resolution
- Attachment II: Proposed Amendment
- Attachment III: Use and Occupancy Agreement (Sublease Agreement)

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A THIRD AMENDMENT OF THE COMMERCIAL AVIATION SITE LEASE WITH HAYWARD FBO LLC (SUCCESSOR IN INTEREST TO ATLANTIC AVIATION FBO HOLDINGS LLC)

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

WHEREAS, representatives of Hayward FBO, LLC have notified the City that they have undertaken certain internal restructuring which involves formation of a private non-traded real estate investment trust known as APP Properties, Inc. which will replace Airport Property Partners LLC as sole member of Hayward FBO LLC; and

WHEREAS, Mr. Thom Harrow, CEO of Airport Property Partners, LLC will likewise control APP Properties, Inc.; and

WHEREAS, no changes in day to day operations or personnel will occur as a result of the restructuring; and

WHEREAS, in order to comply with requirements applicable to real estate investment trusts, Hayward FBO LLC needs to form a wholly-owned subsidiary, Hayward FBO Services LLC (“Services”), which will handle all services functions associated with the FBO, including fueling, while Hayward FBO LLC will handle all hangar and office rental matters; and

WHEREAS, Services will at all times be controlled by and wholly-owned by Hayward FBO LLC; and

WHEREAS, the City and Hayward FBO, LLC have negotiated certain amendments to the lease to confirm and approve such arrangement; and

WHEREAS, the City and Hayward FBO, LLC have reached agreement on acceptable terms to amend the referenced lease document.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is authorized to execute the Third Amendment to Commercial Aviation Site Lease, in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2014

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

**THIRD AMENDMENT TO  
COMMERCIAL AVIATION SITE LEASE**

(Former Atlantic Site Lease)

THIS THIRD AMENDMENT TO COMMERCIAL AVIATION SITE LEASE (the "Third Amendment") is made and entered into this \_\_\_ day of April, 2014, by and between the City of Hayward, a municipal corporation located in the County of Alameda, State of California, hereinafter "Lessor" or "City" and Hayward FBO LLC, a California limited liability company, hereinafter "Lessee", whose address is recorded as 871 West Road, New Canaan, CT 06840.

RECITALS:

WHEREAS, Lessor and Pape Properties, Inc. ("Pape") entered into a Commercial Aviation Site Lease dated July 1, 1998 ("Site Lease").

WHEREAS, the Site Lease was subsequently assigned as follows: on January 5, 2000 by Pape to Trajen, Inc.; on June 29, 2006 by Trajen, Inc. to Trajen Flight Support, LP; on May 17, 2007 by Trajen Flight Support, LP to Macquarie FBO Holdings, LLC (predecessor in interest to Atlantic Aviation FBO Holdings LLC); and on April 19, 2011 by Atlantic Aviation FBO Holdings LLC to Lessee.

WHEREAS, the Site Lease was amended by that certain First Amendment to Commercial Aviation Site Lease dated September 11, 2001 by and between the City and Trajen, Inc. ("First Amendment").

WHEREAS, the Site Lease was further amended by that certain Second Amendment to Commercial Aviation Site Lease dated April 19, 2011 by and between the City and Lessee ("Second Amendment" and collectively with the First Amendment and the Site Lease, the "Lease").

WHEREAS, the parties desire to amend the aforesaid Lease in certain respects:

THIRD AMENDMENT

NOW, THEREFORE, in consideration of the covenants, conditions, and terms hereinafter set forth, Lessor and Lessee do hereby agree that the Lease, whose purpose was and is, to provide aviation related services and activities on the designated Leasehold, is hereby amended in the following particulars only, to wit:

1. The Third Amendment set forth below, shall be effective on the \_\_\_<sup>th</sup> day of April, 2014. All other provisions of said Lease, not expressly changed hereby, remain the same and in full force and effect.
2. That ARTICLE 4 in said Lease entitled "SPECIAL STANDARDS OF OPERATION FOR FUELING ACTIVITIES", is hereby amended to provide express written consent of the City Manager to the provision of such services by Hayward FBO Services LLC, a wholly-

owned subsidiary that will handle fueling and certain other services on behalf of Lessee. Such consent is strictly contingent on Hayward FBO Services LLC remaining wholly-owned by Lessee and such consent shall automatically terminate at such time as ownership of Hayward FBO Services LLC is vested in an entity other than Lessee.

- 3. That Article 11, entitled "Assignment and Subleasing" is hereby amended as follows: Lessee shall be entitled to sublease those portions of its leasehold used by Lessee to provide FBO services (other than rental of space) to Hayward FBO Services LLC, with such sublease to be subject to all of the terms, covenants and conditions of the Lease, including, without limitation, the insurance provisions thereof.
- 4. That Article 9, Section 9.02 entitled "Insurance" as amended by Section 4 of the Second Amendment, is further amended to include Section 9.02 (e) which will read as follows: "e. Pollution Legal Liability insurance with coverage in the minimum amount of five million dollars(\$5,000,000) per occurrence and in the aggregate."
- 5. That Article 5, is amended to include Section 5.06 which will read "That notwithstanding any contrary provision in the sublease between Lessee and Hayward FBO Services LLC, Lessee remains liable to the Lessor for all Rent and Fees as set forth in Articles 4 and 5 as amended in the Second Amendment. This includes all Fuel Flowage Fees and landing fees. To the extent that Lessee's sublease with Hayward FBO Services LLC requires Hayward FBO Services LLC to pay any fees arising from its business, including Fuel Flowage Fees and landing fees, the Lessee remains jointly and severally liable to the Lessor for those fees.

This Third Amendment contains the agreement of the parties and all negotiations and agreements between the parties herein, or their respective agents acting on the consent of the Lessee are hereby declared to be merged into this Third Amendment.

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IN WITNESS WHEREOF, Hayward FBO LLC, as represented by Mr. Thom W. Harrow, Managing Member of West Road Holdings, Manager of Airport Property Partners, LLC, Managing Member of Hayward FBO LLC; and the City of Hayward, by and through the City Manager, have caused this Third Amendment to be executed the day and year first written above.

RECOMMENDED BY:

\_\_\_\_\_  
Douglas McNeeley, Airport Manager

APPROVED BY:

\_\_\_\_\_  
Morad Fakhrai, Director of Public Works

LESSEE:

**HAYWARD FBO LLC,**  
a California limited liability company

By: Airport Property Partners LLC,  
Managing Member

By: West Road Holdings, LLC  
Its Manager

By: \_\_\_\_\_

Name: Thom W. Harrow, Managing Member

LESSOR:  
CITY OF HAYWARD, a Municipal Corporation

\_\_\_\_\_  
Frances David, City Manager

Approved as to Form:

\_\_\_\_\_  
Michael Lawson, City Attorney

ATTEST:

\_\_\_\_\_  
Miriam Lens, City Clerk

DATE: \_\_\_\_\_

**USE AND OCCUPANCY AGREEMENT  
(HANGAR, OFFICE SPACE AND FUEL SPACE)  
SUMMARY OF TERMS**

|                             |                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Airport                     | HAYWARD EXECUTIVE AIRPORT                                                                                                                                                                                                                                                                                                                                                                                                       |
| Operator                    | HAYWARD FBO LLC                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Facility                    | APP JET CENTER<br>19990 SKYWEST DRIVE<br>HAYWARD, CA 94541                                                                                                                                                                                                                                                                                                                                                                      |
| User                        | HAYWARD FBO SERVICES LLC, a California limited liability company                                                                                                                                                                                                                                                                                                                                                                |
| Description of Space        | 1,621 square feet footprint as shown on Exhibit A, the self-serve fuel farm, and 625 square feet fuel farm                                                                                                                                                                                                                                                                                                                      |
| Purpose(s) for Use of Space | Operation, performance and conduct of some or all of the following services: aircraft servicing, repair and maintenance; aircraft sales, financing and insuring of aircraft, aircraft fueling and fuel sales, aviation school services, aircraft charter operations and incidental related concessions, together with any additional services requested by Operator and approved by the City of Hayward and related office use. |
| Effective Date              | _____, 2014                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Initial Term                | _____, ____                                                                                                                                                                                                                                                                                                                                                                                                                     |
| Fuel Space Fees             | \$605.21                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Space Fees                  | \$2,836.75                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Security Deposit            | N/A                                                                                                                                                                                                                                                                                                                                                                                                                             |
| Janitorial Services         | YES                                                                                                                                                                                                                                                                                                                                                                                                                             |

IN WITNESS WHEREOF, the parties have executed this Summary of Terms and the attached Use and Occupancy Agreement as of the Effective Date.

|                                                                                                                                                                                                                    |                                                                                                                                                                                                                         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>OPERATOR</b></p> <p>Hayward FBO LLC, a California limited liability company</p> <p>By: APP Properties, Inc., a Maryland corporation, its Manager</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p> | <p><b>USER</b></p> <p>Hayward FBO Services LLC, a California limited liability company</p> <p>By: APP Properties, Inc., a Maryland corporation, its Manager</p> <p>By: _____</p> <p>Title: _____</p> <p>Date: _____</p> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## USE AND OCCUPANCY AGREEMENT

This USE AND OCCUPANCY AGREEMENT ("Agreement") is entered into as of the Effective Date by and between Operator and User. Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Summary of Terms to which this Agreement is attached.

### 1. Use of Space.

1.1 Operator grants User the right to use and occupy the Space and the right to operate, perform and conduct some or all of the following services: aircraft servicing, repair and maintenance; aircraft sales, financing and insuring of aircraft, aircraft fueling and fuel sales, aviation school services, aircraft charter operations and incidental related concessions, together with any additional services requested by Operator and approved by the City of Hayward and related office use. The Space shall be used by User for the purpose(s) set forth in the Summary of Terms.

1.2 User shall comply with all applicable statutes, ordinances, rules, regulations, orders and requirements, now in force or which may hereafter be in force, regulating the use, occupancy or alterations by User of the Space, and the rules and regulations set forth on Schedule 1 to this Agreement, if any, specifying additional terms, conditions and obligations of User as they relate to the ground lease agreement, as amended, between Operator and the Airport (the "Master Lease Agreement"). User shall not cause or permit the Space to be used in any way (i) which constitutes (or would constitute) a violation of any law, ordinance, or governmental regulation or order, or (ii) which unreasonably interferes with the rights of tenants or users of the space used and occupied by Operator pursuant to the Master Lease Agreement ("Master Space"), or (iii) which constitutes a nuisance or waste. User's rights granted herein are subject and subordinate to the terms and conditions of the Master Lease Agreement

and the Airport's published Minimum Standards. Nothing in this Agreement shall create or purport to create any obligations of the Airport to User, and the Airport shall be deemed an intended third party beneficiary of this Agreement.

1.3 User shall keep and maintain the Space and every part thereof in good and clean condition and in accordance with reasonable rules or regulations established by Operator or the Airport from time to time during the Term. This provision is not intended to impose an obligation on User to repair the Space unless such repair is necessitated by the fault or neglect of User. User shall not make any alterations or additions to the Space without first obtaining Operator's written permission and shall return occupancy at the termination of this Agreement in the same and in as good condition as exists on the Effective Date, reasonable wear and tear, damage by fire or casualty through no fault of User and modifications expressly approved by Operator excepted.

1.4 User shall maintain sufficient personnel and equipment to provide for the movement of aircraft as reasonably requested by Operator. User shall be solely responsible for the towing or repositioning of all Aircraft into and out of the Space and Master Space. User shall be solely responsible for the securing of aircraft while positioned in the Space and Master Space. Consistent with the foregoing obligation, User shall ensure all aircraft is secured in such a manner that enables User to tow or reposition the aircraft at any time for

purposes of ingress and egress to any portion of Operator's facility.

1.5 Operator reserves the right to use the Space during those times when the Space has vacancy and to enter the Space at all reasonable times for the purpose of making any inspection it may deem appropriate to the proper enforcement of any of the covenants and conditions of this Agreement or the Master Lease Agreement or to undertake repairs, additions or alterations to the Space.

1.6 User may perform aircraft maintenance, aircraft cleaning and other support-related services on aircraft, including through User's employees or through contracted third parties that have adequate insurance coverage; and aircraft towing and fueling shall be performed exclusively by User. User shall be responsible for the sale of all fuel to third parties occupying the Space or Master Space at the Airport and to transient users of aviation fuel. Upon the request of Operator, User shall cause any contracted third parties to execute a hold harmless and indemnification agreement in form and substance reasonably satisfactory to Operator and provide evidence to Operator of the insurance coverage maintained by any such third parties.

## **2. User Fees.**

2.1 User shall pay to Operator the monthly fees set forth in the Summary of Terms ("User Fees") as follows: Space Fees and Fuel Space Fees, which are payable, in advance, on the first day of each month during the Term in consideration of User's use and occupancy of the Space for the Term; and such Space Fees and Fuel Space Fees shall be prorated on a daily rate basis for any partial month during the Term. Upon execution of this Agreement, User shall pay and maintain with Operator a Security Deposit, if any, in the amount set forth in the

Summary of Terms. The Security Deposit shall be held by Operator to guarantee the full and faithful performance of User's payment obligations under this Agreement and may be applied by Operator without notice to User against any obligation of User due hereunder that is not paid when due. In the event Operator draws down on such Security Deposit, User shall promptly replenish the Security Deposit to the original amount. Upon termination or expiration of this Agreement, the Security Deposit shall be returned to User less any outstanding obligations to Operator at the time of the termination or expiration of this Agreement.

2.2 User agrees that User Fees shall be subject to review and adjustment by Operator at one (1) year intervals following the Initial Term of the Agreement or from time to time by giving User not less than sixty (60) days written notice. After the effective date set forth in said notice, the new User Fees shall become effective automatically for all purposes, unless and until further adjustments are made to the User Fees in accordance with this Section 2.2.

2.3 User shall be liable for all taxes, fees and other charges assessed or imposed on or by User's operators or businesses at the Airport. Under no circumstances shall Operator be liable for or required to pay any tax, fee or other charge owed by User, including any taxes, fees or charges applicable to User or any of User's businesses owed to the Airport.

2.4 User shall only be obligated to pay separately for water, heat, gas, light, power, air conditioning, and other utilities, trash removal and janitorial services if so indicated on the Summary of Terms. User is responsible to pay for any telephone and internet service obtained by User.

2.5 If User fails to pay in full any User Fees or other amounts provided for in

this Agreement within five (5) days after the same becomes due and payable, User shall be obligated to pay a late charge equal to five percent (5%) of the amount, or any portion thereof, not so paid when due. In addition, any fees or other amounts, or any portion thereof, to be paid by User pursuant to this Agreement which are not paid in full within ten (10) days after the same becomes due and payable shall bear interest at a rate equal to 1.5% per month, accruing from the date such amount became due and payable to the date of payment thereof by User. Such interest shall constitute additional User Fees due and payable to Operator by User upon the date of payment of the delinquent payment referenced above.

### **3. Term and Termination.**

3.1 This Agreement shall take effect as of the Effective Date and continue for the period of time set forth in the Summary of Terms (the "Initial Term"). After the Initial Term, this Agreement shall continue in effect from year to year, being automatically renewed after each year (each a "Renewal Term"), unless either party gives written notice of termination, with or without cause, to the other party at least sixty (60) days prior to the end of the Initial Term or any Renewal Term thereafter. The Initial Term together with each Renewal Term is referred to as the "Term."

3.2 This Agreement will automatically terminate upon the termination or expiration of the Master Lease Agreement, or as otherwise expressly directed in writing by the Airport, and no damages, monies or compensation will be owed to User by Operator.

### **4. Events of User Default.**

4.1 Each of the following events shall constitute a default under this Agreement on the part of User:

(a) The failure of User to pay and deliver to Operator any payment after same is due and failure to cure such default within five (5) business days after Operator gives User written notice of such default, provided, that, Operator shall only be obligated to provide such notice and opportunity to cure two (2) times during any consecutive twelve (12) month period;

(b) The failure of User to comply with any other provision of this Agreement as soon as reasonably practical and in any event within five (5) business days after written demand by Operator, except that if any non-monetary failure is not capable of being cured within such five (5) business day period, User shall be given a reasonable time to cure such failure so long as User has timely commenced curing such failure within the five (5) business day period and thereafter diligently proceeds to cure such failure as promptly as possible; and

(c) User shall have sublet all or any portion of the Space or assigned or encumbered all or any portion of its interest in this Agreement in violation of the provisions contained in Section 7, whether voluntary, involuntary, or by operation of law; or

(d) User shall have abandoned the Space as defined by California Civil Code 19512 for five (5) consecutive days or more; or

(e) If any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act shall be filed by or against User or any voluntary or involuntary proceedings in any court shall be instituted to declare User insolvent or unable to pay User's debts, and in the case of any involuntary petition or proceeding if same is not dismissed within ninety (90) days from

the date it is filed, or if User makes an assignment for the benefit of its creditors, or if a receiver is appointed for any property of User or if User's interest hereunder is levied upon execution or is attached by process of law and not discharged or dismissed within ninety (90) days.

## **5. Operator's Remedies.**

5.1 In the event of any default by User, and without limiting Operator's right to indemnification as provided in this Agreement, Operator, at its election, shall have the following remedies, in addition to all other rights and remedies provided in this Agreement, by law, or in equity, to which Operator may resort cumulatively, or in the alternative:

(a) Keep this Agreement in effect and enforce, by an action at law or in equity, all of its rights and remedies under this Agreement including, without limitation, (i) the right to recover User Fees and other sums as they become due by appropriate legal action, (ii) the right to make payments required of User or perform User's obligations and be reimbursed by User for the cost thereof with interest at the then maximum rate of interest not prohibited by law from the date the sum is paid by Operator until Operator is reimbursed by User, and (iii) the remedies of injunctive relief and specific performance to prevent User from violating the terms of this Agreement and/or to compel User to perform its obligations under this Agreement, as the case may be.

(b) Terminate User's right to possession by giving User written notice of termination. If Operator has given any written notice pursuant to Section 4.1 above, then Operator shall not be required to give User any additional notice terminating the right to possession. Any termination under this subparagraph shall not relieve User

from its obligation to pay to Operator all monthly User Fees then or thereafter due, or any other sums due or thereafter accruing to Operator, or from any claim against User for damages previously accrued or thereafter accruing. In no event shall (i) any action of whatever nature or kind, by Operator or on its behalf, or (ii) an abandonment of the Space by User, in the absence of a specific written election by Operator to terminate this Agreement, constitute a termination of this Agreement. If Operator does not terminate this Agreement by giving written notice of termination, Operator may enforce all of its rights and remedies under this Agreement, including the right to recover User Fees as they become due under this Agreement as provided in California Civil Code, Section 1951.4, as in effect on the Agreement Effective Date.

(c) In the event Operator terminates this Agreement, Operator shall be entitled, at Operator's election, to recover from User damages in an amount as set forth in California Civil Code, Section 1951.2, as in effect on the Agreement Effective Date. For purposes of computing damages pursuant to said Section 1951.2, an interest rate equal to the maximum rate of interest then not prohibited by law shall be used where permitted. Such damages shall include, without limitation:

(1) The worth at the time of award of the User Fees, which have been earned at the time of termination;

(2) The worth at the time of award of the amount by which the User Fees which would have been earned after termination until the time of award exceeds the amount of such rental loss that User proves could be reasonably avoided; and

(3) The worth at the time of award (computed by discounting at the

discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent) of the amount by which the User Fees for the balance of the Term after the time of award exceed the amount of such rental loss that User proves could have been reasonably avoided; and

(4) Any other amount necessary to compensate Operator for all detriment proximately caused by User's failure to perform User's obligations under this Agreement, or which in the ordinary course of things would be likely to result therefrom, including, without limitation, all costs and expenses of removing and/or storing User's property. Operator shall not be liable to User for any damage to or destruction of User's property left in the Space.

The "worth at the time of award" of the amounts referred to in subparagraphs (1) and (2) of this Section is computed by allowing interest at an annual rate equal to the greater of twelve percent (12%) or five percent (5%) plus the rate established by the Federal Reserve Bank of San Francisco, as of the twenty-fifth (25th) day of the month immediately preceding the default by User, on advances to member banks under Section 13 and 13(a) of the Federal Reserve Act, as now in effect or hereafter from time to time amended, not to exceed the maximum rate allowable by law.

**6. Right to Cure Defaults.** If User fails to cure a default described under Section 4, Operator may, in addition to all other rights and remedies under this Agreement, at law or in equity, cure such default and demand reimbursement by User of the cost actually incurred by Operator in curing such default, with interest thereon from the date such cost is incurred until the date of payment.

**7. No Assignment or Sublease.** User shall not assign, sublease or otherwise transfer this Agreement or its rights or obligations hereunder, in whole or in part without Operator's prior written consent, which consent may be withheld in Operator's sole discretion. Any attempted assignment, sublease or other transfer without Operator's prior written consent shall be null and void.

**8. Insurance.**

8.1 User agrees that, during the Term, it will maintain at its expense at all times in full force and effect, with insurers of recognized responsibility, minimum insurance coverage(s) as set forth on Schedule 2 to this Agreement. All such required insurance, except worker's compensation, shall name Operator, APP Properties, Inc., their affiliated companies, the Airport, and each of their respective officers, directors, agents, and employees as additional insureds (the "Additional Insureds"). User and its insurance carrier(s) agree to waive any and all rights of subrogation in favor of the Additional Insureds, except where damage results from the gross negligence or willful misconduct of the Additional Insureds. If requested by Operator, User shall deliver to Operator a certificate evidencing the minimum insurance coverage required hereunder (the "Certificate"). User shall provide Operator with an updated Certificate promptly upon the renewal of any insurance policy described in the Certificate, if requested. User acknowledges that its potential liability under this Agreement is not limited to the amount of insurance coverage it maintains or the limits required herein.

8.2 Operator agrees that, during the Term, it will maintain at its expense at all times in full force and effect, with insurers of recognized responsibility, adequate insurance.

## **9. Indemnification Obligations; Limitations on Liability.**

9.1 User agrees to indemnify, save and hold harmless Operator, APP Properties, Inc., their affiliated companies, the Airport and each of their respective officers, directors, agents, invitees and employees of and from any and all liabilities, causes of action, claims, damages, judgments and losses (including all reasonable attorney's fees, court costs and expenses incurred in connection therewith) resulting from, arising out of or in connection with any of User's business, operations, occupancy, or use of the Space or aircraft, or from any act or omission of User's agents, servants, invitees or employees; provided, that, User shall not be obligated to indemnify Operator or any of its affiliates to the extent any such liability, cause of action, claim, damage, judgment or loss is finally determined to have been caused by Operator's gross negligence or willful misconduct.

9.2 User covenants and agrees to repair, or cause to be repaired, at its own cost and expense, any damage to aircraft to the extent such damage is caused by the gross negligence of User's employees while performing towing, fueling and/or detailing services on or proximate to the Space.

9.3 The parties agree that under no circumstances shall the Airport or Operator, APP Properties, Inc., or their affiliated companies, be liable to User for indirect, incidental, consequential, special, punitive or exemplary damages (including, but not limited to, damages for loss of use, lost profits or diminution in value), and that in all events, Operator's liability, if any, to User for damage to aircraft shall be to repair such aircraft in accordance with applicable manufacturers' specifications by someone qualified to make such repairs and return the aircraft to the same condition as existed

immediately prior to the loss, with any parts used for such repairs to be of the same or similar kind and quality as those damaged. Operator shall have no obligation to keep, maintain or secure User's property, and User assumes all risk of loss or damage to its property located in the Space.

## **10. Miscellaneous.**

10.1 No delay, waiver, omission or forbearance on the part of Operator to exercise any right or power arising from any breach or default by User under this Agreement will constitute or be deemed a waiver by Operator of any such right or power including, without limitation, the right to declare User in default hereunder for any subsequent breach. To the extent that User enjoys any sovereign or analogous immunity pursuant to any domestic laws, as the same may be amended from time to time (or the benefit of any aspect thereof) with respect to this Agreement or User's obligations hereunder, User hereby irrevocably waives such immunity.

10.2 This Agreement, together with the Summary of Terms and the Schedules hereto, constitutes the entire agreement of the parties hereto and shall not be supplemented, amended or modified except by a written instrument duly executed by the parties hereto.

10.3 Article 5 and the right of Operator to collect User Fees due and owing shall survive and continue in full force in accordance with the terms of this Agreement notwithstanding any expiration or termination of this Agreement or the Master Lease Agreement.

10.4 This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction where the Space is located, without regard to its conflicts of laws rules. In the event of any conflict between the terms and conditions of

this Agreement and the terms and conditions of the Master Lease Agreement, the Master Lease Agreement shall govern.

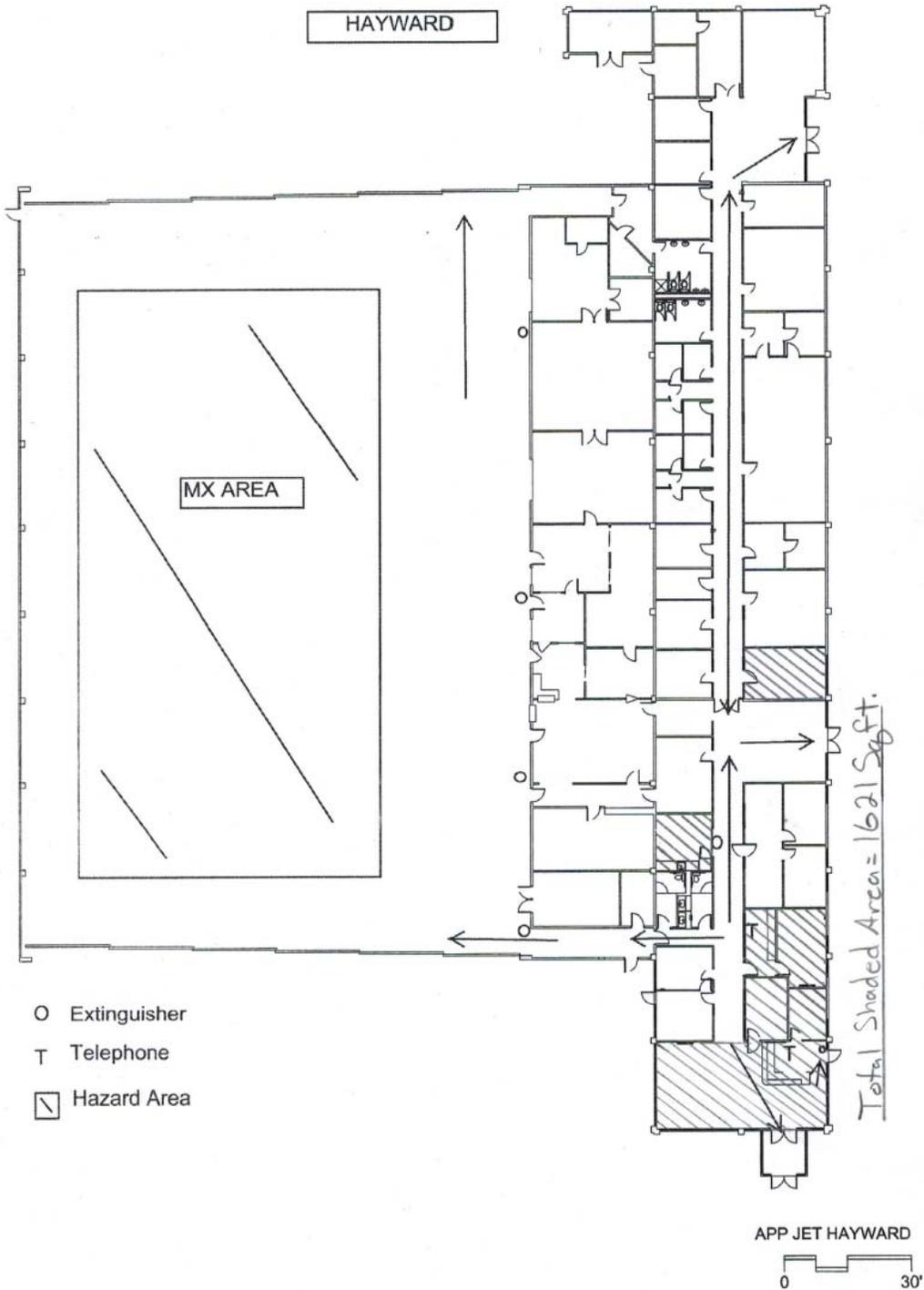
10.5 This Agreement may be executed by facsimile transmission, in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

10.6 User and Operator hereby voluntarily submit themselves to the jurisdiction of the Federal and State courts situated in the jurisdiction in which the Space is located for the resolution of any dispute arising under this Agreement, and User and Operator expressly waive any defense or claim of inconvenient forum. User shall pay Operator's fees and expenses, including reasonable attorney's fees and court costs, should Operator prevail in any suit or action brought for the collection or payment of any unpaid User Fees or other fees, charges, taxes or expenses due Operator under this Agreement.

\* \* \*

Exhibit A

DEPICTION OF SPACE



## SCHEDULE 1 RULES AND REGULATIONS

These guidelines are not all-inclusive and may be modified or added to at any time by Operator provided such guidelines are reasonable, uniformly applied and do not materially modify any provision of the Agreement

1. Storage lockers situated in a hangar are to be acquired through Operator to ensure uniformity in color and size. These lockers shall be on casters to allow moving for cleaning purposes.
2. All Aircraft support equipment is to be secured and stored inside each tenant shop when not in use and at the end of the workday. This includes power carts, jacks, toolboxes and parts. Work stands and other equipment too large for the shops will be stored in a designated area of the hangars and the use of that space shall be charged to User.
3. A clean work area is the responsibility of User. It is Operator's intention to maintain a high degree of cleanliness at all times. All spills and debris are to be contained and cleaned by User immediately.
4. No vehicles are permitted in the hangar or other restricted areas, other than tugs for repositioning aircraft and forklift operations as necessary.
5. All radio and music reproduction equipment is banned from the hangar floor. User may play music inside of its shop or office Space at a reasonable volume level so long as it is not audible in other offices or on the hangar floor.
6. User shall not block open any hangar access doors or fire doors.
7. All of User's employees, agents, independent contractors and invitees shall obtain and display proper identification in accordance with prevailing regulations of the Airport for all areas of the Facility where required. All costs incurred in obtaining such required identification badge authorizations or endorsements shall be borne wholly by User.
8. User is not permitted to store or maintain hazardous or toxic materials and/or regulated substances as defined by state and federal environmental regulations on or in the Space (with the exception of fuel and oil on board an aircraft as well as cleaning solvents, used for cleaning parts and accessories, provided that storage of such solvents will be in containers that meet the specifications, if any, of the applicable guidelines and regulations) without prior authorization from Operator which may be withheld at Operator's reasonable discretion. In the event of a hazardous or toxic material spill, User shall notify Operator immediately. User shall be responsible for the proper handling, removal and disposal of all hazardous or toxic materials and/or regulated substances generated by User, its employees, agents, independent contractors and invitees, as a result of its and their use of the Space and/or contiguous common areas and/or the provision of services by User. Storage, handling, removal and disposal of all such hazardous materials and/or regulated substances shall be accomplished by User at its expense in accordance with local, state and Federal guidelines and regulations.

## SCHEDULE 2 USER INSURANCE COVERAGE

**Commercial General Liability:** Commercial General Liability Insurance which provides liability insurance coverage for bodily injury and property damage arising from User's use or occupancy of the Space and the provision of services provided for under the terms of this Agreement in an amount not less than three million dollars (\$3,000,000) each occurrence and in the annual aggregate in accordance with industry standards.

**Hangar Keepers' Legal Liability Insurance:** With respect to aircraft parked or stored on the Space or Master Space with minimum single limits of liability of seventy-five million dollars (\$75,000,000).

**Property Insurance:** Property Insurance in sufficient coverage amounts to insure against loss of or damage to all owned and/or leased tools, equipment and other property of User and its agents, invitees and employees and coverage as is reasonable for loss of or damage to tools, equipment and property of third parties. Failure of the User to secure and maintain such insurance shall not, in any manner, obligate or render Operator, its agents or employees liable for claims of User or any third party for loss of or damage to such property.

**Automobile Liability Insurance:** If User's activities require vehicle access and/or support equipment access to any areas of the Airport where aircraft are stored, serviced or operated, User shall be required to obtain Comprehensive Automobile Liability coverage in an amount not less than one million dollars (\$1,000,000).

**Pollution Legal Liability Insurance:** Pollution Legal Liability insurance in sufficient coverage amounts to insure the prompt remediation of any release of a hazardous substance with coverage in the minimum amount of five million dollars (\$5,000,000) per occurrence and in the aggregate.

**DATE:** May 6, 2014

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Adoption of a Resolution Approving an Amendment to the Professional Services Agreement with WC3 for Development Review Engineer Services in the Planning Division for an additional \$31,000

### **RECOMMENDATION**

That the City Council adopts the attached resolution, authorizing the City Manager to amend a contract for professional services with West Coast Code Consultants (WC3) and to increase the contract amount by \$31,000 to perform the duties of the vacant Development Review Engineer position in the Planning Division of the Development Services Department through June 30, 2014. The total contract amount will not exceed \$121,000.

### **BACKGROUND**

The Development Services Department employs a Development Review Engineer in the Planning Division. This employee is responsible for providing support at Hayward's One Stop Permit Center related to engineering inquiries, as well as leads the processing of all applications for subdivision maps, lot line adjustments, lot mergers and lot splits, and associated encroachment permits. The City's long-time Development Review Engineer retired effective December 30, 2013. Given that there is only one position that reviews development applications for Engineering, it was critical that an alternative method for providing these services was put into place while the City recruited for the position.

The City began recruitment efforts for the position of Development Review Engineer in October 2013, with limited response by qualified candidates. In November 2013, the City entered into a contract with WC3 for \$25,000 to provide a registered civil engineer to perform the basic duties of the Development Review Engineer while continuing recruitment efforts to fill the position. On February 4, 2014, Council adopted Resolution #14-013 to amend the contract to provide Development Review Engineering services with WC3 for an additional \$40,000 and to extend the term to March 31, 2014. Council also adopted Resolution #14-029 on March 18, 2014 to further amend the contract with WC3 for an additional \$25,000, and to extend the term to May 9, 2014. Assistance from the current WC3 consultant will continue to be necessary through June 30, 2014, to allow sufficient time to train a new Development Review Engineer who is expected to begin

employment on May 26, 2014. This extension will increase the contract by an additional \$31,000. The total contract shall not exceed \$121,000.

## **DISCUSSION**

The Development Review Engineer position is unique, in that it entails an engineering position in the Planning Division, whose primary function is to process subdivision maps. The position requires the ability to coordinate with the Public Works Department, as well as other City departments, related to processing such maps, as well as performing other related engineering functions and providing support at the Permit Center. The Development Review Engineer also provides recommendations and oversees the engineer's reports and budgets related to the City's Landscape and Lighting District and two Maintenance Districts.

The City advertised for the position beginning in late October 2013, and received limited responses. The top candidates from that initial phase were interviewed by an outside panel in late November; however, those candidates interviewed were not found to be qualified and experienced enough for the position. Another job announcement was advertised in early December and a second set of candidate applications were reviewed in early January, revealing some stronger, more qualified candidates. Those top candidates have been interviewed by department staff and the Selective Hiring process has been initiated. The Planning Division anticipates having a new Development Review Engineer on staff by the end of May 2014.

## **FISCAL IMPACT**

All costs for this professional services agreement will be offset by salary vacancy savings in the Development Services Department.

## **PUBLIC CONTACT**

No public contact has occurred associated with this action.

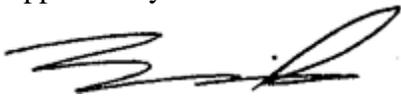
## **NEXT STEPS**

If the Council approves this resolution, staff will execute a contract amendment.

*Prepared by:* Jade Kim, Administrative Analyst I

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



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Fran David, City Manager

Attachments:            Attachment I            Draft Resolution

HAYWARD CITY COUNCIL  
RESOLUTION NO. 14-

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE  
AN AMENDMENT TO AN AGREEMENT WITH WEST COAST  
CODE CONSULTANTS (WC3) FOR DEVELOPMENT REVIEW  
ENGINEERING SERVICES

WHEREAS, the position of Development Design Review Engineer has been vacant since December 30, 2013; and

WHEREAS, a contract for \$25,000 was executed with WC3 on November 13, 2013 to provide Development Review Engineering services; and

WHEREAS, on February 4, 2014, Council adopted Resolution #14-013 to increase the original contract with WC3 an additional \$40,000, and extend the term to March 31, 2014; and

WHEREAS, the City has continued the recruitment process for the position of Development Review Engineer; and

WHEREAS, on March 18, 2014, Council adopted Resolution #14-029 to further amend the contract with WC3 for an additional \$25,000, and extend the term to May 9, 2014; and

WHEREAS, the Selective Hiring process has been initiated and a permanent Development Review Engineer is expected to begin work on May 26, 2014; and

WHEREAS, services from the current WC3 consultant will be necessary through June 30, 2014; and

WHEREAS, the additional cost for such services can be accommodated with salary savings in the Planning Division budget.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes the City Manager to execute an amendment to the City’s contract with WC3 for Fiscal Year 2014 to increase the contract amount by \$31,000 for Development Review Engineer services, for a total not-to-exceed contract amount of \$121,000, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2014.

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:** May 6, 2014

**TO:** Mayor and City Council

**FROM:** Assistant City Manager

**SUBJECT:** Adoption of a Resolution Supporting Measure AA, Alameda County  
Healthcare Safety Net Reauthorization, on the June 2014 Ballot

### **RECOMMENDATION**

That Council adopts the attached resolution supporting Measure AA on the June 2014 ballot, which would extend and amend the county-wide half-cent health care sales and use tax.

### **BACKGROUND AND DISCUSSION**

In April, Council directed staff to return with a resolution supporting the renewal of the county-wide half-cent sales tax measure that will be on the June 2014 ballot. This report outlines some additional background on Measure AA for the Council's information and provides a resolution supporting the measure for Council consideration.

On February 11, 2014<sup>1</sup>, the Alameda County Board of Supervisors unanimously voted to place a measure for renewal of the county-wide half-cent sales tax on the June 2014 ballot. On March 2, 2004, 71% of Alameda County voters approved Measure A, the essential health care services tax ordinance. That original measure authorized Alameda County to impose a one-half of one percent (0.5%) sales and use tax to provide for health care services for indigent, low-income, and uninsured residents in Alameda County. The original measure required 75% of the revenue be transferred to the Alameda County Medical Center. The County Board of Supervisors distributes the remaining 25% of the revenue throughout the county to fund:

- 1) Critical medical services provided by community-based health care providers;
- 2) To partially offset uncompensated care costs for emergency care and related hospital admissions; and
- 3) Essential public health, mental health and substance abuse services.

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<sup>1</sup> Board of Supervisors Agenda Item 13.1:  
[http://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty\\_d3c7a26496434759a3307f97928bdee8.pdf&view=1](http://alamedacounty.granicus.com/DocumentViewer.php?file=alamedacounty_d3c7a26496434759a3307f97928bdee8.pdf&view=1)

Since 2004, Measure A has generated over \$1.02 billion in tax revenues, which have been allocated to the County's health care organizations and monitored by an Oversight Committee. In previous years, funding has gone to the following Hayward-specific providers: St. Rose Hospital; Tiburcio Vasquez Health Center; the Hayward Day Labor Center; La Familia Counseling Service; and many county-wide programs and providers that also support Hayward residents. Prior annual spending reports and reports from the Oversight Committee can be found on the County's website: <https://www.acgov.org/health/indigent/measureA.htm>.

In June 2013, the Board of Supervisors convened a 32-member Blue Ribbon Task Force to advise the Board about options for obtaining voter approval for renewal of Measure A prior to the scheduled sunset date of June 30, 2019. The task force recommended that a measure with the existing ballot language and funding formula be placed on the June 2014 ballot to extend the measure for another fifteen years after the sunset date of June 30, 2019. As this is a special tax, it will require approval by 2/3 of the registered voters in the County. The approval of Measure AA is anticipated to continue to generate approximately \$120 million annually for county-wide healthcare services. The ballot language is as follows:

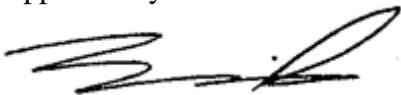
Without increasing the existing half-cent sales and use tax for essential health services, to provide trauma and emergency medical service and primary, preventative healthcare for local residents, including indigent, low-income and uninsured children, families and seniors, to prevent closure of county clinics and hospitals and to recruit/retain highly qualified nurses and healthcare professionals, shall Alameda County extend the essential healthcare services measure until June 2034 with annual fiscal oversight/review?

## **FISCAL AND ECONOMIC IMPACT**

The continued provision of funding for Hayward-based healthcare and safety-net providers ensures that Hayward residents have access to adequate and affordable health care. Agreements appear to have been worked out between the County Board of Supervisors and St. Rose Hospital that continues a funding stream to St. Rose.

*Prepared and Recommended by:* Kelly McAdoo, Assistant City Manager

Approved by:



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Fran David, City Manager

Attachments:

Attachment I: Resolution in Support of Measure AA, the Healthcare Safety Net Sales Tax Reauthorization

HAYWARD CITY COUNCIL  
RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

A RESOLUTION IN SUPPORT OF MEASURE AA: HEALTHCARE SAFETY NET SALES  
TAX REAUTHORIZATION

WHEREAS, the provision of adequate and affordable healthcare to Alameda County residents is a critical and ongoing issue, and

WHEREAS, it is estimated that more than 45,000 County residents will not be eligible for any health insurance programs under the Affordable Care Act or cannot afford coverage under Covered California, and

WHEREAS, Measure A, previously approved by Alameda County voters in 2004, generates approximately \$125 million annually to provide for the critical and urgent medical needs of low-income and uninsured adults, children, families, and seniors in Alameda County, and

WHEREAS, Hayward healthcare providers, like St. Rose Hospital, Tiburcio Vasquez Health Center, and the Hayward Day Labor Center, have and continue to receive funding from Measure A, and

WHEREAS, the Alameda County Board of Supervisors has voted unanimously to place a measure on the June 2014 ballot to extend and reauthorize the one-half percent Healthcare Safety Net sales tax, and

WHEREAS, if approved by the voters, Measure AA would guarantee continued and dedicated funding for essential healthcare services through 2034.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Hayward expresses its support for Measure AA, the Healthcare Safety Net Sales Tax, and encourages residents of Hayward to vote for this measure on the June 2014 ballot.

IN COUNCIL, HAYWARD, CALIFORNIA, \_\_\_\_\_, 2014

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: May 6, 2014

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Authorization to Negotiate and Execute a Professional Services Agreement with Trident Professionals for Staff Training

### **RECOMMENDATION**

That the City Council adopts the attached resolution (Attachment I) authorizing the City Manager to execute an agreement with Trident Professionals for staff training in critical areas such as customer service, communications, and professional development not to exceed \$75,000 for two-year term.

### **BACKGROUND AND DISCUSSION**

Trident Professionals was founded in 2003 by Clark D Stuart II, a retired U.S. Navy Officer, and has provided customized communications and team training to an extensive variety of public and private sector clients. The City has utilized Trident Professionals over the past year in order to provide a variety of training and professional development opportunities to staff. This has primarily included executive coaching, communication, professional development, and facilitation of an Executive Team retreat.

In addition, Trident Professionals has conducted numerous executive communications training courses at the invitation of state and local public safety organizations for the benefit of police command staff and officers around the State. Since Hayward has hosted some of these courses at Hayward City Hall, the City has been provided the opportunity to send staff members through these classes when there is space available. These courses are contracted through other agencies directly with Trident, and the City is not a party to the contract. When Hayward employees participate in the classes, fees are billed individually for each participant, are paid to the contracting agency, and are separate from the services Trident may provide directly to the City under this contract.

At this time, the City would like to contract with Trident to provide additional training and professional development tailored specifically to the City organization. As the scope and cost of this work will likely exceed the City Manager's contracting authority over the next two years, staff is requesting authorization to enter into a new agreement with Trident Professionals to cover these services and costs. The first body of work under this agreement will include a substantial amount of training and facilitation with the City's Development Services Department around customer service,

communications, leadership from below, and team building. Staff anticipates this scope of work to cost around \$24,000.

In addition, Trident will be available for executive coaching with members of the senior staff on an as needed basis as assigned or approved by the City Manager. There will likely be other areas in the City where Trident's expertise around customer service, communications, and team building will benefit the organization and the community. As such, staff is requesting authorization to enter into a two-year agreement with Trident with a not to exceed amount of \$75,000 for the two-year period. This work will be separate from the course fees paid for individuals that participate in the basic executive communications classes that are open to enrollment from other public sector participants.

### **FISCAL IMPACT**

The costs for this contract will be covered within the departmental budgets of those departments that utilize the services of Trident Professionals under this contract, and will come from a variety of funds/sources including the General Fund when appropriate..

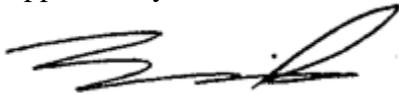
### **NEXT STEPS**

If the Council approves the agreement, staff will work with Trident Professionals to execute the agreement and implement the training with immediate emphasis on the Development Services Department and the permit and plan check processes.

*Prepared and Recommended by:*

Kelly McAdoo, Assistant City Manager

Approved by:



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Fran David, City Manager

Attachments:

1. Resolution Approving Agreement

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD  
AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A  
PROFESSIONAL SERVICES AGREEMENT WITH TRIDENT  
PROFESSIONALS TO PROVIDE CUSTOMER SERVICE AND EXECUTIVE  
COMMUNICATIONS TRAINING

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes and directs the City Manager to negotiate and execute a contract with Trident Professionals in an amount not to exceed \$75,000 and for a term of two years, in a form approved by the City Attorney for the purposes of providing training to City staff.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2014

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:** May 6, 2014

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Final Map Tract 7737, Application No. 2006-0424, Stonebrae Country Club Village E - Stonebrae, L.P. (Subdivider) – Request to Amend Condition of Approval No. 3c-5, Approve Final Map and Authorize the City Manager to Execute a Subdivision Agreement – The Project is Located South and West of Stonebrae Road in Eastern Hayward on Walpert Ridge

### **RECOMMENDATION**

That Council relies on the previously approved environmental documents and adopts the attached resolution to:

1. Eliminate Condition of Approval 3c-5 related to certain lots in Village E being at least 10,000 square feet in size;
2. Approve the Final Map for Tract 7737; and
3. Authorize the City Manager to negotiate and execute a subdivision agreement in a form approved by the City Attorney

### **BACKGROUND**

The original vesting tentative tract map (Vesting Tentative Map No. 5354) and Precise Development Plan for Stonebrae Country Club was approved by the City Council in September 2002, along with an associated Addendum to a Supplemental Environmental Impact Report that was certified in 1998.

The first Final Map Tract 5354 for Village A was approved on April 19, 2005 and recorded on July 29, 2005. The second Final Map Tract 7736 for Village B was approved on November 14, 2006 and recorded on May 24, 2007. Construction of homes within Village B is ongoing, with Village A construction nearly completed. Two additional construction phases in Village B are planned of forty homes each. In addition, the golf course is complete and the new club house is anticipated to be completed this summer.

Since 2007, the City Council has taken the following actions regarding this project:

- On January 29, 2008, the conditions of approval were amended pertaining to traffic fees and roadway improvements.
- On April 5, 2011, the conditions of approval were amended pertaining to the size of the second water storage reservoir.
- On January 15, 2013, the Stonebrae Development Agreement was amended to extend its term for five years to February 26, 2018.
- On December 17, 2013, the conditions of approval were amended to allow the City to manage all aspects of the design and construction of the second water storage reservoir.

The third Final Map 7737 for Village E and preliminary Improvement Plans were submitted in 2006 for review and the City provided comments to Stonebrae. However, due to challenging market conditions, the developer requested that the City suspend the review process until recently. With improving economic conditions, the developer resubmitted a revised Final Map 7737 for 65 lots (original vesting tentative map showed 91 lots) and revised Improvement Plans for review in November 2013 and asked for Final Map approval by the City Council in 2014 (so that construction can begin in the summer of this year). With the increasing pace of economic recovery, and with the early construction of its signature amenity, the permanent golf/community clubhouse, Stonebrae anticipates completion and build out of the entire Stonebrae community by the end of the extended Development Agreement term in 2018.

The proponent has submitted the subdivision Improvement Plans and has estimated it will cost \$2,709,270 to construct the improvements. Appropriate faithful performance and payment of labor bonds will be provided to the City prior to recording of the Final Map. The Final Map will not be released for recording until all required deposits of funds and fees have been made, the subdivision agreement has been executed, and all applicable conditions of approval are met.

## **DISCUSSION**

The Condition of Approval No. 3c-5, in its original form, required that lots along the western perimeter of Village D and E shall be equal to or greater than 10,000 square feet (SF), to ensure a variety of lot sizes within the master development. This group of lots, as presently proposed for Village E, includes lots that range in size from roughly 6,100 SF to 9,200 SF. Stonebrae has requested that this Condition of Approval be amended for Village E to allow lots smaller than 10,000 square feet for the following reasons:

- 1. The Village E plan includes a significant new open space that will break up the homes more than the previously approved plan did.** The Vesting Tentative Map (VTM) originally contemplated continuous lots along the western border of both the presently proposed Village E, and the future, yet to be mapped Village D. The result is a longer continuous string of homes spread over Villages D and E. The primary reason why the Village E lots have been reduced in size is to include a new open space/gap (Parcel C) between the golf course and the westerly property lines as well as the southern boundary of the Village E lots and the northern border of the adjacent Village D lots. This new 2.2

acre amenity will be owned and maintained by the Stonebrae Homeowners Association and will help provide a buffer between the homes and the golf course.

- 2. Stonebrae is voluntarily creating the new open space to improve the community.** The proposed open space is not a requirement of the VTM and the need for any such space within Village E, as a requirement, was released by the City Council pursuant to City Resolution 06-137. Landscaping and seating will be shown at the larger ends of new Parcel C on the Village E improvement plans. Stonebrae proposes to improve this area to a standard comparable to the Parcel D Park in Village A, which is also adjacent to the golf course (Hole #2 Green), and overlooks the open space vista to Mt. Diablo. In addition, this open space will connect to the trail/paseo along the abutting street, Country Club Drive.
- 3. Off-site views toward Village E will be similar to those in the Precise Plan.** From the long distances from which this area (the ridgeline in Village E) can be observed - from Hayward Blvd., Jalquin Vista Park and the back yards on Aqua Vista Court in the Bailey Ranch Subdivision, this row of houses will continue to have the same or fewer number of homes and the additional new open space.
- 4. The proposed layout will maintain/improve the view from Stonebrae Road towards the Bay, which will highlight the hills, golf course and the Bay.** The new open space will enhance the view as one exits from the higher points of Stonebrae Road and descends along Country Club Drive. The view will be to the park, an existing oak grove, and the golf course (hole #4 green), continuing out to the Bay in the distance.

Staff agrees that the elimination of Condition 3c-5 for Village E is appropriate for the reasons stated above and for the general benefit and compatibility of the surrounding neighborhoods, open space and public amenities. The open space created for Village E will be conveyed to the Stonebrae Homeowners Association for use as a Scenic and Conservation Easement and will be required to be maintained by the Homeowners Association in a manner compatible with the surrounding natural conditions.

The only other substantial differences between the VTM, the Precise Plan/conditions of approval, and this Final Map are the following:

- The VTM showed lots for Village E totaling 91 as compared to the Final Map for Village E of 65 lots.
- The EVAE (emergency vehicle assess easement) connecting the end of Garin Park Lane to Village E had to be shifted to the southerly end of Parcel C between the golf course property and Country Club Drive. This modification is acceptable to the City's Fire Marshal.
- All secondary Paseo roads shown on the VTM in Village E (now Country Club Drive) required an eight foot wide pedestrian trail. The Village E improvement plans will be modified to show this trail along the entire length of Country Club Drive.

Environmental Review - The City certified the Supplemental Environmental Impact Report (SEIR) for the Project in 1998, and thereafter adopted an Addendum to the SEIR when it approved the Precise Development Plan and Vesting Tentative Map in 2002. There is no substantial change proposed in the Project or in the circumstances under which the Project is being undertaken, nor is there any new information, which would require additional environmental review.

## **ECONOMIC AND FISCAL IMPACT**

The Final Map approval is consistent with the approved project and will not have a fiscal or economic impact. The development created by the approval of the final map will improve commerce, provide needed higher-end housing and employ construction workers. There will also be an increase to the property tax revenues received by the City once the homes are constructed and occupied.

## **PUBLIC CONTACT**

A public hearing is normally not required for the approval of a Final Map; however, in this case, the applicant requested that a condition of approval be deleted, which generally requires a public hearing.

On April 25, 2014, a Notice of this City Council public hearing was sent to every property owner and occupant within 300 feet of the subject site. Also, a Notice of this hearing was published in *The Daily Review* newspaper on April 26, 2014. At the time of completion of this report, the Planning Division had not received any correspondence related to such notice.

Public hearings were previously conducted for the original Vesting Tentative Tract Map (5354) for the project (Blue Rock Country Club, now Stonebrae), of which this Final Tract Map is a part.

## **NEXT STEPS**

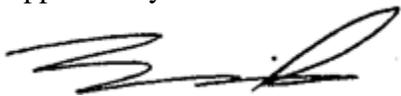
Assuming the City Council approves the Final Map and adopts the attached resolution, the Final Map will be recorded, a Subdivision Agreement will be executed, and construction of improvements shown on the approved Improvement Plans will commence.

*Prepared by:* Damon Golubics, Senior Planner

*Reviewed by:* Sara Buizer, AICP, Planning Manager

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



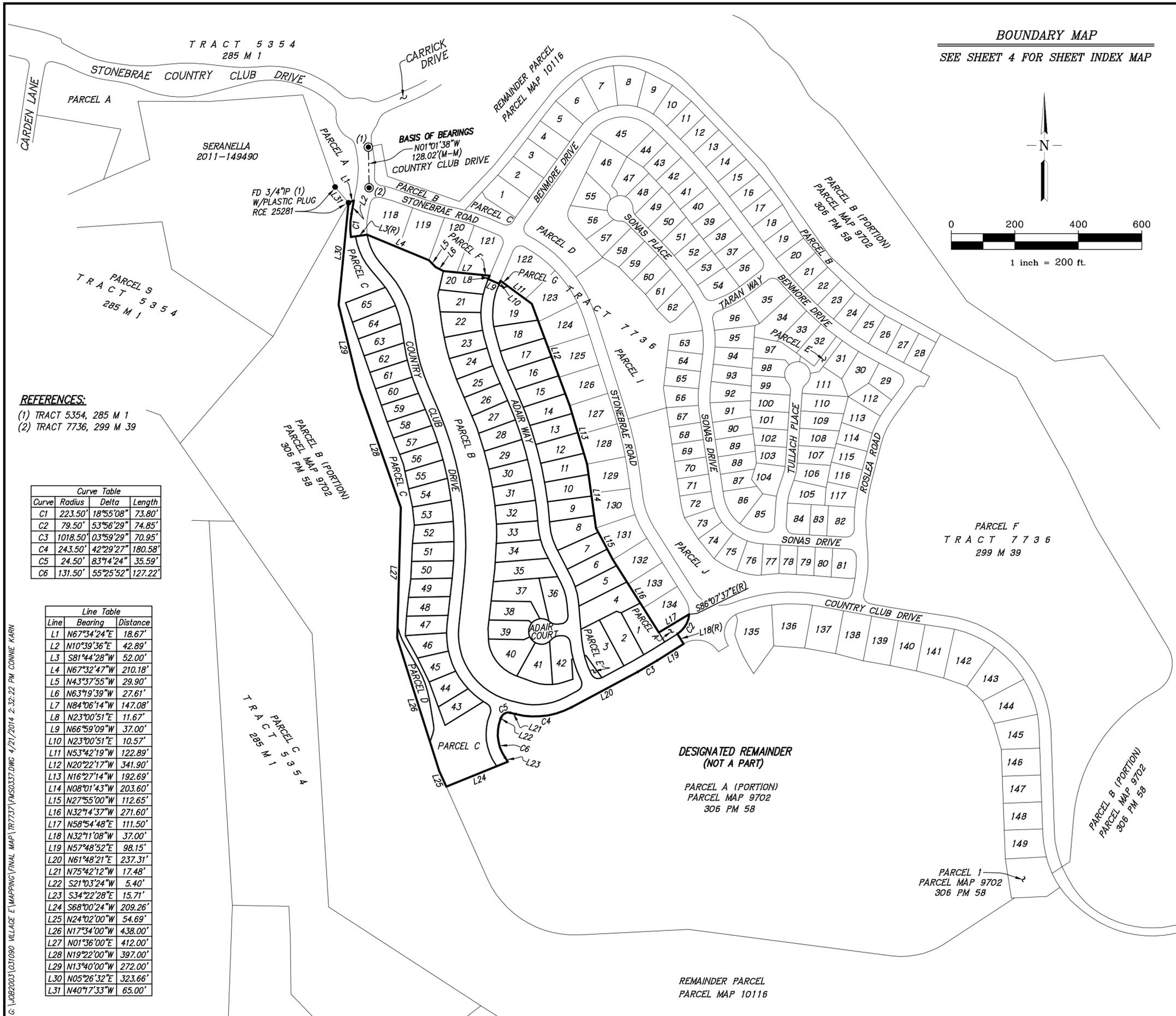
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Fran David, City Manager

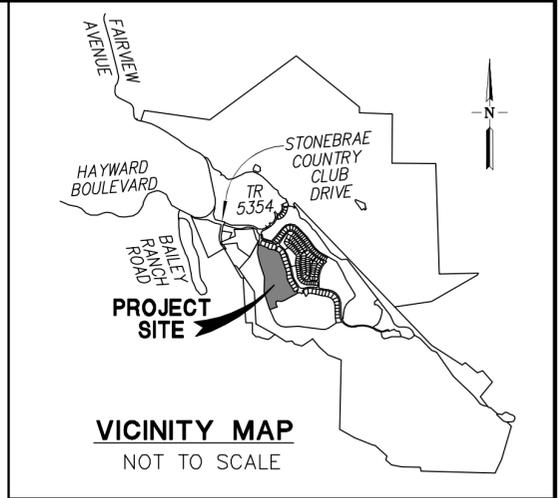
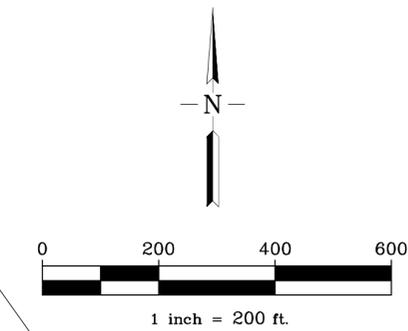
Attachments:

Attachment I  
Attachment II  
Attachment III

Stonebrae Index Map  
Tract Map 7737  
Draft Resolution Eliminating Condition of Approval No. 3c-5,  
Approving Final Map No. 7737 and Authorizing Execution of a  
Subdivision Agreement



**BOUNDARY MAP**  
SEE SHEET 4 FOR SHEET INDEX MAP



**NOTE:**  
ALL MONUMENT TIE LINES ARE AT RIGHT ANGLES TO THE MONUMENT LINE UNLESS OTHERWISE NOTED.

**BASIS OF BEARINGS**  
THE BEARING OF THE MONUMENT LINE ON COUNTRY CLUB DRIVE, SHOWN AS N01°01'38"W BETWEEN THE FOUND MONUMENTS WITH A DISTANCE OF 128.02', AS SHOWN ON TRACT 7736, FILED MAY 24, 2007 IN BOOK 299 OF MAPS AT PAGE 39, OFFICIAL RECORDS OF ALAMEDA COUNTY, IS TAKEN AS THE BASIS OF BEARINGS FOR THIS MAP.

- LEGEND**
- EXTERIOR BOUNDARY
  - LOT LINE
  - - - - EXISTING EASEMENT LINE
  - - - - NEW EASEMENT LINE
  - MONUMENT LINE
  - ..... MONUMENT TIE LINE
  - ..... EXISTING PROPERTY LINE
- FOUND STANDARD CITY OF HAYWARD MONUMENT, STAMPED RCE 25281
  - FOUND POINT, AS NOTED
  - ◎ SET STANDARD CITY OF HAYWARD MONUMENT, STAMPED RCE 25281
  - (M-M) MONUMENT TO MONUMENT
  - EVAE EMERGENCY VEHICLE ACCESS EASEMENT
  - PSE PUBLIC SERVICE EASEMENT
  - SDE STORM DRAIN EASEMENT
  - (R) RADIAL BEARING
  - (T) TOTAL
  - ( DATA )(1) RECORD DATA & REFERENCE
  - EX. EXISTING
  - FD FOUND
  - IP IRON PIPE
  - SQ.FT. SQUARE FEET

**REFERENCES:**  
(1) TRACT 5354, 285 M 1  
(2) TRACT 7736, 299 M 39

**Curve Table**

| Curve | Radius   | Delta     | Length  |
|-------|----------|-----------|---------|
| C1    | 223.50'  | 18°55'08" | 73.80'  |
| C2    | 79.50'   | 53°56'29" | 74.85'  |
| C3    | 1018.50' | 03°59'29" | 70.95'  |
| C4    | 243.50'  | 42°29'27" | 180.58' |
| C5    | 24.50'   | 83°14'24" | 35.59'  |
| C6    | 131.50'  | 55°25'52" | 127.22' |

**Line Table**

| Line | Bearing     | Distance |
|------|-------------|----------|
| L1   | N67°34'24"E | 18.67'   |
| L2   | N10°39'36"E | 42.89'   |
| L3   | S81°44'28"W | 52.00'   |
| L4   | N67°32'47"W | 210.18'  |
| L5   | N43°37'55"W | 29.90'   |
| L6   | N63°19'39"W | 27.61'   |
| L7   | N84°06'14"W | 147.08'  |
| L8   | N23°00'51"E | 11.67'   |
| L9   | N66°59'09"W | 37.00'   |
| L10  | N23°00'51"E | 10.57'   |
| L11  | N53°42'19"W | 122.89'  |
| L12  | N20°22'17"W | 341.90'  |
| L13  | N16°27'14"W | 192.69'  |
| L14  | N08°01'43"W | 203.60'  |
| L15  | N27°55'00"W | 112.65'  |
| L16  | N32°14'37"W | 271.60'  |
| L17  | N58°54'48"E | 111.50'  |
| L18  | N32°11'08"W | 37.00'   |
| L19  | N57°48'52"E | 98.15'   |
| L20  | N61°48'21"E | 237.31'  |
| L21  | N75°42'12"W | 17.48'   |
| L22  | S21°03'24"W | 5.40'    |
| L23  | S34°22'28"E | 15.71'   |
| L24  | S68°00'24"W | 209.26'  |
| L25  | N24°02'00"W | 54.69'   |
| L26  | N17°34'00"W | 438.00'  |
| L27  | N01°36'00"E | 412.00'  |
| L28  | N19°22'00"W | 397.00'  |
| L29  | N13°40'00"W | 272.00'  |
| L30  | N05°26'32"E | 323.66'  |
| L31  | N40°17'33"W | 65.00'   |

**TRACT 7737**  
BEING A 65 LOT SUBDIVISION OF PARCEL H AS SHOWN ON THE MAP OF TRACT 7736 FILED MAY 24, 2007 IN BOOK 299 OF MAPS AT PAGES 39-67 AND A PORTION OF PARCEL A AS SHOWN ON PARCEL MAP 9702 FILED MAY 2, 2008 IN BOOK 306 OF PARCEL MAPS AT PAGES 58-67 OFFICIAL RECORDS OF ALAMEDA COUNTY

CITY OF HAYWARD  
ALAMEDA COUNTY, CALIFORNIA

RUGGERI-JENSEN-AZAR & ASSOCIATES  
CIVIL ENGINEERS, PLANNERS, SURVEYORS

PLEASANTON, CALIFORNIA  
(925) 227-9100  
APRIL 2014

JOB NO. 031090 SHEET 3 OF 13 SHEETS

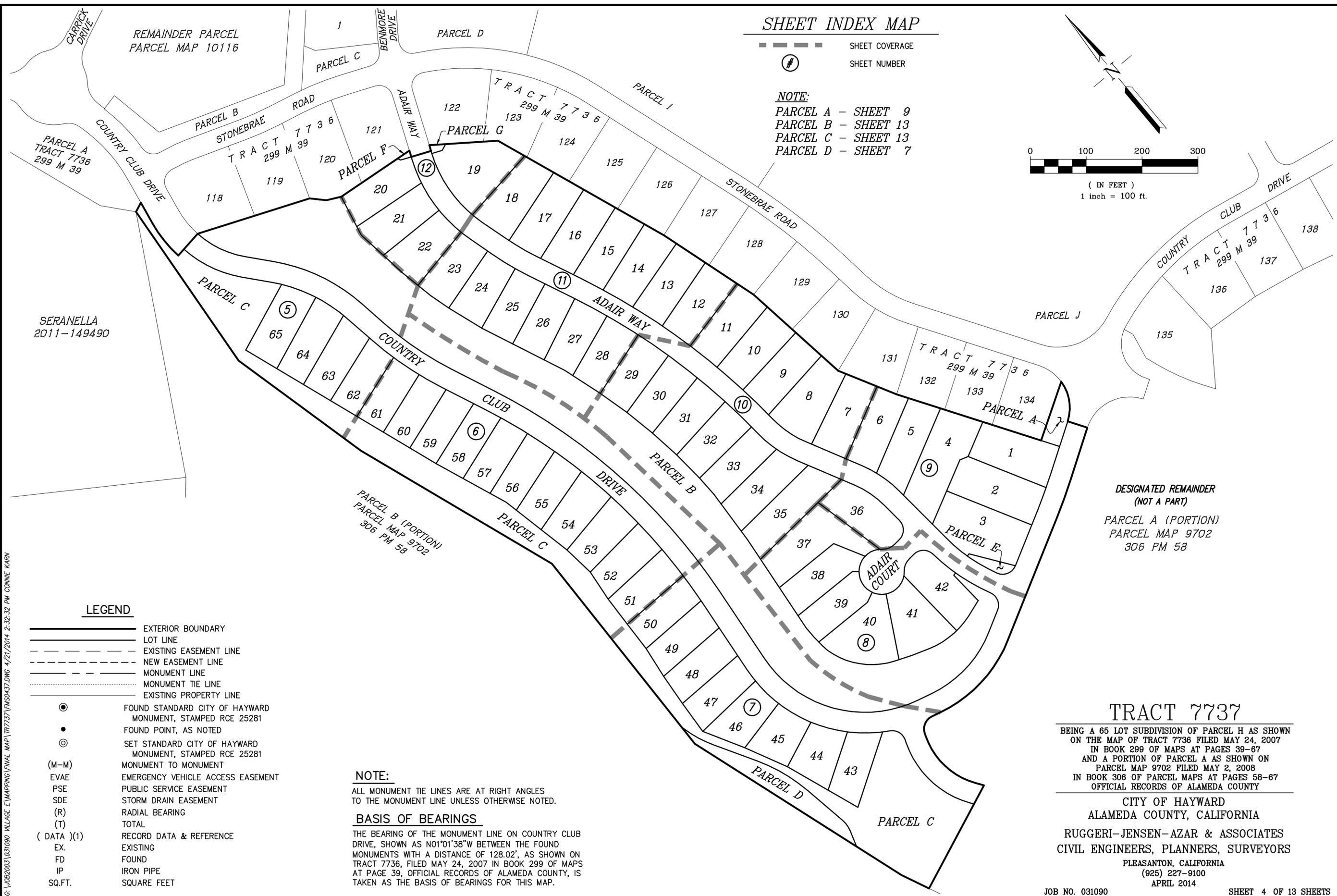
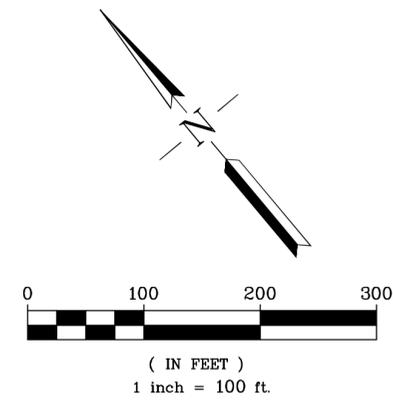
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**SHEET INDEX MAP**

- SHEET COVERAGE
- Ⓝ SHEET NUMBER

**NOTE:**

- PARCEL A - SHEET 9
- PARCEL B - SHEET 13
- PARCEL C - SHEET 13
- PARCEL D - SHEET 7



**LEGEND**

- EXTERIOR BOUNDARY
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APRIL 2014

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## HAYWARD CITY COUNCIL

## RESOLUTION NO. 14-

Introduced by Councilmember \_\_\_\_\_

RESOLUTION ELIMINATING CONDITION OF APPROVAL 3C-5 FOR VILLAGE E ONLY OF THE VESTING TENTATIVE MAP FOR TRACT 5354 AND APPROVING FINAL MAP 7737 AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT AND OTHER NECESSARY DOCUMENTS

WHEREAS, Vesting Tentative Tract Map No. 5354, Stonebrae Country Club, was approved by the City Council on April 19, 2005; and

WHEREAS, Final Map for Tract 7737, the third final map for the Stonebrae Country Club, has been presented to the City Council of the City of Hayward for the development of Village E with 65 lots, three open space and scenic easements parcels and the construction of Country Club Drive, Adair Way and Adair Court, as well as sewer, water and storm drain facilities, located south and west of Stonebrae Road in eastern Hayward on Walpert Ridge; and

WHEREAS, the Director of Public Works and City Engineer have reviewed the Final Map and found it to be in substantial compliance with the approved tentative map, the Subdivision Map Act and provisions of local ordinances; and

WHEREAS, a condition of approval for Vesting Tentative Map 5354 required that lots along the western perimeter of Village D and E shall be equal to or greater than 10,000 square feet (SF), and the Village E final map, as presently proposed, includes lots that range in size from roughly 6,100 SF to 9,200 SF; and

WHEREAS, the developer, Stonebrae, L.P., has requested that Vesting Tentative Map No. 5354 Condition of Approval No. 3c-5 be amended for Village E to allow lots smaller than 10,000 square feet for the following reasons:

1. The Village E plan includes a significant new open space that will break up the homes more than the Precise Plan did.
2. New view corridors will be created through new open space areas, improving the overall design of the community.
3. Off-site views into the Village E community will be similar to those originally envisioned for the project.



APPROVED AS TO FORM:

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City Attorney of the City of Hayward

**DATE:** May 6, 2014

**TO:** Mayor and City Council

**FROM:** City Attorney

**SUBJECT:** Introduction of an Ordinance Repealing Sec. 10-3.1000 to Sec. 10-3.1060 of the Hayward Municipal Code, and Adding Chapter 10, Article 26, Regarding Mobile Home Park Closures and Changes of Use

### **RECOMMENDATION**

That the City Council introduces an ordinance repealing Sec. 10-3.1000 to Sec. 10-3.1060 of the Hayward Municipal Code, and adding Chapter 10, Article 26, regarding mobile home park closures and changes of use.

### **SUMMARY**

This staff report proposes a repeal of the City's existing regulations on mobile home park closures and changes of use, codified in Sec. 10-3.1000 to 10-3.1060 of the Hayward Municipal Code, and the introduction of updated regulations by adding Chapter 10, Article 26. The updated regulations ensure that a closure or change of use of a mobile home park is preceded by adequate notice to the residents, clarifies the requirements for addressing the adverse impacts of mobile home closures or changes of use on displaced mobile home owners and residents, and requires a hearing before the Planning Commission and the City Council to determine the adequacy of measures required to mitigate the adverse impacts a closure would have on mobile home owners and residents.

### **BACKGROUND**

#### Affordable Housing Alternative

The City's nine mobile home parks are an integral component of the City's housing stock. The mobile home parks constitute an important category of housing stock by providing an alternative to traditional affordable housing. However, the land on which mobile home parks are situated make them desirable and valuable for high-density housing and other forms of development.

Closures of mobile home parks remain a reality for mobile home owners and residents. The combination of a revived economy and resurgent demand for developable land, aging infrastructure, rent controls, and increased costs for and decreased availability of insurance are factors that increase the possibility of park closures and/or changes of use. Neighboring cities are experiencing park

closures, such as the proposed closure of the only mobile home park in Palo Alto and a possible change of use of a mobile home park in the City of San Jose.

### State Law

State law imposes certain preconditions on mobile home park owners seeking to close and/or change a park's use. Gov. Code Sec. 65863.7 requires the person or entity proposing a mobile home park closure and/or change of use to file a report on the impact of the closure on the park residents. The report, among other things, must address the availability of adequate replacement housing in other mobile home parks and relocation costs.

State law authorizes a local legislative body, or its delegated advisory commission, to review the report and require the person or entity to take steps to mitigate any adverse impact of the closure or change of use on park residents. Any mitigation measures imposed by the local body cannot exceed the reasonable costs of relocation. Although state law does not identify specific mitigation measures or relocation costs, it authorizes a local body to require a mobile home park owner to mitigate the adverse impacts on mobile home park residents. In other words, a local body can require a mobile home park owner to address specific mitigation measures in a relocation impact report.

### Hayward's Existing Regulations

In 2004, the City adopted regulations establishing a process for reviewing the closure and/or change of use of a mobile home park. The regulations require a mobile home park owner proposing a change of use to submit an "Application for Reclassification" and an "Impact Report." A proposed closure only requires submission of the impact report. The City Council must approve the application and/or the impact report before a mobile home park owner can close or change a park's use.

The impact report must provide detailed information on the relocation costs and economic impact on each mobile home park resident. Each resident in the mobile home park is eligible to receive the reasonable costs of relocation from the park owner. To establish the reasonable cost of relocation to each resident, the impact report must specify cost estimates for typical moving expenses such as the average cost to move the mobile home resident's personal property, any estimated rent increase a resident may experience by moving, and any other increased cost that may have a long term economic impact on the mobile home resident.

The report must also address any special economic impacts experienced by residents with children, residents who are sixty-two years of age or older, and residents who are medically proven to be permanently disabled. For mobile homes that cannot be moved without incurring significant damage, the impact report must include an estimate of the in-place fair market value of the unit.

### Community Concerns

City staff has received concerned inquiries from mobile home resident stakeholders regarding the adequacy of the City's existing measures intended to mitigate the economic impacts of a proposed

park closure or change of use. Mobile home resident stakeholders have expressed concerns that the City's existing mitigation measures are inadequate compared to those identified in Palo Alto's regulations and in other local communities.

Staff has closely followed mobile home closure issues, including the proposed closure of the Buena Vista Mobile Home Park in Palo Alto. Although staff is unaware of any potential mobile home closures in Hayward, staff believes it is prudent to evaluate the issue proactively before a specific mobile home park notices a closure and/or change of use. In that vein, staff met with mobile home resident stakeholders and park owner representatives to receive input on the issue.

On March 14, 2014, City staff met with the leadership of the Hayward Mobilehome Owners Association ("HMOA"), including individuals involved in the development of the City's 2004 existing regulations, to hear their concerns. HMOA represents residents from the nine mobile home parks in Hayward. HMOA expressed a desire to update the existing regulations to clarify the relocation costs available to residents. Specifically, HMOA stated a preference for inclusion of relocation measures closely aligned with measures found in Palo Alto's regulations.

On April 4, 2014, City staff met with mobile home park owner representatives to receive feedback about a possible update to the City's existing regulations. The owner representatives agreed that relocation benefits to displaced residents should be reasonable. However, they expressed concern that the residents could use the current review as an opportunity to obtain benefits that are not reasonable or justified. Furthermore, the owner representatives stated the regulations should include owner protections, including a prohibition on relocation benefits to residents who default on rent payments during the closure and/or change of use process.

## **DISCUSSION**

At the April 15, 2014 City Council work session, staff presented a report on consideration of amendments to the City's mobile home park closure and change of use regulations.<sup>1</sup> The report addressed the issues of mitigation measures to displaced residents, and summarized the City's zoning requirements for a proposed change of use of a mobile home park. At the conclusion of the work session, Council directed staff to develop amendments to the City's regulations to better clarify mitigation measures. Specifically, the Council directed staff to focus on the City of Sunnyvale and Palo Alto's closure or change of use regulations as a template.

Staff has developed an ordinance (Attachment I) amending the City's existing regulations that include the following features:

### Mitigation Measures

The City's existing regulations provide important mitigation measures available to potentially displaced mobile home residents. However, staff agrees that both mobile home park owners and

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<sup>1</sup> <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2014/CCA14PDF/cca041514full.pdf>

park residents would benefit from greater precision in defining the relocation costs to be considered by the Council as part of a proposed closure and/or change of use.

The proposed ordinance provides that each resident will receive the reasonable cost of relocation from the park owner pursuant to Gov. Code sec. 65863.7 and specifically identifies the categories of relocation benefits available to mobile home owners and residents, including:

- One Hundred Percent In-Place Value: One hundred percent of the in-place value of a mobile home that cannot be relocated to a comparable park within one hundred miles. The City will maintain a list of approved appraisers and an applicant is required to choose from the list to determine the in-place value of the mobile home. A mobile home owner has the right to dispute the appraised value and hire an appraiser from the list to obtain a second appraisal. The home owner is entitled to the average of the appraisals obtained by the applicant and the mobile home owner.
- Relocation of Mobile home: For a mobile home that can be relocated, the cost of relocation includes the cost of disassembly of the mobile home, transportation to the new site, reinstallation, replacement or reconstruction of blocks, skirting, shiplap siding, porches, decks and awnings, earthquake bracing if necessary, insurance coverage during transport, and utility hook-ups.
- Moving Allowance: A moving allowance that includes the cost to move furniture and personal belongings, rent for first and last month at the new location, required security deposit at the new location, temporary lodging, and the appraised value of personal property that cannot reasonably be relocated.
- Special Needs: A payment of the cost to reinstall or replace any accessibility improvements made to the mobile home such as wheelchair ramps lifts, and grab bars.
- Rent Subsidy: For senior, disabled or low income households, relocation assistance may include payment of a rent subsidy of up to thirty-six months if needed to offset increased housing costs and secure comparable housing. The rent subsidy is the difference between rent paid by the resident in the park and any higher rent for either a space at another park if the mobile home is relocated, or rent for comparable housing if the resident moves to other rental housing. Mobile home owners who are eligible to sell their mobile home to the applicant at its in-place value may only receive the rent subsidy if the selling price is inadequate to secure comparable replacement housing for at least thirty-six months.
- Right of First Refusal: Park residents will have the right of first refusal to purchase or rent new homes or apartments that may be constructed on the park site. Income-eligible residents may have first priority to purchase or rent any below market rate (BMR) units which may be constructed on the park site, if they meet all eligibility requirements for the BMR housing program.

Staff recommends the inclusion of these mitigation measures. The measures address the direct, anticipated and reasonable costs of relocation for mobile home owners and residents displaced by a park closure or change of use. City staff also recommends a provision in the new regulations that an application for closure or change of use will not relieve a current park resident of an obligation to pay space rent.

The proposed ordinance also contains a requirement that an impact report must be filed if tenancy in a park falls below twenty-five percent. The purpose of this requirement is to prevent a park from closing by artificially reducing tenancy to zero so as to avoid the mitigation measures that would otherwise apply if a park owner gave notice of the intent to close or change its use.

The proposed ordinance amends the City's current hearing process for review of an impact report. The existing regulations provide that, after an impact report is filed by an applicant, the adequacy of the impact report is heard directly by the City Council. The proposed ordinance creates an added layer of review, providing that the Planning Commission first reviews the impact report and issues a recommendation to the City Council of approval, conditional approval or disapproval. The City Council has final approval authority on the adequacy of the impact report.

City staff has created a chart comparing the proposed mitigation measures and those measures identified in Palo Alto's and Sunnyvale's regulations. The comparison chart is Attachment II to this report.

#### General Plan Amendment and Zoning Reclassification

The City's zoning requirements for a proposed mobile home park change of use will not change under the proposed amendments. Any proposal for change of use from a mobile home park to another use would require, at a minimum, the approval of: (1) a General Plan Land Use Designation amendment, and (2) a zoning reclassification to a zoning district consistent with the proposed, new use. The proposed ordinance requires the impact report to be filed at the same time as a development application for zoning approval. The development application must identify the proposed new use.

In addition, a proposed change of use would require discretionary approval from the City (meaning that the City has the authority to approve or deny the requested change of use), if the new use could cause either a direct physical change in the environment or a reasonably foreseeable indirect change in the environment. Therefore, a proposed change of use would trigger review pursuant to the California Environmental Quality Act (CEQA).

#### **FISCAL IMPACT**

It is reasonably certain the administration of any new regulations related to a park closure would be significant. For example, the closure and change of use process in Palo Alto for the Buena Vista application has taken approximately eighteen months just for the city's review and determination of completeness. Staff recommends the fee for reviewing a closure application in Hayward be comparable to an application for a General Plan amendment, currently a \$15,000 deposit to which are charged staff time and materials. The actual cost might be higher or lower depending on the

time and materials charged to the project. If the Council concurs, the new fee would be included in the Master Fee Schedule that would be effective July 1, 2014. If the owner is proposing to close the park and change its use, the fee related to a park closure application would be in addition to fees or deposits for the General Plan amendment (\$15,000 deposit), possible text change to the Zoning Ordinance (\$15,000 deposit), Rezoning of the site (\$15,000 deposit), and a Conditional Use Permit (\$7,000 deposit), among other possible fees, deposits or charges.

## **PUBLIC CONTACT**

Staff has met with mobile home resident stakeholders and park owner representatives to receive input on the topic:

On March 14, 2014, staff met with HMOA, including individuals involved in the development of the City's existing regulations, to hear their concerns. HMOA expressed a desire to update the existing regulations to better account for relocation costs to residents. Specifically, HMOA stated a preference for inclusion of relocation measures closely aligned with measures found in Palo Alto's regulations.

On April 4, 2014, staff met with mobile home park owner representatives to receive feedback about a possible update to the City's existing regulations. The owner representatives agreed that relocation benefits to displaced residents should be reasonable. However, they expressed concern that the residents would use the current review as an opportunity to obtain benefits that are not reasonable or justified. Furthermore, the owner representatives stated the regulations should include owner protections, including a loss of relocation benefit eligibility for residents who default on rent during the closure and/or change of use process.

On April 15, 2014, City staff presented a work session report to the City Council on consideration of amendments to the City's mobile home park closure and change of use regulations. The report addressed the issues of mitigation measures to displaced residents, and summarized the City's zoning requirements for a proposed change of use of a mobile home park.

Staff also made available a draft of this staff report and the proposed ordinance for early distribution and comment. The material was distributed to mobile home park owner representatives and HMOA.

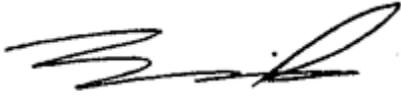
## **NEXT STEPS**

If introduced on May 6, the City Council will consider adoption of the ordinance on May 13, 2014. The ordinance would become effective thirty days after adoption.

*Prepared by:* Maureen Conneely, Assistant City Attorney  
Rafael Alvarado, Assistant City Attorney

*Recommended by:* Michael Lawson, City Attorney

Approved by:



---

Fran David, City Manager

Attachments:

**Attachment I**  
**Attachment II**

Proposed Ordinance  
Mitigation Measures Comparison Chart

ORDINANCE NO.\_

AN ORDINANCE REPEALING SECTION 10-3.1000 TO SECTION 10-3.1060 OF THE CITY OF HAYWARD MUNICIPAL CODE AND ADDING CHAPTER 10, ARTICLE 26 TO THE HAYWARD MUNICIPAL CODE REGARDING MOBILE HOME PARK CLOSURE OR CHANGE OF USE

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

Section 1. Upon the effective date of this ordinance, Hayward Municipal Code Sections 1-3.1000 through 10-3.1060 are hereby repealed and Article 26 of Chapter 10 of the Hayward Municipal Code is hereby enacted to read in full as follows:

ARTICLE 26

MOBILE HOME PARK CLOSURE OR CHANGE OF USE

| Section   | Subject Matter                          |
|-----------|-----------------------------------------|
| 10-26.101 | TITLE                                   |
| 10-26.102 | PURPOSE                                 |
| 10-26.103 | DEFINITIONS                             |
| 10-26.104 | FILING A RELOCATION IMPACT REPORT (RIR) |
| 10-26.105 | CONVERSION DUE TO REDUCED OCCUPANCY     |
| 10-26.106 | RELOCATION ASSISTANCE                   |
| 10-26.107 | RELOCATION IMPACT REPORT                |
| 10-26.108 | CONTENT OF RELOCATION IMPACT REPORT     |
| 10-26.109 | RESIDENT QUESTIONNAIRE                  |
| 10-26.110 | PROTECTIONS                             |
| 10-26.111 | NOTICE TO PROSPECTIVE RESIDENTS         |
| 10-26.112 | HEARING AND NOTICE                      |

|           |                                                     |
|-----------|-----------------------------------------------------|
| 10-26.113 | HEARING BEFORE THE PLANNING COMMISSION              |
| Section   | Subject Matter                                      |
| 10-26.114 | HEARING BEFORE THE CITY COUNCIL                     |
| 10-26.115 | EXEMPTION FROM RELOCATION ASSISTANCE<br>OBLIGATIONS |
| 10-26.116 | EXPIRATION OF APPROVAL OF CONVERSION                |
| 10-26.117 | ADMINISTRATION FEE                                  |
| 10-26.118 | ADJUDICATION OF BANKRUPTCY                          |
| 10-26.119 | ENFORCEMENT                                         |

## ARTICLE 26

### MOBILE HOME PARK CLOSURE OR CHANGE OF USE

SEC. 10-26.101 TITLE. These regulations shall be known as the Mobile Home Park Closure or Change of Use Regulations of the City of Hayward, may be cited as such, and will be referred to herein as "this Article."

SEC. 10-26.102 PURPOSE. The mobile home owners who rent spaces for their homes in mobile home parks make a considerable investment in purchasing, maintaining and improving their homes and in maintaining the rented space for their homes. If a park closes or is converted to a new use, the mobile home owners may lose their homes and the investment in them due to the high cost and risk of injury involved in moving a mobile home, the fact that improvements to a home may not be movable and the lack of vacant mobile home spaces in parks within a reasonable distance from the closing park that will accept relocating homes. In recognition of the unique situation and vulnerability of mobile home owners, the State Legislature adopted the Mobilehome Residency Law, Civil Code Section 798, et seq., which protects mobile home park residents from eviction except for specified and limited causes, and Government Code Sections 65863.7 and 66427.4, which authorize the City to require park owners who want to close a park or convert it to another use to provide reasonable relocation assistance as a condition of closing a park and/or changing the use.

This Article is adopted pursuant to Government Code Sections 65863.7 and 66427.4 and the City's police power to provide a procedure and standards for assessing the adverse impacts of a mobile home park closure or change of use on the displaced mobile home owners residing in the park that is being closed and to determine appropriate relocation assistance for those residents.

#### SEC. 10-26.103 DEFINITIONS.

- (a) "Applicant." Applicant means any person or entity seeking approval of a mobile home park closure or change of use. Applicant can also mean a park owner whose park has been determined to be undergoing conversion due to reduced occupancy.
- (b) "Comparable mobile home." Comparable mobile home means a mobile home that is similar in size, age, condition, number of bedrooms and amenities to a mobile home that is being displaced by conversion of a mobile home park.
- (c) "Comparable mobile home park." Comparable mobile home park means a mobile home park that is similar in condition, age, size and amenities to the park that is being closed and is located within a community similar to that in which the park that is being closed is located and has similar access to community amenities such as shopping, medical services, recreational facilities and transportation.
- (d) "Comparable housing." Comparable housing means housing in an apartment complex or condominium that is similar in size, number of bedrooms and amenities to the mobile home that is being displaced and is located in a community that has similar access to shopping, medical services, recreational facilities and transportation or a comparable mobile home in a comparable

mobile home park.

(e) "Conversion." Conversion means the closure of a mobile home park and the cessation of holding out spaces in the park for rental even if no new use is planned, conversion of a mobile home park to another use, or a park where twenty-five percent or more of the spaces are uninhabited. The term "conversion" is synonymous with "change of use."

The term "conversion" in this Article does not refer to the change in ownership structure of a mobile home park from a rental park to resident ownership pursuant to Government Code Sections 66427.5 and 66428.1, as provided for under Section 10-3.850 of the Hayward Municipal Code.

(f) "Development application." Development application means a filed request for approval of a General Plan Land Use Designation amendment, a zoning reclassification, or any other permit related to a proposed mobile home park change of use.

(g) "Disabled household." Disabled household means a household in which a resident is a person with a medical condition or physical or mental impairment that substantially limits at least one of the person's major life activities, as defined in the federal Fair Housing Amendments Act of 1988 and the California Fair Employment and Housing Act, or successor statutes.

(h) "Legal owner." Legal owner means any person or entity having a legal interest in a mobile home, such as a lender or mortgagor.

(i) "Mobile home." Mobile home shall have the meaning set forth in the Mobilehome Residency Law, Civil Code Section 798, et seq. as now in effect or subsequently amended and shall also mean vehicles designed or used for human habitation, including camping trailers, motorhomes, slide-in campers and travel trailers if they have been in the park being closed or converted and used as the occupant's primary residence, as established by nine months' continuous residency prior to the filing of a conversion application.

(j) "Mobile home park" or "park." Mobile home park or park means an area of land where two or more mobile home spaces are rented or held out for rent to accommodate mobile homes used for human habitation.

(k) "Mobile home resident" or "resident." Mobile home resident or resident means a registered owner of a mobile home who resides in the mobile home or a tenant.

(l) "Park owner." Park owner means a person or entity that owns a mobile home park or a person or entity authorized to act on behalf of the owner of a mobile home park.

(m) "Senior household." Senior household means a household in which a resident is at least sixty-two years old.

(n) "Low income household" means a household with annual income less than eighty percent of the area median income of households in Alameda County, as defined by the California Housing and Community Development Department.

SEC. 10-26.104 FILING A RELOCATION IMPACT REPORT (RIR). The applicant shall file a Relocation Impact Report (RIR) for review and approval by the City before any park conversion can be approved. The RIR shall contain the information required in Section 10-

26.108 (Content of Relocation Impact Report) and shall adequately define and address the social and economic impacts of the proposed conversion on displaced residents and mobile home owners, as required by the City. The RIR shall be filed at the same time as the development application and shall identify the proposed new use. If a mobile home park is undergoing conversion due to reduced occupancy, the RIR shall be filed within a period of time established by the City's Development Services Director under Section 10-26.105 (Conversion Due to Reduced Occupancy.)

SEC. 10-26.105 CONVERSION DUE TO REDUCED OCCUPANCY. A park is deemed to be undergoing conversion by closure or cessation of use when twenty-five percent or more of the spaces are uninhabited.

(a) **Statements of Reduced Occupancy.** At the time of twenty-five percent vacancy, the park owner shall file a statement explaining any known reasons for the reduced occupancy and any intention to change the use. A resident may also file a statement of reduced occupancy and shall indicate the spaces the resident believes to be uninhabited.

(1) **Statement Filed by Park Owner.** If a park owner files a statement of reduced occupancy, the Development Services Director shall issue a notice of determination of conversion. No public hearing is required.

(2) **Statement Filed by Residents.** If residents file a statement of reduced occupancy, the statement must be signed by no less than ten (10) percent of the residents of the mobile home park, and the Planning Commission shall determine the correctness of the statement at a noticed public hearing.

(3) **Hearing.** The Planning Commission shall conduct a hearing on a statement filed by residents following the procedures in Sections 10-26.112(a) and 10-26.113. Notice of the time and place of any public hearing described in this subsection shall be given to the park owner, mobile home owners and residents and posted at all entrances of the park at least thirty days before the hearing.

(b) **Notice of Determination and RIR.** Written notice of conversion due to reduced occupancy shall be issued to the park owner, mobile home owners, and residents with proof of service. The notice of determination shall include a reasonable period of time during which the park owner shall file a RIR.

(c) **Waiver Request from Relocation Assistance.** The park owner may request a partial or total exemption from relocation assistance obligations under Section 10-26.115 (Exemption From Relocation Assistance Obligations). The request shall be filed no later than the date established by the Development Services Director in the notice of determination under subsection (b).

(d) **Failure to Prepare a RIR.** The failure of the park owner to prepare a RIR within the time required by the Development Services Director pursuant to subsection (b) of this section is hereby determined to have a severely adverse economic effect on mobile home residents and eligible mobile home owners due to the delay in providing necessary relocation assistance which would result from such failure. Such failure is hereby determined to be a public nuisance.

(1) **City-Initiated RIR Preparation.** If the park owner fails to prepare or cause to be prepared a RIR within such required time, the Development Services Director shall cause such report to be prepared.

(2) Statement of Cost of Preparation. Upon completion of such report, the Development Services Director shall cause a statement of the cost of preparation of such report to be sent to the park owner. If the park owner fails to reimburse the City for such cost within 30 days after presentation of such statement, the Development Services Director shall prepare a report on such expense and file it with the City Clerk. The City Clerk shall thereupon submit written notice to the mobile home park owner of the time and place when the City Council shall receive and consider such report and give the park owner not less than 30 days' written notice thereof by certified mail.

(3) City Council Hearing on RIR Cost. At the time and place fixed for receiving and considering the Development Director's report on the cost of preparation of the RIR, the City Council shall hear the same together with any objections which may be raised by the park owner liable to be assessed for the cost of the report. The Development Services Director shall attend such meeting with his/her record thereof, and upon such hearing, the City Council shall make such modifications in the proposed assessment thereof as it may deem necessary, after which such report and assessment shall be confirmed by resolution.

(4) Collection of RIR Cost. The amount of the cost of preparation of such report shall constitute a special assessment against the mobile home park and, after thus made and confirmed, shall constitute a lien on such property for the amount of said assessment until paid. The Director of Finance shall cause the amount of the assessment to be entered on the City assessment roll opposite the description of the particular property, and the amount shall be collected with all other taxes thereon upon the property. Thereafter such amounts shall be collected at the same time, and in the same manner, as general City taxes are collected and shall be subject to the same penalties and interest, and the same procedure and sale in case of delinquency as provided for City taxes. All laws and ordinances applicable to the levy, collection and enforcement of City taxes are hereby made applicable to such special assessment.

SEC. 10-26.106 RELOCATION ASSISTANCE. Under Government Code Sections 65863.7 and 66426.4, the applicant shall provide relocation assistance to mitigate any adverse impacts of a mobile home park conversion on displaced residents and mobile home owners in a manner that does not exceed the reasonable cost of relocation. This section establishes minimum relocation assistance for residents and mobile home owners. The applicant and any person eligible for relocation assistance may agree to other mutually satisfactory relocation assistance.

(a) Eligibility for Relocation Assistance. Mobile home owners and residents are entitled to relocation assistance if they have not given notice to terminate their lease as of the date of the following, whichever occurs first:

- (1) Filing of a Development Application;
- (2) Filing of a RIR; or
- (3) Determination that the park is undergoing conversion due to reduced occupancy.

(c) Reasonable Cost of Relocation. Reasonable cost of relocation includes a moving allowance and other applicable types of relocation assistance as defined in this section and based on the RIR.

(d) Moving Allowance for Eligible Residents. For all eligible residents, relocation assistance shall include a moving allowance to move to another park or other replacement housing up to a distance of one hundred miles. The resident is responsible for additional costs to move to a location farther than one hundred miles. Moving allowance includes:

- (1) The cost to move furniture and personal belongings;
- (2) Rent for first and last month at the new location;
- (3) Required security deposit at the new location;
- (4) Temporary lodging, if applicable; and
- (5) The appraised value of personal property that cannot reasonably be relocated.

(e) Other Relocation Assistance. For eligible residents and mobile home owners, relocation assistance may also include one or more of the following:

(1) Accessibility Improvements for Mobile Home Owners. For eligible mobile home owners, relocation assistance may include payment of the cost to reinstall or replace any accessibility improvements made to the mobile home such as wheelchair ramps, lifts, and grab bars.

(2) Assistance for Disabled Households. For eligible disabled households, relocation assistance may include an additional sum toward the cost of obtaining any assistance needed to enable the resident to move.

(3) Rent Subsidy for Senior, Disabled or Low Income Households. For eligible senior, disabled or low income households, relocation assistance may include payment of a rent subsidy of up to thirty-six months if needed to offset increased housing costs and secure comparable housing. The rent subsidy is the difference of rent paid by the resident in the park and any higher rent for either a space at another park if the mobile home is relocated, or rent for comparable housing if the resident moves to other rental housing. Mobile home owners who are eligible to sell their mobile home to the applicant at its in-place value may only receive the rent subsidy if the selling price is inadequate to secure comparable replacement housing for at least thirty-six months.

(4) Mobile Home Relocation Costs for Mobile Home Owners. For any eligible mobile home owner whose mobile home can be relocated, relocation assistance may include the lowest of three estimates obtained by the relocation specialist from licensed mobile home movers to physically relocate the mobile home to up to a maximum distance of one hundred miles. The mobile home owner is responsible for additional costs to move the mobile home to a location farther than one hundred miles. The estimates shall include the cost of disassembly of the mobile home, transportation to the new site, reinstallation, replacement or reconstruction of blocks, skirting, shiplap siding, porches, decks and awnings, earthquake bracing if necessary, insurance coverage during transport, and utility hook-ups.

(5) Sale at One Hundred Percent In-Place Value for Mobile Home Owners. For any eligible mobile home owner whose home cannot be relocated to a comparable park within one hundred miles or another park chosen by the mobile home owner, the City may require the applicant to purchase the mobile home at one hundred percent of its in-place value. The applicant shall hire a mobile home appraiser from a list provided by the Development Services Director to determine the in-place value of the mobile home. If the mobile home owner disputes the appraised

value of his or her mobile home, the mobile home owner may hire an appraiser from the Development Services Director's list to obtain an appraisal. To be considered, the mobile home owner shall obtain the appraisal within one hundred eighty days of the approval date of the RIR. If a second appraisal is obtained, the mobile home owner is entitled to the average of the appraisals obtained by the applicant and the mobile home owner.

If the appraiser identifies lack of maintenance, deferred maintenance or deterioration of the subject park which negatively affects the value of a mobile home, the appraiser shall determine the value of the home with an upward adjustment in value if necessary to eliminate the negative effect in value caused by the lack of maintenance, deferred maintenance or deterioration, normal wear and tear excepted.

(6) Right of First Refusal for Residents. For all eligible residents, relocation assistance shall include the right of first refusal to purchase or rent new homes or apartments to be constructed on the park site. Income-eligible residents may have first priority to purchase or rent any below market rate (BMR) units which may be constructed on the park site, if they meet all eligibility requirements for the BMR housing program. In order to receive priority for BMR units, interested residents shall file a request with the Development Services Department before vacating the park.

SEC. 10-26.107 RELOCATION IMPACT REPORT. Prior to conversion of a park, the park owner shall file with the City an application to convert the park, a resident questionnaire and relocation impact report ("RIR"). The application shall be made on a form provided by the City. No application shall be deemed complete until a resident questionnaire for each affected mobile home owner and resident and a completed RIR have been filed.

No notice that the park is being converted or of any proposed new use of the park shall be given and no signs indicating that the park is being converted or closed or indicating the future use of the park shall be posted prior to the date on which the City has approved the conversion and the park owner has signed and filed a certificate accepting the conditions of approval adopted by the City.

SEC. 10-26.108 CONTENT OF RELOCATION IMPACT REPORT. The RIR shall include the following information:

- (a) A description of any proposed new use for the site;
- (b) A proposed timetable for the conversion of the park;
- (c) A legal description of the park;
- (d) The number of spaces in the park;
- (e) For each space in the park:
  - (1) The size, number of bedrooms, manufacturer and date of manufacture of the mobile home on the space.
  - (2) The number occupants of the mobile home and their length of residency in the park.
  - (3) The total monthly space rent currently charged for each space with detail

showing the space rent, utility charges, and any other costs paid by the resident.

- (4) The value the mobile home would have if the park were not being closed, the replacement value of the mobile home, and its value if it is to be removed from the park and cannot be relocated to a space in a comparable mobile home park. These values shall be determined by appraisals by a qualified appraiser to be chosen by the park owner from a list supplied by the Development Services Director. The cost of the appraisals shall be paid by the park owner.
- (5) Any improvements to the home, including but not limited to, patios, porches, pop-out rooms and any recent major improvements to the home, including but not limited to, a new roof or new siding.
- (6) Any information available to the park owner concerning any handicap, disability or special need of the residents.
- (7) Two sets of mailing labels for both the residents and legal owners of each mobile home.

(f) The purchase price paid for the park by the park owner and any amount incurred to make capital improvements to the park.

(g) An appraisal of the park if continued in use as a mobile home park and an appraisal of the park site if used for the highest and best use permitted by the zoning for the site or any new zoning being requested by the park owner. The appraiser shall be selected by the park owner from a list provided by the Development Services Director, and shall be paid by the park owner.

(h) Whether the park owner has offered to sell the mobile home park to the residents and terms of that offer.

(i) The purchase price of comparable mobile homes in comparable mobile home parks.

(j) The cost of comparable housing, including the purchase price of comparable condominiums and comparable mobile homes in a comparable mobile home park and the cost of moving into a comparable apartment, including such items as first and last months' rent, security deposits and higher rent or mortgage payments at the comparable housing.

(k) A list of comparable parks within a one hundred mile radius and for each such park, the space rents and the qualifications for residency in each park (e.g., age restrictions, no pets), whether the park has any vacant space and will accept homes being relocated and if so, any restrictions, such as size and age, on the relocated homes that would be accepted.

(l) Estimates from two moving companies approved by the Development Services Director, and qualified to move mobile homes on public streets and highways, of the cost of moving each mobile home in the park, including the cost of permits and tearing down and setting up the home at the new location, including the cost of any upgrades to comply with applicable building, plumbing, electrical and health and safety codes and the cost of moving any improvements, including, but not limited to, patios, porches and pop-out rooms.

(m) Proposed measures to mitigate the adverse impacts of the park conversion on the residents in the park.

(n) Identification of a relocation specialist to assist the residents in finding and moving to relocation spaces and comparable housing. The relocation specialist shall be selected by the park owner from a list provided by the Development Services Director, and shall be paid by the park owner.

SEC. 10-26.109 RESIDENT QUESTIONNAIRE. A confidential resident questionnaire shall be sent to each mobile home owner and resident of the park on a form provided by the City as soon as the conversion application has been filed. The questionnaires shall be kept separately from the rest of the application materials and shall not be included in the RIR sent to each mobile home owner and resident. The identity of each mobile home owner and resident and his or her responses shall be kept confidential and used only to determine the relocation assistance to be provided to a particular mobile home owner and resident. If a questionnaire contains insufficient information, the City may seek the information directly from the mobile home owner and resident. The City shall be entitled to reimbursement for any such costs if the park owner failed or refused to obtain such information. The questionnaire shall require the following information for each mobile home space in the park:

- (a) The registered owner and legal owner of the mobile home;
- (b) The identity, ages, number and any mental or physical handicap or special needs of the residents occupying the mobile home;
- (c) The date of manufacture of the mobile home, the name of the manufacturer, the size of the mobile home, the number of bedrooms in the mobile home, any special amenities in the home, including but not limited to equipment needed because of the medical condition, age, or handicap or disability of any resident or tenant in the home;
- (d) Any improvements or renovations to the mobile home or improvements to the mobile home space made by the current resident, including, but not limited to, a new roof, porches, patios, awnings, pop-out rooms, recreational equipment, barbecue equipment, landscaping, etc., whether such improvements are movable and the cost of such improvements;
- (e) The purchase price paid by the current resident of the mobile home and the amount and terms of any remaining mortgage or loan on the home;
- (f) Any special circumstance that would limit the area to which the resident or tenant is able to relocate;
- (g) Whether the residents receive Supplemental Social Security Income or qualify as low or very low income persons or families under the standards issued by the Department of Housing and Urban Development ("HUD").

SEC. 10-26.110 PROTECTIONS.

(a) Any resident already renting a space in the park on the date the application for conversion is filed shall be eligible for relocation assistance.

(b) No park owner shall require any resident to waive his/her rights to relocation assistance as a condition of renting a space in the park, except when the resident moves into the park after the

date the conversion application is filed and notice has been given that the conversion application has been filed. Any such waiver will only be valid if the park owner completes the conversion hearing process within year.

(c) Residents who are eligible for relocation assistance shall be entitled to the assistance required by the City as a condition of conversion even if they move out of the park before the City's final determination concerning required relocation assistance.

(d) No resident shall be required to remove his or her mobile home and no resident shall be required to vacate a mobile home until all of the following conditions have been satisfied:

(1) The park owner has given the six months' notice of closure required by the Civil Code Section 798.56 and that six-month period has elapsed, and

(2) The City's decision approving the closure is final, and

(3) The park owner has provided the relocation assistance required by the City as a condition of conversion.

(d) An application for conversion of a park does not relieve a mobile home owner or resident from his or her obligation to pay rent.

SEC. 10-26.111 NOTICE TO PROSPECTIVE RESIDENTS. Before executing a rental agreement, the park owner shall advise, in writing, each prospective new resident that a development application for park conversion has been filed, or that the park has been determined to be undergoing conversion due to reduced occupancy, and that the new resident may not be entitled to any relocation assistance under Section 10-26.106 (Relocation Assistance).

SEC. 10-26.112 HEARING AND NOTICE.

(a) RIR Completion and Notice. Upon receipt of the RIR, the Development Services Director shall examine the RIR and within thirty (30) days after receipt thereof determine whether the RIR is complete. When a complete RIR has been filed, the Development Services Director shall set a time, date and place for a hearing before the Planning Commission within sixty (60) days of the date that the Development Services Director determines the RIR is complete.

At least fifteen days prior to the hearing, the Development Services Director shall mail notice to the applicant and mobile home owners and residents of the date, time and place of the hearing. The notice of the hearing shall contain a general explanation of the matters to be considered by the Planning Commission.

(b) Review of Waiver Request. The request for a waiver from relocation assistance obligations shall be reviewed concurrently with the RIR. After receiving a recommendation from the Planning Commission, the City Council may grant or deny the waiver request if the required documentation demonstrates that providing the required relocation assistance would impose an unreasonable financial hardship.

(c) RIR Approval Required Before Final Determination on Development Application. The City shall not take final action on a development application until the City Council has approved the RIR. Public hearings on any development application for the park site shall not be held in conjunction with, or on the same night as any public hearing on the RIR.

SEC. 10-26.113 HEARING BEFORE THE PLANNING COMMISSION. The Planning Commission shall conduct a hearing to review the RIR. At the conclusion of the hearing, the Planning Commission shall render its decision. The Planning Commission decision shall be in the form of a recommendation to the City Council of approval, conditional approval or disapproval of the RIR. The Planning Commission shall recommend approval of the RIR if it finds the RIR satisfactorily addresses the following:

(a) The RIR contains the required information.

(b) If the RIR is prepared for a change of use of a mobile home park, the proposed change of use is consistent with the General Plan, any applicable Specific Plan, or any similar State law or City ordinance.

(c) The applicant has complied with all notice requirements as provided for in Government Code Section 65863.7(b),(c), and Civil Code Section 798.56, and each mobile home resident has had adequate notification of the proposed conversion.

(d) The RIR accurately represents the total costs associated with the relocation of each mobile home resident.

e) Each mobile home resident will receive the reasonable costs of relocation from the mobile home park owner pursuant to Government Code section 65863.7(e) and Section 10-26.106 of this ordinance.

In recommending approval of the RIR, the Planning Commission may recommend the imposition of such conditions as it finds necessary to mitigate the adverse impacts on the residents; however, any steps required to be taken by the applicant pursuant to this section shall not exceed the reasonable costs of relocation. Notice of the decision of the Planning Commission shall be mailed to the applicant and to each mobile home owner and resident of the park.

SEC. 10-26.114 HEARING BEFORE THE CITY COUNCIL. The City Council shall conduct a hearing to review the RIR within thirty (30) days of the date of the decision of the Planning Commission. The Council may consider all relevant evidence presented at the hearing and shall render its findings and decision within sixty (60) days therefrom. The Council shall approve the RIR if it finds that the RIR satisfactorily addresses the following:

(a) The RIR contains the required information.

(b) If the RIR is prepared for a change of use of a mobile home park, the proposed change of use is consistent with the General Plan, any applicable Specific Plan, or any similar State law or City ordinance.

(c) The applicant has complied with all notice requirements as provided for in Government Code Section 65863.7(b),(c), and Civil Code Section 798.56, and each mobile home resident has had adequate notification of the proposed conversion.

(d) The RIR accurately represents the total costs associated with the relocation of each mobile home resident.

e) Each mobile home resident will receive the reasonable costs of relocation from the

mobile home park owner pursuant to Government Code section 65863.7(e) and Section 10-26.106 of this ordinance.

In approving of the RIR, the City Council may require the imposition of such conditions as it finds necessary to mitigate the adverse impacts on the residents; however, any steps required to be taken by the applicant pursuant to this section shall not exceed the reasonable costs of relocation. Notice of the decision of the City Council shall be mailed to the applicant and to each mobile home owner and resident of the park.

SEC. 10-26.115 EXEMPTION FROM RELOCATION ASSISTANCE

OBLIGATIONS. If the applicant believes that providing the required relocation assistance would impose an unreasonable financial hardship, the applicant may request total or partial exemption from relocation assistance obligations in accordance with this section. The request shall be filed with the RIR.

(a) Disclosure to Residents. The applicant shall notify residents of the request for exemption from relocation assistance obligations.

(b) Required Information. To justify the basis for the request of exemption from relocation assistance obligations, the applicant shall provide the following information with the RIR:

(1) Financial Statements. Statements of profit and loss from the operations of the park for the most recent five-year period of the date of the application or request, verified by a certified public accountant;

(2) Statement of Repairs and Improvements. A statement made under penalty of perjury by a state-licensed general contractor that repairs and improvements are necessary to maintain the park in a decent, safe and sanitary condition and to continue the use of the property as a mobile home park. The statement shall include an itemized list of the necessary repairs and improvements, their costs, and the minimum period of time they shall be made. The applicant shall also submit a statement verified by a certified public accountant on the necessary increase in rental rates of mobile home spaces within the park within the next five years necessary to pay for such repairs or improvements. At the Development Services Director's discretion, the applicant may be required to hire another licensed general contractor selected by the Development Services Director to analyze the submitted information from another licensed general contractor selected by the Development Services Director;

(3) Estimated Relocation Costs. The estimated total cost of relocation assistance based on the requirements of Section 10-26.106 (Relocation Assistance) and as determined by the relocation specialist;

(4) Appraised Value Estimate. A comparison by an appraiser from the Development Services Director's list of the estimated values of the property if it were to continue as a mobile home park, and if the park were developed according to the proposed redevelopment of the park; and

(5) Additional Information. Other information the applicant believes to be pertinent, or which may be required by the Development Services Director.

SEC. 10-26.116 EXPIRATION OF APPROVAL OF CONVERSION. Conversion approvals shall expire one year after the date they are issued. The Development Services Director

may deny or grant a request for an extension of time of conversion approval. The Development Services Director may upon request grant extensions of time based upon a showing that good faith progress has been made toward fulfilling the conditions of approval or some intervening event not the fault of the park owner has prevented timely compliance with the conditions of approval. The applicant may appeal the denial of a request for an extension to the Planning Commission.

SEC. 10-26.117 ADMINISTRATION FEE. The City Council shall by resolution establish the reasonable fee to cover the cost of administering this Article and shall assess such fees to the applicant pursuant to Government Code Section 65863.7(g) and subject to the limitations set forth in Government Code Section 66014(a).

SEC. 10-26.118 ADJUDICATION OF BANKRUPTCY. If the change in use of a mobile home park results from an adjudication of bankruptcy, the provisions of this Article shall not be applicable to an applicant when a court of competent jurisdiction has determined in connection with a proceeding in bankruptcy that the conversion of the mobile home park is necessary and that such court has taken further action, which would preclude the payment of relocation assistance benefits.

SEC. 10-26.119 ENFORCEMENT. Any person, firm or corporation violating any provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be punishable as provided by law.

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 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 3. 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.

Section 4. This ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3, of the California Code of Regulations) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) of the CEQA Guidelines (because it has no potential for resulting in physical change to the environment, directly or indirectly).

IN COUNCIL INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_ day of \_\_, 2014, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the following votes of members of said City Council.

AYES:  
NOES:  
ATTEST:  
ABSENT:

APPROVED: \_\_\_\_\_

Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

**MITIGATION MEASURES COMPARISON CHART**

**MOBILE HOME PARK CLOSURE AND CHANGE OF USE REGULATIONS**

|                                                                     | <b>HAYWARD<br/>(Existing)</b> | <b>HAYWARD<br/>(Proposed)</b>                 | <b>PALO ALTO</b>                 | <b>SUNNY-VALE</b>                           |
|---------------------------------------------------------------------|-------------------------------|-----------------------------------------------|----------------------------------|---------------------------------------------|
| <b>REASONABLE COST OF RELOCATION (GENERAL)</b>                      |                               |                                               |                                  |                                             |
| Limits                                                              | -                             |                                               | -                                | (Within 35 miles)                           |
| Personal Property                                                   | ✓                             | ✓                                             | ✓                                | ✓                                           |
| Furniture                                                           | -                             | ✓                                             | -                                | ✓                                           |
| In-Transit Lodging                                                  | -                             | ✓                                             | ✓                                | ✓                                           |
| In-Transit Meals                                                    | -                             | -                                             | -                                | -                                           |
| In-Transit Gas                                                      | -                             | -                                             | -                                | -                                           |
| First, Last Month's Rent and Security Deposit                       | -                             | ✓                                             | ✓                                | ✓                                           |
| Rent Subsidy<br>(S = Senior)<br>(D = Disabled)<br>(LI = Low Income) | -                             | ✓<br>(Three years for S, D, and LI residents) | ✓<br>(One year for LI residents) | ✓<br>(Two years for S, D, and LI residents) |
| <b>DISABLED RESIDENTS</b>                                           |                               |                                               |                                  |                                             |
| Moving Assistance due to Special Needs                              | ✓                             | ✓                                             | ✓                                | -                                           |
| Cost of Moving Special Equipment                                    | -                             | ✓                                             | ✓                                | ✓                                           |
| <b>MOBILEHOMES THAT CAN BE RELOCATED</b>                            |                               |                                               |                                  |                                             |
| Limits                                                              | -                             | (Within 100 miles – Lowest of 3 estimates)    | (Within 35 miles)                | (Within 100 miles – Lowest of 3 estimates)  |
| Disassembly                                                         | -                             | ✓                                             | -                                | ✓                                           |
| Reinstallation                                                      | -                             | ✓                                             | -                                | ✓                                           |
| Transportation                                                      | -                             | ✓                                             | -                                | ✓                                           |
| Insurance Coverage During Transportation                            | -                             | ✓                                             | -                                | ✓                                           |

**ATTACHMENT II:**

| <b>MOBILEHOMES THAT CANNOT BE RELOCATED</b> |                     |                       |                      |                       |
|---------------------------------------------|---------------------|-----------------------|----------------------|-----------------------|
| In-Place Value                              | ✓                   | ✓                     | ✓                    | ✓                     |
| Valuation Method                            | (Fair Market Value) | (100% In-Place Value) | (Loss of Investment) | (100% In-Place Value) |

\* A ✓ signifies that the regulation specifically identifies the indicated relocation cost.



**DATE:** May 6, 2014  
**TO:** Mayor and Council  
**FROM:** City Manager  
**SUBJECT:** Consideration of a Resolution in Support of the Bayview Quarry Village Concept Project

### **RECOMMENDATION**

That the Council discusses the attached presentation and background materials provided by Sherman Lewis, and considers a resolution advocating for a designated use of investment income from State Cap and Trade funds, which if implemented might support the Bayview Quarry Village Project should it be developed.

### **BACKGROUND**

The Hayward Area Planning Association (HAPA), led by Sherman Lewis, has developed a proposed real estate development concept, which they believe could be eligible for funding from Cap and Trade investment funds. They are seeking City advocacy for the use of State Cap and Trade funds to support Bayview Quarry Village should it become a reality. The project concept, which potentially would include about 690 townhouses, is proposed to be located in the Hayward Hills near California State University East Bay (CSUEB) in the former quarry site off Carlos Bee Boulevard. The property was acquired by the State Department of Transportation (CalTrans) related to the previously planned Route 238 Bypass freeway, and is expected to be sold at auction by CalTrans later this year.

The project is designed to be forward thinking and to reduce sprawl and auto-dependency. Conceptually, residents would select the homes because of their location, environmental sustainability, and the other “green” attributes of the site. Current concepts call for 100 parking spaces to serve the 690 dwelling units, which is much less parking than normally established on a project of this scale. In order to make the project successful, the concept includes a range of amenities, such as a self-financed “Village Bus” rapid shuttle, café and shopping service, along with on-site car sharing.

Dr. Lewis does not currently have control of the target property either through a purchase and sale agreement or through an option on the property. Nor does he have completed project plans or a source of financing for the project: Bayview Quarry Village is conceptual at this point in time.

On March 3, 2014, this concept was presented to the [Council Economic Development Committee](#) (CEDC), with a presentation by Dr. Lewis (Attachment II). As a result, the CEDC recommended that the concept come forward to Council, and for Council to adopt a resolution of general support for the concept in order to aid Dr. Lewis in applying for State financing for the project and/or to secure a development partner (Attachment I).

## **DISCUSSION**

The Bayview Quarry Village concept is visionary and, like any new concept, faces significant challenges. The concept proponent, Dr. Sherman Lewis, has long advocated for this concept and has prepared numerous studies, reports, and presentations regarding the proposed concept benefits. Dr. Lewis has contacted numerous developers over the past several years to seek a development partner with little or no success, in part due to lack of subsidized financing.

The land appears to be scheduled for auction later this year and other developers will likely be interested in the site. If the site were to be sold to another interested developer, that entity will have his/her own concept for the development of the site. In order to keep the project concept alive and to strengthen his possibilities for securing the target site, Dr. Lewis has requested that staff bring this item to the City Council for adoption of the attached resolution (Attachment I).

In addition, he is requesting that the City partner with him to apply for a variety of grant funds from other government agencies (such as the Metropolitan Transportation Commission, Association of Bay Area Governments, California Air Resources Board, and Housing and Community Development) to make this project a reality. Staff urges careful consideration of this request as the City's overall development priorities and grant requests need to be tightly monitored to ensure that limited funds and staff resources are focused on the top priorities, such as the many challenging implementation items proposed in the draft General Plan Update. Until Dr. Lewis has control of the land, either temporarily (as in a formal option on the land) or completely (as in outright purchase), grant applications would likely not be successful.

Finally, Dr. Lewis is requesting that the City explore supporting the use of State Cap and Trade program funds to help fund this and similar projects and to support a legislative effort to develop a new competitive program. The Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006 [AB 32, Núñez/Pavley]), commonly referred to as AB 32, passed in 2006. The Act called for the State to meet its emissions reduction goals using regulation, incentives, and undefined "market mechanisms" to price emissions. The market mechanism that the State chose for regulating greenhouse gas (GHG) emissions is cap and trade, which sets a cap on total emissions from all sectors, allocates a certain number of "GHG credits" to each emitter, and then authorizes the State Air Resources Board to auction off the rest of the credits. This allows companies to buy or sell allowances according to their need to meet their emissions cap. The cap is supposed to decrease over time, enabling California to meet the 2020 GHG reduction goals.

AB 32 established the goal of reducing GHG emissions statewide to 1990 levels by 2020. In order to help achieve this goal, the California Air Resources Board (ARB) adopted a regulation to establish a cap-and-trade program that places a “cap” on the aggregate GHG emissions from entities responsible for roughly eight-five percent of the state’s GHG emissions. As part of the cap-and-trade program, the ARB conducts quarterly auctions where it sells emission allowances. In January, the Governor proposed an expenditure plan for anticipated revenues from the auction of carbon emission credits, or cap-and-trade.

These auctions are projected to generate billions of dollars in state revenue over the coming years. The Legislative Analyst’s office further confirms that “[The Governor’s 2014–15 budget](#)” proposes to appropriate \$850 million in auction revenue to various state programs, including programs related to sustainable communities, clean transportation, energy efficiency, natural resources, and waste diversion.”

Last week, Senate President Pro Tem Darrell Steinberg unveiled his own proposal, which would direct most of the revenues to affordable housing, public transportation projects, and high-speed rail. This last item remains a controversial piece of both proposals, as critics are concerned too much funding is proposed for the high-speed rail project, and the greenhouse gas emissions reductions are questionable.

Dr. Lewis hopes that some of these cap-and-trade funds may be used to help implement this project, and projects that Council’s support of his concept through adoption of the attached resolution will assist him in lobbying the state to that end..

## **FISCAL IMPACT**

As opportunities arise, careful consideration should be given to Council priorities before applying for funds for this concept. Staff time is limited and applying for grant funds and investing staff resources in these efforts would need to be weighed against other demands consistent with Council priorities.

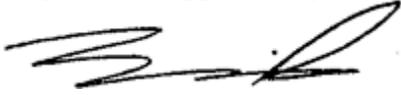
In the longer term, any future development of this site will result in new property taxes; however, it is difficult to estimate those amounts. Further, unless the City or another public entity wishes to be the outright purchaser of this land from CalTrans, the State is required to obtain “fair market value” for the land through their usual auction process. At this time, staff is uncertain if CalTrans has an updated appraised value for the land or when the land parcel will be placed on the auction market. In addition, it does not appear that Caltrans is willing to make allowances within their land disposition process to accommodate the development of this concept into a full-fledged project.

## **NEXT STEPS**

If the attached resolution is approved by Council, staff will forward that resolution to Dr. Lewis for his use in seeking funding and support for his concept; and the City will develop and forward a letter to the Governor’s Office advocating for the use of Cap and Trade funds to support this and similar projects throughout the state. Moving forward, Dr. Lewis will continue to develop his

project concept, attempt to secure control of the land, and seek out a development and/or finance partner that could bring his concept to life.

Prepared and approved by:



---

Fran David, City Manager

Attachments:

|               |                    |
|---------------|--------------------|
| Attachment I  | Resolution         |
| Attachment II | PowerPoint Summary |

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member \_\_\_\_\_

RESOLUTION EXPRESSING SUPPORT FOR THE BAYVIEW QUARRY VILLAGE CONCEPT AS DEFINED BY DR. SHERMAN LEWIS AND FOR THE USE OF STATE CAP-AND-TRADE FUNDS FOR SUSTAINABLE AND TRANSIT-ORIENTED PROJECTS THROUGHOUT CALIFORNIA, INCLUDING BAYVIEW QUARRY VILLAGE

WHEREAS, the City of Hayward has identified being “GREEN” as one of its three major priorities; and

WHEREAS, Dr. Sherman Lewis has developed a concept, Bayview Quarry Village, that, when and if developed, would be a transit village with minimum vehicle use and low greenhouse gas emissions and would support the goals of the City’s Climate Action Plan; and

WHEREAS, the Governor of the State of California and the California State Legislature have developed and implemented a Cap-and-Trade program within the State to fund, in part, programs related to sustainable communities, clean transportation, energy efficiency, natural resources, and waste diversion; and

WHEREAS, Dr. Lewis’ concept fits many of these Cap-and-Trade program categories; and

WHEREAS, Bayview Quarry Village will not be able to proceed without substantial funding, both public and private.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Hayward does hereby express its support for the environmental benefits of the Bayview Quarry Village concept.

BE IT FURTHER RESOLVED, that the City Council strongly supports the use of State Cap-and-Trade funds to implement concepts and projects like Bayview Quarry Village and encourages the Governor and the California Air Resources Board to immediately consider Bayview Quarry Village as a high priority for using Cap-and-Trade funds.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2014

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

# Bayview Quarry Village

## Update Presentation for

City of Hayward  
Council Economic Development Committee  
March 3, 2014

*Presented by*  
Sherman Lewis, Hayward Area Planning Association

# Whither this old quarry?



- a. business as usual: feasible, boring
- b. the game changer, but how?

# Bayview Quarry Village

- Ideally located between a major employer, Cal State University Hayward, and Hayward Downtown and BART
- 690 Townhouses on walkways, with Civic Center, and parks
- Its own Village Bus, self-financed, fast, frequent, and free
- Supports less dependence on cars for its major markets

# Six Goals of Bayview

- **Affordability** of the combined cost of high quality housing, transportation, and energy
- **Sustainability** from “green energy” with long term savings from energy efficient construction and solar energy, native landscaping and water conservation, and dramatic reductions in fossil fuel use
- **Mobility** comparable to auto-dependent suburbia
- **Health and Safety** from reduced pollution, safe streets, recreation, and walking
- **Appealing design** aesthetics and visual appeal despite high density
- **Community**, based on HOA management, HOA assets, community activities, and participatory governance balanced with respect for privacy

# Major Markets

- California State University faculty, administrators, staff, students, hangers-on
- BART users, use BART to get to work
- Retired, seniors
- Work-at-home

## Related market attractions

- Creation Care, Environmentalists
- Health seekers, disabled
- Families
- Community seekers

# So what's the problem?

- Only 100 parking spaces for 690 units
- Parking a short walk away from the Townhouses
- Parking leased separately from Townhouses
- Market rate charge for parking
- American car-based thinking

# Can these problems be solved?

maybe...

- The major markets can meet their mobility needs using walking, the Village Bus, car share, car rental, taxi vouchers, guaranteed ride home, on-site parking, off-site parking, the Village Van
- Buyers save so much on the Townhouse the parking is affordable
- Initial implementation has parking, special services, and incentives to end leased on-site parking

# What can we do?

- Learn more: read *Creation Care for Neighborhoods; the Quest for Bayview Village*
- Talk to developers—not will you invest, but what would it take to get you to invest?
- Ask for planning funds to create entitlement for the best feasible project
- Ask the state for Cap and Trade Funds for a guaranteed minimum return to the developer

# If Only vs. Nevertheless

- If only...
  - if only developers would want to invest
  - if only there were an established market
  - if only banks would lend
  - if only such projects could get entitlement
- Nevertheless...
  - even people in Hayward can dare great things
  - our earth eco-system is crashing around us and we must act
  - if not us, who? If not now, when?

## Suggested language for draft resolution:

- The City of Hayward supports the Bayview Quarry Village project in concept. The project would reduce use of cars while supporting a high quality life style. The design proposed has an open feeling because less land is used for pavement and buildings are only three stories high. Residents would still be able to use have cars, but there would be more walking and more transit use based on a fast, free, frequent shuttle. The homes would be affordable and sustainable. The project would have appealing design, health and safety, and a sense of community. All this combined would appeal to the educators and high tech workers we want to live in Hayward. The proposed neighborhood would serve CSUEB Hayward, BART riders, seniors and retired, and people who work at home. The project could be a model for, and promote, more similar development along Mission Blvd. and other areas.

# Next Steps



**DATE:** May 6, 2014

**TO:** Mayor and City Council

**FROM:** Assistant City Manager

**SUBJECT:** Authorization for the City Manager to Negotiate and Execute a Purchase and Sale Agreement with Matteson Real Estate Equities, Inc./Hayland Partners LLC to Acquire Three Parcels of Land Generally Located at the Corner of C Street and Main Street in Downtown Hayward (APNs: 428-0066-038-02; 428-0066-037-00; 428-0066-038-01). This action is Exempt from CEQA Pursuant to Section 15301 - Existing Facilities.

## **RECOMMENDATION**

That the City Council adopts the attached resolutions (Attachments I and II) authorizing the City Manager to negotiate and execute a Purchase and Sale Agreement (PSA) to acquire three parcels of land in Downtown Hayward generally located at the corner of C Street and Main Street and appropriating funds necessary to complete the acquisition.

## **BACKGROUND**

Since late 2013, City staff has been negotiating the potential acquisition of three parcels generally located at the corner of C Street and Main Street in Downtown Hayward (see Attachment III for map). The City Council has given the City's negotiators previous direction to execute a Letter of Intent (LOI) to purchase the property with Matteson Real Estate Equities, Inc./Hayland Partners and to negotiate a formal Purchase and Sale Agreement. The LOI was executed on April 3, 2014.

The three parcels under consideration total 0.81 acres in size and are located in the Central City Plaza and Central City Commercial Zoning Districts. The General Plan designation for the parcels is City Center – Retail and Office Commercial. The parcel at the corner of C and Main Streets contains a small commercial building (approximately 3,559 square feet) that has been vacant for some period of time. The other two parcels are vacant. Currently, the Matteson Real Estate Group (out of San Mateo) owns the three parcels. The Matteson Group previously applied for and received approval of a Conditional Use Permit for a mixed use project on the site that included 2,000 square feet of retail and 44 residential units (Permit No. PL-2007-0225). The Planning Commission approved this application on July 12, 2007 and the City Council approved the project on appeal on September 11, 2007. Due to declining economic conditions at the time of approval, the Matteson Group did not construct the project and subsequently received extensions to the original CUP approval through September 2012. However, the original approval (with extensions) has now expired.

## DISCUSSION

City staff has been working earnestly to determine methods for revitalizing Downtown Hayward over the past few years. This effort has become markedly more challenging following the elimination of the Hayward Redevelopment Agency (RDA) by the State legislature in 2012. The elimination of RDA has significantly limited the tools available to the City for accomplishing key objectives related to the City's downtown revitalization.

The three parcels at the corner of C Street and Main Street comprise some of the last remaining vacant land in the Downtown core and present a unique opportunity for the City to land bank these parcels to preserve their potential for future development. The City does not have any specific development project under consideration as part of this property acquisition. However, the acquisition of the parcels will provide the City with the opportunity to participate in and shape any future development on the site and potentially on the surrounding sites as well.

*Terms of the Purchase and Sale Agreement:* Staff has negotiated the terms of the Purchase and Sale Agreement with the Matteson Group as follows:

- The property will be acquired for \$950,000, all cash payable at close of escrow;
- The City will deposit \$50,000 into escrow three (3) business days following execution of the PSA;
- The deposit will become non-refundable upon the expiration of the Due Diligence review period but will become applicable to the purchase price at close of escrow;
- The City will have a sixty (60) day due diligence period following the execution of the PSA to investigate, inspect and perform any investigations deemed necessary;
- The City will be responsible for any costs of investigations initiated by the City during the Due Diligence period; and
- The closing will occur approximately thirty (30) days following the end of the Due Diligence period.

As mentioned previously, the City has no current proposed development plans for the site but intends to land bank the site to encourage future development in the Downtown area. Preserving this vacant land gives the City much more leverage over how future development along Main Street and C Street occurs and will allow the City to work in partnership with potential developers to identify plans that would be consistent with the policies listed above. The City's recently adopted Economic Development Strategic Plan<sup>1</sup> identifies the Green Shutter Building, which is adjacent to the parcels the City is proposing to acquire, as a Retail Catalyst Site. By acquiring the parcels adjacent to this catalyst site, the City will have more opportunities to address potential development options that might encompass the entire City block. The potential future redevelopment of this key block within the Downtown core will help enhance the vitality of the entire Downtown area.

The attached resolution (Attachment I) authorizes the City Manager to negotiate and execute the Purchase and Sale Agreement with the Matteson Group/Hayland Partners LLC. It also authorizes the City Manager to enter into any agreements necessary to complete the Due Diligence review

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<sup>1</sup> [http://www.hayward-ca.gov/haywardopenforbusiness/documents/2013/Economic\\_Development\\_Strategic\\_Plan.pdf](http://www.hayward-ca.gov/haywardopenforbusiness/documents/2013/Economic_Development_Strategic_Plan.pdf)

investigations on the property. The most important of these investigations will be the Phase II environmental assessment, which will identify any potential for environmental contamination on the site. The PSA allows the City to reopen discussions with the Matteson Group regarding the terms of the PSA if significant environmental issues are discovered.

*Planning Commission Review:* On April 24, 2014, the Planning Commission approved findings of General Plan consistency for the City's acquisition of the three parcels (5-0, with Commissioners Lavelle and Márquez absent)<sup>2</sup>. Pursuant to Article 3, Section 2-3.02 of the Hayward Municipal Code, the Planning Commission is vested with the power and duty to "advise and recommend to the proper officials of the City regarding the acquisition, use, or disposition of City-owned real property." In addition, Government Code Section 65402 requires that "If a general plan or part thereof has been adopted, no real property shall be acquired...until the location, purpose and extent of such acquisition or disposition...have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof."

The Commission was supportive of the City's proposed acquisition of these parcels and found the acquisition consistent with the City's General Plan. There was one public speaker at the hearing, Ms. Beneba Thomas, owner of the Golden Tea Room in the Green Shutter building. She expressed an interest in seeing the parking lot on the Matteson parcels reopened for public use until such time as the City determines how to proceed with any development on the site. The Commission supported Ms. Thomas' comments and there was a general discussion about the lack of parking for the retail uses at the Green Shutter building. Staff expressed a concern about the lighting and condition of the site as suitable for public parking but agreed to explore this possibility if the acquisition proceeds.

*Environmental Review* – The acquisition of these parcels is exempt from CEQA review pursuant to Section 15301, Existing Facilities. As the City has no intended development plan for the parcels, there is no potential for environmental impact simply as a result of the acquisition process. Any future development proposal on the site would be subject to further environmental review as appropriate and consistent with that proposal.

## **ECONOMIC IMPACT**

The redevelopment and revitalization of Downtown Hayward is a key priority for the City Council. Acquisition of these parcels will help the City encourage development along a key street frontage in the Downtown core. This development could serve as a catalyst for revitalization of the Downtown overall, encouraging other developments or investments in the area. A healthy and vibrant Downtown is key to the overall perception and image of Hayward, which ultimately impacts the level of business investment in the community.

## **FISCAL IMPACT**

Consistent with the Council's prior direction to utilize one-time property tax funds resulting from the dissolution of the Redevelopment Agency for economic development purposes as reflected in the Council-adopted Economic Development Strategic Plan, staff is proposing to utilize one-time

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<sup>2</sup> April 24, 2014 Planning Commission report:

property tax revenues for this property acquisition. Staff had conservatively estimated that \$350,000 in property tax funds redistributed from the dissolution of the Redevelopment Agency would be available to fund the annual operating costs of implementing the Economic Development Strategic Plan.

In FY2014, staff estimates that distributions of property tax revenues will exceed this original estimate by approximately \$645,000 (total received = \$995,000). In addition, the City has seen one-time distributions of property tax funds following the completion of the audits of the former RDA's non-housing funds and the sale of the Residual Burbank site. These one-time funds total \$1,662,194. There are adequate funds from these one-time sources to cover the \$950,000 acquisition cost and the additional due diligence funds identified below. Staff recommends appropriating the full purchase price amount at this time to facilitate the close of escrow following the end of the Due Diligence period. If there are significant issues that arise during this investigation period, staff will return to Council and provide further information before finalizing the sale.

The Council authorized an appropriation of \$100,000 during the mid-year budget review to establish a new capital project for activities related to Downtown property acquisition. The intent of this allocation was to cover prior and future project expenses related to any potential property acquisitions in the Downtown. It will also cover legal costs associated with the negotiation of this Purchase and Sale Agreement. Staff recommends that an additional \$50,000 be appropriated into this capital project for the due diligence reviews/assessments and legal costs.

It is important to note that the purchase of this property will occur with General Fund property tax revenues. While the Council could use these funds for other purposes, the Council has identified the revitalization of the City's Downtown as a crucial priority. In addition, the City will be spending these funds to acquire an asset that will potentially appreciate in value. This asset could be sold at a future date if the Council determined that this action was fiscally necessary.

## **PUBLIC NOTICE**

No public notice is required with this action.

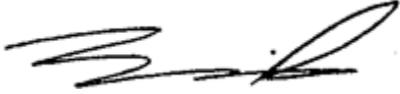
## **NEXT STEPS**

If the Council authorizes the execution of the Purchase and Sale Agreement, staff will negotiate a final form of the agreement for execution shortly following this meeting. Below is a possible schedule of the timing of the acquisition based on the timelines set forth in the PSA:

|                           |                                        |
|---------------------------|----------------------------------------|
| <i>Friday, May 9</i>      | Execute Purchase and Sale Agreement    |
| <i>Tuesday, July 8</i>    | Expiration of the Due Diligence Period |
| <i>Thursday, August 7</i> | Close of Escrow; acquisition finalized |

*Prepared and Recommended by:* Kelly McAdoo, Assistant City Manager

Approved by:



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Fran David, City Manager

Attachments:

|                |                                                    |
|----------------|----------------------------------------------------|
| Attachment I   | Resolution Approving the PSA                       |
| Attachment II  | Resolution Appropriating Funds for the Acquisition |
| Attachment III | Site Map                                           |

HAYWARD CITY COUNCIL  
RESOLUTION NO. 14-

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO  
NEGOTIATE AND EXECUTE A PURCHASE AND SALE  
AGREEMENT WITH HAYLAND PARTNERS, LLC AND  
MATTESON REAL ESTATE EQUITIES, INC. FOR THE  
ACQUISITION OF THE PROPERTIES LOCATED AT C STREET  
AND MAIN STREET

WHEREAS, Hayland Partners, LLC, a Delaware single member LLC, and Matteson Real Estate Equities, Inc., a California corporation (collectively the “Seller”), own the fee interest in the real property located at 1026 C Street and 22696 Main Street (A.P.N. 428-66-38-01, 486-66-37 and 428-66-38-2)(the “Property”) in Hayward, California; and

WHEREAS, the Property comprises some of the last remaining vacant land in the Downtown core and presents a unique opportunity for the City to land bank these parcels to preserve their potential for future development and acquisition of the Property would provide the City the opportunity to participate in and shape any future development on the site and potentially on the surrounding sites as well; and

WHEREAS, Seller has offered to sell the Property to the City for \$950,000; and

WHEREAS, pursuant to the authority granted under California Government Code Section 37350 and Article 2 of the City of Hayward, the City may purchase, control and dispose of property for the common benefit, and the City desires to acquire the Property to preserve the opportunity to revitalize the downtown area of the City of Hayward; and

WHEREAS, on April 24, 2014, the Planning Commission of the City of Hayward determined that the acquisition of the Property is consistent with the City’s General Plan and recommended that the City Council acquire the Property from the Seller; and

WHEREAS, acquisition of these parcels is exempt from CEQA review pursuant to Section 15301, Existing Facilities.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward finds that the acquisition of the property located at 1026 C Street and 22696 Main Street (A.P.N. 428-66-38-01, 486-66-37 and 428-66-38-2) is exempt from CEQA review pursuant to Section 15301, Existing Facilities and hereby authorizes the City Manager to negotiate and execute an purchase and sale agreement with Hayland Partners, LLC, a Delaware single member LLC, and Matteson Real Estate Equities, Inc., to acquire the Property for an amount not to exceed \$950,000, in a form to be approved by the City Attorney.

BE IT FURTHER RESOLVED by the City Council that the City Manager is hereby authorized to execute professional services agreements as necessary to complete the appropriate investigations, analyses and environmental assessments of the property during the due diligence review period not to exceed an aggregate total of \$150,000 and in a form and manner approved by the City Attorney.

BE IT FURTHER RESOLVED, that the City Council hereby directs the City Manager to file a CEQA Notice of Exemption with the County Clerk of the County of Alameda pursuant to 14 California Code of Regulations Section 15062.

BE IT FURTHER RESOLVED by the City Council that the City Manager is hereby authorized and directed to execute any additional documents and instruments as are appropriate, upon consultation with the City Attorney, to implement and effectuate the acquisition of the Property.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2014

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. 14-

Introduced by Council Member \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD AMENDING RESOLUTION 13-104, AS AMENDED, THE BUDGET RESOLUTION FOR THE OPERATING BUDGET OF THE CITY OF HAYWARD FOR FISCAL YEAR 2014, FOR A TRANSFER OF FUNDS FROM THE GENERAL FUND (FUND 100) TO THE GENERAL FUND CAPITAL IMPROVEMENT FUND (FUND 405), DOWNTOWN PROPERTY ACQUISITION, PROJECT NO. 6911

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Resolution 13-104, as amended, the Budget Resolution for the Operating Budget of the City of Hayward for Fiscal Year 2014, is hereby further amended by approving a transfer of \$1,000,000 from the General Fund fund balance (Fund 100) and appropriating these funds to the General Fund Capital Improvement Fund (Fund 405), Downtown Property Acquisition, Project No. 6911.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2014

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

