



CITY OF
HAYWARD
HEART OF THE BAY

CITY COUNCIL AGENDA
SEPTEMBER 16, 2014

MAYOR BARBARA HALLIDAY
MAYOR PRO TEMPORE GREG JONES
COUNCIL MEMBER FRANCISCO ZERMEÑO
COUNCIL MEMBER MARVIN PEIXOTO
COUNCIL MEMBER AL MENDALL
COUNCIL MEMBER SARA LAMNIN
COUNCIL MEMBER ELISA MÁRQUEZ

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CITY COUNCIL MEETING FOR SEPTEMBER 16, 2014
777 B STREET, HAYWARD, CA 94541
WWW.HAYWARD-CA.GOV

CLOSED SESSION
Closed Session Room 2B – 3:30 PM

1. PUBLIC COMMENTS

2. Official City Council Photograph (Antechamber)

3. Conference with Legal Counsel

Pursuant to Government Code 54956.9

➤ Pending Litigation:

Huynh v. City of Hayward, et al., Alameda County Superior Court No. RG10510409

Russell City Energy Company, LLC v. City of Hayward, U.S. District Court, N.D. CA, No. CV-03102-JSW

Chrysler Group Realty Company, LLC v. City of Hayward, Alameda County Superior Court No. RG 14722275

4. 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; Director of Maintenance Services McGrath; Director of Public Works-Engineering and Transportation Morad Fakhrai, Director of Engineering and Transportation; Acting Human Resources Director Collins; Deputy City Attorney Vashi; Senior Human Resources Analyst Monnastes; Community and Media Relations Officer Holland; Jack Hughes, Liebert, Cassidy and Whitmore

Under Negotiation: All Groups

5. Conference with Real Property Negotiators

Pursuant to Government Code 54956.8

➤ Under Negotiation: 3792 Depot (APN 439-0070-006-00); 3760 Depot (APN 439-0070-005-02); 3774 Depot (APN 439-0070-005-01)

Lead Negotiators: City Manager David, Assistant City Manager McAdoo, City Attorney Lawson, and Public Works – Engineering and Transportation Director Fakhrai

6. Conference with Real Property Negotiators

Pursuant to Government Code 54956.8

➤ Under Negotiation: South Hayward BART Land Purchase and Acquisition

Lead Negotiators: City Manager David, Assistant City Manager McAdoo, City Attorney Lawson, Project Consultant DeClercq, Development Services Director Rizk, Finance Director Vesely, and Heather Gould and Rafael Yaquian from Goldfarb Lipman (Outside Legal Counsel)

7. Conference with Property Negotiators

Pursuant to Government Code 54956.8

- 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)

Property Negotiators: City Manager David, Assistant City Manager McAdoo, City Attorney Lawson, 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)

8. Conference with Real Property Negotiators

Pursuant to Government Code 54956.8

- Under Negotiation: 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)

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

9. Adjourn to City Council meeting

CITY COUNCIL MEETING
Council Chambers – 7:00 PM

CALL TO ORDER Pledge of Allegiance Mayor Halliday

ROLL CALL

CLOSED SESSION ANNOUNCEMENT

PUBLIC COMMENTS

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

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



BOARDS, COMMISSIONS, COMMITTEES AND TASK FORCE

1. Appointments and Reappointments to Council's Appointed Bodies and Swearing In (Report from City Clerk Lens)
[Staff Report](#)
[Attachment I Resolution](#)

CONSENT

2. Approval of Minutes of the Special City Council Meeting on July 8, 2014
[Draft Minutes](#)
3. Approval of Minutes of the City Council Meeting on July 15, 2014
[Draft Minutes](#)
4. Approval of Minutes of the Special Joint City Council/Housing Authority Meeting on July 22, 2014
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6. Resignation of Carolina Abatayo from the Keep Hayward Clean and Green Task Force
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7. Median Landscape Improvement Project FY14 – Winton Avenue (Southland Drive to Southland Place): Award of Contract and Appropriation of Funds
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9. Resolution Authorizing the City Manager to Execute Agreements for Occupational Health Services
[Staff Report](#)
[Attachment I](#)



10. Amend FY 2015 Master Fee Schedule to Add Convenience Fee for Online and Telephone Payments

[Staff Report](#)
[Attachment I](#)

11. Authorizing the City Manager to Execute Agreements with the State Board of Equalization for Implementation of a Local Transactions and Use Tax

[Staff Report](#)
[Attachment I](#)
[EXHIBIT A](#)
[EXHIBIT B](#)

12. Consideration of Resolution in Support for the Extension and Augmentation of the Existing Transportation Sales Tax Ballot Measure (Measure B)

[Staff Report](#)
[Attachment I Resolution](#)
[Attachment II 2014 Alameda County TEP: City of Hayward Transportation Opportunities](#)

13. Approval of Contract with Godbe Research for Completion of the Biennial Resident Satisfaction Survey

[Staff Report](#)
[Attachment I Resolution](#)
[Attachment II Godbe Research](#)

14. Resolution Authorizing the Issuance of Legislative Subpoenas Necessary to Calculate the Utility Users Tax Due Relating to the Russell City Energy Center

[Staff Report](#)
[Attachment I](#)
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[Attachment III](#)

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

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



PUBLIC HEARING

15. Adoption of a Resolution to Approve a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and Vesting Tentative Tract Map Application (Tract 8151), and Introduction of an Ordinance to Approve a Zone Change from Single Family Residential/B4 Special Lot Standards Combining District (RS/B4) to Planned Development District (PD), associated with Thirteen Detached Single-Family Homes on a 1.45-Acre Parcel Located at 24582 and 24570 Eden Avenue and 24655 Mohr Drive; Che Chen and Shu Fen Liu (Applicant & Owner) (Report from Development Services Director Rizk)

[Staff Report](#)

[Attachment I Resolution](#)

[Attachment II Ordinance](#)

[Attachment III Area and Zoning Map](#)

[Attachment IV IS, MND & MMRP](#)

[Attachment V July 24, 2014 Draft PC Meeting Minutes](#)

[Attachment VI Project Plans](#)

[Attachment VII Email Objecting to the Project](#)

LEGISLATIVE BUSINESS

16. Adoption of the Community Development Block Grant (CDBG) Compliance Policy Manual; and Review of a Proposed Substantial Amendment to the FY 2015 CDBG Annual Action Plan (Report from Director of Library and Community Services Reinhart)

[Staff Report](#)

[Attachment I - Draft CDBG Compliance Policy Manual](#)

[Attachment II - Resolution](#)

[Attachment III - HUD Monitoring Status Update](#)

[Attachment IV - Draft Resolution - Substantial Amendment 10-21-2014](#)

17. Approval of Temporary Appointment of Administrative Analyst III (Report from Director of Public Works-Utilities and Environmental Services Ameri)

[Staff Report](#)

[Attachment I - Resolution](#)

18. Conditional Authorization of Issuance of Multi-Family Housing Revenue Bonds (South Hayward BART Family and Senior Affordable Apartments) 2014 Series A and Execution of Related Documents (Report from Assistant City Manager McAdoo)

[Staff Report](#)

[Attachment I Resolution](#)

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

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

ADJOURNMENT

NEXT MEETING – 7:00 PM, TUESDAY, SEPTEMBER 23, 2014



September 16, 2014

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.*

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

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

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

Please visit us on:



DATE: September 16, 2014

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Appointments and Reappointments to Council’s Appointed Bodies

RECOMMENDATION

That the City Council adopts the attached resolution (Attachment I) confirming twenty-three appointments and seven reappointments to the City’s Boards, Commissions, Committees, and Task Force as follows: Community Services Commission (4); Council Economic Development Committee (3); Downtown Business Improvement Area Advisory Board (4); Keep Hayward Clean and Green Task Force (6); Library Commission (2), Personnel Commission (2), and Planning Commission (2).

BACKGROUND

Recruitment was conducted from April 24 through July 10, 2014 to fill vacancies on the Community Services Commission, Council Economic Development Committee, Downtown Business Improvement Area Advisory Board, Keep Hayward Clean and Green Task Force, Library Commission, Personnel Commission, and Planning Commission. On July 29, 2014, the City Council conducted thirty-seven interviews resulting in the following recommended appointments and reappointments.

Ms. Elecia Garrett was selected for service on the Community Services Commission, but due to a conflict of interest, she did not accept appointment to this Commission.

MEMBERS	STATUS	SUCCEEDS	TERM EXPIRES
<i>Community Services Commission</i>			
Annette De Julio	New Appointment	Peggy Guernsey	September 2017
Philip Gallegos	New Appointment	Cynthia Chiasson	September 2018
Lisa Glover-Gardin	New Appointment	Allison McManus	September 2018
Kingsley Macmadu	New Appointment	Aramis Romero	September 2018
Ray Bonilla Jr.	Reappointment		September 2018

MEMBERS	STATUS	SUCCEEDS	TERM EXPIRES
<i>Community Services Commission</i>			
Robert Leppert	Reappointment		September 2018
<i>Council Economic Development Committee</i>			
Michael Ly	New Appointment	Waseem Khan	September 2018
Didacus Jeff Joe Ramos	New Appointment	Christopher Lam	September 2018
Anjanette Scott	New Appointment	Kanti Patel	September 2018
Navneet Ratti	Reappointment		September 2018
<i>Downtown Business Improvements Area Advisory Board</i>			
Joseph Davis	New Appointment	Cynthia Chang	September 2017
Sid Hamadeh	New Appointment	Katherine Kelley	September 2018
Syed Karim	New Appointment	William Roberts	September 2015
Rui Li	New Appointment	Meg Shaw	September 2017
<i>Keep Hayward Clean and Green Task Force</i>			
Arti Garg	New Appointment	Dana Caines	September 2015
Austin Intal	New Appointment	Heather Enders	September 2015
Maria Nasjleti	New Appointment	Desmond Henry	September 2015
Natasha Neves	New Appointment	Aisha Wahab	September 2015
Veronica Sandoval	New Appointment	Vacant	September 2018
Lauren Vance	New Appointment	Vacant	September 2018
<i>Library Commission</i>			
Shelby Bergeron	New Appointment	Linda Bennett	September 2018
Brigitte Lowe	New Appointment	Kelly Greene	September 2018
<i>Personnel Commission</i>			
Anthony Beaman	New Appointment	Janet K. Kassouf	September 2018
Justin King	New Appointment	Satinder Pal Singh	September 2018
Satyendra Kaith	Reappointment		September 2018
<i>Planning Commission</i>			
Heather Enders	New Appointment	Sara Lamnin	September 2018
Alan Parso	New Appointment	Elisa Márquez	September 2018

MEMBERS	STATUS	SUCCEEDS	TERM EXPIRES
<i>Planning Commission</i>			
Mariellen Faria	Reappointment		September 2016
Vishal Trivedi	Reappointment		September 2018

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:

Attachment I Resolution Establishing Appointments and Reappointments

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member _____

RESOLUTION CONFIRMING THE APPOINTMENT AND REAPPOINTMENT OF MEMBERS OF VARIOUS BOARDS, COMMISSIONS, COMMITTEES AND TASK FORCES

BE IT RESOLVED that the City Council of the City of Hayward does hereby confirm the appointment and re-appointment of the following as members of the boards, commissions, committees and task forces so designated:

APPOINTMENTS

Community Services Commission

Annette De Julio	(Succeeds Peggy Guernsey)	September 2017
Philip Gallegos	(Succeeds Cynthia Chiasson)	September 2018
Lisa Glover-Gardin	(Succeeds Allison McManus)	September 2018
Kingsley Macmadu	(Succeeds Aramis Romero)	September 2018

Council Economic Development Committee

Michael Ly	(Succeeds Waseem Khan)	September 2018
Didacus Jeff Joe Ramos	(Succeeds Christopher Lam)	September 2018
Anjanette Scott	(Succeeds Kanti Patel)	September 2018

Downtown Business Improvement Area Advisory Board

Joseph Davis	(Succeeds Cynthia Chang)	September 2017
Sid Hamadeh	(Succeeds Katherine Kelley)	September 2018
Syed Karim	(Succeeds William Roberts)	September 2015
Rui Li	(Succeeds Meg Shaw)	September 2017

Keep Hayward Clean and Green Task Force

Arti Garg	(Succeeds Dana Caines)	September 2015
Austin Intal	(Succeeds Heather Enders)	September 2015
Maria Nasjleti	(Succeeds Desmond Henry)	September 2015
Natasha Neves	(Succeeds Aisha Wahab)	September 2015
Veronica Sandoval	(Vacant)	September 2018
Lauren Vance	(Vacant)	September 2018

Library Commission

Shelby Bergeron	(Succeeds Linda Bennett)	September 2018
Brigitte Lowe	(Succeeds Kelly Greene)	September 2018

Personnel Commission

Anthony Beaman	(Succeeds Janet K. Kassouf)	September 2018
Justin King	(Succeeds Satinder Pal Singh)	September 2018

Planning Commission

Heather Enders	(Succeeds Sara Lamnin)	September 2018
Alan Parso	(Succeeds Elisa Márquez)	September 2018

REAPPOINTMENTS**Community Services Commission**

Ray Bonilla Jr.	September 2018
Robert Leppert	September 2018

Council Economic Development Committee

Navneet Ratti	September 2018
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**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 8, 2014, 7:00 p.m.**

Hayward Police Department Honor Guard Escorted Mayor-Elect Halliday and Re-Elected Council Member Peixoto to the Council Chambers dais; and Council Member-Elect Lamnin to her seat in the Council Chambers, pending installation.

The City Council meeting was called to order by Mayor Sweeney at 7:00 p.m.

SPECIAL PRESENTATIONS

Hayward Fire Department Color Guard Flag Ceremony

Star-Spangled Banner: Members of the Mt. Eden High School Chamber Singers

Pledge of Allegiance: The pledge of allegiance was led by Mayor Sweeney.

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Jones, Halliday, Peixoto, Salinas, Mendall
MAYOR Sweeney
Absent: One Vacancy

PUBLIC COMMENTS

Mr. Michael Emerson, Commander of AMVETS (American Veterans) Hayward Post 911, presented a Certificate of Appreciation to out-going Mayor Michael Sweeney for his years of service to Hayward and his support of veterans.

Bishop Jerry Macklin, with Glad Tidings Church of God in Christ, announced the first “South Hayward Empowerment Week” on July 22, 23, 24, and 26, 2014, sponsored by the Glad Tidings Community Development.

Mr. Charlie Peters, with Clean Air Performance Professionals, thanked the Council for its support in helping him advocate for issues related to ethanol in gasoline.

Mr. S.J. Samiul (aka Citizen Sam), Hayward resident, noted that Hayward Detective Angela Irizarry spoke before students about human trafficking crimes and he suggested that Ms. Irizarry educate every school in Hayward.

ELECTION

1. Resolution Acknowledging Receipt of Canvass of the General Municipal Election Held June 3, 2014, and Declaring the Results Thereof

Staff report submitted by City Clerk Lens, dated July 8, 2014, was filed.

City Clerk provided a synopsis of the report.

There being no public comments, Mayor Sweeney opened and closed the public hearing at 7:21 p.m.

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

Resolution 14-112, “Resolution Acknowledging Receipt of Canvass by the City Clerk of the General Municipal Election Held June 3, 2014, and Declaring the Results Thereof”

PRESENTATION

2. Special Recognition for Mayor Michael Sweeney and Council Member Mark Salinas

Mayor-Elect Halliday read a Certificate of Commendation presented to Council Member Salinas in recognition of his service, commitment and dedication to the City of Hayward as a Council Member from 2010 to 2014. Council Members offered words of appreciation for Council Member Salinas’ service and commitment to the City and his leadership as the Executive Director of the Kids’ Breakfast Club.

Mayor-Elect Halliday read a Certificate of Commendation presented to Mayor Michael Sweeney on his retirement in honor of his unwavering and ethical dedication and commitment to the community and neighborhoods of the City of Hayward from 2006 to 2014. Mr. Sweeney was also praised for his leadership in the success of the Keep Hayward Clean and Green Task Force. Council Members offered words of appreciation in recognition of Mayor Sweeney for his leadership, his responsiveness to the community, his inspiration to public service, and for being a mentor and a good friend.

There was a PowerPoint presentation highlighting the contributions to the City of Hayward during Mayor Sweeney’s and Council Member Salinas’ tenure.

City Manager David, on behalf of the City, thanked Mayor Sweeney and Council Member Salinas for their contributions to the City.

Council Member Salinas thanked Mayor Sweeney for his service to the community and congratulated Mayor-Elect Halliday, Re-Elected Council Member Peixoto, and Council Member-Elect Lamnin. Mr. Salinas thanked his mother, his wife Leti Salinas, and all who supported him during his campaign. Mr. Salinas praised the City Manager and the executive staff for their dedication to the City.

Mayor Sweeney thanked Council Members for their contributions to the City and City Manager, City Attorney, City Clerk, and City staff for their dedication to public service. Mr. Sweeney thanked Ms. Joanne Burkman and Ms. Colleen Kamai for providing excellent administrative support



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 8, 2014, 7:00 p.m.**

over the years. Mr. Sweeney thanked his wife, Dr. Maria Ochoa, his mother-in-law, and acknowledged and recognized his mother and father, Daniel and Eleanor Sweeney. Mayor Sweeney thanked Hayward residents for their support throughout his long public career.

City Manager David presented Mayor Sweeney and Council Member Salinas with tokens of appreciation.

INSTALLATION

3. Oath of Office and Installation of Mayor-Elect Halliday and Re-Elected Council Member Marvin Peixoto and Elected Council Member Sara Lamnin

City Clerk Lens administered the Oath of Office to Ms. Barbara Halliday, Mr. Marvin Peixoto, and Ms. Sara Lamnin.

Council Member Peixoto thanked the residents of Hayward for entrusting in him the privilege to serve the City of Hayward. Mr. Peixoto expressed gratitude for his wife, Ms. Andi Peixoto, and his supporters during his campaign. Mr. Peixoto spoke about the projects that were accomplishments during the past four years and shared his vision for his next term.

Council Member Lamnin was gratified and honored to serve the City and she shared how her parents Joseph and Marlyn Lamnin were influential in her desire to seek public service. Ms. Lamnin thanked her husband Jonathan Zimmerman and residents who entrusted in her and voted for her. Ms. Lamnin shared her vision for her term as Council Member.

Mayor Halliday thanked the former mayors for inspiring her and setting a good example. Ms. Halliday expressed gratitude for her deceased parents Ruth and Herbert Halliday, her husband Rick Imsdahl, her family, friends, supporters, treasurer, consultant, church community, and City staff. Ms. Halliday shared her vision for her term as Mayor.

LEGISLATIVE BUSINESS

4. Election of Mayor Pro Tempore

Staff report submitted by City Clerk Lens, dated July 8, 2014, was filed.

City Clerk Lens provided a synopsis of the report.

Council Member Peixoto offered a motion to nominate Council Member Jones as Mayor Pro Tempore. Council Member Mendall seconded the motion.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:04 p.m.

It was moved by Council Member Peixoto, seconded by Council Member Mendall, and carried unanimously with one vacancy, to adopt the following:

Resolution 14-113, “Resolution Authorizing the Election of Mayor Pro Tempore of the City of Hayward for 2014-2015”

5. Approval of Process for Filling a Two-Year Term City Council Vacancy

Staff report submitted by City Manager David, City Attorney Lawson, and City Clerk Lens, dated July 8, 2014, was filed.

City Manager David provided a synopsis of the report and distributed a modified third alternative schedule for filing a two-year term City Council vacancy.

Discussion ensued among Council and City staff about the process for filling a two-year term vacancy.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:14 p.m.

Council Member Jones offered a motion to approve the staff recommendation and the revised third alternative schedule for filling a two-year term City Council vacancy, and limit the number of applicants that Council members could select to five candidates.

Council Member Peixoto seconded the motion.

Council Member Lamnin supported the motion, urged the community to participate in the selection process, and asked Council members to share attributes that they would like to see in prospective candidates.

Council Member Zermeño offered a friendly amendment to limit the number of applicants that the Council can select to three. The friendly amendment did not have support.

It was moved by Council Member Jones, seconded by Council Member Peixoto, and carried unanimously with one vacancy, to adopt the following:

Resolution 14-114, “Resolution Affirming the Appointment Process and Timeline for Filling the Unexpired Two-Year Term of Council Member Barbara Halliday; and Calling for a Special Municipal Election if Needed”

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

There were none.



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 8, 2014, 7:00 p.m.**

ADJOURNMENT

Mayor Halliday adjourned the meeting at 9:20 p.m., and invited everyone to attend a reception in the Rotunda.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward



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

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

ROLL CALL

Present: COUNCIL MEMBERS Zermeño, Jones, Peixoto, Lammin
MAYOR Halliday
One Vacancy
Absent: COUNCIL MEMBER Mendall

Mayor Halliday noted that Council Member Mendall was out ill. Ms. Halliday also indicated that there was a two-year vacancy on the City Council, which was created when she was elected Mayor; and applications for such vacancy needed to be filed with the City Clerk by noon, July 16, 2014.

CLOSED SESSION ANNOUNCEMENT

City Attorney Lawson reported that the City Council met in closed session regarding five items: 1) conference with legal counsel pursuant to Government Code 54956.9 regarding: Damante v. City of Hayward, Alameda County Superior Court No. HG12620646, Russell City Energy Center, LLC v. City of Hayward, U.S.D.C., N.D. CA, No. c-14-CV-3102, Net Connection, LLC v. City of Hayward, U.S.D.C. N.D. of CA, No. CIV 13-1212; 2) conference with legal counsel pursuant to Government Code 54956.9 regarding: Enos/City of Hayward, WCAB No. ADJ8779183, Cooper/City of Hayward, WCAB Nos. ADJ8264879 and ADJ8264889, Beal/City of Hayward, WCAB No. ADJ8420333; 3) conference with real property negotiators pursuant to Government Code 54956.8 regarding: South Hayward BART Land Purchase and Requisition; 4) conference with property negotiators pursuant to Government Code 54956.8 regarding: 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); and 5) conference with labor negotiators pursuant to Government Code 54957.6 regarding all groups. There was no reportable action.

PUBLIC COMMENTS

Ms. Wynn Grich, Hayward resident, spoke about the negative health effects and privacy issues caused by smart meters and cell phone towers.

Mr. Pedro Sanchez and Jose Luis Sanchez, Hayward residents and members of the Hayward Community Gardens, through Council Member Zermeño serving as a Spanish interpreter, spoke about issues among the Hayward Community Gardens Board and its members.

Mr. Kim Huggett, president of the Hayward Chamber of Commerce, invited everyone to the “Downtown Hayward Street Parties” on July 17 and August 21, 2014.

Mr. Jim Drake, Hayward resident, requested that ten police patrols be deployed to nine neighborhoods in Hayward.

Mr. Charlie Peters, Clean Air Performance Professionals representative, provided a document for the record and spoke about ethanol used in gas and gasoline prices.

Ms. Paige Bennett, Hayward resident, concurred with the proposed mixed use for the former Holiday Bowl site, and suggested bringing an Apple or a large Rite Aid store to the site.

Ms. Mimi Bauer, Hayward resident, suggested that the project for the former Holiday Bowl was missing a bus station and bike racks; noted there needed to be something to mitigate the impact of the eight lanes of traffic; was concerned about the wide paseos; and mentioned there were no houses fronting the golf course.

Ms. Cecilia Miskic, Hayward resident, suggested more green space and parking for the former Holiday Bowl and she also recommended improving the existing unattractive apartments west of the site.

WORK SESSION

1. Preliminary Review of Proposed Project Concept: Horizontal Mixed Use project on the former Holiday Bowl Site at Mission and Industrial as presented by Doug Rich of Valley Oak Partners

Staff report submitted by Planning Manager Buizer, dated July 15, 2014, was filed.

City Manager David announced the report and introduced Interim Planning Manager Buizer who provided a synopsis of the staff report. Mr. Doug Rich of Valley Oak Partners gave an overview of the proposed conceptual plan for the former Holiday Bowl.

The Council thanked staff and Valley Oak Partners for the opportunity to discuss the project during the preliminary review phase. Mayor Halliday and Council Members Lamnin and Peixoto disclosed having met with Mr. Rich of Valley Oak Partners.

Discussion ensued among the Council and Mr. Doug Rich. Council members offered the following comments about the conceptual plan: supported the large plaza area; favored a mix of residential and retail components to be built concurrently; liked accessible single-level units; asked to entertain green and solar-ready features; recommended having opportunities for community engagement through the process; encouraged having adequate space for a bus stop and bicycle racks; suggested having the developer reach out to representatives of the existing unattractive apartments to the west of the site; urged for retail spaces to have entrances along the pedestrian corridors and encouraged open seating; recommended that civic space be active;



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suggested taking advantage of golf course views to maximize land value; asked to investigate placing single level housing over retail; recommended considering live/work units; and cautioned to proactively address possible concerns with the proximity of the golf course to residential units; and suggested considering a bowling alley for the site.

CONSENT

Consent items 2, 3, 4, 11, 12, 13, 14, 19, 20, 21 were removed for discussion.

2. Approval of Minutes of the Special Joint City Council/Redevelopment Successor Agency/Housing Authority Meeting on June 24, 2014

It was moved by Council Member Zermeño, seconded by Council Member Jones, and carried unanimously with Council Member Mendall absent, Council Member Lamnin abstaining and one vacancy, to approve the minutes of the Special Joint City Council/Redevelopment Successor Agency/Housing Authority Meeting on June 24, 2014.

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

It was moved by Council Member Zermeño, seconded by Council Member Jones, and carried with Council Member Mendall absent, Council Member Lamnin abstaining and one vacancy, to approve the minutes of the City Council Meeting on July 1, 2014.

4. West A Street Safety Improvement: Approval of Plans and Specifications and Call for Bids

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

Mr. Jim Drake, Hayward resident, would prefer to see the language “call for competitive bidding” in staff reports to demonstrate that bids were competitive.

It was moved by Council Member Lamnin, seconded by Council Member Zermeño, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-125, “Resolution Approving Plans and Specifications for the West A Street Safety Improvement Project, Project No. 05198, and Call for Bids”

5. Report and Special Assessments for Delinquent Sewer Bills and Water Bills Incurred by Property Owners

Staff report submitted by Administrative Analyst III Mosher, dated July 15, 2014, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-115, “Resolution Confirming the Report and Special Assessment List Associated with Delinquent Water and Sewer Bills and Authorizing the Delinquent Charges to Become a Special Assessment Against the Properties If Not Paid by July 31, 2014”

6. Report and Assessment for Delinquent Garbage Bills Incurred by Property Owners of Single-Family Residences

Staff report submitted by Solid Waste Manager Dahle-Lacaze, dated July 15, 2014, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-116, “Resolution Confirming the Report and Special Assessment List Associated with Delinquent Garbage Bills Incurred by Residential Property Owners with Cart Service”

7. Report and Special Assessment for Residential Rental Inspection Program Fees Past Due

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

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-117, “Resolution Confirming the Report and Special Assessment List and Authorizing Transmittal of Assessments to the County Auditor for Collection Associated with Overdue Residential Rental Inspection and Program Fees for Calendar Year 2013 and Through May 1, 2014”

8. Report and Special Assessments for Community Preservation Fees Past Due

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

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:



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Resolution 14-118, “Resolution Confirming the Report and Special Assessment List Associated with Overdue Community Preservation Charges for the Period from January 1, 2013 through May 1, 2014”

9. Report and Special Assessments for Vehicle Abatement Fees Past Due

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

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-119, “Resolution Confirming the Report and Special Assessment List and Authorizing Transmittal of Assessments to the County Auditor for Collection Associated with Overdue Vehicle Abatement Inspection Fees for Calendar Year 2013 and Through May 1, 2014”

10. Filing Nuisance Abatement/Municipal Code Violations with the County Recorder’s Office for Non-Abatable Code Violations

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

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-120, “Resolution Confirming the Report and Non-Abatable Code Violations and Penalties Lien List Associated with the Code Enforcement Department Community Preservation/Rental Housing Programs”

11. Median Landscape FY14 – Winton Avenue (Southland Drive to Southland Place): Approval of Plans and Specifications and Call for Bids

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

Mr. Jim Drake, Hayward resident, reiterated his comment about competitive bidding.

It was moved by Council Member Jones, seconded by Council Member Peixoto, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-126, “Resolution Approving Plans and Specifications for the Median Landscape FY14 – Winton Avenue (Southland Drive to Southland Place) Project, Project No. 05157, and Call for Bids”

12. Pavement Reconstruction FY15: Award of Contract

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

Mr. Jim Drakes, Hayward resident, asked who was awarded the contract and which company was the second lowest bidder.

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-127, “Resolution Increasing the Administrative Change Order Amount for the Pavement Reconstruction FY15 Project, Project Nos. 05251 and 05261, and Awarding Contract to Gallagher & Burk, Inc.”

13. Advanced Metering Infrastructure: Authorization for the City Manager to Execute Professional Services Agreement(s) for Pilot Studies

Staff report submitted by Administrative Analyst III Mosher, dated July 15, 2014, was filed.

Mr. Jim Drake, Hayward resident, inquired about the vendor selection and the total cost for the pilot studies. Mr. Drake was referred to the staff report for the information sought.

It was moved by Council Member Lamnin, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-128, “Resolution Authorizing the City Manager to Execute Agreements Between the City of Hayward and Delta Engineering Sales, Golden State Flow Measurement, Inc. and Neptune Technology Group for Professional Services to Conduct Pilot Studies of Advanced Metering Infrastructure”

14. Adoption of Resolution Approving an Amendment to the City of Hayward Salary Plan for Fiscal Year 2015

Staff report submitted by Senior Human Resources Analyst Monnastes, dated July 15, 2014, was filed.

Mr. Jim Drake, Hayward resident, expressed concern about adjusting salaries when the city had a budget deficit.



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It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-129, “Resolution Approving the Amended Fiscal Year 2015 Salary Plan Designating Positions of Employment in the City Government of the City of Hayward and Salary Range; and Superseding Resolution No. 14-069 and All Amendments Thereto”

15. Conversion of Existing Gravity Thickener to New Primary Clarifier at Water Pollution Control Facility - Authorization for the City Manager to Amend the Professional Services Agreement with Brown & Caldwell for Design and Construction Administration Services to Raise the Additional Services Limit

Staff report submitted by Senior Utilities Engineer England, dated July 15, 2014, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-121, “Resolution Authorizing the City Manager to Amend the Professional Services Agreement with Brown & Caldwell for Design and Construction Administration Services Related to the Conversion of Existing Gravity Thickener to New Primary Clarifier Project at Water Pollution Control Facility to an Amount Not to Exceed \$395,000”

16. Resolution Authorizing Amendment to the Memoranda of Understanding for the Hayward Police Officers’ Association

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

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-122, “Resolution Authorizing Amendment to the Memoranda of Understanding for the Hayward Police Officers’ Association”

17. Active Transportation Plan – Resolution of Local Support and Authorizing the Filing of the ATP Application for the Tennyson Road Pedestrian and Bicycle Bridge Project

Staff report submitted by Senior Transportation Engineer Parikh, dated July 15, 2014, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-123, “Resolution Authorizing the Filing of an Application for Funding Assigned to MTC Committing Any Necessary Matching Funds and Stating the Assurance to Complete the Project”

18. Authorization for the Bay Area Water Supply and Conservation Agency (BAWSCA) to Initiate, Defend and Settle Arbitration Related to the Water Supply Agreement with San Francisco Public Utilities Commission on Behalf of the City

Staff report submitted by Director of Public Works- Utilities and Environmental Services Ameri, dated July 15, 2014, was filed.

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-124, “Resolution Authorizing the Bay Area Water Supply and Conservation Agency to Initiate, Defend and Settle Arbitration Related to the Water Supply Agreement with the City and County of San Francisco”

19. Approval of Resolution Amending Resolution No. 14-075, Approving the Financing of Fire Station #7 and Firehouse Clinic Project

Staff report submitted by Director of Finance Vesely, dated July 15, 2014, was filed.

Mr. Jim Drake, Hayward resident, expressed concern about the financing of Fire Station #7 and the Firehouse Clinic by procuring a loan from the water fund.

It was moved by Council Member Peixoto, seconded by Council Member Lamnin, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-130, “A Resolution of the City Council of the City of Hayward Amending Resolution No. 14-075”

20. Resolution Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Ground Lease with ParkAvion Property Management HWD, LLC



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Staff report submitted by Airport Manager McNeeley, dated July 15, 2014, was filed.

Mr. Jack Schwartz representing Mr. Jerry Hoffman, president of Aviation Training, Inc. (ATI), and lease holder of Plot “F”, requested that Council postpone action authorizing the City Manager to negotiate and execute a second amendment with ParkAvion that would involve a right of first refusal for the ATI leasehold. Mr. Schwartz requested that his client be given the opportunity to renew his lease, which expires at the end of August 2015.

Mr. Gary Briggs, with ParkAvion Property Management HWD, LLC, noted he had helped the City with easements on his leasehold to allow Hayward Hangar tenants gain access to the airport’s taxiway system, and as part of the agreement and compensation, he was promised to develop a site at the Airport when it became available.

Discussion ensued among Council members and City staff regarding issues with the leaseholds and it was determined that staff had consider alternatives and the proposal was the result of extensive work to solve existing issues at the Airport and that there were options for Mr. Jerry Hoffman.

It was moved by Council Member Jones, seconded by Council Member Peixoto, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-131, “Resolution Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Ground Lease with Parkavion Property Management HWD, LLC”

21. Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Bruel & Kjaer EMS, Inc. for an Upgraded Noise Monitoring System at Hayward Executive Airport

Staff report submitted by Airport Manager McNeeley, dated July 15, 2014, was filed.

Mr. Jim Drake, Hayward resident, reiterated his comments regarding a competitive bidding process.

Mayor Halliday complimented Airport staff on their efforts for updating existing equipment and saving the City funds.

It was moved by Council Member Jones, seconded by Council Member Zermeño, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-132, “Resolution Authorizing the City Manager to Negotiate and Execute an Agreement with Bruel & Kjaer EMS, Inc. for an Upgraded Noise Monitoring System at Hayward Executive

Airport”

PUBLIC HEARING

22. Consolidated Landscaping and Lighting District No. 96-1, Zones 1 through 13 –Approve the Engineer’s Report, Confirm the Assessment Diagrams and Assessments, Order the Levy and Collection of Assessments; and Approve Funding Recommendations and Appropriate Special Revenue Funds for Fiscal Year 2015

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

Development Services Director Rizk announced the report and introduced Development Review Engineer Nguyen who provided a synopsis of the report.

In response to Council Member Jones’ inquiry regarding plans should zones reach the maximum assessment, Development Services Director Rizk noted staff would conduct a capital reserve assessment and, if determined that the annual maintenance exceeds the current maximum assessment, then staff would come back to the Council with a recommendation to conduct an election of the district.

There being no public comments Mayor Halliday opened and closed the public hearing at 9:01 p.m.

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-133, “Resolution Approving the Engineer’s Report, Confirming the Assessment Diagrams and Assessments, and Ordering Levy and Collection of Assessments for Fiscal Year 2015 of the Landscaping and Lighting District No. 96-1, Zones 1-13”

Resolution 14-134, “Resolution Approving Funding Recommendations and Appropriating Special Revenue Funds for Consolidated Landscaping and Lighting District No. 96-1, Zones 1 Through 13 for Fiscal Year 2015”

23. Maintenance District No. 1 – Storm Drainage Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road and Ruus Lane - Approve the Engineer's Report, Confirm the Assessment Diagram and Assessment, Order the Levy and Collection of Assessments, and Approve Funding Recommendations and Appropriate Special Revenue Funds for Maintenance District No. 1 for Fiscal Year 2015

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



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Development Services Director Rizk announced the report and introduced Development Review Engineer Nguyen who provided a synopsis of the report.

Discussion ensued about the need to have solid outreach education should assessments need to increase to cover ongoing costs because services would need to be maintained.

There being no public comments Mayor Halliday opened and closed the public hearing at 9:07 p.m.

It was moved by Council Member Zermeno, seconded by Council Members Peixoto and Lamnin, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-135, “Resolution Approving the Engineer’s Report, Confirming the Assessment Diagram and Assessment, and Ordering Levy and Collection of Assessments for Fiscal Year 2015 for Maintenance District No. 1: Storm Drainage Pumping Station and Storm Drain – Pacheco Way, Stratford Road, and Ruus Lane (The District)”

Resolution 14-136, “Resolution Approving Funding Recommendations and Appropriating the Special Revenue Funds Maintenance District No. 1 for Fiscal Year 2015”

24. Maintenance District No. 2 – Eden Shores Storm Water Buffer and Facilities - Approve the Engineer’s Report, Confirm the Assessment Diagram and Assessment, Order the Levy and Collection of Assessments, and Approve Funding Recommendations; and Appropriate Special Revenue Funds for Maintenance District No. 2 for Fiscal Year 2015

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

Development Review Engineer Nguyen provided a synopsis of the report.

Council Member Lamnin commended staff on the written report, response to community comments, and supported the community outreach that needed to occur.

There being no public comments, Mayor Halliday opened and closed the public hearing at 9:12 p.m.

It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-137, “Resolution Approving the Engineer’s Report, Confirming the Assessment Diagram and Assessment, and Ordering Levy and Collection of Assessments for Fiscal Year 2015 for Maintenance District No. 2: Eden Shores Water Buffer Zone and Pre-Treatment Pond (The District)”

Resolution 14-138, “Resolution Approving Funding Recommendations and Appropriating the Special Revenue Funds for Maintenance District No. 2 for Fiscal Year 2015”

LEGISLATIVE BUSINESS

25. Adopt Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to the South Hayward BART Owner Participation Agreement. CEQA: The Project was previously reviewed under a Mitigated Negative Declaration (MND) and a related Mitigation Monitoring and Reporting Program was adopted for the South Hayward BART Mixed-Use Project certified by the City Council via Resolution No. 09-025 on March 17, 2009. An Addendum to the MND was also approved in June of 2011

Staff report submitted by Project Manager DeClercq, dated July 15, 2014, was filed.

Assistant City Manager McAdoo provided a synopsis of the report.

Mayor Halliday opened the public hearing at 9:19 p.m.

Mr. Jim Drake, Hayward resident, expressed concern about the “negotiate and execute” language in the report.

Ms. Linda Mandolini, president of Eden Housing, Inc., thanked City staff, JMJ Development, and AMCAL Communities, Inc. (AMCAL) for finding a solution. Ms. Mandolini urged the Council to allow Eden Housing, Inc. to proceed and start construction as recommended in the staff report in order to allow Eden to meet strict deadlines regulated by State legislation.

Mayor Halliday closed the public hearing at 9:27 p.m.

Mayor Halliday thanked all the stakeholders that were involved with the proposed project.

It was moved by Council Member Zermeño, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-139, “Resolution of the City Council of the City of Hayward Authorizing the City Manager to Negotiate, Execute and Implement an Amendment to the Owner Participation Agreement for the South Hayward BART Transit Oriented Development”



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COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

There were none.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 9:32 p.m. in memory of Mr. Robert G. Billmire, who passed away on July 2, 2014. It was noted that Mr. Billmire was a Hayward resident, a retired businessman, a World War II Navy Veteran, a community activist, a civic leader, a patriarch of a loving family, a founding member of the Southgate Area Homeowners Association, vice chairman of the I-880/92 Citizens Advisory Committee, and active member of the New England Village Mobilehome Park. Mayor Halliday asked staff to work with Mr. Billmire's family and find a suitable place to plant a tree in his memory.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward



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

ROLL CALL

Pursuant to Government Code Section 54953 (b), Mayor Halliday announced that the meeting included a teleconference location at Hotel Puerta del Camino c/ Miguel Ferro Caaveiro, 15703 Santiago de Compostela, A Coruña, Spain. Council Member Zermeno participated via teleconference. The public had the opportunity to address the City Council at the teleconference location pursuant to Government Code Section 54954.3. All votes during the teleconferencing session were conducted by roll call vote. The teleconference location was accessible to the public and the agenda was posted at the teleconference location.

Present: COUNCIL/HA MEMBERS Zermeno, Mendall, Jones, Peixoto, Lamnin,
MAYOR/CHAIR Halliday
Absent: One Vacancy

PUBLIC COMMENTS

Mr. Jim Drake, Hayward resident, spoke about the need for more patrol officers for challenge areas in Hayward.

Mr. Stan Dobbs, Hayward Unified Superintendent, presented Mayor Halliday with a book entitled "Hard Choices" by author and former secretary of state Hillary Rodham Clinton.

CONSENT

1. Authorization to Negotiate and Execute an Amendment to and Extension of Professional Services Agreement with David Paul Rosen and Associates, and Appropriation of Housing Authority Funds to Update an Inclusionary Housing Ordinance and Affordable Housing In-Lieu Fee Review and Study

Staff report submitted by Housing Development Specialist Cortez, dated July 22, 2014, was filed.

Mr. Jim Drake, Hayward resident, expressed concerned about the hourly rate that consultants make for professional services.

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

AYES: Council Members Zermeño, Mendall, Jones, Peixoto,
Lamnín
MAYOR Halliday
NOES: None
ABSENT: One Vacancy
ABSTAINED: None

Resolution 14-140, “Resolution Authorizing the City Manager to Negotiate and Execute an Amendment to and Extension of Professional Services Agreement with David Paul Rosen and Associates to Prepare an Update to the City’s Inclusionary Housing Ordinance and Affordable Housing In-Lieu Study”

Housing Authority Resolution 14-07, “Resolution Amending Resolution HA 14-06, As Amended, the Budget Resolution for Fiscal Year 2014 Relating to an Appropriation of Funds from the Housing Authority, Fund 245”

2. Emergency Water Conservation Regulations: Authorization for City Manager to Implement Short-Term Water Conservation Actions to comply with the State Emergency Regulation for Statewide Urban Water Conservation

Staff report submitted by Administrative Analyst III Mosher, dated July 22, 2014, was filed.

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

Resolution 14-141, “Resolution Authorizing the City Manager to Implement Short-Term Water Conservation Actions to Comply with the State Water Resources Control Board’s Emergency Regulation for Statewide Urban Water Conservation”

AYES: Council Members Zermeño, Mendall, Jones, Peixoto,
Lamnín
MAYOR Halliday
NOES: None
ABSENT: One Vacancy
ABSTAINED: None

3. Recommendation to Enter Into an Agreement for the Fire Department’s Fuel Reduction and Residential Chipping Program in the High Fire Area of the Hayward Hills and the Unincorporated Fairview Community

Staff report submitted by Fire Chief Contreras, dated July 22, 2014, was filed.



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It was moved by Council Member Peixoto, seconded by Council Member Jones, and unanimously carried with Council Member Mendall absent and one vacancy, to adopt the following:

Resolution 14-142, “Resolution Authorizing the City Manager to Enter Into an Agreement for Services with Pacheco Brothers Gardening Inc., as Sole Provider for the Fire Departments Fuel Reduction and Residential Chipping Program in the High Fire Area of the Hayward Hills and the Unincorporated Fairview Community”

AYES: Council Members Zermeño, Mendall, Jones, Peixoto,
Lamnin
MAYOR Halliday
NOES: None
ABSENT: One Vacancy
ABSTAINED: None

LEGISLATIVE BUSINESS

4. Update on Appointment Process to Fill Two-Year City Council Vacancy

Staff report submitted by City Clerk Lens, dated July 22, 2014, was filed.

City Clerk Lens provided a synopsis of the report.

5. Process for Appointment of Two-Year Council Member

Staff report submitted by City Manager David, dated July 22, 2014, was filed.

Mayor Halliday provided an overview of the timing and applicant management noted in the staff report.

Mayor Halliday opened the public hearing at 7:26 p.m.

The following spoke in support of appointing Mr. Rodney Loché:

Mr. Moses Sullivan, Hayward resident

Ms. Doris Mangrum, on behalf of Saidiana Veteran’s Memorial Choir, headquartered in Hayward

Mr. Andrew York, Hayward resident

Mr. Al Parso, Hayward resident

Mr. Jeffrey Lockett, Hayward resident

Ms. Beneba Thomas, Hayward business owner

Mr. Kim Huggett, president of the Hayward Chamber of Commerce, urged the Council to appoint someone with business experience and a perspective to attract businesses.

The following spoke in support of appointing Ms. Elisa Márquez:

Ms. Thuyvan Dao, Hayward resident

Mr. Agustin Arteaga, former La Familia employee

Mr. Obray Van Buren, Hayward resident

Mr. Dione Lien, Hayward resident

Ms. Ruth Blanco, Hayward resident

Mayor Halliday closed the public hearing at 7:45 p.m.

6. Interviews

There were a total of thirty minutes allotted per applicant: three minutes for the applicant to present to Council why they were the best qualified candidate; twenty-five minutes for Council to ask questions and allow responses from the candidates; and two minutes for applicants to make closing remarks.

Mayor Halliday and Council Members interviewed the following applicants as follows:

Ms. Elisa Márquez

Mr. Rodney Loché

Mayor Halliday called for a recess at 8:44 p.m., and reconvened the meeting at 8:49 p.m.

Mr. Brian Schott

Mr. Mark Salinas

Mr. Vishal Trivedi

The Council commended the interviewees for their interest on serving the City of Hayward and expressed they were impressive individuals.

Council Member Mendall expressed support for Ms. Elisa Márquez and Mr. Rodney Loché noting they had served on City's commissions and they would bring a perspective as parents.

Council Member Jones expressed he was supportive of Mr. Rodney Loché and Ms. Elisa Márquez, but Mr. Loché was his first choice because he was a candidate for City Council on the June 3 ballot.

Council Member Lamnin expressed her first choice was Ms. Elisa Márquez because she was the applicant who had received the most support from the community.



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City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, July 22, 2014, 7:00 p.m.**

Council Member Peixoto noted his first choice was Mr. Mark Salinas because he had served as a Council Member, and his second candidate was Mr. Rodney Loché because he represented a sector of the community that needed representation.

Council Member Zermeño expressed the Council needed a representative with a family perspective and his top choices were Ms. Elisa Márquez and Mr. Rodney Loché.

Mayor Halliday thanked Mr. Brian Schott for his contributions to the City and encouraged him to continue his efforts. Ms. Halliday thanked Mr. Vishal Trivedi for his service on the Planning Commission and the Council Sustainability Committee. Ms. Halliday expressed she could support Mr. Salinas, Ms. Márquez or Mr. Loché and thanked them for their service.

Mayor Halliday used her prerogative as Mayor and offered a motion to appoint Ms. Elisa Márquez to fill the two-year term vacancy.

Council Members Mendall and Lamnin seconded the motion.

Mayor Halliday noted that Ms. Elisa Márquez had experience serving on the Human Services Commission, Planning Commission, and the Council Sustainability Committee; she brought social service experience; was a family member of a long-time Hayward business; had community support; brought diversity to the Council; and she represented an area of the city that was not presently represented on the Council.

It was moved by Mayor Halliday, seconded by Council Members Mendall and Lamnin, and carried, to carried to appoint Elisa Márquez as Council Member of the City of Hayward with the following vote:

AYES: Council Members Zermeño, Mendall, Lamnin
MAYOR Halliday
NOES: Jones, Peixoto
ABSENT: One Vacancy
ABSTAINED: None

7. Resolution Appointing a Council Member for the City of Hayward and Swearing In

It was moved by Council Member Mendall, seconded by Council Member Lamnin, and carried, to adopt the following:

Resolution 14-143, "Resolution Appointing Elisa Marquez as Council Member for the City of Hayward"

AYES: Council Members Zermeño, Mendall, Jones, Peixoto,
Lamnín
MAYOR Halliday
NOES: None
ABSENT: One Vacancy
ABSTAINED: None

City Clerk Lens administered the Oath of Office to Ms. Elisa Márquez as Council Member for the City of Hayward for the term ending June 2016.

COUNCIL REPORTS, REFERRALS, AND FUTURE AGENDA ITEMS

Council Member Zermeño urged everyone to visit Spain, Portugal and France.

ADJOURNMENT

Mayor/Chair Halliday adjourned the meeting at 10:38 p.m.

APPROVED:

Barbara Halliday
Mayor, City of Hayward
Chair, Hayward Housing Authority

ATTEST:

Miriam Lens
City Clerk, City of Hayward
Secretary, Hayward Housing Authority



**MINUTES OF THE SPECIAL CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
Conference Room 2B
777 B Street, Hayward, CA 94541
Tuesday, July 29, 2014, 12:00 p.m.**

The Special City Council meeting was called to order by Mayor Halliday at 12:00 p.m.

ROLL CALL

Present: COUNCIL MEMBERS Mendall, Jones, Peixoto, Lamnin, Márquez
MAYOR Halliday
Absent: COUNCIL MEMBER Zermeño

PUBLIC COMMENTS

Mr. Elie Goldstein and Ms. Renee Rettig, United Merchants of Downtown Hayward representatives, expressed concerns about the property at 22491 Maple Court and the nuisance problems associated with the establishment.

Mr. S.J. Samiul (aka Citizen Sam), Hayward resident, shared photographs of various events.

BOARD, COMMISSIONS, COMMITTEE AND TASK FORCE INTERVIEWS

City Clerk Lens and members of the Council discussed the logistics for the interviews. An ad hoc committee, comprised of Mayor Halliday, Council Member Mendall and Council Member Lamnin, was formed for the purpose of reviewing the annual recruitment process for members wishing to serve on the Council's appointed bodies. The ad hoc committee would also review the following: reappointment of existing members of the Council's appointed bodies; attendance, training requirements and performance of existing members; term limits for Keep Hayward Clean and Green Task Force members; potential conflicts of interests for Community Services Commission and Council Economic Development Committee applicants; an Arts and Culture Commission as identified in the General Plan Update; and the Council Airport Committee. The ad hoc committee would present its finding to the full Council at a work session, and the Council may choose to memorialize any action by adding the findings to the Council Member Handbook.

The Council interviewed thirty-seven applicants from a pool of forty-eight qualified applications received by the City Clerk. Five applicants withdrew their applications and six applicants did not interview.

At the conclusion of the interviews, the Council reviewed six requests for reappointment to the City's Board, Commissions, Committee, and Task Force. The Council also reviewed the "Attendance, Training and FPPC Compliance Report." The Council identified twenty-four individuals for formal appointment and five for re-appointment and swearing-in at the Council meeting on September 16, 2014.

ADJOURNMENT

Mayor Halliday adjourned the meeting at 10:34 p.m.

APPROVED:

Barbara Halliday
Mayor, City of Hayward

ATTEST:

Miriam Lens
City Clerk, City of Hayward

DATE: September 16, 2014
TO: Mayor and City Council
FROM: City Clerk
SUBJECT: Resignation of Carolina Abatayo from the Keep Hayward Clean and Green Task Force

RECOMMENDATION

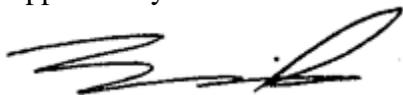
That the City Council accepts the resignation of Ms. Carolina Abatayo from the Keep Hayward Clean and Green Task Force.

BACKGROUND

Ms. Carolina Abatayo was appointed to the Keep Hayward Clean and Green Task Force on June 19, 2007. Ms. Abatayo submitted the attached resignation letter (Attachment II). Her resignation is effective immediately; and her vacated position will be filled as part of the annual appointment process for the City's Appointed Officials to Boards and Commissions.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:

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

08/20/14 10:14

August 22, 2014

Miriam Lens
City Clerk
City of Hayward
777 B Street
Hayward, CA 94541

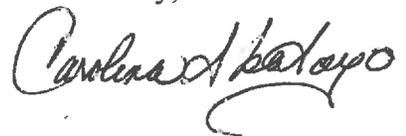
Dear Ms. Lens:

Please accept my resignation from the Keep Hayward Clean & Green Task Force, effective immediately.

Although I enjoy serving on the task force very much, my health and lack of transportation prevent me from regularly participating in meetings and events. Therefore, I must resign my position.

I am pleased to have had the opportunity to serve on the Keep Hayward Clean & Green Task Force. I wish the task force continued success and growth.

Sincerely,



Carolina Abatayo

Cc: Mayor and City Council Members
Stacey Bristow, Deputy Director of Development Services
Blytha Bowers, Chair Keep Hayward Clean & Green Task Force

DATE: September 16, 2014

TO: Mayor and City Council

FROM: Director of Public Works – Engineering & Transportation

SUBJECT: Median Landscape Improvement Project FY14 – Winton Avenue (Southland Drive to Southland Place): Award of Contract and Appropriation of Funds

RECOMMENDATION

That Council adopts the attached resolutions (Attachments I and II):

1. Awarding the contract to Alfred Joseph Landscaping, Inc., in the amount of \$251,353.71; and
2. Appropriating \$30,000 for this project from the Street Systems Improvement Fund.

BACKGROUND

On July 15, 2014, Council approved the plans and specifications for the Median Landscape Improvement Project FY14 – Winton Avenue (Southland Drive to Southland Place) and called for bids to be received on August 19, 2014.

This project is the third of several landscape improvement projects from the 2010 Median Corridor Landscape Improvements Master Plan, which was developed in an effort to improve the appearance of key corridors throughout the City.

DISCUSSION

The Median Landscape Improvement Project FY14 – Winton Avenue (Southland Drive to Southland Place) will improve the median landscape in a major connector from Interstate 880 to a core regional shopping center, retail businesses, and residential and industrial districts. Attachment III shows the project limits for this work.

The project conforms to Bay-Friendly landscape practices and complies with the City’s Civic Bay-Friendly Landscape Ordinance as well as the Bay-Friendly Water Efficient Landscape Ordinance. The project is being rated by an independent Bay-Friendly rater whose costs will be reimbursed through a grant from the Alameda County Waste Management Authority (ACWMA). The ACWMA grant also includes technical assistance and incentives which are provided to projects that meet or exceed the standards of the Bay-Friendly scorecard for new civic, commercial, and multi-family landscapes in Alameda County.

On August 19, 2014, five bids were received for the project. Alfred Joseph Landscaping, Inc., of Redwood City, submitted the lowest bid of \$251,353.71, which is 9.3% above the Engineer’s

Estimate of \$230,000. Bortolussi and Watkin, Inc., of San Rafael, submitted the second lowest bid in the amount of \$298,960, which is 30% above the Engineer's Estimate. The bids ranged from \$251,353.71 to \$383,470.

All bid documents and licenses are in order. Staff recommends award of contract to the low bidder Alfred Joseph Landscaping, Inc., in the amount of \$251,353.71.

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

FISCAL & ECONOMIC IMPACT

The Adopted FY 2015 Capital Improvement Program includes \$300,000 for the Median Landscape FY14 - Winton Avenue (Southland Drive to Southland Place) project in the Street System Improvements Fund. However, an additional appropriation of \$30,000 is needed to complete the project. As referenced in Attachment II, staff recommends Council approve the resolution appropriating \$30,000 from the Street System Improvements Fund to complete this project. The Street System Improvements Fund contains adequate fund balance to accommodate this additional appropriation. The estimated project costs are as follows:

Construction Contract	\$251,354
Design and Administration	47,900
Construction Inspection and Testing	25,746
Water Meter Installation by City Staff	5,000
Total	\$330,000

PUBLIC CONTACT

Because of the temporary inconvenience that is expected to be caused by the work in the center median, immediately after the construction contract is awarded, a preliminary notice explaining the project will be distributed to the businesses adjacent to the limit of work. After the construction work has been scheduled, businesses will be notified at least seventy-two hours prior to commencement of work.

SCHEDULE

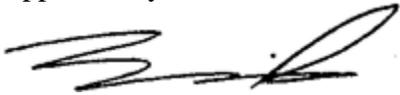
The work will begin in early January of 2015 in order to avoid any conflict with the holiday shopping season at the Southland Mall.

Begin Work	January 5, 2015
Complete Work	April 3, 2015

Prepared by: Yaw Owusu, Assistant City Engineer

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

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution – Award of Contract
- Attachment II: Resolution – Appropriation of Funds
- Attachment III: Location Map
- Attachment IV: Bid Summary

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-_____

Introduced by Council Member _____

RESOLUTION AWARDED CONTRACT TO ALFRED JOSEPH LANDSCAPING, INC., FOR THE MEDIAN LANDSCAPE IMPROVEMENT PROJECT FY14 – WINTON AVE (SOUTHLAND DRIVE TO SOUTHLAND PLACE), PROJECT NO. 05157

WHEREAS, by resolution on July 15, 2014, the City Council approved the plans and specifications for the Median Landscape Improvement Project FY14 – Winton Avenue (Southland Drive to Southland Place), Project No. 05157, and called for bids to be received on August 19, 2014; and

WHEREAS, on August 19, 2014, five bids were received ranging from \$251,353.71 to \$383,470; Alfred Joseph Landscaping, Inc., of Redwood City, California submitted the low bid in the amount of \$251,353.71, which is 9% above the Engineer’s Estimate of \$230,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that Alfred Joseph Landscaping, Inc. is hereby awarded the contract for the Median Landscape Improvement Project FY14 – Winton Avenue (Southland Drive to Southland Place), Project No. 05157, in an amount not to exceed \$251,353.71 in accordance with the aforementioned plans and specifications on file in the office of the City Clerk of the City of Hayward at and for the price named and stated in the bid of the hereinabove specified bidder, and all other bids are hereby rejected.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute the contract with Alfred Joseph Landscaping, Inc, in the name of and for and on behalf of the City of Hayward, 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

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-_____

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 14-098, AS AMENDED, THE BUDGET RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2015, RELATING TO AN APPROPRIATION OF FUNDS FROM THE STREET SYSTEM IMPROVEMENTS FUND (450) TO THE MEDIAN LANDSCAPE IMPROVEMENT PROJECT FY14 – WINTON AVENUE (SOUTHLAND DRIVE TO SOUTHLAND PLACE), PROJECT NO. 05157

BE IT RESOLVED by the City Council of the City of Hayward that Resolution 14-098, as amended, the Budget Resolution for Capital Projects for Fiscal Year 2015, is hereby amended by approving an appropriation of \$30,000 from the Street System Improvements Fund (450) to the Median Landscape Improvement Project FY14 – Winton Avenue (Southland Drive to Southland Place), Project No. 05157.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

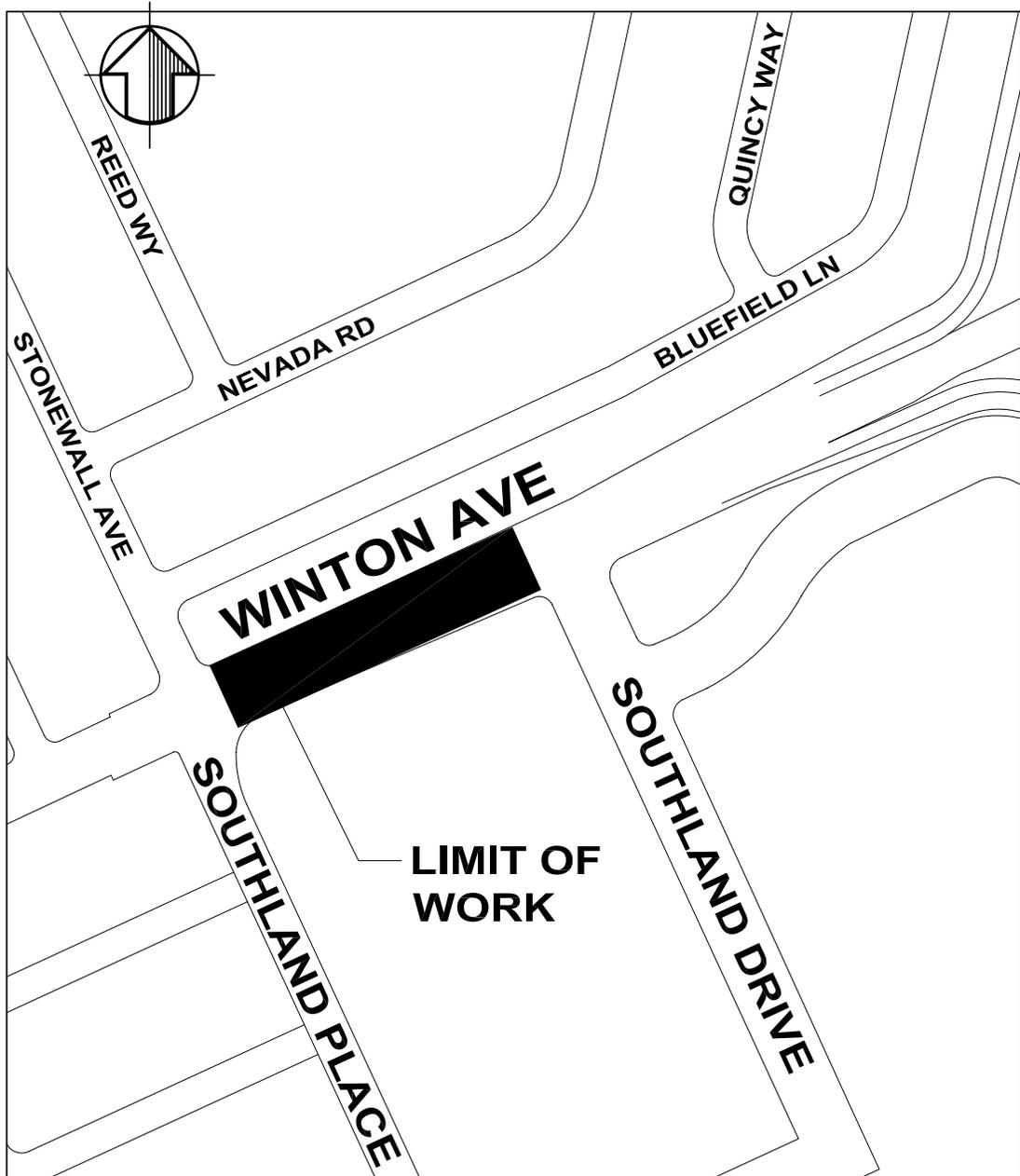
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



LOCATION MAP
MEDIAN LANDSCAPE FY14 - WINTON AVE
(SOUTHLAND DRIVE TO SOUTHLAND PLACE)
PROJECT NO. 05157

CITY OF HAYWARD
 CONSTRUCTION OF MEDIAN LANDSCAPE FY14 - WINTON AVE (SOUTHLAND DR TO SOUTHLAND PL)
 PROJECT NO. 05157
 BIDS OPENED: 8/19/14
 (NUMBER OF BIDS RECEIVED - 5)

BID SUMMARY					ENGINEER'S ESTIMATE		Alfred Joseph Landscaping, Inc.		Bortolussi & Watkin, Inc.	
					1011 Taft st Redwood City, CA 94061 (650) 366-2331 (650) 363-2734 Fax		77 Larkspur Street San Rafael, CA 94901 (415) 453-4675 (415) 453-2978 Fax			
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.07	1	LS	MOBILIZATION	5,000.00	5,000.00	16,000.00	16,000.00	29,000.00	29,000.00
2	10-1.11	1	LS	TRAFFIC CONTROL	3,000.00	3,000.00	24,750.00	24,750.00	1,500.00	1,500.00
3	2,050	6,445	SF	CONCRETE DEMOLITION	5.00	32,225.00	3.26	21,010.70	5.00	32,225.00
4	2,230	1	LS	CLEARING AND GRUBBING	1,000.00	1,000.00	9,700.00	9,700.00	2,500.00	2,500.00
5	2,230	1	LS	REMOVE EXISTING IRRIGATION SYSTEM	1,000.00	1,000.00	4,900.00	4,900.00	500.00	500.00
6	2,231	1	LS	TREE REMOVAL AND PROTECTION	3,000.00	3,000.00	4,300.00	4,300.00	3,000.00	3,000.00
7	10-1.18	1,167	LF	MINOR CONCRETE (MEDIAN CURB)	25.00	29,175.00	16.54 *	19,302.18	45.00	52,515.00
8	10-1.18	350	SF	INTERLOCKING PAVERS	15.00	5,250.00	14.29 *	5,001.50	4.50	1,575.00
9	2,810	1	LS	INSTALL IRRIGATION SYSTEM (EXCLUDING STREET BORING AND ELECTRICAL CONNECTION)	5,000.00	5,000.00	14,000.00	14,000.00	53,500.00	53,500.00
10	10-1.05 10	63	LF	STREET BORING (DIRECTIONAL DRILLING - 2 INCH CONDUIT FOR ELECTRICAL SERVICE)	80.00	5,040.00	38.10 *	2,400.30	75.00	4,725.00
11	2,810	1	EA	ELECTRICAL CONNECTION FOR IRRIGATION CONTROLLER	5,000.00	5,000.00	900.00	900.00	10,000.00	10,000.00
12	2,900	7	EA	INSTALL TREES - 36 INCH BOX	500.00	3,500.00	971.43 *	6,800.01	475.00	3,325.00
13	2,900	8	EA	INSTALL TREES - 24 INCH BOX	400.00	3,200.00	375.00	3,000.00	200.00	1,600.00
14	2,900	18	EA	INSTALL TREES - 15 GALLON	200.00	3,600.00	127.78 *	2,300.04	60.00	1,080.00
15	2,900	120	EA	INSTALL SHRUBS & ORNAMENTAL GRASSES - 5 GALLON	21.00	2,520.00	40.83 *	4,899.60	20.00	2,400.00
16	2,900	1,080	EA	INSTALL PERENNIALS - 1 GALLON	10.00	10,800.00	11.16 *	12,052.80	9.00	9,720.00
17	2,900	13,950	SF	INSTALL 3" DECOMPOSED GRANITE PAVING WITH FILTER FABRIC MEMBRANE	3.00	41,850.00	3.52 *	49,104.00	2.50	34,875.00
18	2,900	30	LF	INSTALL HEADERBOARD (2" X 6")	7.00	210.00	33.33 *	999.90	6.00	180.00
19	2,900	12,870	LF	PLACE SHEET MULCHING	1.25	16,087.50	0.25 *	3,217.50	0.70	9,009.00
20	2,900	33	EA	TREE PIT EXCAVATION, AMENDING AND BACKFILLING	85.00	2,805.00	75.76 *	2,500.08	17.00	561.00
21	2,900	970	LF	INSTALL ROOT CONTROL BARRIER	5.00	4,850.00	6.08 *	5,897.60	6.80	6,596.00
22	2,900	12,870	SF	SOIL PREPARATION AND FINE GRADING	1.00	12,870.00	0.25 *	3,217.50	0.20	2,574.00
23	2,900	1	LS	LANDSCAPE MAINTENANCE 90 DAYS	2,000.00	2,000.00	3,100.00	3,100.00	3,000.00	3,000.00
24	10-1.17	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	2,000.00	2,000.00	3,000.00	3,000.00
25	10-1.23	1	LS	ADMINISTRATIVE CHANGE ORDERS	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00
TOTAL						229,982.50	**	251,353.71		298,960.00

* Line Item Total Correction
 ** Total Bid Correction

CITY OF HAYWARD
 CONSTRUCTION OF MEDIAN LANDSCAPE FY14 - WINTON AVE (SOUTHLAND DR TO SOUTHLAND PL)
 PROJECT NO. 05157
 BIDS OPENED: 8/19/14
 (NUMBER OF BIDS RECEIVED - 5)

BID SUMMARY					ENGINEER'S ESTIMATE		Pacheco Brothers Gardening		Green Growth Industries, Inc.	
					795 Sandoval way Hayward, CA 94544 (510) 487-3580 (510) 487-6830 Fax		PO Box 1275 Pleasanton, CA 94566 (925) 484-0830 (925) 484-0937 Fax			
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.07	1	LS	MOBILIZATION	5,000.00	5,000.00	15,000.00	15,000.00	5,000.00	5,000.00
2	10-1.11	1	LS	TRAFFIC CONTROL	3,000.00	3,000.00	27,000.00	27,000.00	6,600.00	6,600.00
3	2,050	6,445	SF	CONCRETE DEMOLITION	5.00	32,225.00	4.20	27,069.00	7.00	45,115.00
4	2,230	1	LS	CLEARING AND GRUBBING	1,000.00	1,000.00	5,000.00	5,000.00	3,000.00	3,000.00
5	2,230	1	LS	REMOVE EXISTING IRRIGATION SYSTEM	1,000.00	1,000.00	3,500.00	3,500.00	3,000.00	3,000.00
6	2,231	1	LS	TREE REMOVAL AND PROTECTION	3,000.00	3,000.00	7,000.00	7,000.00	8,250.00	8,250.00
7	10-1.18	1,167	LF	MINOR CONCRETE (MEDIAN CURB)	25.00	29,175.00	38.00	44,346.00	15.00	17,505.00
8	10-1.18	350	SF	INTERLOCKING PAVERS	15.00	5,250.00	24.00	8,400.00	30.00	10,500.00
9	2,810	1	LS	INSTALL IRRIGATION SYSTEM (EXCLUDING STREET BORING AND ELECTRICAL CONNECTION)	5,000.00	5,000.00	45,000.00	45,000.00	66,500.00	66,500.00
10	10-1.05 10	63	LF	STREET BORING (DIRECTIONAL DRILLING - 2 INCH CONDUIT FOR ELECTRICAL SERVICE)	80.00	5,040.00	135.00	8,505.00	80.00	5,040.00
11	2,810	1	EA	ELECTRICAL CONNECTION FOR IRRIGATION CONTROLLER	5,000.00	5,000.00	500.00	500.00	2,500.00	2,500.00
12	2,900	7	EA	INSTALL TREES - 36 INCH BOX	500.00	3,500.00	1,100.00	7,700.00	850.00	5,950.00
13	2,900	8	EA	INSTALL TREES - 24 INCH BOX	400.00	3,200.00	400.00	3,200.00	435.00	3,480.00
14	2,900	18	EA	INSTALL TREES - 15 GALLON	200.00	3,600.00	180.00	3,240.00	165.00	2,970.00
15	2,900	120	EA	INSTALL SHRUBS & ORNAMENTAL GRASSES - 5 GALLON	21.00	2,520.00	55.00	6,600.00	31.00	3,720.00
16	2,900	1,080	EA	INSTALL PERENNIALS - 1 GALLON	10.00	10,800.00	16.00	17,280.00	12.00	12,960.00
17	2,900	13,950	SF	INSTALL 3" DECOMPOSED GRANITE PAVING WITH FILTER FABRIC MEMBRANE	3.00	41,850.00	2.50	34,875.00	4.50	62,775.00
18	2,900	30	LF	INSTALL HEADERBOARD (2" X 6")	7.00	210.00	4.00	120.00	4.00	120.00
19	2,900	12,870	LF	PLACE SHEET MULCHING	1.25	16,087.50	1.00	12,870.00	1.65	21,235.50
20	2,900	33	EA	TREE PIT EXCAVATION, AMENDING AND BACKFILLING	85.00	2,805.00	150.00	4,950.00	185.00	6,105.00
21	2,900	970	LF	INSTALL ROOT CONTROL BARRIER	5.00	4,850.00	14.00	13,580.00	6.50	6,305.00
22	2,900	12,870	SF	SOIL PREPARATION AND FINE GRADING	1.00	12,870.00	1.00	12,870.00	1.15	14,800.50
23	2,900	1	LS	LANDSCAPE MAINTENANCE 90 DAYS	2,000.00	2,000.00	3,000.00	3,000.00	3,200.00	3,200.00
24	10-1.17	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	2,500.00	2,500.00	3,000.00	3,000.00
25	10-1.23	1	LS	ADMINISTRATIVE CHANGE ORDERS	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00
TOTAL						229,982.50		344,105.00		349,631.00

CITY OF HAYWARD
 CONSTRUCTION OF MEDIAN LANDSCAPE FY14 - WINTON AVE (SOUTHLAND DR TO SOUTHLAND PL)
 PROJECT NO. 05157
 BIDS OPENED: 8/19/14
 (NUMBER OF BIDS RECEIVED - 5)

BID SUMMARY					ENGINEER'S ESTIMATE		Suarez & Munoz Construction, Inc.	
							20975 Cabot Blvd Hayward, CA 94545 (510) 782-6065 (510) 782-6078 Fax	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.07	1	LS	MOBILIZATION	5,000.00	5,000.00	20,000.00	20,000.00
2	10-1.11	1	LS	TRAFFIC CONTROL	3,000.00	3,000.00	10,000.00	10,000.00
3	2,050	6,445	SF	CONCRETE DEMOLITION	5.00	32,225.00	3.00	19,335.00
4	2,230	1	LS	CLEARING AND GRUBBING	1,000.00	1,000.00	8,000.00	8,000.00
5	2,230	1	LS	REMOVE EXISTING IRRIGATION SYSTEM	1,000.00	1,000.00	500.00	500.00
6	2,231	1	LS	TREE REMOVAL AND PROTECTION	3,000.00	3,000.00	3,000.00	3,000.00
7	10-1.18	1,167	LF	MINOR CONCRETE (MEDIAN CURB)	25.00	29,175.00	65.00	75,855.00
8	10-1.18	350	SF	INTERLOCKING PAVERS	15.00	5,250.00	20.00	7,000.00
9	2,810	1	LS	INSTALL IRRIGATION SYSTEM (EXCLUDING STREET BORING AND ELECTRICAL CONNECTION)	5,000.00	5,000.00	68,000.00	68,000.00
10	10-1.05 10	63	LF	STREET BORING (DIRECTIONAL DRILLING - 2 INCH CONDUIT FOR ELECTRICAL SERVICE)	80.00	5,040.00	80.00	5,040.00
11	2,810	1	EA	ELECTRICAL CONNECTION FOR IRRIGATION CONTROLLER	5,000.00	5,000.00	10,000.00	10,000.00
12	2,900	7	EA	INSTALL TREES - 36 INCH BOX	500.00	3,500.00	760.00	5,320.00
13	2,900	8	EA	INSTALL TREES - 24 INCH BOX	400.00	3,200.00	320.00	2,560.00
14	2,900	18	EA	INSTALL TREES - 15 GALLON	200.00	3,600.00	140.00	2,520.00
15	2,900	120	EA	INSTALL SHRUBS & ORNAMENTAL GRASSES - 5 GALLON	21.00	2,520.00	25.00	3,000.00
16	2,900	1,080	EA	INSTALL PERENNIALS - 1 GALLON	10.00	10,800.00	11.00	11,880.00
17	2,900	13,950	SF	INSTALL 3" DECOMPOSED GRANITE PAVING WITH FILTER FABRIC MEMBRANE	3.00	41,850.00	3.80	53,010.00
18	2,900	30	LF	INSTALL HEADERBOARD (2" X 6")	7.00	210.00	12.00	360.00
19	2,900	12,870	LF	PLACE SHEET MULCHING	1.25	16,087.50	1.00	12,870.00
20	2,900	33	EA	TREE PIT EXCAVATION, AMENDING AND BACKFILLING	85.00	2,805.00	180.00	5,940.00
21	2,900	970	LF	INSTALL ROOT CONTROL BARRIER	5.00	4,850.00	13.00	12,610.00
22	2,900	12,870	SF	SOIL PREPARATION AND FINE GRADING	1.00	12,870.00	1.00	12,870.00
23	2,900	1	LS	LANDSCAPE MAINTENANCE 90 DAYS	2,000.00	2,000.00	3,500.00	3,500.00
24	10-1.17	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	300.00	300.00
25	10-1.23	1	LS	ADMINISTRATIVE CHANGE ORDERS	30,000.00	30,000.00	30,000.00	30,000.00
TOTAL						229,982.50		383,470.00



DATE: September 16, 2014

TO: Mayor and City Council

FROM: Director of Public Works – Engineering & Transportation

SUBJECT: West A Street Safety Improvement Project: Award of Contract and Appropriation of Funds

RECOMMENDATION

That Council adopts the attached resolutions (Attachments I and II):

1. Awarding a contract to W. Bradley Electric, Inc., in the amount of \$240,182; and
2. Appropriating \$51,000 for this project from the Street System Improvements Fund.

BACKGROUND

A City-wide traffic safety improvement study resulted in planned improvements at the Intersections of West A Street/South Garden Avenue, West A Street/Happyland Avenue, and West A Street/Hathaway Avenue-Santa Clara Street. In early 2012, staff applied for federal Highway Safety Improvement Program (HSIP) funding and received \$161,000 to improve these intersections. The project location map is referenced in Attachment III. On July 15, 2014, Council approved the plans and specifications for the West A Street Safety Improvement Project and called for bids to be received on August 12, 2014.

DISCUSSION

This improvement project will mitigate safety issues identified at the previously referenced intersections. These include broadside, side swipe, rear end, and vehicle-pedestrian collisions. At the West A Street/South Garden Avenue intersection, the existing left turn onto South Garden Avenue will be modified by removing the existing median curb that is located on the right side of motorists, and installing a new median curb to the left side of motorists, which is more typical. The dedicated left turn pocket will now be protected with the median curb that is to the left of motorists. At the intersection of West A Street/Happyland Avenue, a pedestrian-activated rapid flashing beacon will be installed to bring greater driver awareness to the presence of pedestrians. Finally, existing signal poles and arms will be replaced and reconfigured to allow left turn signal phasing for all directions at the West A Street/Hathaway Avenue-Santa Clara Street intersection.

On August 12, 2014, the City received three bids for the West A Street Safety Improvement project. W. Bradley Electric, Inc., of Novato submitted the lowest bid in the amount of \$240,182, which is 14.1% above the Engineer's Estimate of \$210,458. J.J.R. Construction, Inc., of San Mateo

submitted the second lowest bid in the amount of \$249,811, which is 18.7% higher than the Engineer's Estimate. The bids ranged from \$240,182 to \$277,713. Since this project is partly funded with federal funds, the federal Disadvantaged Business Enterprise (DBE) program applies. This project has a contract goal of 7% DBE participation. W. Bradley Electric, Inc., the low bidder, met this requirement.

The project is categorically exempt from environmental review under section 15301 (c) of the California Environmental Quality Act Guidelines for the operation, repair, maintenance, or minor alteration of existing facilities. Additionally, the Local Assistance Branch of Caltrans concurs that this project is categorically excluded from the National Environmental Policy Act.

FISCAL IMPACT

The Adopted FY 2015 Capital Improvement Program includes \$254,000 for the West A Street Safety Improvement Project in the Street System Improvements Fund. However, the estimated project costs are \$305,000, as noted below. Therefore, an additional appropriation of \$51,000 is needed to complete the project. As referenced in Attachment II, staff recommends Council approve the resolution appropriating \$51,000 from the Street System Improvements Fund to complete this project. The Street System Improvements Fund contains adequate fund balance to accommodate this additional appropriation. The estimated updated project costs and funding sources are as follows:

Project Expenditures

Construction Contract	\$240,182
Design and Administration	30,818
Construction Inspection and Testing	34,000
Total	\$305,000

Project Funding Sources

Highway Safety Improvement Program	\$161,000
City (Street System Improvements Fund)	144,000
Total	\$305,000

PUBLIC CONTACT

Because of the temporary inconvenience that is expected to be caused by the improvement work, after the construction contract is awarded, staff will post and distribute preliminary notices explaining the project to residents and businesses along the affected streets. After the construction work has been scheduled, a detailed notice indicating the date and time of work for each intersection will be distributed to all affected residents and businesses.

COMPLETE STREETS

This project considers all users of the public right-of-way in addition to motorists. Existing accommodations such as transit facilities, bicycle facilities, sidewalk, and street lighting will be maintained. The project will also reconstruct existing curb ramps that are not ADA compliant and will restripe bicycle lanes. These measures are consistent with the City's recently adopted Complete Streets Policy, where consideration is to be given to all users of the street in roadway improvement projects, in addition to vehicular traffic.

SCHEDULE

Begin Work	October 14, 2014
Complete Work	December 19, 2014

Prepared by: Yaw Owusu, Assistant City Engineer

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

Approved by:



Fran David, City Manager

Attachments:

- Attachment I: Resolution – Award of Contract
- Attachment II: Resolution – Appropriation of Funds
- Attachment III: Location Map
- Attachment IV: Bid Summary

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-_____

Introduced by Council Member _____

RESOLUTION AWARDDING CONTRACT TO W. BRADLEY ELECTRIC, INC., FOR THE WEST A STREET SAFETY IMPROVEMENT PROJECT, PROJECT NO. 05198

WHEREAS, by resolution on July 15, 2014, the City Council approved the plans and specifications for the West A Street Safety Improvement Project, Project No. 05198, and called for bids to be received on August 12, 2014; and

WHEREAS, on August 12, 2014, three bids were received ranging from \$240,182 to \$277,713; W. Bradley Electric, Inc., of Novato, California submitted the lowest bid in the amount of \$240,182, which is 14.1% above the Engineer’s Estimate of \$210,458; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that W. Bradley Electric, Inc., is hereby awarded the contract for the West A Street Safety Improvement Project, Project No. 05198, in an amount not to exceed \$240,182 in accordance with the aforementioned plans and specifications on file in the office of the City Clerk of the City of Hayward at and for the price named and stated in the bid of the hereinabove specified bidder, and all other bids are hereby rejected.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute the contract with W. Bradley Electric, Inc., in the name of and for and on behalf of the City of Hayward, 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

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-_____

Introduced by Council Member _____

RESOLUTION AMENDING RESOLUTION 14-098, AS AMENDED, THE BUDGET RESOLUTION FOR CAPITAL IMPROVEMENT PROJECTS FOR FISCAL YEAR 2015, RELATING TO AN APPROPRIATION OF FUNDS FROM THE STREET SYSTEM IMPROVEMENTS FUND (450) TO THE WEST A STREET SAFETY IMPROVEMENT PROJECT, PROJECT NO. 05198

BE IT RESOLVED by the City Council of the City of Hayward that Resolution 14-098, as amended, the Budget Resolution for Capital Projects for Fiscal Year 2015, is hereby amended by approving an appropriation of \$51,000 from the Street System Improvements Fund (450) to the West A Street Safety Improvement Project, Project No. 05198.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

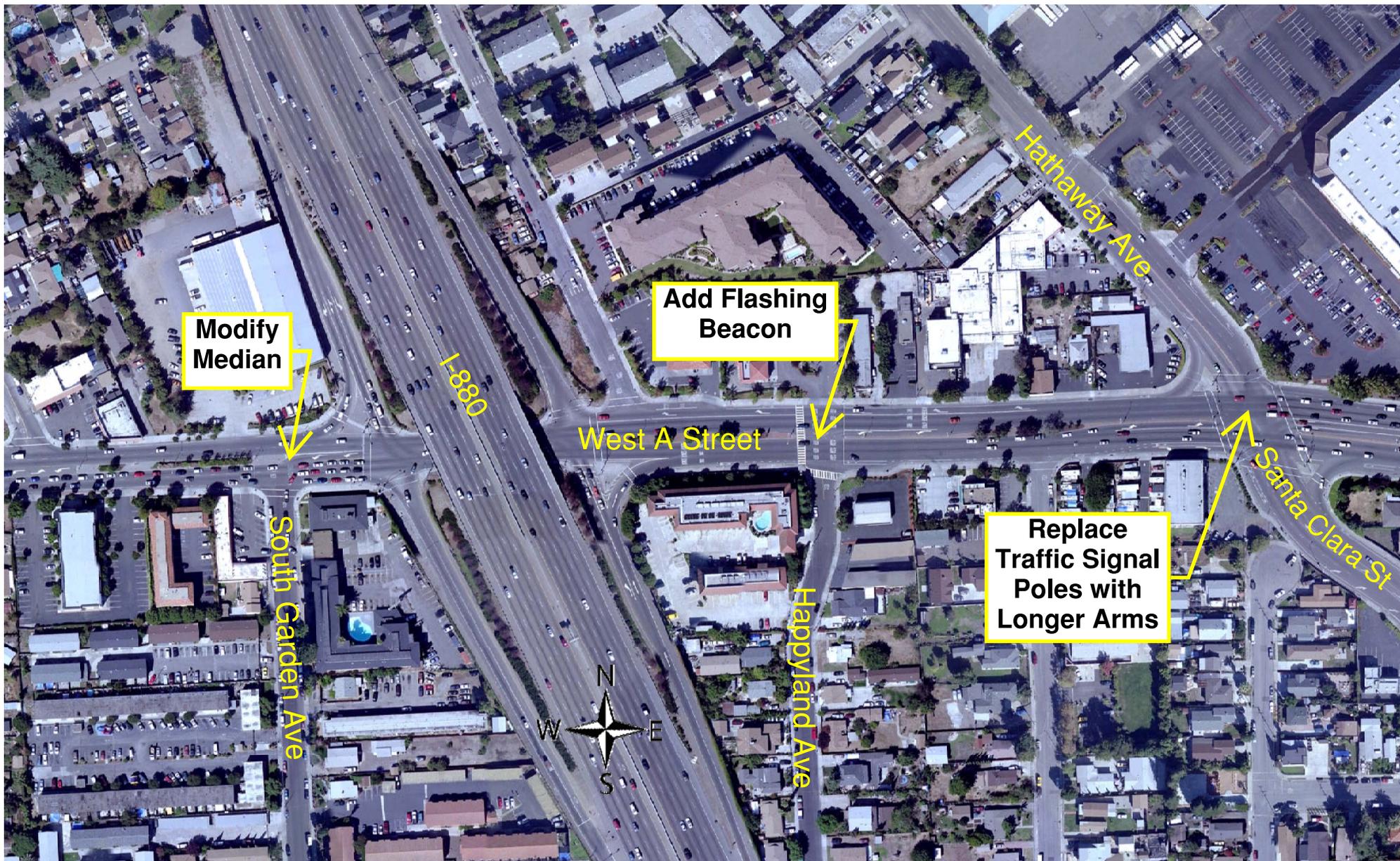
ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



CITY OF HAYWARD
 CONSTRUCTION OF WEST A STREET SAFETY IMPROVEMENTS
 PROJECT NO. 05198
 BIDS OPENED: 8/12/14
 (NUMBER OF BIDS RECEIVED - 3)

BID SUMMARY					ENGINEER'S ESTIMATE		W. Bradley Electric 90 Hill Road Novato, CA 94945 (415) 898-1400 Phone (415) 493-2559 Fax		JJR Construction, Inc. 1120 Ninth Avenue San Mateo, CA 94402 (650) 343-6109 Phone (650) 343-6207 Fax	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.11	1	LS	MOBILIZATION	10,000.00	10,000.00	10,000.00	10,000.00	9,000.50	9,000.50
2	10-1.12	1	LS	TRAFFIC CONTROL	10,000.00	10,000.00	15,000.00	15,000.00	35,000.00	35,000.00
3	10-1.18	78	LF	REMOVE CONCRETE CURB	20.00	1,560.00	20.00	1,560.00	7.00	546.00
4	10-1.18	490	SF	REMOVE AC PAVEMENT	7.00	3,430.00	6.00	2,940.00	5.05	2,474.50
5	10-1.18	44	SF	REMOVE CONCRETE MEDIAN	12.00	528.00	5.00	220.00	6.00	264.00
6	10-1.24	285	LF	MINOR CONCRETE (ISLAND CURB)	25.00	7,125.00	59.00	16,815.00	46.00	13,110.00
7	10-1.24	1,864	SF	MINOR CONCRETE (CURB RAMP WITH DETECTABLE WARNING SURFACE)	30.00	55,920.00	19.00	35,416.00	18.00	33,552.00
8	10-1.24	257	SF	MINOR CONCRETE (MEDIAN)	15.00	3,855.00	14.00	3,598.00	17.00	4,369.00
9	10-2.01	215	SF	MEDIAN PAVERS	20.00	4,300.00	23.00	4,945.00	25.00	5,375.00
10	10-1.24	64	SF	RETROFIT EXISTING CURB RAMP WITH DETECTABLE WARNING SURFACE	35.00	2,240.00	57.00	3,648.00	30.00	1,920.00
11	10-1.22	14	TN	FULL DEPTH HOT MIX ASPHALT SPOT REPAIR (6" EXCAVATION W/ 6" HMA)	250.00	3,500.00	535.00	7,490.00	300.00	4,200.00
12	10-3.20	1	LS	RECTANGULAR RAPID FLASH BEACON, PUSH BUTTON ACTIVATED, SOLAR POWER & WIRELESS SYSTEM	12,000.00	12,000.00	25,000.00	25,000.00	92,500.00	92,500.00
13	10-3	1	LS	TRAFFIC SIGNAL MODIFICATION	70,000.00	70,000.00	88,000.00	88,000.00	21,000.00	21,000.00
14	10-1.34	1	LS	STRIPING AND SIGNING	5,000.00	5,000.00	4,600.00	4,600.00	6,000.00	6,000.00
15	10-1.03	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	950.00	950.00	500.00	500.00
16	10-4.04	1	LS	ADMINISTRATIVE CHANGE ORDER	20,000.00	20,000.00	20,000.00	20,000.00	20,000.00	20,000.00
				TOTAL		210,458.00		240,182.00		249,811.00

CITY OF HAYWARD
 CONSTRUCTION OF WEST A STREET SAFETY IMPROVEMENTS
 PROJECT NO. 05198
 BIDS OPENED: 8/12/14
 (NUMBER OF BIDS RECEIVED - 3)

BID SUMMARY					ENGINEER'S ESTIMATE		FBD Vanguard Construction	
							651 Enterprise Court Livermore, CA 94550 (925) 245-1300 Phone (925) 245-1007 Fax	
ITEM	ITEM CODE	QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
1	10-1.11	1	LS	MOBILIZATION	10,000.00	10,000.00	24,100.00	24,100.00
2	10-1.12	1	LS	TRAFFIC CONTROL	10,000.00	10,000.00	21,800.00	21,800.00
3	10-1.18	78	LF	REMOVE CONCRETE CURB	20.00	1,560.00	21.00	1,638.00
4	10-1.18	490	SF	REMOVE AC PAVEMENT	7.00	3,430.00	5.50	2,695.00
5	10-1.18	44	SF	REMOVE CONCRETE MEDIAN	12.00	528.00	36.00	1,584.00
6	10-1.24	285	LF	MINOR CONCRETE (ISLAND CURB)	25.00	7,125.00	35.00	9,975.00
7	10-1.24	1,864	SF	MINOR CONCRETE (CURB RAMP WITH DETECTABLE WARNING SURFACE)	30.00	55,920.00	23.50	43,804.00
8	10-1.24	257	SF	MINOR CONCRETE (MEDIAN)	15.00	3,855.00	22.00	5,654.00
9	10-2.01	215	SF	MEDIAN PAVERS	20.00	4,300.00	37.00	7,955.00
10	10-1.24	64	SF	RETROFIT EXISTING CURB RAMP WITH DETECTABLE WARNING SURFACE	35.00	2,240.00	115.00	7,360.00
11	10-1.22	14	TN	FULL DEPTH HOT MIX ASPHALT SPOT REPAIR (6" EXCAVATION W/ 6" HMA)	250.00	3,500.00	822.00	11,508.00
12	10-3.20	1	LS	RECTANGULAR RAPID FLASH BEACON, PUSH BUTTON ACTIVATED, SOLAR POWER & WIRELESS SYSTEM	12,000.00	12,000.00	92,400.00	92,400.00
13	10-3	1	LS	TRAFFIC SIGNAL MODIFICATION	70,000.00	70,000.00	20,900.00	20,900.00
14	10-1.34	1	LS	STRIPING AND SIGNING	5,000.00	5,000.00	4,970.00	4,970.00
15	10-1.03	1	LS	RECYCLING IMPLEMENTATION	1,000.00	1,000.00	1,370.00	1,370.00
16	10-4.04	1	LS	ADMINISTRATIVE CHANGE ORDER	20,000.00	20,000.00	20,000.00	20,000.00
TOTAL						210,458.00		277,713.00

DATE: September 16, 2014

TO: Mayor and City Council

FROM: Human Resources Director

SUBJECT: Resolution Authorizing the City Manager to Execute Agreements for Occupational Health Services

RECOMMENDATION

That the City Council approves the attached Resolution (Attachment I) authorizing the City Manager to execute agreements for occupational health services.

BACKGROUND

Occupational health services are the programs and services provided to an organization to design, implement, and evaluate comprehensive employee health and safety programs. Occupational health services within the City of Hayward include the following:

- Workers compensation medical examinations
- Post-offer and pre-employment physical examinations,
- Fit-for-Duty examinations to ensure employees are able to perform the essential functions of their positions,
- Industrial Disability Retirement (IDR) determinations,
- Department of Transportation (DOT) and specialized drug testing services, and
- Health, wellness, and prevention education and programs

Most of the dollars allocated to occupational health services are spent on workers compensation claims to treat injured workers. These claims are classified either as first-aid claims, which do not require medical treatment, medical-only claims, which require medical treatment but do not involve lost work time, or indemnity claims, which involve medical treatment and lost work time. The recommendations in this proposal aim to directly address the City's ability to provide high quality occupational health services in a cost efficient manner and support the goals of the Workers Compensation Program.

The City currently uses California Cardiovascular Consultants and Medical Associates, (CCCMA), formerly St. Rose Occupational Clinic, to perform DOT testing and workers

compensation, post offer and pre-employment, and Fit-for-Duty examinations. The City also uses Concentra and this firm currently provides post-offer and pre-employment physical examinations for sworn Police and Fire employees, specialized drug testing services, Fit-for-Duty examinations, and IDR determinations.

Occupational health services costs are budgeted in the Workers' Compensation Fund. This internal service fund derives its revenue from payroll charges assessed within department budgets based on established Workers' Compensation rates (they vary by classification). All funds with payroll are assessed, including the General and Enterprise Funds. In FY 2014, the City spent approximately \$703,800 on occupational health services. Conducting a RFP process for occupational health services is one of the FY 2014 goals detailed in the October 22, 2013 report to Mayor and Council regarding the status of the City's Workers Compensation Program.

DISCUSSION

A RFP was sent out in May 2014. Proposals were received from Concentra, CCCMA, Kaiser Permanente, OCCU-MED, and US HealthWorks. The proposals were reviewed by Human Resources, and managers from the Fire, Police, and Utilities and Environmental Services departments. The evaluation process included rating written proposals, oral presentations, and site visits at the finalist's facilities. Through the RFP process, the review team recommends that the City continue to partner with CCCMA and Concentra and initiate a partnership with OCCU-MED. Contracting with three vendors allows the City to continue to build on its partnerships with both CCCMA and Concentra, utilize the expert services of OCCU-MED, and offer employees a choice in where they seek treatment for an occupational illness or injury.

Staff recommends that the City contract with CCCMA and Concentra to provide medical treatment for workers' compensation injuries and illnesses based on clinic locations, experience working with the City, focus on data collection, reporting and cost containment. Staff further recommends that Concentra continue to provide Fit-for-Duty examinations, specialized drug testing, and IDR determinations and that CCCMA continue to provide DOT testing. Staff recommends that the City contract with OCCU-MED to provide post-offer and pre-employment physical examinations and fitness-for-duty examination services.

OCCU-MED has been an industry leader in providing cost effective and legally defensible post-offer, pre-placement medical evaluations, as well as fitness-for-duty/return to work evaluations for thirty-four years. Adding OCCU-MED as a partner on the occupational health services team enhances the quality of post-offer and pre-employment physical examinations and fitness-for-duty examinations because the examinations are developed based on City provided job specifications and uniquely tailored to identify any health concerns that potentially impact a candidate's ability to perform the essential functions of the position with or without reasonable accommodation. This service is not currently offered by CCCMA or Concentra. However, OCCU-MED works with Concentra to administer the examinations.

In contracting with both CCCMA and Concentra, when an employee is injured at work, managers and supervisors have the ability to designate or give the employee a choice as to where they will seek medical treatment. Allowing an employee to choose is important because it

increases the likelihood that an employee will treat with the City’s occupational health provider for the duration of their treatment. The City can only require an employee to utilize contracted occupational health provider for the first 30 days of treatment, at which point, they can choose to see their own physician, which is often more expensive. Each of the occupational health providers recommended are highly qualified and offer competitive pricing schedules.

CCCMA has provided occupational health services to the City of Hayward for approximately 32 years. The City values this relationship and is committed to a continued partnership with the only occupational health care provider in the Hayward community. The City has established a strong relationship with the Clinic Medical Director and interacts with him frequently via phone and through regular monthly meetings to discuss updates and strategy of active workers compensation cases. Concentra, a subsidiary of Humana, Inc. is a national healthcare company focused on the patient experience and provides occupational medicine, urgent care, physical therapy, and wellness services via their national network of urgent care centers. The City has utilized their services for pre-retirement examinations and expert medical opinions for many years. More recently, Concentra has provided pre-employment physicals for public safety positions that require a more comprehensive examination, fit for duty examinations and specialized drug testing services.

. Preventing injuries and overall employee health and wellness are priorities of the Workers Compensation Program. As discussed in the October 22, 2013 report to Mayor and City Council on the City’s Workers Compensation Program, in order to reduce overall workers compensation costs, the City needs to focus on injury prevention, education, and reducing exposure to occupational injuries and illnesses. This focus has a direct impact on reducing the number of lost work days for occupational injuries and illnesses, which is a significant cost driver in the overall workers’ compensation budget. Staff recommends expanding the partnership with CCMA to include health and wellness programs and initiatives, with a focus on injury prevention and maintaining a healthy lifestyle as a cornerstone to reduce workers compensation costs.

FISCAL IMPACT

In FY 2014, the City spent approximately \$703,800 for occupational health services. The estimated cost for FY 2015 is approximately \$775,000 assuming a ten percent increase in the cost of medical services. This proposal does not increase the budgeted amount for occupational health service in FY 2015. The amount of each contract is as follows:

Provider	Contract Amount
CCCMA	\$400,000
Concentra	\$300,000
OCCU-MED	\$75,000

This recommendation is for multiple year agreements. Therefore, subsequent years of the agreements would be subject to and dependent upon appropriations by Council for each respective fiscal year.

NEXT STEPS

If the Resolution is approved by Council, Human Resources will work with the City Attorney to prepare the agreements with the recommended vendors for signature by the City Manager. Human Resources will also update all forms and processes currently used in administering occupational health services and communicate the changes to employees.

Prepared by: Julie Guimond, Acting Senior Human Resources Analyst

Recommended by: Nina S. Collins, Acting Human Resources Director

Approved by:



Fran David, City Manager

Attachment I: Resolution Authorizing the City Manager to Execute Agreements for Occupational Health Services

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS FOR OCCUPATIONAL HEALTH SERVICES

WHEREAS, the City of Hayward uses the services of occupational health providers for workers' compensation injuries and illnesses, post-offer and pre-employment physical examinations, fitness-for-duty examination, Department of Transportation and specialized drug testing services, and health and wellness education and services; and

WHEREAS, the City of Hayward conducted a Request for Proposal process for the provision of occupational health Services and CCCMA, Concentra, and OCCU-MED were identified as the most qualified vendors to provide these services; and

WHEREAS, occupational health services in the amount of \$775,000 are budgeted in the approved FY 2015 Workers' Compensation budget in the General Fund and the second and third years of the agreement are subject to and dependent upon appropriations by Council for each respective year.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby authorize and direct the City Manager to execute a three-year agreement with CCCMA, Concentra, and OCCU-MED in the amounts of \$400,000, \$300,000 and \$75,000 respectively, effective November 1, 2014 through October 31, 2017, in a form approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA, September 16, 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: September 16, 2014

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: Amend FY 2015 Master Fee Schedule to Add Convenience Fee for Online and Telephone Payments

RECOMMENDATION

That Council adopts a resolution (Attachment I) approving the addition of a \$3.95 convenience fee for online and telephone credit card payments to the FY 2015 Master Fee Schedule.

BACKGROUND

Currently, the City of Hayward allows customers three different options to make payments on their utility accounts with a credit or debit card: in-person, online and over the phone transactions. Whenever the City accepts a credit card for payment on-line or over the phone, a processing fee is charged by both the bank and the credit card processing company. As Table 1 shows, the total fees that the City has paid has consistently grown over the past four fiscal years. The amount paid in fees is not growing because the fees themselves are increasing, but because the number of customers paying with a credit card continues to increase. Currently, this growing cost is not recovered by the City in any way, and it is simply an unbudgeted expense to the General Fund and the Water Enterprise Fund.

Table 1 – Credit Card Processing Fees

	FY 2011	FY 2012	FY 2013	FY 2014
Enterprise Fund	\$48,918	\$62,720	\$94,422	\$119,202
General Fund	\$7,810	\$10,896	\$18,286	\$21,917
Total Fees Paid	\$56,729	\$73,616	\$112,708	\$141,119

DISCUSSION

A convenience fee could be added to credit and debit card payments made online or over the phone as a method of recouping some of the costs of maintaining the online and phone payment systems themselves. This is a fee that many utility companies around California have already implemented in varying amounts. For example, two large utility companies in the Bay Area, East Bay Municipal

Utility District and San Francisco Public Utilities Commission, have both instituted convenience fees of \$2.75 and \$5.80 respectively.

Staff examined the fees charged by eleven utility companies in California and determined that the average convenience fee as charged by these agencies is \$4.46. Staff recommends the addition of a fee of \$3.95 to the Master Fee Schedule. This would put Hayward slightly below the average and within the median amount charged by other agencies.

Agency	Convenience Fee Charged
East Bay Municipal Utility District	\$2.75
San Bernardino Water	\$2.95
Monterey Regional Water Agency	\$3.95
Bighorn Desert View Water Agency	\$3.95
Hayward Water System (Proposed)	\$3.95
Mesa Water District	\$3.95
Berkeley Refuse	\$4.95
Rainbow Municipal Water District	\$4.95
Sacramento County Utilities	\$4.95
West Kern Water District	\$4.95
San Francisco Public Utilities Commission	\$5.80
Valley Center Water District	\$5.95
Average Convenience Fee	\$4.46

As said above, a primary reason the amount the City is paying for credit card processing fees continues to grow is because more and more customers are using our online and phone payment systems. With the implementation of the new Citywide MUNIS system and the companion Hayward Self Service portal, customers will have the ability to pay more types of bills online and telephonically than they can currently. It is expected that this added functionality will increase the number of people paying with credit and debit cards, which will continue to increase the card processing fees the City incurs from the credit card agencies. If nothing is done to attempt to partially recoup costs, these processing fees will continue to expend General Fund and Water Fund expense funds.

ECONOMIC IMPACT

Some customers may be concerned about the impact a convenience fee will have on them. However, there will still be numerous fee-free payment options available to our customers. They can mail in their payment, place their payment in the Revenue Division's night drop slot, set up fee-free automatic payments, or they can visit the Revenue Division during regular business hours and continue to make fee-free credit and debit card payments. Pursuant to specific credit card requirements, this fee will only apply to online and telephone credit card payments.

FISCAL IMPACT

In Calendar Year 2013, the City of Hayward processed 30,898 credit and debit card payments through both the online and phone payment systems. If the number of payments held steady even

after the implementation of the convenience fee, \$122,047.10 would be generated. This would greatly alleviate the impact the growing credit card processing fees have on the General Fund and the Water Fund's budget.

It is expected that the number of customers using the online and telephone payment systems will increase over calendar year 2013, even with the addition of a \$3.95 convenience fee, because of the increased functionality of the new Hayward Self Service system over the current system.

PUBLIC CONTACT

The convenience fee described in this report has been examined by the City Attorney's Office, and on May 1, 2013, it was signed off as permissible provided that the City is not charging more than is necessary for cost recovery. As shown above, the amount collected will not completely cover all costs expended on credit card processing fees; therefore, this fee is Proposition 26 compliant.

Prepared by: Michael Barnes, Administrative Analyst II

Recommended by: Maria Walter, Revenue Manager
Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

Attachment:

I: Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 14- _____

Introduced by Council Member _____

RESOLUTION ADOPTING A REVISED MASTER FEE
SCHEDULE FOR FY 2015, ADDING A NEW CONVENIENCE FEE IN THE
AMOUNT OF \$3.95 FOR ONLINE AND TELEPHONE CREDIT CARD
PAYMENTS

WHEREAS, on June 10, 2014 the City Council adopted Resolution Number 14-074 adopting the fiscal year 2015 Master Fee Schedule; and

WHEREAS, the City of Hayward provides City water and sewer utility customers with the convenience service of online and over the phone credit card transactions, for which a the City incurs a credit card processing fee; and

WHEREAS, the City Council can adopt a convenience fee for credit card transactions that in whole or in part defrays the cost of the bank processing fees that the City is assessed; and

WHEREAS, the City Council can amend the fiscal year 2015 Master Fee Schedule to include such a credit card convenience fee; and

WHEREAS, Section 15273 of the California Environmental Quality Act (CEQA) Guidelines states that CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, and other charges by public agencies which the public agency finds are for the purposes of:

1. Meeting operating expenses, including employee wage rates and fringe benefits;
2. Purchasing or leasing supplies, equipment, or materials;
3. Meeting financial reserve needs and requirements;
4. Obtaining funds necessary for capital projects necessary to maintain service within existing service areas; or
5. Obtaining funds necessary to maintain intra-city transfers as are authorized by City Charter; and

WHEREAS, the City Council finds and determines that this action is exempt from CEQA based on the foregoing provisions.

WHEREAS, in November 2010, California voters approved Proposition 26, which amended Article XIII C of the State constitution regarding the adoption of fees and taxes. Proposition 26 seeks to assure that taxes, which must be approved by the voters, are not disguised as fees, which can be approved by legislative bodies, such as a city council. The adopted FY 2015 Master Fee Schedule (MFS), including the Fine and Bail Schedule, is compliant.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby amends the Master Fee Schedule to add the new credit card convenience fee in the amount of \$3.95 for online and telephone credit card transactions.

BE IT FURTHER RESOLVED, either on its face or as applied, the invalidity of such provision shall not affect the other provisions of this Master Fee Schedule and the Fine and Bail Schedule, and the applications thereof; and to that end, the provisions of the Master Fee Schedule and the Fine and Bail Schedule shall be deemed severable.

BE IT FURTHER RESOLVED that this resolution shall become effective as of November 17, 2014.

IN COUNCIL, HAYWARD, CALIFORNIA September 16, 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: September 16, 2014

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT: Authorizing the City Manager to Execute Agreements with the State Board of Equalization for Implementation of a Local Transactions and Use Tax

RECOMMENDATION

That Council adopts a resolution (Attachment I) authorizing the City Manager to sign implementing agreements with the State Board of Equalization to administer the City's new half cent transaction and use tax.

BACKGROUND

During the June 3, 2014 municipal election, the voters of the City of Hayward passed a ballot measure (Measure C) to increase the City's Transaction and Use (sales) Tax by half a percent for twenty years. The resulting half cent increase will become effective October 1, 2014.

DISCUSSION

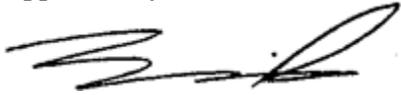
The State Board of Equalization (BOE) administers and collects all Transactions and Use Tax on behalf of the City and remits payment revenues to the City. In order for the BOE to administer, collect, and remit the additionally approved Transaction and Use Tax approved by the voters, the Board requires that the City enters into a Preparatory Agreement and an Administration Agreement to facilitate this process (Exhibits A and B to the Resolution). The City Council must explicitly authorize the City Manager to execute these documents.

ECONOMIC & FISCAL IMPACT

There is no direct fiscal impact related to the requested action. However, the revenues to be generated by the half cent transactions and use tax are estimated to be at least \$10 million per year under current projections and economic conditions..

Prepared & Recommended by: Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

Attachment:

- I: Resolution
- Exhibit A: Preparatory Agreement
- Exhibit B: Administration Agreement

HAYWARD CITY COUNCIL

RESOLUTION NO. 14- _____

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH THE STATE BOARD OF EQUALIZATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX

WHEREAS, on June 3, 2014 the voters of the City of Hayward adopted Ordinance No. ME 14-01, amending the City Municipal Code and providing for a local transactions and use tax; and

WHEREAS, on July 8, 2014, the City Council of the City of Hayward adopted Resolution No. 14-112 acknowledging receipt of the canvass of said election held on June 3, 2014, and declaring the results thereof, including the passage of Ordinance No. ME 14-01; and

WHEREAS, the State Board of Equalization (Board) administers and collects the transactions and use taxes for all applicable municipalities within the state; and

WHEREAS, the Board will be responsible to administer and collect the transactions and use tax for the City; and

WHEREAS, the Board requires that the City enter into a "Preparatory Agreement" and an "Administration Agreement" prior to implementation of said taxes, and

WHEREAS the Board requires that the City Council authorize the agreements.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward approves the "Preparatory Agreement" attached as Exhibit A and the "Administrative Agreement" attached as Exhibit B, and hereby authorizes the City Manager or the Assistant City Manager to execute each agreement for and on behalf of the City of Hayward.

IN COUNCIL, HAYWARD, CALIFORNIA September 16, 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

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the City of Hayward, hereinafter called *City*, and the STATE BOARD OF EQUALIZATION, hereinafter called *Board*, do agree as follows:

1. The Board agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Board at the times and in the amounts hereinafter specified all of the Board's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Board's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Board's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Board. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Board shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Board shall be billed by the Board periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Board the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Board's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail.
Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0032
Attention: Administrator, RAAS

Communications and notices to be sent to City shall be addressed to:

City Manager

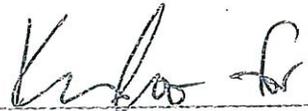
777 B Street

Hayward, CA 94541

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Board has received all payments due from City under the terms of this agreement.

CITY OF Hayward

STATE BOARD OF EQUALIZATION

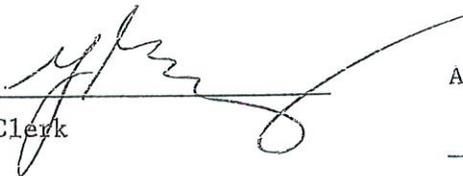
By 
(Signature)

By _____
Dario Romano, Administrator
Return Analysis and Allocation Section

Frances David
(Typed Name)

City Manager
(Title)

(Rev. 11/02)

Attest: 
for City Clerk

Approval as to Form:

(City Attorney)

**AGREEMENT FOR STATE ADMINISTRATION
OF CITY TRANSACTIONS AND USE TAXES**

The City Council of the City of Hayward has adopted, and the voters of the City of Hayward (hereafter called "City" or "District") have approved by the required two-thirds vote, the City of Hayward Transactions and Use Tax Ordinance (hereafter called "Ordinance"), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the State Board of Equalization, (hereinafter called the "Board") and the City do agree as follows:

**ARTICLE I
DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section 7285.91, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. ME14-01, as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II
ADMINISTRATION AND COLLECTION
OF CITY TAXES**

A. **Administration.** The Board and City agree that the Board shall perform exclusively all functions incident to the administration and operation of the City Ordinance.

EXHIBIT B

B. Other Applicable Laws. City agrees that all provisions of law applicable to the administration and operation of the State Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Board pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

C. Transmittal of money.

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City's self-imposed limits or by final judgment of any court of the State of California holding that City's ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

D. Rules. The Board shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

E. Preference. Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Board shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.

F. Security. The Board agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Board shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Board.

G. Records of the Board.

When requested by resolution of the legislative body of the City under section 7056 of the Revenue and Taxation Code, the Board agrees to permit authorized personnel of the City to examine the records of the Board, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the City, pertaining to the ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Board's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Board pursuant to this Agreement.

H. Annexation. City agrees that the Board shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Board. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

ARTICLE III
ALLOCATION OF TAX

A. Allocation. In the administration of the Board's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion of the Board, to all districts with which the Board has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Board, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund or credit applies.

B. Vehicles, Vessels, and Aircraft. For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Board in determining the place of use.

ARTICLE IV COMPENSATION

The City agrees to pay to the Board as the Board's cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Board for the City.

ARTICLE V MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0032
Attention: Administrator, RAAS

Communications and notices to be sent to the City shall be addressed to:

City Manager

777 B Street

Hayward, CA 94541

Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on July 1, 2013. This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Board completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

C. Notice of Repeal of Ordinance. City shall give the Board written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.

ARTICLE VI
ADMINISTRATION OF TAXES IF THE
ORDINANCE IS CHALLENGED AS BEING INVALID

A. Impoundment of funds.

1. When a legal action is begun challenging the validity of the imposition of the tax, the City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall transmit to the Board the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

B. Costs of administration. Should a final judgment be entered in any court of the State of California, holding that City's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Board may retain all payments made by City to Board to prepare to administer the City Ordinance.

2. City will pay to Board and allow Board to retain Board's cost of administering the City Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Board or to the State of California the amount of any taxes plus interest and penalties, if any, that Board or the State of California may be required to rebate or refund to taxpayers.

4. City will pay to Board its costs for rebating or refunding such taxes, interest, or penalties. Board's costs shall include its additional cost for developing procedures for processing the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Board's staff for use in making these rebates or refunds and any other costs incurred by Board which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Board's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Board. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Board in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Board in connection with such refunds shall be billed by Board on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Board shall bill City on or before the 25th of each month for all costs incurred by Board for the preceding calendar month. City shall pay to Board the amount of such costs on or before the last day of the succeeding month and shall pay to Board the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Board costs incurred in making those refunds.

CITY OF HAYWARD

STATE BOARD OF EQUALIZATION

By _____
(Signature)
Frances David

(Typed Name)
City Manager

(Title)

By _____
Dario Romano, Administrator
Return Analysis and Allocation Section

Approved as to Form:

(City Attorney)

4. City will pay to Board its costs for rebating or refunding such taxes, interest, or penalties. Board's costs shall include its additional cost for developing procedures for processing the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Board's staff for use in making these rebates or refunds and any other costs incurred by Board which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Board's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Board. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Board in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Board in connection with such refunds shall be billed by Board on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Board shall bill City on or before the 25th of each month for all costs incurred by Board for the preceding calendar month. City shall pay to Board the amount of such costs on or before the last day of the succeeding month and shall pay to Board the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Board costs incurred in making those refunds.

CITY OF HAYWARD

STATE BOARD OF EQUALIZATION

By Frances David
(Signature)
Frances David
(Typed Name)
City Manager
(Title)

By Dario Romano
Dario Romano, Administrator
Return Analysis and Allocation Section

Approved as to Form:
Michael J. Sauer
(City Attorney)

DATE: September 16, 2014

TO: Mayor and City Council

FROM: Director of Public Works - Engineering & Transportation

SUBJECT: Consideration of Resolution in Support for the Extension and Augmentation of the Existing Transportation Sales Tax Ballot Measure (Measure B).

RECOMMENDATION

That Council adopts the attached resolution (Attachment I) signifying the City's support for the Extension and Augmentation of the Existing Transportation Sales Tax Ballot Measure (Measure B) which provides funding for the Alameda County 2014 Transportation Expenditure Plan (TEP).

SUMMARY

In 2011, City staff worked with the Alameda County Transportation Commission (Alameda CTC) and other stakeholders to develop a renewal and augmentation of Measure B2, the then twelve-year old half-cent sales tax for countywide transportation projects. This Measure was voted on by the public in November 2012, garnering 66.53% approval, but ultimately failing to reach the two-thirds majority required for passage by a mere 721 votes.

In 2014, in response to the strong voter support and the growing need for future infrastructure investment in the County, the Alameda CTC unanimously approved a slightly revised Transportation Expenditure Plan (TEP), which was successfully approved by the TEP Steering Committee and the Alameda CTC Board in January 2014. Following this action, every city in Alameda County unanimously approved the TEP. Additionally, the Alameda County Board of Supervisors approved the TEP in July 2014, clearing the way for the funding measure to be placed on the ballot for the November 2014 elections. Staff recommends Council officially express the City's support for this ballot measure by passing the attached resolution.

BACKGROUND

The original Measure B was approved by Alameda County voters in 1986. The half-cent sales tax funded major transportation projects throughout the county. Under this measure, the City of Hayward received funding for the Route 238 Bypass, which would eventually be reprogrammed for the recently completed Route 238 Corridor Improvement Project.

In November 2000, voters approved Measure B2, extending original Measure B funding through 2022. This extension, most notably, funded the I-880/SR 92 Reliever Route Project for the City of Hayward. Additionally under the 2000 TEP, the City received nearly \$31 million in funding for local street and road maintenance, and bicycle and pedestrian projects. The measure also funded mass transit services and specialized transportation services for senior citizens and people with disabilities for Hayward and Central County communities.

The failed 2012 TEP would have authorized an additional half-cent sales tax through 2022 and then extended the full cent sales tax in perpetuity, generating \$7.7 billion for transportation projects throughout the county just within the first thirty years.

The 2014 TEP will augment and extend the existing half-cent transportation sales tax by a half-cent through March 31, 2045, rather than be extended in perpetuity. The current Measure B2 will remain through 2022; however the advantages of early approval for the 2014 TEP are:

- Most capital projects in the existing measure have been completed ahead of schedule. Without a new plan, the County will be unable to fund any new major projects to address pressing mobility needs
- Bus services in Alameda County have been cut significantly, and the gap between road maintenance needs and available funding is at an all-time high. The 2014 TEP allows local funding to fill the gaps created by declining federal revenue, keep needed services in place, and restore service cuts for many providers.
- The increasing population in Alameda County is placing more demand on roads, highways, BART, and other public/mass transit systems. Investments from the 2014 TEP will make improvements so the current transportation infrastructure can accommodate population growth over the next thirty years.

Benefits to the City of Hayward

The following capital projects for the City are currently included in the TEP:

- Local Streets and Roads – Major Commute Corridors
Tennyson Road Grade Separation (\$25 million)
- Highway Efficiency and Freight
I-880/Industrial Parkway Interchange Improvements – Construction of Northbound Off-Ramp (\$41 million)
I-880/Whipple Road/Industrial Parkway SW Interchange Improvements (\$60 million)
I-880/Winton Avenue Interchange Improvements (\$25 million)
- Sustainable Land Use and Transportation
South Hayward BART Station Area Improvement (including Tennyson Road Bike/Ped Bridge to South Hayward BART) (\$2 million)

In addition to the capital projects, there are significant funds for local streets and roads, pedestrian and bike projects, and paratransit. A projection for FY 2015 is shown below as compared to the current Measure B. The chart also shows the total funding projected to be available over the life of the measure.

TRANSPORTATION SALES TAX ALLOCATIONS TO CITY OF HAYWARD				
	First Year of New Measure in Fiscal Year 2015			Total Funding 2015-2045
	Current	With New TEP	Increase	
Local streets and roads	\$2,010,000	\$3,870,000	93%	\$124,560,000
Paratransit for seniors and people with disabilities*	\$710,000	\$1,360,000	92%	\$43,470,000
Bicycle and pedestrian safety	\$410,000	\$740,000	80%	\$22,430,000

DISCUSSION

The 2014 TEP will generate nearly \$8 billion for transportation improvements all throughout Alameda County and roughly \$190 million for the City of Hayward. An outline of funding opportunities for the City of Hayward can be found in Appendix II. Adopting the attached resolution will show the City of Hayward’s support for this ballot measure and acknowledgement of the importance of this measure for future transportation improvement projects within the City.

FISCAL IMPACT

As mentioned above, there will be considerable fiscal benefits to the City if the sales tax measure is approved. The increases in funding will allow the city to pursue larger capital transportation projects and regular transportation infrastructure maintenance projects. If this measure fails to pass, the current sales tax measure will retire in 2022 resulting in a loss of funding for these kinds of projects of at least \$3.1M per year in Hayward just from the current measure; as well as \$55.2M throughout Alameda County

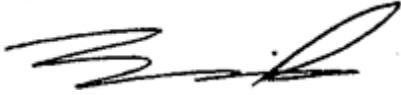
NEXT STEPS

The ballot measure will be voted on by the public in the 2014 November elections.

Prepared by: John Stefanski, Management Fellow

Recommended by: Morad Fakhrai, Director of Public Works – Engineering & Transportation
Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I:	Resolution
Attachment II	2014 Alameda County TEP: City of Hayward Transportation Opportunities

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member _____

RESOLUTION IN SUPPORT FOR THE EXTENSION AND AUGMENTATION OF THE EXISTING TRANSPORTATION SALES TAX BALLOT MEASURE (MEASURE B)

WHEREAS, the Alameda County Transportation Commission has approved a new Alameda County Transportation Expenditure Plan (TEP) pursuant to the authority of Public Utilities Code Section 180000 et. Seq., and

WHEREAS, the Transportation Expenditure Plan developed in conjunction with the Alameda Countywide Transportation Plan, the long-range policy document that guides transportation investments, programs, policies, and advocacy for Alameda County; a steering committee, technical working group, and community working group guided development of both plans using performance based criteria; and

WHEREAS, the 30 year Transportation Expenditure Plan includes transportation projects aimed at expanding BART, bus, and rail services within Alameda County; providing traffic relief on city streets and highways; keeping transit fares affordable for youth, seniors, and people with disabilities; and making improvements so the current transportation infrastructure can accommodate population growth over the next 30 years; and

WHEREAS, the City of Hayward unanimously passed a resolution approving the 2014 Alameda County Transportation Expenditure Plan on February 25, 2014; and

WHEREAS, every city in Alameda County, as well as the Alameda County Board of Supervisors, unanimously approved the Alameda County Transportation Expenditure Plan, clearing the way for the Extension and Augmentation of the Existing Transportation Sales Tax Ballot Measure (Measure B) to be voted on by the public in the 2014 November Elections; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward does hereby express its support of the 2014 Extension and Augmentation of the Existing Transportation Sales Tax Ballot Measure.

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

ALAMEDA COUNTY 2014 TRANSPORTATION EXPENDITURE PLAN

City of Hayward

Transportation Opportunities

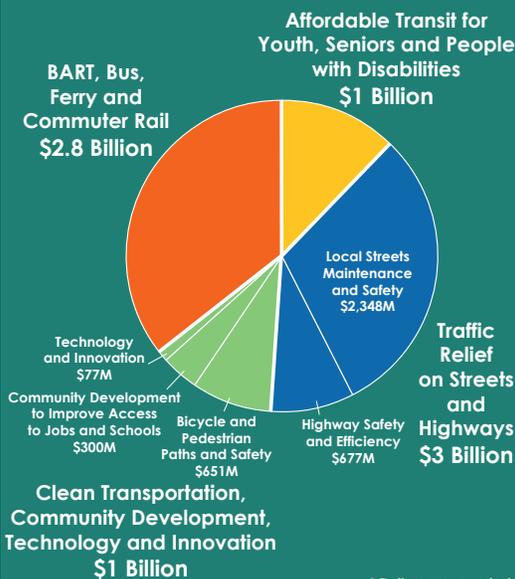


2014 TRANSPORTATION EXPENDITURE PLAN

Transportation investments are needed throughout the City of Hayward. As the population grows and demand for transportation increases, without new funding Hayward will lose jobs, experience more traffic on streets and highways, suffer potential service cuts on buses and BART, and see more costly transportation services for youth, seniors and people with disabilities. The 2014 Plan will address Hayward's needs, create jobs and support a sustainable future.

INVESTMENTS IN THE FUTURE

The measure on the 2014 ballot will fund projects in the 2014 Plan and will generate almost \$8 billion* for essential transportation improvements in every city and throughout Alameda County.



Innovative Transportation Solutions

The 2014 Transportation Expenditure Plan (Plan) and ballot measure will go before voters in November 2014 to provide essential funding for transportation programs and projects in Hayward and Alameda County.

City of Hayward transportation funding opportunities

	Estimated Revenue First Year of 2014 Measure (FY14-15)			Total 2014 Plan Funding 2015-2045
	Current Funding (FY13-14)	Current and 2014 Plan Investments	Percentage Increase	
Local streets maintenance and safety	\$2,010,000	\$3,870,000	93%	\$124,560,000
Bicycle and pedestrian paths and safety	\$410,000	\$740,000	80%	\$22,430,000
Paratransit for seniors and people with disabilities*	\$710,000	\$1,360,000	92%	\$43,470,000
Total:				\$190,460,000

* The current value is based on an adopted FY13-14 formula. The 2014 Plan value is based on the population over age 70 in Alameda County's four planning areas.

City of Hayward and central Alameda County investments

Traffic Relief

- I-880 interchange improvements at Winton Ave. and Industrial Parkway
- Improvements on major commute corridors such as Tennyson Rd. grade separation
- Freight corridor improvements on major highways
- I-580 intersection improvements in Central County focusing on bottleneck relief and safety improvements

Affordable Senior and Youth Transportation

- Affordable and accessible transit for seniors and people with disabilities
- Affordable student transit pass program and Safe Routes to Schools

BART

- BART expansion and modernization: South Hayward BART Station area improvements and Bay Fair Connector

Community Development and Clean Transportation

- Bay Trail and East Bay Greenway bicycle/pedestrian projects

Bus

- AC Transit — double the funding to increase/restore services

2014 TRANSPORTATION EXPENDITURE PLAN | CITY OF HAYWARD

LOCAL TRANSPORTATION FUNDING

The 2014 Plan has been developed for important reasons:

- Most capital projects approved in the 2000 Measure B by 81.5 percent of voters in Alameda County have been completed ahead of schedule. Without a new plan, the County will be unable to fund any new major projects to address growing transportation needs.
- Bus services in Alameda County have been cut significantly, and the gap between road maintenance needs and available funding is at an all-time high.
- The demand on Alameda County's roads, highways, BART and buses is increasing.

The 2014 Plan will help close these gaps and keep Hayward and Alameda County moving.

STRICT ACCOUNTABILITY AND PERFORMANCE MEASURES ENSURE DELIVERY

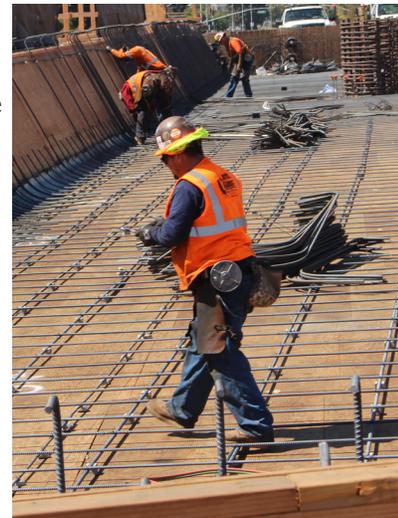
The 30-year Plan includes strict accountability measures to ensure all \$8 billion for County transportation improvements are spent on approved projects. The 2014 Plan requires:

- ✓ **Open and transparent public processes** to allocate funds.
- ✓ **Annual independent audits.**
- ✓ **An independent watchdog committee** made up of people who live in Alameda County.
- ✓ **Annual compliance reports** distributed to the public that detail costs and how specific performance measures are met.



2014 Plan will strengthen economy and improve quality of life

The projects in the 2014 Plan are designed to strengthen the economy and improve quality of life in Hayward, reduce traffic congestion, improve air quality and create jobs. Targeted investments will maintain existing infrastructure, improve safety, remove bottlenecks on major commute corridors, enhance and expand BART, commuter rail, bus and ferry transit systems; keep fares affordable for seniors, youth and people with disabilities; and make it safer and easier to bike and walk throughout Hayward. Visit www.AlamedaCTC.org/2014Plan to learn more.



2014 Plan priorities



Expand BART, bus and commuter rail for reliable, safe and fast services, including BART expansion and improvements within Alameda County, bus service expansion and commuter rail service improvements.



Keep fares affordable for seniors, youth and people with disabilities, including affordable senior shuttles, vans and services that help keep seniors independent, critical funding for student transit passes to ensure youth can affordably get to school. The Plan also funds reliable and inexpensive transportation for people with disabilities.



Provide traffic relief, including funds to every city in the County to repave streets, fill potholes and upgrade local transportation infrastructure. The Plan also invests in aging highway corridors to upgrade on- and off-ramps, using modern technology to manage traffic and improve safety.



Improve air quality and provide clean transportation by reducing pollution using innovative technology and expanding bike and pedestrian paths, and BART, bus and commuter rail expansion and operations.



Create good jobs within Alameda County by requiring local contracting that supports residents and businesses in Alameda County.

DATE: September 16, 2014

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Approval of Contract with Godbe Research for Completion of the Biennial Resident Satisfaction Survey

RECOMMENDATION

That Council adopts a resolution (Attachment I) authorizing the City Manager to negotiate and execute a contract with Godbe Research, Inc. in an amount not to exceed \$29,340.00 to complete the 2014 Biennial Resident Satisfaction Survey.

BACKGROUND

The City has completed Biennial Resident Satisfaction Surveys since the fall of 2008. Each survey has been conducted by Godbe Research, Inc. This survey, in combination with the previous three, will provide valuable insight on resident satisfaction with local service delivery over the past six years.

DISCUSSION

Since it has been over two years since the last survey was performed by Godbe Research, staff recommends engaging the same firm to duplicate the process used in previous years. The survey will continue to assess the level of satisfaction with the delivery of services presently provided by the City.

This survey, in addition to the previous Resident Satisfaction Surveys, will provide longitudinal insight over the satisfaction levels of Hayward residents with City service delivery. This information will help guide the City Manager in formulating recommendations to Council for refining priorities and developing long term policy strategies.

The scope of services provided by Godbe are similar to the services provided for past surveys. The full scope of services can be found in Attachment II.

FISCAL IMPACT

The 2014 cost of the survey will be contingent on the length of the survey. The 2014 survey is planned to be 21 minutes, costing \$29,340. The breakdown of these costs can be found in Attachment II.

NEXT STEPS

The City Manager will execute a contract with Godbe to complete the services outlined in the Scope of Work. Once the survey is completed and data is compiled, findings will then be reported to Council in an open work session.

Prepared by: John Stefanski, Management Fellow

Recommended by: Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution
Attachment II	Godbe Research Scope of Services

HAYWARD CITY COUNCIL

RESOLUTION NO. 12-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT WITH GODBE RESEARCH TO CONDUCT THE 2014 BIENNIAL RESIDENT SATISFACTION SURVEY

BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute a contract with Godbe Research to complete the 2014 Biennial Resident Satisfaction Survey for a total compensation not to exceed \$29,340.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2010

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



August 1, 2014

Mr. Frank Holland
 Community and Media Relations Officer
 City of Hayward
 777 B Street
 Hayward, CA 94541

Mr. Holland,

Godbe Research is pleased to be working with the City of Hayward (Hayward or City) to conduct the 2014 Resident Satisfaction Survey. This letter, attached terms and conditions, and project costs will serve as the agreement for services for the project, or as an exhibit/attachment to Hayward's standard agreement for professional services (agreement). Should this document be used as an exhibit/attachment to Hayward's agreement, the terms and conditions in the City's standard agreement will supersede those contained in this document.

1. Two in-person meetings and additional conference calls, as needed, with Hayward to discuss the research objectives and other topics for the 2014 Resident Satisfaction Survey.
2. Drafting, refining, and pre-testing a survey instrument of approximately 19 to 21-minutes in length, to accomplish the research objectives of the 2014 Resident Satisfaction Survey. For reference, the 2012 Resident Satisfaction Survey was 21-minutes in length.
3. Purchase and development of a listed sample of residents/voters in the City of Hayward, appropriate to the research objectives of the survey.
4. CATI programming the survey instrument for efficient data collection.
5. Translation of the survey instrument into Spanish.
6. Conducting 19 to 21-minute interviews with 400 (n=400) total residents in the City, with the option for residents to take the survey in English or Spanish.
7. Processing the data collected from the survey according to strict quality control standards, as well as meeting with Hayward to review the topline report of initial findings.
8. Producing a comprehensive report of findings, with complete crosstabulations, and preparing an in-person presentation of findings for Hayward Administration and Council, similar to the 2008, 2010, and 2012 Resident Satisfaction Survey projects.
9. On-going post-project consulting with Hayward regarding the survey results and recommendations, as needed.

Payment for 60% of project fees for the 2014 Resident Satisfaction Survey will be billed upon initiation of services, which is due 30 days after receipt of the first invoice. The remaining 40% of project fees will be billed upon approval of the final survey questionnaire and will be due 30 days after receipt of the second and final invoice.

Sincerely:

Agreed and Accepted By:

Ms. Leslie Godbe
 CEO
 Godbe Research

Ms. Fran David
 City Manager
 City of Hayward

 Date

 Date



STANDARD BUSINESS TERMS AND CONDITIONS GODBE RESEARCH

Contracts and agreements between Godbe Research and its clients include the following general terms and conditions unless otherwise specified in a contract or agreement.

Flat Fees. Unless otherwise specified, Godbe Research charges a flat fee for all or a portion of its services to a client in lieu of hourly charge.

Hourly Rates. The firm may opt to bill its staff time at specified hourly rates for each staff member. When estimated hours are noted these are our best estimates of how long a job will take. Actual hours incurred are logged on employee time sheets and final billings to clients are based on these actual figures. Hourly charges apply to all firm staff working for the client with the exception of general clerical support. Work on specifically clerical projects is billed at normal hourly rates.

Advance Payment. In order to finance the client's work, the firm's policy is to require advance payment for telephone interviewing. Advance payment of fees or hourly charges is normally required, particularly in the case of new clients.

Subcontractors' Fees. Should the firm retain a special employee solely for the purpose of providing services to a client, a fee equal to 15 percent of the costs of such person will be charged to cover the firm's payroll costs.

Late Charges. Invoice terms are 30 days net unless otherwise specified in the agreement. A late charge of 1.5 percent per month will apply on any amounts not paid within thirty (30) days of the date of an invoice.

Indemnity. All copy will be approved by the client in advance of production. Each party shall indemnify, defend and hold harmless the other party from and against any loss, claim, action, course of action (including without limitation any defamation action), judgment, damage, cost or expense (including attorneys' fees and costs) arising out of any actions of, or materials written by, or information supplied by the other party.

Acting as Agent. In compliance with California sales tax regulation, Godbe Research is designated as an Agent for the acquisition of tangible personal property and services as they apply to its clients' advertising and sales promotion activities.

Ownership of Materials. In producing finished products, it is expressly understood that ownership of all materials purchased by Godbe Research to complete the property to be produced passes to its clients at the time of purchase and prior to any use by Godbe Research.

Independent Contractor. The agency shall perform the services as an independent contractor and shall not be treated as an employee of the client for federal, state or local tax purposes or for any other purpose.

Entire Agreement. This agreement constitutes the entire agreement among the parties with respect to the subject matter and supersedes any prior negotiations, understanding or agreement.

Successors. Any agreement between the agency and a client shall be binding upon, the heirs, successors and assignors of the parties

Termination. Any termination of this agreement by the client, after being signed, shall be of mutual consent. If the agreement is terminated, Godbe Research will bill the client for all work completed to date (including subcontractors' work) plus a 15% termination fee.

Attorneys' Fees. Should any action be brought by one party against the other party to enforce any agreement, the prevailing party shall be entitled to recover from the other party its reasonable attorneys' fees, costs and expenses.

Governing Law; Venue. This Agreement shall be governed by the laws of the State of California without regard to any conflicts of law doctrine. In any action or proceeding brought to enforce this Agreement or any other claim arising out of or related to this Agreement, the exclusive venue shall be at the discretion of the party initiating litigation and shall be in San Mateo County, California.

Rev. 1/27/97

Godbe_____

Hayward_____



PROJECT COSTS

The following costs are associated with conducting a 19 to 21-minute survey of 400 (n=400) total Hayward residents in English and Spanish, as part of the 2014 Resident Satisfaction Survey process. This conforms to the scope of work employed for the 2012 Resident Satisfaction Survey and is based on the needs of the City for the 2014 survey event, including the use of a listed voter sample to replace outdated random digit dial (RDD) sampling. The fees outlined below are firm and fixed, and will not change provided that the scope of work for the project conforms to this agreement. Should project parameters or Hayward needs change, we will be happy to provide amended costs prior to proceeding.

Satisfaction Survey of 400 (n=400) Hayward Residents - 2014

<u>Project Task</u>	<u>19-min.</u>	<u>21-min.</u>
Sample Purchase and Development	\$1,100.00	\$1,100.00
CATI Programming	\$1,510.00	\$1,690.00
Spanish Language Translation	\$900.00	\$1,050.00
English Telephone Interviewing	\$12,000.00	\$13,200.00
Spanish Interviewing Surcharge	\$1,200.00	\$1,400.00
Data Processing	\$900.00	\$1,000.00
Research Fee	\$7,500.00	\$7,500.00
Project Management	\$2,250.00	\$2,250.00
<u>Miscellaneous Expenses</u>	<u>\$150.00</u>	<u>\$150.00</u>
Project Total	\$27,510.00	\$29,340.00

Agreed:

Agreed and Accepted By:

Ms. Leslie Godbe
CEO
Godbe Research

Ms. Fran David
City Manager
City of Hayward

Date

Date

DATE: September 16, 2014

TO: Mayor and City Council

FROM: Director of Finance; and
City Attorney

SUBJECT: Resolution Authorizing the Issuance of Legislative Subpoenas Necessary to Calculate the Utility Users Tax Due Related to the Russell City Energy Center

RECOMMENDATION

That Council adopts the attached resolution authorizing the issuance and enforcement of subpoenas soliciting the information necessary to accurately calculate the Utility Users Tax (UUT) in relation to the Russell City Energy Center from the following entities:

1. Pacific Gas and Electric Co.(PG&E);
2. Russell City Energy Company, LLC (RCEC);
3. California Public Utilities Commission(PUC);
4. California Energy Commission (CEC); and
5. California Air Resources Board (CARB).

BACKGROUND

In May of 2009, Hayward voters adopted Measure “A” which authorized the enactment of a Utility Users Tax (UUT).¹ The UUT imposes a 5.5% tax on the use of specified utilities. The consumption of natural gas is one of the uses subject to the UUT. The tax is one of general applicability, meaning that all consumers within the City are required to pay UUT.²

Moreover, all uses are equally subject to the UUT under the ordinance. For instance, it makes no difference whether the use of gas is for heating, electricity generation, or for use in a manufacturing process. Thus, UUT is generally due on any consumption of gas regardless of use or user.

The Tax Administrator is charged with enforcing the payment of the UUT. The Finance Director is designated as the Tax Administrator under the Code. Pursuant to this authority, the Finance Director

¹ Now codified as H.M.C. § 8-18.10, et seq.

² Certain classes of individuals are exempted such as low income households.

can audit utility users to ensure proper compliance with the requirements of the UUT.

DISCUSSION

Russell City Energy Center (RCEC) began its commercial operations on August 8, 2013. The plant consumes large quantities of natural gas in the production of electricity. The gas is reportedly transmitted by PG&E via an underground pipeline to RCEC. PG&E then contracts for the purchase of electricity from RCEC. This electricity is then transmitted out of Hayward to customers on the Peninsula.

RCEC's use of gas in the production of electricity qualifies as a taxable use under the UUT ordinance. Therefore, it appears that some amount of tax is owed by RCEC to the City. RCEC disagrees, and has indicated that it will not voluntarily pay the UUT. In order for the Finance Director to accurately calculate the amount of UUT that is owed, the City needs information relating to the amount of gas consumed at the plant. Without this information it is difficult to ensure that RCEC pays its fair share of taxes.

Significant effort has been made by City staff to gain this information informally from a multitude of sources. RCEC was asked to produce documentation as to its gas usage on a number of occasions. The requests began prior to the December 7, 2012 mediation which RCEC requested. To date, no information has been provided by RCEC.

A Public Records Act Request (CPRA) was made to the (PUC) on July 28, 2014. The PUC regulates utilities such as PG&E in the transmission of gas and electricity. Detailed reports are required by the PUC from utilities that contain the amount of transmitted gas and electricity. This data is highly relevant to the City's calculation of gas and other utilities used by RCEC. The PUC's response (attached) does identify some documents, but states that it is still attempting to locate others and alludes that some are not discoverable via the CPRA process. Furthermore, the PUC's response identifies two other potential sources of the information that the City requested: the CEC and CARB. Both entities regulate RCEC's power generation and should possess information that will aid in the calculation of utility usage.

Based on PG&E's role as the entity that supplies gas to RCEC and purchases electricity from the plant, it should have documents relating to the amount of gas used and the amount of electricity generated at the plant. PG&E has indicated that it would not provide the requested documentation in the absence of a subpoena.

One way to facilitate the collection of the necessary information to ensure the proper administration of the UUT is to issue legislative subpoenas. A legislative subpoena, like a typical subpoena, is an order which commands a person to appear and/or to produce documents at a specific time and place. An example of a subpoena is attached hereto for your reference.

Both State Law and the City's Charter provide for the issuance of legislative subpoenas. Under state law legislative bodies, such as the City, "may issue subpoenas requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding

pending before it.”³ Pursuant to State law, the subpoenas must be signed by the mayor and attested by the city clerk. Legislative subpoenas are similar in all other respects to those used in civil actions and may be served in the usual manner.⁴

Section 610 of the City’s Charter reiterates Council’s authority to issue legislative subpoenas stating, in pertinent part: “Council shall have the power and authority to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Subpoenas may be issued in the name of the City and be attested by the City Clerk. Disobedience of such subpoena or the refusal to testify (upon other than constitutional grounds), shall be deemed contempt and shall be punishable as provided by the general laws of the State.”

Under State law, the City acting through the Mayor, may report any disobedience to a legislative subpoena directly to the Alameda County Superior Court. The Court may then use its contempt powers to compel compliance with the legislative subpoena.⁵

Issuing legislative subpoenas will allow the City to procure the relevant documentation required to calculate the UUT owed in relation to RCEC. The Finance Director can then collect the outstanding UUT along with any applicable fees, interest, and penalties.

ECONOMIC IMPACT

There will be no direct economic impact on the community caused by the suggested action. However, the information sought will help the City ascertain the extent to which it is owed back taxes.

FISCAL IMPACT

The cost of issuing the subpoenas is negligible, amounting to a few hundred dollars. Issuing subpoenas is routine in the litigation context and are regularly issued by the City Attorney’s Office. If approved, the cost of issuing and serving the subpoenas will be absorbed by the City Attorney’s Office.

PUBLIC CONTACT

Informal requests for the production of the necessary documents have previously been made to PG&E and RCEC. Additionally, a California Public Record Request was made to the California Public Utilities Commission. While seeking compliance with the informal request, the CEC was identified as an entity that should have additional relevant documents.

Although the City did receive some documentation from the PUC, the documents required to calculate the unpaid UUT are still outstanding. The remaining entities have not voluntarily provided any of the requested documents.

³ *Cal. Gov’t Code* § 37104

⁴ *Cal. Gov’t Code* § 37105

⁵ *Cal. Gov’t Code* § 37106-9

NEXT STEPS

If the Council, by the attached resolution, authorizes the issuance of the legislative subpoenas, the City Attorney's Office will prepare the subpoenas for signature by the Mayor and attested by the City Clerk. If the entities are compliant with the subpoenas, then the documents will be provided to staff for analysis. If the subpoenaed entities are not forthcoming, the City Attorney's Office will pursue an enforcement action in the Alameda County Superior Court pursuant to State law in order to gain compliance.

Prepared by: Joseph Brick, Assistant City Attorney

Recommended by: Tracy Vesely, Director of Finance, and
Michael Lawson, City Attorney

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution Authorizing Admin. Subpoenas
Attachment II	Subpoena Example
Attachment III	PUC 8/18/14 CPRA response

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE ISSUANCE OF LEGISLATIVE
SUBPOENAS NECESSARY TO CALCULATE THE UUT DUE RELATING
TO THE RUSSELL CITY ENERGY CENTER

WHEREAS, the voters approved Measure “A” in May of 2009 which authorized the adoption of the Utility Users Tax Ordinance, now codified at H.M.C. § 8-18.10, et seq., that provides for the collection of tax on the consumption of gas and certain other utility use;

WHEREAS, Russell City Energy Center (RCEC) is found to be a consumer of gas and therefore, subject to the Utilities User Tax (UUT);

WHEREAS, RCEC began commercial operations on or about August 8, 2013 and has not remitted any UUT;

WHEREAS, in order to accurately calculate the UUT owed by RCEC the City needs to gather as much information regarding RCEC’s consumption of utilities as possible;

WHEREAS, the City’s informal requests for the information from RCEC were met with resistance;

WHEREAS, each entity identified by staff is believed to have relevant information that is necessary to accurately calculate the tax owed by RCEC;

WHEREAS, ensuring compliance with the UUT is a valid public purpose which will be aided by the production of relevant information; and

WHEREAS, the City Council is vested with the authority to issue legislative subpoenas pursuant to Section 610 of the City Charter and Cal. Gov’t Code § 37104, et seq.;

NOW, THEREFORE, BE IT RESOLVED that the Hayward City Council hereby directs the City Attorney to prepare legislative subpoenas to be signed by the Mayor and attested to by the City Clerk, soliciting the information necessary to accurately calculate the UUT in relation to the Russell City Energy Center from the following entities:

1. Pacific Gas and Electric Co.;
2. Russell City Energy Company, LLC;
3. California Public Utilities Commission;
4. California Energy Commission; and

5. California Air Resources Board.

BE IT FURTHER RESOLVED that the Hayward City Council hereby directs the City Attorney to take all steps reasonably necessary, including preparation of a referral to the Superior Court to be signed by the Mayor, to enforce the legislative subpoenas should non-compliance arise.

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

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name) _____	FOR COURT USE ONLY
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: CITY OF HAYWARD	
DEFENDANT/RESPONDENT:	
CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION	CASE NUMBER: _____

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):

1. **YOU ARE ORDERED TO APPEAR AS A WITNESS** in this action at the date, time, and place shown in the box below **UNLESS** your appearance is excused as indicated in box 3b below or you make an agreement with the person named in item 4 below.

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Div.:	<input type="checkbox"/> Room:
b. Address:				

2. **IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.**

3. **YOU ARE** (item a or b must be checked):
- a. Ordered to appear in person and to produce the records described in the declaration on page two or the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
- b. Not required to appear in person if you produce (i) the records described in the declaration on page two or the attached declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian with the records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number; your name; and the date, time, and place from item 1 in the box above. (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party listed at the top of this form.

4. **IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE YOU ARE TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:**

a. Name of subpoenaing party or attorney: Joseph Brick, Esq. b. Telephone number: 510-583-4450

5. **Witness Fees:** You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 4.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: _____

(TYPE OR PRINT NAME)



(SIGNATURE OF PERSON ISSUING SUBPOENA)
 Mayor of the City of Hayward

(TITLE)

(Declaration in support of subpoena on reverse)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

PROOF OF SERVICE OF CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION

1. I served this *Civil Subpoena (Duces Tecum) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and Declaration* by personally delivering a copy to the person served as follows:
 - a. Person served (*name*):
 - b. Address where served:

 - c. Date of delivery:
 - d. Time of delivery:
 - e. Witness fees (*check one*):
 - (1) were offered or demanded and paid. Amount:..... \$ _____
 - (2) were not demanded or paid.
 - f. Fee for service: \$ _____

2. I received this subpoena for service on (*date*):

3. Person serving:
 - a. Not a registered California process server.
 - b. California sheriff or marshal.
 - c. Registered California process server.
 - d. Employee or independent contractor of a registered California process server.
 - e. Exempt from registration under Business and Professions Code section 22350(b).
 - f. Registered professional photocopier.
 - g. Exempt from registration under Business and Professions Code section 22451.
 - h. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct.

Date:

Date:

(SIGNATURE)

(SIGNATURE)

PUBLIC UTILITIES COMMISSION

LEGAL DIVISION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298
ID 94-3031353



August 18, 2014

Benjamin P. Fay
Jarvis Fay Doporto & Gibson, LLP
492 Ninth Street, Suite 310
Oakland, CA 94607

Re: California Public Records Request re Russell City Energy Center
CPUC Reference No.: PRA #1211

Dear Mr. Fay:

The responses to your July 28, 2014 Public Records Act requests follow. Please note that California Public Utilities Commission ("Commission") staff believes that the records you have requested are likely available at the California Energy Commission or the California Air Resources Board. Please note that documents concerning PG&E's Application for Expedited Approval of the Amended Power Purchase Agreement for the Russell City Energy Company Project (U39E), application number 08-09-007 are available on the Commission's website, at <http://www.cpuc.ca.gov/puc/documents/>.

1. Any tolling agreement, and any related documents, between PG&E and the Russell City Energy Company, LLC or Calpine Corporation regarding the generation, purchase, sale, or use of electricity and/or natural gas at the Russell City Energy Center power plant in the City of Hayward.

Response: After a diligent search, the Commission has located no such agreement.

2. Any agreements, and any related documents, between PG&E and the Russell City Energy Company, LLC or Calpine Corporation regarding the generation of electricity at the Russell City Energy Center power plant in the City of Hayward.

Response: Here is our Commission's Decision (D.) 09-04-010 link http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/100001.PDF, Approving Settlement Agreement Regarding the Second Amended and Restated Power Purchase Agreement. Commission staff is attempting to locate a public version of the application, attachments, and motion for settlement agreement. In the event those documents are located, they will be produced, as well. Also is a link to this response is D.10-02-033 http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/114345.PDF, Modifying D.09-04-010 for Purposes of Clarification, and Denying Rehearing of the Decision, as Modified. Also is a link to this response is a copy of D.06-11-048 http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/62451.PDF,

Benjamin P. Fay
August 18, 2014
Page 2

the Commission's decision Approving Results of Long-Term Request for Offers. Commission staff is attempting to locate public versions of the application and related materials. In the event those documents are located, they will be produced, as well.

3. Any agreements, and any related documents, between PG&E and the Russell City Energy Company, LLC or Calpine Corporation regarding the supply gas of gas to the Russell City Energy Center power plant in the City of Hayward.

Response: Aside from documents discussed in response to request #2, after a diligent search, the Commission has located no further responsive documents.

4. Any records, reports, or other documents that reflect the amount of gas that has been used by the Russell City Energy Center power plant in the City of Hayward since it began operation in 2013.

Response: After a diligent search, the Commission has located no responsive documents.

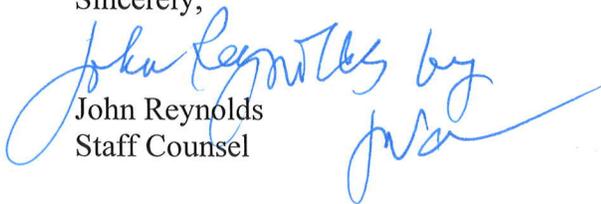
5. Any records, reports, or other documents that reflect the amount of electricity that has been generated by the Russell City Energy Center power plant in the City of Hayward since it began operation in 2013.

Response: After a diligent search, the Commission has located no responsive documents.

If you have any additional questions regarding this matter, please do not hesitate to contact me at (415) 703-1642 or my email address of jr5@cpuc.ca.gov.

I hope this is helpful.

Sincerely,


John Reynolds
Staff Counsel

RECEIVED

AUG 18 2014

THE PUBLIC UTILITIES COMMISSION

DATE: September 16, 2014

TO: Mayor and City Council

FROM: Development Services Director

SUBJECT: Adoption of a Resolution to Approve a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and Vesting Tentative Tract Map Application (Tract 8151), and Introduction of an Ordinance to Approve a Zone Change from Single Family Residential/B4 Special Lot Standards Combining District (RS/B4) to Planned Development District (PD), associated with Thirteen Detached Single-Family Homes on a 1.45-Acre Parcel Located at 24582 and 24570 Eden Avenue and 24655 Mohr Drive; Che Chen and Shu Fen Liu (Applicant & Owner)

RECOMMENDATION

That the City Council approves the attached resolution (Attachment I) adopting the Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) (Attachment V); and introduces the attached ordinance (Attachment II) approving a zone change to Planned Development District and the related Vesting Tentative Tract Map for thirteen detached single-family homes.

SUMMARY

The proposed project involves a Vesting Tentative Tract Map and a request to rezone the site from Single Family Residential/B4 Special Lot Standards Combining District (RS/B4) to Planned Development (PD) in order to accommodate the proposed project design that deviates from normal development standards, primarily related to smaller lots and reduced setbacks. The reasons for the project design and associated amenities proposed to justify the project are described in this report.

Three different floor plans and exterior materials/colors are proposed for the thirteen two-story homes, to create a more aesthetically interesting project. Construction of a tot lot and a common outdoor patio area are proposed, and private open space for each home is contained in the rear yard area of each new lot. Attractive landscaping is planned for all front yards and along Eden Avenue and Mohr Drive. A single, private road running east-west between Mohr Drive and Eden Avenue will serve the homes.

This proposed project is supported by the Planning Commission and staff because the proposed density, eleven dwelling units per net acre, is consistent with the General Plan designation of Limited Medium Density Residential (8.7-12.0 dwelling units/net acre) for this site. The project has well-designed architectural features that, with recommended conditions of approval, are reflective of the City's Design Guidelines and neighborhood character. In addition, as described in this report, the project includes eight amenities to support making the required PD rezone findings.

BACKGROUND

The project site is located within an existing single-family residential neighborhood that includes a mix of one-and two-story single-family residential homes, with more recently constructed homes located on smaller lots created with more recent subdivisions. The proposed homes are comparable in size to newer existing residences in this neighborhood, specifically recent homes constructed by Standard Pacific and KB Homes. No one architectural style is dominant in this neighborhood. Chabot College is located one block east of the site while Clawiter Road is two blocks west of the site.

This area and site used to be in unincorporated Alameda County, part of the Mt. Eden Phase II Annexation that was annexed into Hayward in February of 2010. The area north of West Street began transforming with the annexation of most of that area in March of 2007 (Mt. Eden Phase I Annexation). Subsequent new infrastructure improvements in both annexation areas and approval and construction of the KB Home residential development and Standard Pacific residential development in the area north of West Street transformed the character of this area of Hayward, which used to contain larger one-acre single-family lots. This project will continue to build upon renewal of this part of the city following the high quality development standards established by KB Home and Standard Pacific.

July 24, 2014 Planning Commission Hearing: The Planning Commission heard the matter at its regular meeting on July 24, 2014¹ and recommended approval of the project on a 5:0:0 vote (see meeting minutes, Attachment V). The Commission's recommendation for approval is subject to:

- the developer incorporating a full bathroom into the first floor plan of each of the thirteen single-family detached homes; and
- the developer submitting a final material and color pallet for review and approval by the Planning Director that includes no bright orange, pink or yellow colors for the exteriors of the thirteen single-family detached homes.

These measures are included as revisions to the recommended conditions of approval for the project in the attached resolution.

¹ Please see staff report and attachments at: <http://www.hayward-ca.gov/CITY-GOVERNMENT/BOARDS-COMMISSIONS-COMMITTEES/PLANNING-COMMISSION/2014/PCA14PDF/pca072414full.pdf>

DISCUSSION

Project Description -The project requires a Zone Change from Single Family Residential/B4 to Planned Development, because the project does not meet certain development standards of the existing zoning district (e.g., minimum lot size), as identified later in this report. Also, a Vesting Tentative Tract Map is proposed to subdivide the property.

The project proposes two project entries with access points on Eden Avenue and Mohr Drive. A new private street will be created for the new homes and will run between Eden and Mohr. The private street has a 38-foot right-of-way with a 30-foot travel lane width (curb to curb) for the western portion of the private street and a 25-foot right-of-way with a travel lane width of 20 feet for the eastern section of the street. The private street will be constructed to the same standards as a public street. The eastern section of the private street shall be designated as a fire lane and no parking will be allowed along the street, except in the designated parking areas. Fire lane signage shall be installed to the satisfaction of the Fire Chief and City Engineer. The proposed private street right-of-way is adequate for circulation and meets Fire Department accessibility requirements.

All units have front-loaded two-car garages accessed via the private road entries. Each new home's front door will front the new interior private street, with the exception of lot number nine, whose front door will front Eden Avenue. A tot lot is proposed near Eden Avenue and an outdoor gathering space/patio will be created for residents adjacent to Mohr Drive.

Building Elevations and Floor Plans - As shown on page A.1 of the plan set (Attachment VI), the project proposes one floor plan of 2,387 square feet. This floor plan is reversed in some cases and one alternative floor plan for lot number nine has the front door facing Eden Avenue. All units will be two-story and will have an architectural style in keeping with existing homes in the neighborhood.

The architecture includes a variety of pitched gabled roofs with multiple roof planes, shutters accenting some windows, porch supports with architectural interest, single hung windows, and the use of three siding materials, including horizontal lap siding, board and batten, and shingles used on all four elevations. The plans include ground-floor living space, including kitchen, with second-floor bedrooms and a loft/library space (see previous note about the Planning Commission recommending that each unit have a full ground-floor bathroom).

The left, right, and rear elevations, as shown in the plans, need additional enhancement to provide more offsets to break up large wall planes and add more architectural features around windows and doors (particularly along the second floor rear elevations that will be visible from adjacent properties). The City's Design Guidelines state that housing units should "avoid extensive blank walls in neighborhoods..." and for the need to "break up building mass into components." The Guidelines also suggest creating "shadow relief and high shade and light contrast with recesses, bays, trellises or other features" and that the development be designed "to be attractive from all visible sides by providing consistent architectural detail and landscaping . . ." Incorporating these design elements would bring the architectural design level to a high quality as sought by the City's Design Guidelines. A condition of approval will ensure these Design Guideline features are incorporated into the final home designs through the Precise Plan phase of the project.

The preliminary landscape plans provide an attractive blend of trees, shrubs, and ground cover that are water conserving and are native to California. Final landscape plan details will be reviewed and approved during the Precise Plan phase of the project. Recommended conditions of approval require the following to be submitted, reviewed and approved by the Planning Director during the Precise Plan phase of the project: details related to the new oak tree proposed in a prominent location within the development site, additional 24-inch box size evergreen trees adjacent to lots 7, 8 and 9, common outdoor patio area details, tot lot details and front yard landscape details.

Green Building Components – The City’s Green Building Ordinance for Private Development is no longer in effect, having been superseded with the new State Green Building and Energy Codes. Over and above what is required by current building and energy codes, this project includes the installation of ten solar panel arrays on south facing roof areas of each new home. Also, each new home is proposed to be LEED certified², which means each home must attain a score of 40 to 49 points within scoring areas of sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, location and linkages, awareness and education, innovation in design, and regional priority of local environmental issues.

Parking - As shown in the table below, the City’s parking regulations require a minimum of two covered parking spaces per unit, provided street parking is provided on either side of the street. If a lot abuts a private street that has no parking on either side of the street, then two additional open parking spaces are required per unit. All units will have two-car garages and private driveways that can accommodate two cars within the driveways. Four homes front a portion of the private street that does not have parking on either side of the street, but six parking spaces are provided along or just off the private street. Two additional open parking spaces are required to meet minimum standards. Therefore, staff recommends that two additional open parking spaces be created on the south side of the private street in front of the tot lot and lots 10, 11, 12, and 13. A condition of approval requires these two new parking spaces be created as part of project approval.

Table 1: Parking Summary

Home Type	Number of Lots:	Minimum Number of Parking Spaces Required	Meets minimum requirements?
Single family homes <i>with</i> street parking	9	2 covered per dwelling unit	Yes
Single family homes <i>without</i> street parking	4	2 covered per dwelling unit plus 2 open not blocking access to required covered parking	No - the project is short 2 open parking spaces. (conditions of approval require 2 more spaces)

Open Space - As shown in the following table, the project provides over double the minimum open space required. The rear yards of the units range in size from 460 to 1,053 square feet in size. The two common/group open space areas provide just over the minimum amount required.

² Leadership in Energy & Environmental Design (LEED) is a green building certification program that recognizes best-in-class building strategies and practices. To receive LEED certification, building projects satisfy prerequisites and earn points to achieve different levels of certification.

Table 2: Open Space Summary

Open Space Type	Minimum Amount Required	Amount Provided	Meets Requirement?
Private Open Space	Total minus group open space per unit Total: 3,250 sq. ft.	Lots 1-9: 460 sq. ft. each; Lots 10-13: 828 sq. ft. each; Lot 13: 1,053sq. ft. Total: 8,505 sq. ft.	Yes
Group Open Space	100 sq. ft. of usable open space per dwelling unit Total: 1,300 sq. ft.	Tot lot: 742 sq. ft. Common patio: 622 sq. ft. Total: 1,364 sq. ft.	Yes
Total Open Space	350 sq. ft. of usable open space for each dwelling unit Total: 4,550 sq. ft.	9,869 sq. ft.	Yes

Parkland Dedication – Because the project entails less than fifty units, the City can only require payment of park in-lieu fees (versus dedication of parkland) to meet parkland obligations. Based on thirteen units, a total of \$155,389 in in-lieu fees is required.

Community Facilities District- Should the project generate the need for additional public safety services, as a standard condition of approval and related to adopted City Council policy, the City requires developers to pay the cost of providing public safety services to the proposed project through the formation of, or annexation to, a Community Facilities District (CFD),. This will require the project developer to post an initial deposit of \$20,000 with the City prior to, or concurrently with, the submittal of the final subdivision map and improvement plans, to offset the City’s cost of analyzing the project’s need for additional public safety services. If the analysis determines that the project creates a need for additional public safety services warranting the formation of, or annexation to, a Community Facilities District, the project developer is required to pay all costs of formation of, or annexation to, the district, which costs may be paid from the developer’s deposit to the extent that funds remain after payment of the City’s costs of analysis as described above.

Inclusionary Housing Ordinance - The City’s Inclusionary Housing Ordinance applies to projects of twenty or more “for sale” dwelling units. Since the project is below that threshold, compliance with the ordinance is not required.

Zone Change/Preliminary Development Plan – Under the current zoning designation, the project would not be feasible without modifications to some of the development standards. The purpose of the Planned Development District is to encourage development through efficient and attractive space utilization that might not otherwise be achieved through strict application of the existing zoning development standards.

The development proposes smaller lots than the minimum size of 4,000 square feet required under existing zoning standards. Eight of the proposed lot sizes are 2,898 square feet and the largest lot is 4,155 square feet with an average lot size of 3,486 square feet. However, as stated previously, the overall proposed density is consistent with the existing Limited Medium Density Residential General Plan designation.

There are other code requirements not met as part of this request, such as minimum lot width and lot coverage, front and rear setbacks, driveway length and private street design criteria. To offset such deviations, the applicant is proposing project amenities in order for the findings to be made for project approval (see discussion below under Planned Development District Finding No. 4).

Planned Development District Findings - In order for a Planned Development District to be approved, the City Council must make the following findings (below), as recommended by the Planning Commission and staff. Such findings are included in the attached resolution.

(1) The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies.

The project is consistent with the existing General Plan designation and policies related to providing a variety of housing types. The detached two-story single-family homes proposed on this site are denser than the older existing neighborhood, but still fit within the overall development pattern of the immediate area as a whole, especially the recent developments by KB Homes and Standard Pacific. The exteriors of the homes are consistent with the design of the surrounding homes along Mohr Drive and Eden Lane, specifically the use of board and batten siding, horizontal wood siding and shingles. Additional architectural features on some of the more visible elevations, to be included in the Precise Plan submittal as conditioned, allows this finding to be made.

(2) Streets and utilities, existing or proposed, are adequate to serve the development.

The proposed project is an in-fill development site surrounded by existing streets and there are utilities available to the site with adequate capacity to serve the proposed development. In addition, the project is required to underground any overhead utilities in front of the project site.

(3) The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development.

The project applicant has proposed a development that integrates density, livability, and renewable energy sources (solar energy systems). The site design maintains the continuity of the existing neighborhood character by providing front porches and entry doors for the detached single-family homes that are oriented toward the new private street, providing eyes on the street to encourage community interaction. Useable open space and pedestrian connectivity is provided, allowing for better circulation and access to surrounding amenities such as Chabot College and public transit. As conditioned, additional features will be required on rear elevations of homes and along the right side elevations of the two homes abutting public streets, to present a more attractive development to the neighborhood. Additional landscape screening, as conditioned, will further integrate the project in an acceptable manner into the neighborhood.

(4) Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.

The project is consistent with the Limited Medium Density Residential General Plan designation density. The applicant is seeking a Planned Development zoning designation to provide flexibility in the site layout of the units, and to offset certain development standards, such as reduced lot sizes and widths, setbacks, and lot coverage. To offset these deviations from development standards, the following shall be required and shown/indicated on the Precise Plan:

- Obtain at least LEED (entry or first level) certification for all thirteen new homes.
- Plant a new oak tree (72-inch box minimum size) in a prominent location within the development site as approved by the City's Landscape Architect.
- Plant three new (additional) evergreen trees in 24-inch box minimum size) as approved by the Planning Commission, adjacent to lots 7, 8 and 9 to screen the development from adjacent residences. Photovoltaic solar systems shall be installed on all new homes.
- Provide open space and subdivision entry signage at one of the entries to the project site.
- Electric vehicle charging station in the garage of each new home.
- All proposed driveways shall consist of interlocking pavers versus colored concrete paving, creating an environmentally friendly pervious surface. Private road entry points to the subdivision shall also employ interlocking pavers. Details related to these amenities shall be reviewed and approved during the Precise Plan phase of the project.
- Installation of decorative LED lighting along the private street and along the edges of the project site on Eden Avenue and Mohr Drive [in accordance with Hayward's Security Standards Ordinance (No. 90-26 C.S.)].
- The applicant shall provide public art with a total value of at least \$50,000 at one or both entry points to the new subdivision, to be reviewed and approved by the City Manager during the Precise Plan phase of the project.

Vesting Tentative Tract Map 8151- The proposed subdivision creates sixteen parcels for thirteen detached single-family lots and three common lots (for a private street, tot lot, and a common outdoor patio area, containing common landscaping areas, including cleanwater treatment facilities). A homeowners' association (HOA) is required to be formed, which will own and maintain the three common parcels. If the vesting tentative map is approved, a final map will be processed and recorded, allowing each unit to be sold separately. The developer is proposing a vesting tentative map so that the developer gains, for a period of three years after the date of approval or conditional approval of the vesting tentative map, the right to proceed with the proposed development in substantial compliance with the ordinances, policies, and standards in effect on the date on which the developer's application for a vesting tentative is deemed complete. The date that the vesting tentative map application was deemed complete was June 18, 2014.

Frontage improvements such as a Portland Cement Concrete curb, gutter and sidewalk will be installed along Eden Avenue and Mohr Drive. A new curb, gutter and sidewalk will be constructed within the development site, except for along the southeast part of the site where just a new curb and gutter will be constructed.

The existing utilities in the project vicinity, including sanitary sewer, water and storm drain systems, have sufficient capacity to adequately serve the proposed development. On-site sewer and water utilities will be installed within the public utility easement and connected to existing utilities in Eden Avenue and/or Mohr Drive. On-site storm drainage will be connected to an existing system in Eden Avenue. Sanitary sewer and water mains will be publicly owned and maintained by the City. However, the proposed on-site storm drain system and cleanwater treatment facilities will be privately owned and maintained by the HOA. Any existing overhead utility lines, as well as any new utility lines, will be required to be placed underground as part of the site improvements.

The formation of a HOA and the creation and enforcement of Conditions, Covenants, and Restrictions (CC&R's) will be required so that the HOA will be responsible for maintaining all private streets, private street lights, private utilities, and other privately owned common areas and facilities on the site, including, but not limited to, cleanwater treatment facilities, landscaping, preservation and replacement of trees, as well as decorative paving. For any necessary repairs performed by the City in locations under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the HOA established to maintain the common areas within the association boundary. The common area landscaping includes all areas except the private yards. The CC&R's will also contain a standard condition that if the HOA fails to maintain the common areas, private streets, lights and utilities, the City of Hayward will have the right to enter the subdivision and perform the necessary work to maintain these areas and lien the properties for their proportionate share of the costs.

Findings for the Vesting Tentative Tract Map - In order for a Vesting Tentative Tract Map to be approved, findings are required to be made for approval. Staff's responses to the findings are below. Such findings are also included in the attached resolution.

- (1) The approval of Vesting Tentative Map Tract 8151, as conditioned, will have no significant impact on the environment, cumulative or otherwise. A Mitigated Negative Declaration was prepared per the guidelines of the California Environmental Quality Act (CEQA) for the development of this site.
- (2) The vesting tentative tract map substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, and the General Plan.
- (3) Naturally occurring arsenic found on the project site will be encapsulated with clean fill material brought to the site and dust control measures will be in place to ensure dust control at the site will be kept at acceptable levels. With these measures in place, the site is physically suitable for the proposed type of development.

- (4) The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- (5) The design of the subdivision and the proposed improvements are not likely to cause serious health problems.
- (6) Upon completion of the proposed improvements, the streets and utilities would be adequate to serve the project.
- (7) None of the findings set forth in Section 66474 of the Subdivision Map Act for denial of a tentative map have been made.

Environmental Review - Staff has prepared an Initial Study, Mitigated Negative Declaration, and a Mitigation Monitoring and Report Program for the project (Attachment IV), which indicates there will be no significant environmental impacts resulting from the project, provided mitigation measures are incorporated into the project.

Mitigation measures include the preparation of pre-construction nesting bird surveys conducted prior to any vegetation removal or construction related activities, implementation of tree preservation measures outlined in the applicant's arborist report, preparation of a design level geotechnical report prior to issuance of a building permit for the project, implementation of recommendations contained in the applicant's soil investigation report and all efforts to control naturally occurring arsenic found within the soil on the project site.

In order to control and contain naturally occurring arsenic found on the project site, clean fill material will be brought in to encapsulate the site and dust control measures are required to be in place to ensure dust control at the site is kept at an acceptable level. The applicant will submit a plan, prepared by a California Registered Professional Geologist, that encapsulates the site with clean fill material and dust control is maintained throughout the duration of the grading and construction phase of the project. These measures shall be submitted for staff review and approval prior to issuance of a building permit for the project.

The environmental document was made available for public review from June 16 through July 7, 2014. No comments were received.

ECONOMIC IMPACT

The project would contribute to the neighborhood by allowing for development of thirteen ownership homes at a density and massing similar to recent projects constructed in the vicinity, specifically similar to the KB Home and Standard Pacific developments nearby. Such development would contribute to the character and revitalization of the Mt. Eden area.

FISCAL IMPACT

Staff has conducted a rough fiscal impact analysis of the project, which estimates that the project will generate \$27,531 of new revenue annually with projected costs to the City of \$26,458, for net annual revenue of \$1,073 (\$82.54 per unit). This analysis does not include any revenue from a community facilities district. The applicant team has estimated the selling price of each new home will be from \$799,645 to \$847,385, or \$335 to \$355 per square foot. If market conditions drive the sales price of each new home to \$700,000 or less, the project would be a negative impact on City revenues. Given some uncertainty with the asking price of each new home and the *rough* fiscal impact analysis conducted by staff, staff recommends that a thorough analysis of the project (as required by condition number 27 contained in the proposed resolution) be done evaluating the costs of providing public safety services to each new home. This analysis would address whether the project generates a need for additional public safety services, the cost associated with the service need and whether formation of a CFD is required. Compliance with this condition is required prior to issuance of project building permits.

PUBLIC CONTACT

When the application was first received, notice was sent to all property owners within a 300-foot radius of the project site, indicating the City had received development applications for this site and informing of a preliminary meeting that would be held to provide the public an opportunity to review and comment on the project. This meeting was held on October 3, 2013.

Five neighborhood residents attended this meeting and generally expressed support for the proposed project. They liked the design of the homes and were pleased that the proposal included two-story single-family homes, versus three-story townhomes. Two residents on an adjacent lot were concerned that their privacy would be impacted by the location of new two-story homes (on lots 7, 8 & 9) with residents looking into their backyard. The applicant indicated, and recommended conditions of approval require, that additional trees will be planted along the property line to ensure privacy is maintained. Trees shall be an evergreen species.

Based upon the initial project notification to area residents, staff received an e-mail from a resident residing near the project site on Mohr Drive objecting to the project based upon traffic concerns; specifically, additional vehicle trips and safety concerns (Attachment VII). The applicant commissioned the consulting firm of Kittelson & Associates, Inc. to prepare a traffic impact analysis of the project.

In its report dated March 24, 2014, Kittelson concluded that “based on the results of the transportation impact analysis, the proposed development can be developed while maintaining acceptable levels of service and safety on the surrounding transportation system.” The analysis also mentions that there is adequate on-site parking provided and that “all of the study intersections are forecast (to) operate acceptably during the a.m. and p.m. peak hours with the proposed development, based on the City of Hayward’s mobility standards.” The Kittelson study also mentions that “the proposed street connections to Eden Avenue and Mohr Drive comply with the City’s circulation and access standards” and “all approaches at each of the study intersections are projected to have adequate storage and should not experience queue spill-backs into adjacent

intersections or beyond available storage.” Based on the transportation analysis of this project, the City’s Senior Transportation Engineer concurs with the conclusions of Kittelson’s report.

One hundred and eight copies of a notice of this public hearing was sent to all property owners and residents within a 300-foot radius of the project site on September 5 and was published in *The Daily Review* newspaper on September 6. No comments were received at the time this staff report was completed.

NEXT STEPS

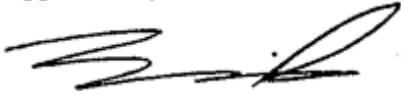
Should the Council approve the project, the applicant will work with staff toward complying with the conditions of approval to allow approval of a Precise Development Plan, approval of a Final Map and ultimately allow for construction of the project.

Prepared by: Damon Golubics, Senior Planner

Reviewed by: Sara Buizer, AICP, Planning Manager

Recommended by: David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

- Attachment I Resolution
- Attachment II Ordinance
- Attachment III Area and Zoning Map
- Attachment IV Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
- Attachment V July 24, 2014 Draft Planning Commission Meeting Minutes
- Attachment VI Project Plans
- Attachment VII E-mail Objecting to the Project

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-

Introduced by Councilmember _____

RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING VESTING TENTATIVE TRACT MAP APPLICATION PL-2013-0351 AND ZONE CHANGE APPLICATION PL-2013-0350 PERTAINING TO THE DEVELOPMENT OF THIRTEEN DETACHED SINGLE-FAMILY HOMES AT 24582 AND 24570 EDEN AVENUE AND 24655 MOHR DRIVE IN THE MT. EDEN AREA

WHEREAS, on September 4, 2013, Che Chen and Shu Fen Liu (Owners and Applicants) submitted Zone Change Application No. PL-2013-0350 and Vesting Tentative Tract Map Application No. PL-2013-0351 for the property located at 24582 and 24570 Eden Avenue and 24655 Mohr Drive in the Mt. Eden Area, which applications requested a zoning reclassification from Single Family Residential/B4 Special Lot Area Combining District to Planned Development District and a property subdivision to facilitate construction of thirteen (13) detached single-family homes (the “Project”); and

WHEREAS, a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program has been prepared to assess and mitigate the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on July 24, 2014, and recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; approve Zone Change Application No. PL-2013-0350, reclassifying the property from Single Family Residential/B4 Special Lot Combining Standards District to Planned Development District; and approve Vesting Tentative Tract Map Application No. PL-2013-0351; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on September 16, 2014.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to CEQA Guidelines Section 15220, an Initial Study (“IS”) was prepared for

this project with the finding that a Mitigated Negative Declaration (“MND”) was appropriate because all potentially significant impacts could be reduced to a level of insignificance.

2. That the proposed MND was prepared by the City of Hayward as the Lead Agency and was circulated with a twenty (20) day public review period, beginning on June 16, 2014 and ending on July 7, 2014.
3. That the proposed MND was independently reviewed, considered and analyzed by the Planning Commission and reflects the independent judgment of the Planning Commission; that such independent judgment is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the proposed MND and the administrative record as a whole); that the Planning Commission adopts the proposed MND and its findings and conclusions as its source of environmental information; and that the proposed MND is legally adequate and was completed in compliance with CEQA.
4. That the proposed MND identified all potential significant adverse impacts and feasible mitigation measures that would reduce these impacts to less-than-significant levels, and that all of the applicable mitigation measures identified in the MND and Mitigation Monitoring and Reporting Program will be adopted and implemented. Based on the MND and the whole record before the Planning Commission, there is no substantial evidence that the project will have a significant effect on the environment.
5. That the project complies with CEQA, and that the proposed MND was presented to the Planning Commission, which reviewed and considered the information contained therein prior approving the project. The custodian of the record of proceedings upon which this decision is based in the Development Services Department of the City of Hayward located at 777 B Street, Hayward, CA 94544.
6. The monitoring and reporting of CEQA mitigation measures in connection with the project will be conducted in accordance with the attached Mitigation Monitoring and Reporting Program, which is adopted as conditions of approval for the project. Adoption of this program will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the efforts of the project sponsor, City of Hayward or other identified public agencies of responsibility

ZONE CHANGE

7. **The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies.**

The project is consistent with the existing General Plan designation and policies related to providing a variety of housing types. The detached two-story single-family homes proposed on this site are denser than the older existing neighborhood, but still fit within

the overall development pattern of the immediate area as a whole, especially the recent developments by KB Homes and Standard Pacific. The exteriors of the homes are consistent with the design of the surrounding homes along Mohr Drive and Eden Lane, specifically the use of board and batten siding, horizontal wood siding and shingles. Additional architectural features on some of the more visible elevations, to be included in the Precise Plan submittal as conditioned, allows this finding to be made.

8. **Streets and utilities, existing or proposed, are adequate to serve the development.**

The proposed project is an in-fill development site surrounded by existing streets and there are utilities available to the site with adequate capacity to serve the proposed development. In addition, the project is required to underground any overhead utilities in front of the project site.

9. **The development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development.**

The project applicant has proposed a development that integrates density, livability and renewable energy sources (solar energy system). The site design maintains the continuity of the existing neighborhood character by providing front porches and entry doors for the detached single-family homes that are oriented toward the new private street, providing eyes on the street to encourage community interaction. Useable open space and pedestrian connectivity is provided, allowing for better circulation and access to surrounding amenities such as Chabot College and public transit. As conditioned, additional features will be required on rear elevations of homes and along the right side elevations of the two homes abutting public streets, to present a more attractive development to the neighborhood. Additional landscape screening, as conditioned, will further integrate the project in an acceptable manner into the neighborhood.

10. **Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.**

The project is consistent with the Limited Medium Density Residential General Plan designation density. The applicant is seeking a Planned Development zoning designation to provide flexibility in the site layout of the units, and to offset certain development standards, such as reduced lot sizes and widths, setbacks, and lot coverage. To offset these deviations from development standards, the following shall be required and shown/indicated on the Precise Plan:

- Obtain at least LEED certification for all thirteen new homes.
- Plant a new oak tree (72-inch box minimum size) in a prominent location within the development site as approved by the City's Landscape Architect.
- Plant three new (additional) evergreen trees (24-inch box minimum) adjacent to lots 7, 8 and 9 to screen the development from adjacent residences.

- Photovoltaic solar systems shall be installed on all new homes.
- Provide open space and subdivision entry signage at one of the entries to the project site.
- Electric vehicle charging station in the garage of each new home.
- All proposed driveways shall consist of interlocking pavers versus colored concrete paving, creating an environmentally friendly pervious surface. Private road entry points to the subdivision shall also employ interlocking pavers. Details related to these amenities shall be reviewed and approved during the Precise Plan phase of the project.
- Installation of decorative LED lighting along the private street and along the edges of the project site on Eden Avenue and Mohr Drive. Final illumination levels of this lighting shall be reviewed and approved during the Precise Plan phase of the project.

VESTING TENTATIVE TRACT MAP

11. The approval of Vesting Tentative Map Tract 8151, as conditioned, will have no significant impact on the environment, cumulative or otherwise. A Mitigated Negative Declaration was prepared per the guidelines of the California Environmental Quality Act (CEQA) for the development of this site.
12. The vesting tentative tract map substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, and the General Plan.
13. Naturally occurring arsenic found on the project site will be encapsulated with clean fill material brought to the site and dust control measures will be in place to ensure dust control at the site will be kept at acceptable levels. With these measures in place, the site is physically suitable for the proposed type of development.
14. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
15. The design of the subdivision and the proposed improvements are not likely to cause serious health problems.
16. Upon completion of the proposed improvements, the streets and utilities would be adequate to serve the project.
17. None of the findings set forth in Section 66474 of the Subdivision Map Act for denial of a tentative map have been made.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approves Zone Change Application No. PL-2013-0350 and Vesting Tentative Tract Map Application PL-2013-0351, subject to the adoption of the companion ordinance rezoning the property located at 24582 and 24570 Eden Avenue and

24655 Mohr Drive from Single Family Residential/B4 Special Lot Area Combining District to Planned Development District and the attached conditions of approval (Exhibit "A").

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

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

Exhibit A

CONDITIONS OF APPROVAL

Che Chen & Shu Fen Liu/ (Applicant and Subdivider)

Zone Change Application No. PL-2013-0350 and

Vesting Tentative Tract Map Application No. PL-2013-0351

Zone Change from Single Family Residential/B4 Combining District (RS/B4)) to Planned Development (PD) and Vesting Tentative Tract Map to construct a Planned Development consisting of Thirteen Single-Family Residential Homes, one Private Street, and two Common Areas on approximately 1.45-acre site located within in the Mt. Eden Neighborhood Plan Area.

Note: Revised conditions reflective of Planning Commission direction and additional conditions from staff agreed to by the applicant are shown in ***bold underlined italicized*** font.

General

1. In accordance with Zoning Ordinance §10-1.2500, subject to all conditions listed below, the approval is for the Zone Change and Vesting Tentative Tract Map Project as shown in the City's Project files as:

Exhibit A –Planned Development and Vesting Tentative Tract Map 8151 submitted by Che Chen & Shu Fen Liu, dated April 14, 2014, Sheets G.0, TM.1, TM.2, TM.3, TM.4, C.1, L.1, L.2, L.3, L.4, L.5, A.1, A.2, A.3, A.4, A.5, and A.6.

2. The Zone Change approval shall coincide with the approval period for the Vesting Tentative Tract Map, whichever is later, unless the construction authorized by the building permits has been substantially completed or substantial sums have been expended in reliance upon the project approval.
3. This approval is subject to the Mitigation Monitoring and Reporting Program included in the City's Project files as Exhibit B.
4. The developer/subdivider shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.

PRECISE PLAN SUBMITTAL

5. The Precise Plan shall be in substantial conformance with the approved Preliminary Plan and shall be submitted in conjunction with tract improvement plans and final map. All final exterior design details associated with each new home shall be submitted with the Precise Plan application for the project. All exterior home details shall be reviewed and approved prior to issuance of a building permit for the project.
6. Final exterior elevations of the left, right, and rear elevations of each new home shall have additional enhancement designed into each elevation to provide more offsets (of at least 30 inches pursuant to the City's Design Guidelines) to break up large wall planes. The City's

Exhibit A

Design Guidelines state that housing units should “avoid extensive blank walls in neighborhoods . . .” and for the need to “. . . break up building mass into components.” The Guidelines also suggest the creating “shadow relief and high shade and light contrast with recesses, bays, trellises or other features” and that the development be designed “to be attractive from all visible sides by providing consistent architectural detail and landscaping . . .” Final plans shall also add more architectural features around windows and doors (particularly along the rear elevations that will be visible from adjacent properties). Small roof elements shall be designed in to elevations with doors exiting into any side, street side or rear yard areas. All redesigned elevations shall be reviewed and approved by the Planning Director during the Precise Plan phase of the project and comply with all applicable City Design Guidelines.

7. The applicant shall provide a plan for working with property owners located adjacent to lots 7, 8 and 9 on evergreen tree placement. Trees shall be a minimum of 24-inch box in size. The Planning Director and City Landscape Architect shall review and approve the final location of these new trees.
8. The project approval includes the following project amenities to support the finding required to be made that “any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.” These amenities include:
 - a) Obtain at least LEED certification for all thirteen new homes.
 - b) Plant a new oak tree (72-inch box minimum size) in a prominent location within the development site.
 - c) Plant three new (additional) evergreen trees (24-inch box minimum) adjacent to lots 7, 8 and 9 to screen the development from adjacent residences.
 - d) Photovoltaic solar system installed on all new homes.
 - e) Open space and subdivision entry signage at one of the entries to the project site.
 - f) Electric vehicle charging station in the garage of each new home.
 - g) All proposed driveways shall consist of interlocking pavers versus colored concrete paving creating and environmentally friendly pervious surface. Private road entry points to the subdivision shall also employ interlocking pavers. Details related to these amenities shall be reviewed and approved during the Precise Plan phase of the project.
 - h) Installation of decorative LED lighting along the private street and along the edges of the project site on Eden Avenue and Mohr Drive. Final illumination levels of this lighting shall be reviewed and approved during the Precise Plan phase of the project.
 - i) The applicant shall provide public art with a total value of at least \$50,000 at one or both entry points to the new subdivision to be reviewed and approved by the City Manager during the Precise Plan phase of the project.

Exhibit A

The applicant shall submit revised project plans for review and approval by the Planning Director that clearly shows the details of each project amenity. Such project amenity details shall be included in the Precise Plan submittal for final approval.

9. The Precise Plan shall include provisions for project staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for noise and dust control, and common area landscaping.
10. The tot lot and common outdoor patio area, located on the development site, shall be maintained and operated by the Homeowners' Association.
11. The Precise Plan shall include the following:
 - a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
 - b) Details of address numbers shall be provided. Address number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
 - c) Details and locations of the tot lot and common outdoor patio area shall be included and approved by the Planning Director and City Landscape Architect.
 - d) The Precise Plan shall show fencing and fencing details.
 - e) The pavement at the private street entries shall be enhanced by the use of decorative pavement materials, specifically interlocking pavers. The location, design and materials shall be approved by the Planning Director prior to approval of the Precise Plan for the project. Plans shall also show the addition of two additional private parking spaces on the south side of the full width section of private street.
 - f) A final lighting plan, prepared by a qualified illumination engineer, shall be included to show exterior lighting design. Exterior lighting shall be erected and maintained so that adequate lighting is provided along the private street. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project.
 - g) The final lighting plan shall also details of new decorative LED lighting along the private street and along the edges of the project site on Eden Avenue and Mohr Drive. Final illumination levels of this lighting shall be reviewed and approved during the Precise Plan phase of the project to ensure such lighting shall be in accordance with the candlelight standards contained in Hayward's Security Standards Ordinance (No. 90-26 C.S.).
 - h) All air conditioners and utility connections for air conditioners shall be located such that all external equipment is located behind solid board fences or walls not to exceed the height of the air conditioner unless otherwise approved by the Planning Director.

Exhibit A

Infrastructure for air conditioning systems is required to be installed as a standard feature.

- i) All private street and guest parking spaces are to meet minimum City of Hayward on-street and off-street parking standards.
- j) An area within each garage for individual garbage, organic waste and recycling receptacles shall be provided and shall be clear of the required area for two cars. As an alternative, an area within the fenced side yard may be used for the garbage, organics and recycling containers but shall be shown.
- k) A final color and materials board shall be submitted to the Planning Director for review and approval. No changes to colors shall be made after construction unless approved by the Planning Director. **A final material pallet shall be approved by the Planning Director prior to issuance of a building permit for the project. No bright orange, pink or yellow exterior paint colors shall be used.**
- l) All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen, to be approved by the Planning Director.
- m) No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by Building Code. Roof apparatus, such as vents, shall be painted to match the roof color.
- n) Any new identification signs per public road entrance shall conform to Section 10-7.403(b)(2) of the Sign Ordinance regulations, with the locations to be approved by the Planning Director. Final sign design, colors, and materials shall reflect the architectural style of the project and shall be approved by the Planning Director.
- o) Large expanses of blank wall are not allowed. Articulate such expanses to avoid bulkiness.
- p) All decorative window treatments shall be extended to all elevations.
- q) All rear and side entries visible from the street shall be protected by roofs with rooflines to match the pitch of the roof.
- r) All parking stall dimensions shall conform to the City's Off-street Parking Ordinance with the exception of the required the driveway length. All two car garages shall have the interior dimensions of 20-foot width by 19-foot depth. The dimensions shall be shown on the floor plans. No doors, stairs, landings, laundry facilities, trash/recycle containers, water heaters, or HVAC shall project within the required interior parking areas.
- s) Before the 3rd Certificate of Occupancy is issued, the tot lot and common outdoor patio area shall be commenced, and before the 5th Certificate of Occupancy is issued, the construction of the these improvements shall be completed.
- t) The Precise Plan submittal shall show two new open parking spaces located on the south side of the private street in front of the tot lot and lots 10, 11, 12 and 13. These

Exhibit A

parking space details shall be reviewed and approved by the Planning Director prior to approval of the Improvement Plans and Precise Plan for the project. All final exterior building finishes, paint colors and other architectural details shall be reviewed and approved by the Planning Division in accordance with the City of Hayward's Design Guidelines prior to issuance of a building permit for the project.

u) Floor plans for the first floor of each new home shall clearly show a full bathroom instead of a half bathroom as originally proposed by the applicant. All details related to the full size bathroom shall be reviewed and approved by the Planning Director during the Precise Plan phase of the project.

12. Any proposal for alterations to the proposed site plan and/or design which does not require a variance to any zoning ordinance standard must be approved by the Planning Director or his/her designee, prior to implementation.
13. The front door for lot number nine facing Eden Avenue shall be changed on construction drawing to face the private street.
14. Details of all project amenities shall be submitted for review and approval by the Planning Director during the Precise Plan phase of the project.
15. The project shall comply with the 2013 California Energy Code Section 110.10 for Solar Ready Homes, involving coordination between the project architect and energy consultant regarding the design and orientation of roof surfaces.

Planning Division

16. **Mitigation Measure 1:** Pre-construction nesting bird surveys shall be completed prior to vegetation removal or any construction related activity occur during the breeding season (February through August) in order to avoid impacts to nesting birds. Surveys shall be completed by qualified biologists no more than 14 days before initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to initiation of construction activities during the late part of the breeding season (May through August). If nests are observed, the biologist in consultation with California Department of Fish and Wildlife, will determine an adequate buffer zone and other minimization measures to ensure that nests will not be disturbed during project construction. Avoidance buffers and minimization shall be utilized until the qualified biologist determines that the nest is no longer being utilized. Results of the survey shall be submitted to the City of Hayward Planning Division.
17. **Mitigation Measure 2:** The applicant shall implement all recommendations in the tree evaluation report including protection of all trees adjacent to the project site to be preserved during all phases of the development:
 - All construction activity (grading, filling, paving, excavation, landscaping, etc.) shall respect a tree protection zone (TPZ) around protected trees. The TPZ should be a distance of 1.0 times the dripline radius measured from the trunk of the tree. Exception to this standard could be considered provided it is demonstrated that an encroachment

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into the TPZ will not affect the root system or the health of the tree, and it is authorized by a certified Arborist or comparable specialist.

- Temporary protective fencing shall be installed around the dripline of existing trees prior to commencement of any construction activity conducted within 25' of tree canopy. The fence shall be clearly marked to prevent inadvertent encroachment by heavy machinery.
 - Drainage will not be allowed to pond around the base of any tree.
 - A Certified Arborist shall be retained to perform any necessary pruning of trees during construction activity.
 - Roots exposed, as a result of construction activities shall be covered with wet burlap top avoid desiccation, and should be buried as soon as practicable.
 - Only a Certified Arborist shall make specific recommendations as to where existing trees can safely tolerate some level of fill within the dripline.
 - Trenches which are required within the TPZ shall be hand dug or bored (tunneled) under the root(s) to minimize damage.
 - Construction materials and heavy equipment shall be properly stored away from protected trees to avoid spillage or damage.
 - All sub-contractors shall be provided a copy of the Tree Protection Plan.
18. **Mitigation Measure 3:** Prior to issuance of a Building Permit for the project, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.
19. **Mitigation Measure 4:** According to the GEI soil investigation report dated July 5, 2013, moderate to highly expansive clay soils were observed at a soil depth of 4 to 12 feet on the project site. The assessment recommends specific criteria be followed for all earthwork, subgrade preparation, foundation construction, compaction in structural areas and drainage be observed, controlled and approved by the project Geotechnical Engineer. Implementation of the recommendations in the soil investigation report will mitigate the impacts of the expansive soils to a less than significant level.
20. **Mitigation Measure 5:** In order to control and contain naturally occurring arsenic found on the project site, clean fill material shall be brought in to encapsulate the site and dust control measures shall be in place to ensure dust control at the site kept at acceptable level. The applicant shall submit a plan prepared by a California Registered Professional Geologist that encapsulates the site with clean fill material and dust control is maintained throughout the duration of the construction phase of the project. Plans shall be submitted prior to issuance of a building permit for the project.

PRIOR TO SUBMITTAL OF SUBDIVISION IMPROVEMENT PLANS AND FINAL MAP

21. In conjunction with the Precise Plan, the applicant/developer shall submit subdivision improvement plans and a final map application for the entire project. Said improvement plans and final map shall meet all City standards and submittal requirements except as expressly approved for this Planned Development. The following information shall be submitted with,

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or in conjunction with, improvement plans and final map. The City reserves the right to include more detailed conditions of approval regarding required infrastructure based on these more detailed plans.

22. Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed, at no cost to the City of Hayward.
23. Unless indicated otherwise, the design for development shall comply with the following:
 - a) All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Articles 1 and 3, and Standard Specifications and Details.
 - b) All construction shall meet the California Building Codes (CBC) and all applicable City of Hayward Building Codes and amendments, including Green Building standards.
 - c) Design and construction of all pertinent life safety and fire protection systems shall meet the California Fire Code and all applicable City of Hayward Fire Codes and amendments.
24. A Registered Civil Engineer shall prepare all Civil Engineering improvement plans; a Licensed Architect shall prepare all architectural plans; and a Licensed Landscape Architect shall prepare all landscape unless otherwise indicated herein.

Subdivision Improvement Plans

25. Subdivision Improvement Plans shall be approved in concurrence with the Precise Development Plan. Submit the following proposed improvement plans with supporting documents, reports and studies:
 - a) A detailed drainage plan, to be approved by the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City Engineer, designing all on-site drainage facilities to accommodate the runoff associated with a ten (10) year storm and incorporating onsite measures sufficient to reduce the peak runoff to a level that will not cause any impact to capacity of downstream facility. The detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be approved by the City Engineer and by the ACFC&WCD prior to issuance of any construction or grading permit.
 - b) An Encroachment Permit shall be obtained from the ACFC&WCD prior to commencement of any work within District right-of-way and for the construction, modification or connection to District-maintained facilities.
 - c) A detailed Stormwater Treatment Plan and supporting documents, following City ordinances and conforming to Regional Water Quality Control Board's Staff recommendations for new development and redevelopment controls for storm water programs.

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Final Tract Map

26. Prior to recordation, a proposed Final Tract Map shall be submitted for review by the City. The Final Tract Map shall be presented to the City Council for review and action. The City Council meeting will be scheduled approximately sixty (60) days after the Final Map is deemed technically correct, and Subdivision Improvement Plans with supporting documents, reports and agreements are approved by the City. The executed Final Map shall be returned to the City Public Works Department if Final Map has not been filed in the County Recorder's Office within ninety (90) days from the date of the City Council's approval.
27. The developer shall pay the costs of providing public safety services to the project should the project generate the need for additional public safety services. The developer may pay either the net present value of such costs prior to issuance of building permits, or the developer may elect to annex into a special tax district formed by the City and pay such costs in the form of an annual special tax. The developer shall post an initial deposit of \$20,000 with the City prior to submittal of improvement plans to offset the City's cost of analyzing the cost of public safety services to the property and district formation.
28. Prior to the recordation of the Final Tract Map, all documents that need to be recorded with the final map shall be approved by the City Engineer and any unpaid invoices or other outstanding charges accrued to the City for the processing of the subdivision application shall be paid.
29. The final map shall reflect all easements needed to accommodate the project development. The private street "A" shall be designated as a Public Utility Easement (PUE), Public Assess Easement (PAE), Water Line Easement (WLE), Sanitary Sewer Easement (SSE), and Emergency Vehicle Access Easement (EVAE).

Storm Water Quality Requirements

30. The following materials related to the Storm water quality treatment facility requirements shall be submitted with improvement plans and/or grading permit application:
 - a) A Stormwater Treatment Measures Maintenance Agreement shall be submitted to Public Works - Engineering and Transportation Department staff for review and approval. Once approved, the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
 - b) A Storm Water Pollution Prevention Plan (SWPPP) shall be submitted with a design to reduce discharge of pollutants and sediments into the downstream storm drain system. The plan shall meet the approval of the City Engineer. The certification page of the SWPPP shall be signed by a Qualified SWPPP Developer (QSD) person who prepared the report.
 - c) Before commencing any grading or construction activities at the project site, the developer shall obtain a National Pollutant Discharge Elimination System (NPDES) permit and provide evidence of filing of a Notice of Intent (NOI) with the State Water Resources Control Board.

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- d) The project plans shall include the storm drain design in compliance with post-construction stormwater requirements to provide treatment of the stormwater according to the National Pollutant Discharge Elimination System (NPDES) permit's numeric criteria. The design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
 - e) The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prevent the entry of pollutants into storm water runoff. Roof leaders shall discharge into flow-through planters and direct runoff shall discharge into a landscaped area or a bioretention area prior to stormwater runoff entering an underground pipe system.
 - f) The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP) NPDES permit.
 - g) The bioretention treatment area shall be designed using a Bioretention Soil Mix (BSM) per Attachment L of the C.3 Stormwater Technical Guidance dated May 14, 2013, with a minimum infiltration rate of 5 inches per hour.
 - h) The following documents pursuant to the Cleanwater Program requirements:
 - i. Hydromodification Management Worksheet;
 - ii. Infiltration/Rainwater Harvesting and Use Feasibility Screening Worksheet;
 - iii. Development and Building Application Information Impervious Surface Form;
 - iv. Project Applicant Checklist of Stormwater Requirements for Development Projects;
 - v. C.3 and C.6 Data Collection Form; and,
 - vi. Numeric Sizing Criteria used for stormwater treatment (Calculations).
31. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.

Public Streets: (Mohr Drive and Eden Avenue)

32. Improvements for public streets shall incorporate the following:
- a) The site plan shall be reviewed with the Fire Department and Public Works - Engineering and Transportation Division to ensure that the street and driveway layout is adequate to provide access for emergency, service and utility vehicles, and other commercial trucks.
 - b) The design and locations of street approaches, including pedestrian access, shall be approved by the City Engineer. Pedestrian ramps shall be installed at all street intersections and where required by the City.
 - c) The street design shall utilize standard curb and gutter. The street sections shall be constructed to public street standards and shall be capable of supporting a load of

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75,000 GVW, including sections of decorative pavement. Curb returns shall be designed to facilitate street sweeping.

- d) The street entrances on Mohr Drive and Eden Avenue shall conform to City Standards and be enhanced with at least ten feet of raised decorative paving.
- e) Upon any necessary repairs to the public facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners' association established to maintain the common areas within the subdivision boundary.
- f) The subdivider/applicant shall remove and replace any damaged and/or broken curb, gutter, and sidewalks along the property frontage as determined by the City.
- g) After installation of the water main connection, abandonment of any existing sewer laterals, and water services on Mohr Drive, Mohr Drive repair work shall be ground and replaced with two inches of Hot-Mix-Asphalt (HMA) overlay, curb to curb for the entire Mohr property frontage.
- h) Standard L.E.D. street lights shall be installed along the street frontages.

Private Street "A"

- 33. The proposed Street A shall be a 38-foot wide private street with a curb to curb width of 30-foot and a 4.5-foot wide private sidewalk adjacent to the curb, except along the frontage of lots 1-4 and Parcel A where the Right-of-way is limited to 25 feet.
- 34. Street A shall be designed using a T.I. value of 5; the pavement section for the proposed private street shall be designed using a minimum 4-inch thick section of Hot Mix Asphalt (HMA).
- 35. The proposed Street A shall be designed with a crown centerline.
- 36. Streetlights and pedestrian lighting shall be owned and maintained by the Homeowners Association and shall have a decorative design approved by the Planning Director and the City Engineer.

Parking and Driveways

- 37. The applicant/developer shall provide sufficient parking spaces for the development to meet the requirements of the City of Hayward Municipal Code. Parking stall dimensions and driveways shall meet City requirements as approved by the Planning Director and City Engineer.

Storm Drainage

- 38. The project streets, driveways, and parking areas shall be designed to facilitate street sweeping, including the layout of the tree and handicap ramp bulb outs. The HOA shall be responsible for street sweeping on a regular basis.

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39. The project shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
40. Storm water inlets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.
41. Improvements for storm drain systems shall incorporate the following:
 - a) The locations and design of storm drains shall meet the City's standard design and be approved by the City Engineer and if necessary, the Alameda County Flood Control and Water Conservation District (ACFC&WCD). Any alternative design shall be approved by the City Engineer prior to installation.
 - b) Storm drain pipes in streets and alleys shall be a minimum of twelve inches in diameter with a minimum cover of three feet over the pipe.
 - c) The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City. Development of this site shall not augment runoff to the ACFC&WCD's downstream flood control facilities. The hydrology calculations shall substantiate that there will be no net increases in the quantity of runoff from the site versus the flow rate derived from the original design of downstream facilities.
 - d) The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the project hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate unavoidable augmented runoffs with offsite and/or on-site improvements.
 - e) No surface runoff is allowed to flow over the sidewalks and/or driveways. Area drains shall be installed behind the sidewalks to collect all runoff from the project site.
 - f) All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.
 - g) Post-development flows should not exceed the existing flows. If the proposed development warrants a higher runoff coefficient or will generate greater flow, mitigation measures shall be implemented.

Sanitary Sewer System

42. Sanitary sewer service is available subject to standard conditions and fees in effect at the time of application. The proposed sanitary sewer main shall be a public system, owned and maintained by the City. Where a sewer main is located in a private roadway, a minimum 10' wide easement shall be granted to the City.

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43. All public sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12" Diameter or Less)," latest revision at the time of Improvement Plans approval.
44. The on-site sanitary sewer system shall have 8-inch public mains, designed with a manhole at all angle points and ending with a manhole. The main design and location shall meet the approval of the City Engineer.
45. Each residential unit shall have an individual sanitary sewer lateral. The sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.

Water System

46. Water service is available from the City of Hayward and is subject to standard conditions and fees in effect at the time of application.
47. The development's water mains shall be public, owned and maintained by the City. Where a public water main is located in a private roadway, a minimum 10' wide easement shall be granted to the City.
48. Where a public water main is in an unpaved easement or under decorative, stamped, or colored concrete, including turf-blocks, the water main shall be constructed of Ductile iron. Shut-off valves are required where a water main transitions from a paved area to an unpaved easement.
49. All public water mains shall be constructed in accordance with the City's "Specifications for the Construction of Water Mains (12" Diameter or Less) and Fire Hydrants," latest revision at the time of permit approval.
 - a) Water mains and services, including the meters, must be located at least ten feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and one foot vertically above any parallel pipeline conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade piping materials with the City's approval.
50. All water series from existing water mains shall be installed by City Water Distribution Personnel at the applicant/developer's expense. This includes relocating existing services and water main tie-ins. The developer may only construct new services in conjunction with the construction of new water mains.
 - a) Only Water Distribution Personnel shall perform operation of valves on the Hayward Water System.
51. Each dwelling unit shall have an individual water meter.
 - a) All water meters shall be radio-read type.

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- b) Water meters shall be located a minimum of two feet from the top of driveway flare as per City Standard SD-213 thru SD-218.
- 52. Residential combined domestic and fire services are allowed, per City Standard SD-216. The minimum size for a residential fire service connection is 1”.
- 53. A separate irrigation water meter shall be installed for landscaping purposes. The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each irrigation water meter, per City Standard SD-202. Backflow prevention assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is larger.

Other Utilities

- 54. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company and Comcast cable company regulations. Transformers and switch gear cabinets shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.
- 55. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.
- 56. The developer shall provide and install the appropriate facilities, conduit, junction boxes, etc., to allow for installation of a fiber optic network within the subdivision.
- 57. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards

PRIOR TO ISSUANCE OF BUILDING OR GRADING PERMITS

Planning Division

- 58. Prior to issuance of building permits, a final map that reflects and is in substantial compliance with the approved vesting tentative tract map, shall be approved by the City Engineer and is in the process for filing with the office of the Alameda County Clerk Recorder.
- 59. Pursuant to Municipal Code §10-3.332, the developer shall execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements. Insurance shall be provided per the terms of the subdivision agreement.
- 60. Submit the following documents for review and approval, or for City project records/files:
 - a. Copy of the Notice of Intent filed with State Water Resources Control Board;
 - b. Engineer’s estimate of costs, including landscape improvements;
 - c. Signed Final Map;
 - d. Signed Subdivision Agreement; and
 - e. Subdivision bonds.

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61. To avoid or reduce the potential impact related to the site specific geotechnical hazards related to seismic hazards, the project developer shall implement the following mitigation measures:
 - a. The applicant shall submit a final grading plan subject to review by the City Engineer prior to issuance of grading permits.
62. Plans for building permit applications shall incorporate the following:
 - a) A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
 - b) A lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. All exterior lighting shall be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. Such lighting shall also be designed such that it is decorative and in keeping with the design of the development. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. The Planning Director or his/her designee shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the buildings. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of proposed buildings.
 - c) Plans shall show that all utilities will be installed underground.

Landscape

63. If existing trees are proposed to be removed, all removed trees shall be mitigated to the equal value established in the approved arborist report by a certified arborist. Tree mitigation shall be done above and beyond required trees. Any trees that are removed or damaged during construction shall be replaced with trees of equal size and equal value.
64. The applicant shall implement all recommendations in the tree evaluation report including protection of all trees adjacent to the project site to be preserved during all phases of the development:
 - a) All construction activity (grading, filling, paving, excavation, landscaping, etc.) shall respect a tree protection zone (TPZ) around protected trees. The TPZ should be a distance of 1.0 times the dripline radius measured from the trunk of the tree. An exception to this standard could be considered, provided it is demonstrated that an encroachment into the TPZ will not affect the root system or the health of the tree, and it is authorized by a certified Arborist or comparable specialist.
 - b) Temporary protective fencing shall be installed around the dripline of existing trees prior to commencement of any construction activity conducted within 25' of the tree canopy. The fence shall be clearly marked to prevent inadvertent encroachment by heavy machinery.
 - c) Drainage will not be allowed to pond around the base of any tree.
 - d) A Certified Arborist shall be retained to perform any necessary pruning of trees during construction activity.

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- e) Roots exposed as a result of construction activities shall be covered with wet burlap to avoid desiccation, and should be buried as soon as practicable.
 - f) Only a Certified Arborist shall make specific recommendations as to where existing trees can safely tolerate some level of fill within the dripline.
 - g) Trenches which are required within the TPZ shall be hand dug or bored (tunneled) under the root(s) to minimize damage.
 - h) Construction materials and heavy equipment shall be properly stored away from protected trees to avoid spillage or damage.
 - i) All sub-contractors shall be provided a copy of the Tree Protection Plan.
65. A separate tree removal permit shall be required for all trees that are to be removed. The permit application shall be obtained from the City Landscape Architect prior to demolition of all existing on-site structures.
66. Grading and improvement plans shall include tree preservation and protection measures, as required by the City Landscape Architect. Trees shall be fenced at the drip line throughout the grading and construction period.
67. Prior to the approval of improvement plans, detailed landscape and irrigation plans shall be reviewed and approved by the City and shall be a part of approved improvement plans and the building permit submittal. The plans shall be prepared by a licensed landscape architect on an accurately surveyed base plan and shall comply with the City's Tree Preservation Ordinance, Bay-Friendly Water Efficient Landscape Ordinance, Hayward Environmentally Friendly Landscape Guidelines and Checklist for the landscape professional, and Municipal Codes. Dripline of the existing trees to be saved shall be clearly shown on the plan.
68. Mylars of the approved landscape and irrigation improvement plans shall be submitted to the Public Works – Engineering and Transportation Department. The size of the Mylar shall be twenty-four inches by thirty-six inches without an exception. A four-inch by four-inch blank signing block shall be provided in the lower right side on each sheet of Mylar. The signing block shall contain two signature lines and dates for City of Hayward City Engineer and City Landscape Architect.
69. Landscape and tree improvements shall be installed according to the approved plans prior to the occupancy of each building. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of eighty percent of the dwelling units, whichever first occurs and a Certificate of Completion, as-built Mylar and an Irrigation Schedule shall be submitted prior to the Final Approval of the landscaping for the Tract to the Engineering Department by the developer.
70. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. Where feasible, as determined by the City Engineer and Landscape Architect, landscaping should be designed and operated to treat stormwater runoff. Landscaping shall also comply with the City's "water efficient landscape ordinance."

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71. Landscaping Plans shall incorporate the following:
- a. Project data and associated calculations: Shall be provided on plan sheets with the following information: total project area, total irrigated landscape area, required private open space and provided private open space, required group open space and provided group open space, and Maximum Applied Water Allowance (MAWA).
 - b. Underground Utilities: Locations and layout of all underground utilities lines, boxes and vaults shall be provided as base information on planting plans to minimize conflict with tree planting.
 - c. Fire Hydrants: The City Standard Detail requires fire hydrants to be located on a six foot wide by six foot long concrete pad. The minimum clearance for tree planting is seven feet from the edge of fire hydrants, not from the edge of the concrete pad. The actual size of the pad shall be shown on the planting plans.
 - d. Street Tree Planting along Public and Private Streets: One twenty-four-inch box tree shall be planted at every twenty to forty feet on center in addition to required front yard trees per Zoning Ordinance.
 - 1) Required Screening of Above-Ground Utilities including Trash Enclosures: Above ground utilities (e.g. gas or electric meters, backflow devices) and trash enclosures shall be located from public/street view, and shall be screened with trees, shrubs, groundcovers and vines on all three sides except the side where access is located.
 - 2) Trees with invasive and shallow root systems such as *Magnolia grandiflora* shall not be used unless a minimum eight feet by eight feet of planting area can be provided.
 - 3) All trees shall be planted twenty feet from a corner, a minimum of five feet away from any underground utilities, a minimum of fifteen feet from a light pole, and a minimum thirty feet from the face of a traffic signal, or as otherwise specified by the City. A root barrier shall be provided for all trees that are located within seven feet of paved edges or structures. Trees shall be planted according to the City Standard Detail SD-122.
 - e. C.3 Stormwater Treatment in Landscape Areas:
 - 1) A minimum twelve-inch-wide leveled landscape area shall be provided around bio-treatment areas located adjacent to hardscape areas such as curbs, sidewalks, walkways and structures. The City will require a matched precipitation rotator type irrigation system on a separate valve for the stormwater treatment area irrigation. All spray irrigation systems shall be set back twenty-four inches from all impervious hardscape edges such as curbs, sidewalks, walkways and structures.
 - 2) Utility boxes and vaults, light fixtures and fire hydrants shall have minimum five feet of clearance from the edge of C.3 Stormwater Treatment areas.
 - 3) Landscape areas may be used to comply with the C.3 Stormwater Treatment requirements; however, all tree planting requirements shall apply. A wider

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landscape area shall be provided if necessary to accommodate both bio-treatment and tree planting.

- 4) Sod shall not be used in bio-treatment areas.
 - 5) Turf shall not be provided unless provided for recreational purposes.
 - 6) Primary stormwater treatment area shall not be used for recreational purposes; therefore it shall not be counted toward meeting group open space requirements. Sandy-Loam soil type with high percolation rate that meets the C.3 Stormwater Treatment requirements is not suited for recreational purposes.
- f. A plant Hydrozone shall be provided. *Alnus rhombifolia* and *Sequoia sempervirens* are listed for high water requiring plants in WUCOLS (Water Use Classifications of Landscape Species), and shall not be grouped with low water requiring plants. WUCOLS listings in Planting Legend shall be verified again.
 - g. A hose bib shall be provided within each private yard.
 - h. Safety site lighting shall be provided along private driveway. Site lighting shall not be located to prohibit tree planting required by Zoning Ordinance.
 - i. The minimum dimension for all planting areas shall be five feet, including tree wells in parking lots or sidewalks measured from back of curb/paving.
 - j. Class B Portland Cement concrete curb shall be constructed to a height of six inches above the adjacent finished pavement when landscape area adjoins driveways or parking areas.
72. Upon completion of installation, an as-built/record Mylar shall be submitted to the Public Works – Engineering and Transportation Department by the developer.

Fire Protection

73. Fire apparatus access roads shall be designed and maintained to support 75,000 pounds, the imposed load of fire apparatus, and shall be surfaced so as to provide all-weather driving capability. An unobstructed vertical clearance of not less than 13 feet 6 inches shall be provided for all fire apparatus accesses.
74. Fire apparatus access roads 20 to 26 feet wide shall be posted on both sides as a fire lane, 26 feet to 32 feet shall be posted on one side of the road as a fire lane. “No Parking” sign shall meet the City of Hayward Fire Department fire lane requirements.
75. Fire hydrants shall be provided throughout the development as approved by the Fire Department prior to start of construction. Fire hydrant locations shall be identified with blue reflective pavement markers installed in the street adjacent to the fire hydrant.
76. The minimum number of fire hydrants shall be provided in accordance with the Hayward Fire Code Ordinance and the California Fire Code. The average spacing between hydrants is 300 feet. Any portion of the building or facility shall be within 400 feet of a fire hydrant. Spacing

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and locations of fire hydrants shall be subject to review and approval by the Hayward Fire Department.

77. Fire hydrants shall be double steamer type hydrants with 2 – 4 1/2” outlets and 1 – 2 1/2” outlet which shall be installed per City standards.
 - a) Crash posts may be required around the fire hydrants if the hydrants are installed in a location that may be susceptible to potential vehicular impact.
78. Fire flow requirements for this development shall be 1,500 gallons per minute at 20 psi.
79. Each building will be required to have an automatic fire service system installed per the adopted NFPA Standards. This requirement includes the installation of fire sprinklers within all living spaces areas, garages, under combustible decking (if applicable), crawl spaces, foyers and porches, dedicated underground fire service laterals, and any other area deemed hazardous by the Fire Marshal.
80. Addressing for each building as well as individual units shall be assigned and approved by the Fire Department. Numbers shall be a minimum of 4 inches in height (self-illuminated) and be visible from the street.

Hazardous Materials

81. Prior to issuance of Building or Grading Permits, a final clearance shall be obtained from either the California Regional Water Quality Control Board or the Department of Toxic Substance Control and submitted to the Hayward Fire Department. The clearance certificate will ensure that the property meets investigation and cleanup standards for residential development. Allowance may be granted for some grading activities, if necessary, to ensure environmental clearances.
82. Prior to grading, structures and their contents shall be removed or demolished under permit in an environmentally sensitive manner. Proper evaluation, analysis and disposal of materials shall be done by appropriate professional(s) to ensure that hazards posed to development construction workers, neighbors, the environment, future residents and other persons are mitigated. All hazardous materials and hazardous waste must be properly managed and disposed of in accordance with state, federal and local regulations.
83. Any wells, septic tank systems and other subsurface structures - including hydraulic lifts for elevators - shall be removed properly in order not to pose a threat to the development construction workers, future residents or the environment. Notification shall be made to the Hayward Fire Department at least 24 hours prior to removal. Removal of these structures shall be documented and done under permit, as required by law.
84. The Hayward Fire Department’s Hazardous Materials Office shall be notified immediately at (510) 583-4910 if hazardous materials or associated structures are discovered during demolition or during grading. These shall include, but shall not be limited to, actual/suspected hazardous materials, underground tanks, or other vessels that contain or may have contained hazardous materials.

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85. During construction, hazardous materials used and hazardous waste generated shall be properly managed and disposed.

Solid Waste

Applicants must comply with City standards to obtain building permits, as follows:

86. Residential Collection of Garbage and Recyclables: Residents are required to place their garbage, recycling, and organics carts at the curb for weekly collection service by contracted service providers
- a. The standard type of garbage, recycling, and organics containers are (1) 32-gallon cart for Garbage, (1) 64-gallon cart for Recycling, and (1) 64-gallon cart for Organics.
 - b. The total space required for the standard service is approximately 3 feet by 9 feet. Sufficient space should be allocated in the garage to allow residents to keep the containers inside. Alternatively, the containers may be kept in a side yard behind a fence. Trash and recycle containers shall be stored out of public view on non-pickup days.
 - c. Residents shall not place carts at the curb any earlier than 6:00 a.m. the day before scheduled collection, and are required to retrieve them no later than midnight the days the carts are emptied. (Hayward Municipal Code Section 5-1.15).

During Construction

87. Requirements for Recycling Construction & Demolition Debris: City regulations require that applicants for all construction, demolition, and/or renovation projects, in excess of \$75,000 (or combination of projects at the same address with a cumulative value in excess of \$75,000) must recycle all asphalt and concrete and all other materials generated from the project. Applicants must complete the *Construction & Demolition Debris Recycling Statement*, a *Construction and Demolition Debris Recycling Summary Report*, and weigh tags for all materials disposed during the entire term of the project, and obtain signature approval from the City's Solid Waste Manager prior to any off haul of construction and demolition debris from the project site.

PRIOR TO CONSTRUCTION WITH COMBUSTIBLE MATERIALS

88. The required water system improvements shall be completed and operational prior to the start of combustible construction.
89. The developer/subdivider shall be responsible to adhere to all aspects of the approved Storm Water Pollution Prevention Plan (SWPPP) per the aforementioned condition of approval.
90. A representative of the project soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe all grading operations and provide any recommended corrective measures to the contractor and the City Engineer.

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PRIOR TO COMPLETION OF SITE IMPROVEMENTS

During Construction

91. The developer shall ensure that unpaved construction areas are sprinkled with water as necessary to reduce dust generation. Construction equipment shall be maintained and operated in such a way as to minimize exhaust emissions. If construction activity is postponed, graded or vacant land shall immediately be revegetated.

92. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
 - a. Grading and site construction activities shall be limited to the hours 7:00 AM to 7:00 PM Monday through Saturday and 10:00 AM to 6:00 PM Sunday and Holidays. Grading hours are subject to the City Engineer's approval. Building construction hours are subject to Building Official's approval;
 - b. Grading and construction equipment shall be properly muffled;
 - c. Unnecessary idling of grading and construction equipment is prohibited;
 - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
 - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information and a copy provided to the Planning Division.
 - f. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction and a copy provided to the Planning Division.
 - g. Daily clean-up of trash and debris shall occur on Eden Avenue, Mohr Drive, and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
 - h. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
 - i. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
 - j. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
 - k. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;

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- l. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
 - m. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
 - n. Sweep public streets daily if visible soil material is carried onto adjacent public streets;
 - o. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
 - p. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
 - q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
 - r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
 - s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
 - t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
 - u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "Building Maintenance/Remodeling" flyer for more information;
 - v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
 - w. The developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.
93. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
94. In the event that human remains', archaeological resources, prehistoric or historic artifacts are discovered during construction of excavation, the following procedures shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be retained to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation accidental finds and discovery of human remains shall

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be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.

PRIOR TO CONSTRUCTION COMPLETION AND ISSUANCE OF CERTIFICATES OF OCCUPANCY

During Construction

95. The applicant shall comply with standards identified in General Plan Appendix N – Noise Guidelines for the Review of New Development. Measures to ensure compliance with such standards shall be developed by a state licensed acoustical engineer and incorporated into building permit plans, to be confirmed by the Planning and Building Divisions. Also, confirmation by a state licensed acoustical engineer that such standards are met shall be submitted after construction and prior to issuance of certificates of occupancy.
96. Prior to final inspections, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.

Landscape

97. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed and installed in accordance with the approved plan and accepted by the project landscape architect prior to submitting a Certificate of Completion. The final acceptance form must be submitted prior to requesting an inspection with the City Landscape Architect. An Irrigation Schedule shall be submitted prior to the final inspection and acceptance of landscape improvements.
98. Landscape and tree improvements shall be installed according to the approved plans prior to the occupancy of each building. All common area landscaping, irrigation, and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of eighty percent of the dwelling units, whichever first occurs, and a Certificate of Completion, as-built Mylar and an Irrigation Schedule shall be submitted prior to the Final Approval of the landscaping for the Tract to the Public Works – Engineering and Transportation Department by the developer.
99. Prior to the sale of any individual unit/lot, or prior to the acceptance of tract improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping and open space amenities. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses. A reserve fund shall be maintained to cover the costs of replacement and repair.
100. A covenant or deed restriction shall be recorded with each lot requiring the property owner to properly maintain the front yard landscaping, and street trees, and to replace any dead or dying plant material (over thirty percent of the plant dead) within fifteen days of the first notification.
101. A provision that if the homeowner's association fails to maintain the landscaping and irrigation in all common areas for which it is responsible so that owners, their families,

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tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.

Homeowners Association

102. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever occurs first, Conditions, Covenants and Restrictions (CC&R's) creating a homeowners association for the property shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:
- a. Each owner shall automatically become a member of the association(s) and shall be subject to a proportionate share of maintenance expenses.
 - b. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association(s).
 - c. The association shall be managed and maintained by a professional property management company.
 - d. The home owners association(s) shall own and maintain private street "A" and on-site storm drain systems.
 - e. The home owners association(s) shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The home owner's association(s) representative(s) shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within fifteen days of notification to the homeowner. Plants in the common areas shall be replaced within two weeks of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
 - f. A provision that if the home owners association fails to maintain the tot lot, common outdoor patio area, and all other landscaping and irrigation in all other common areas for which it is responsible so that owners, their families, tenants, or adjacent owners will be impacted in the enjoyment, use or property value of the project, the City shall have the right to enter upon the project and to commence and complete such work as is necessary to maintain the common areas and private streets, after reasonable notice, and lien the properties for their proportionate share of the costs, in accordance with Section 10-3.385 of the Hayward Subdivision Ordinance.
 - g. A requirement that the building exteriors and fences shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.

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- h. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
 - i. The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. An automatic garage door opening mechanism shall be provided for all garage doors.
 - j. The residents shall not use parking spaces for storage of recreational vehicles, camper shells, boats or trailers. These parking spaces shall be monitored by the homeowners association. The homeowners association shall remove vehicles parked contrary to this provision. The CC&R's shall include authority for the HOA to tow illegally-parked vehicles.
 - k. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
 - l. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
 - m. Streetlights and pedestrian lighting shall be owned and maintained by the homeowners association and shall have a decorative design approved by the Planning Director and the City Engineer.
 - n. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.
 - o. The association shall ensure that no less than 75 percent of the units shall be owner-occupied. The CC&Rs shall further provide that the leasing of units as a regular practice for business, speculative investment or other similar purpose is not permitted. However, to address special situations and avoid unusual hardship or special circumstances, such as a loss of job, job transfer, military transfer, change of school or illness or injury that, according to a doctor, prevents the owner from being employed, the CC&Rs may authorize the governing body to grant its consent, which consent shall not be unreasonably withheld, to a unit owner who wishes to lease or otherwise assign occupancy rights to a specified lessee for a specified period.
103. The applicant or homeowners association shall maintain all fencing, parking surfaces, common landscaping, lighting, drainage facilities, project signs, exterior building elevations, etc. The CC&Rs shall include provisions as to a reasonable time period that the building shall be repainted, the limitations of work (modifications) allowed on the exterior of the buildings, and its power to review changes proposed on a building exterior and its color scheme, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean.

Exhibit A

Prior to the Issuance of Certificate of Occupancy or Final Report

104. All buildings shall be designed using the California Building Codes in effective at the time of submitting building permit applications.
105. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.
106. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
107. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
108. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of the Vesting Tentative Tract Map is approved. All Park dedication in-lieu fees shall be paid prior to issuance of a Certificate of Occupancy for a residential unit.
109. The developer/subdivider shall be obligated for the following additional fees. The amount of the fee shall be in accordance with the fee schedule in effect at the time Vesting Tentative Tract Map was accepted as complete, unless otherwise indicated herein:
 - a. Supplemental Building Construction and Improvement Tax,
 - b. School Impact Fee
110. Final Hayward Fire Department inspection is required to verify that requirements for fire protection facilities have been met and actual construction of all fire protection equipment have been completed in accordance with the approved plan. Contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.
111. The improvements associated with the Pacific Gas and Electric Company, AT&T (phone) company and local cable company shall be installed to the satisfaction of the respective companies.
112. The Stormwater Treatment Measures Maintenance Agreement for the project, prepared by Public Works Engineering and Transportation Division staff, shall be signed and recorded in concurrence with the Final Map at the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
113. The subdivider shall submit an AutoCAD file format (release 2010 or later) in a CD of approved final map and 'as-built' improvement plans showing lot and utility layouts that can be used to update the City's Base Maps.

Exhibit A

114. The applicant/subdivider shall submit an "as built" plans indicating the following:
 - a. Approved landscape and irrigation improvements;
 - b. All underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, AT&T (phone) facilities, local cable company, etc.;
 - c. All the site improvements, except landscaping species, buildings and appurtenant structures; and
 - d. Final Geotechnical Report.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION WITH ZONE CHANGE APPLICATION NO. PL-2013-0350 RELATING TO A RESIDENTIAL DEVELOPMENT AT 24582 AND 24570 EDEN AVENUE AND 24655 MOHR DRIVE

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

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property located at 24582 and 24570 Eden Avenue and 24655 Mohr Drive (APN: 441-0077-002-02, 441-0077-024-02 and 441-0077-025-02) from Single Family Residential/B4 Special Lot Combining District to Planned Development District.

Section 2. Severance.

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

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held on the 16th day of September, 2014, by Council Member _____.

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

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

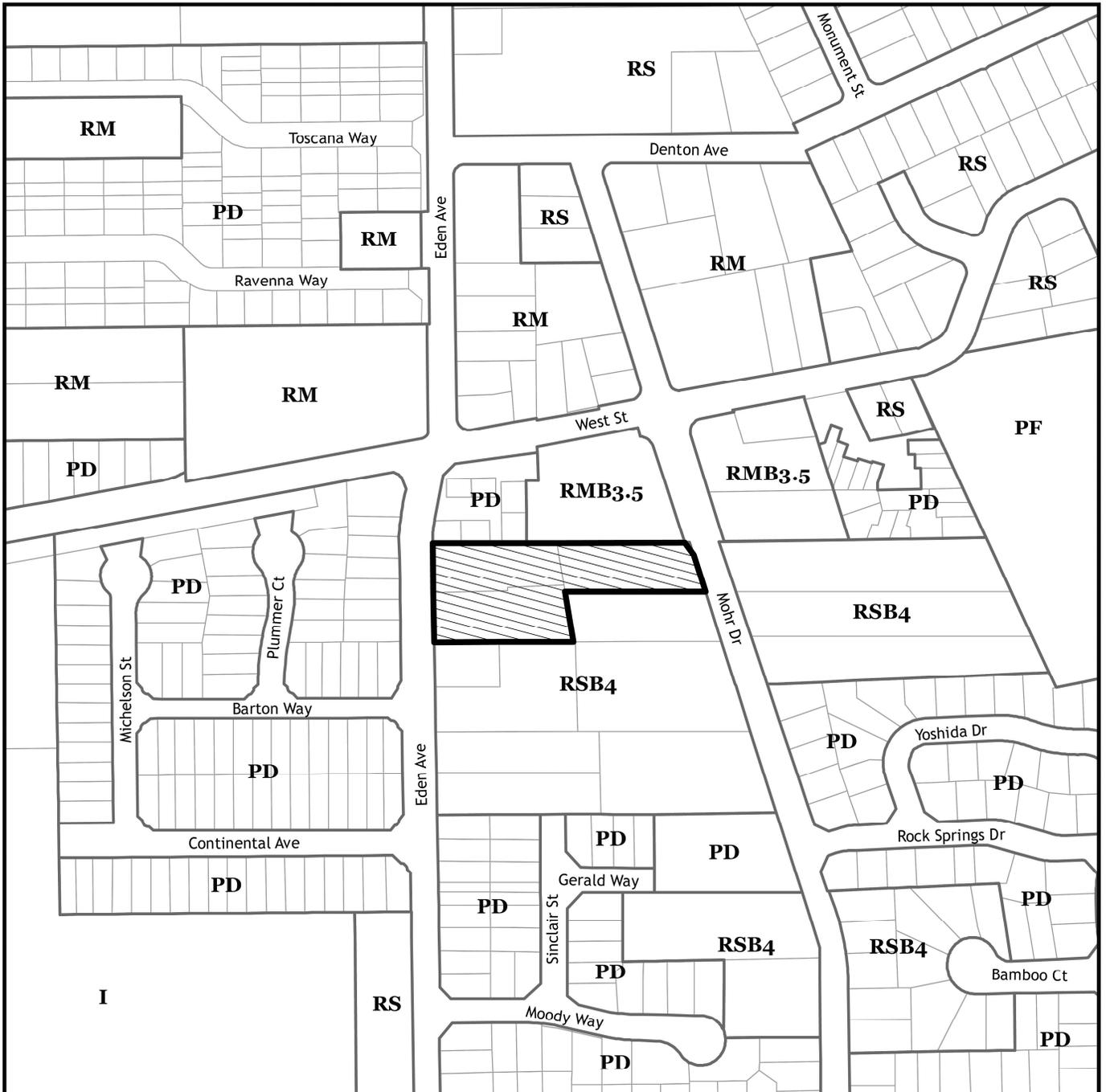
ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



Area & Zoning Map



PL-2013-0349 SPR & -0350 ZC & -0351 TTM

Address:
24570 & 24582 Eden Avenue, 24655 Mohr Drive

Applicant:
Che Chen & Shu Fen Liu

Owner:
Che Chen & Shu Fen Liu

Zoning Classifications

RESIDENTIAL

- RM Medium Density Residential, min lot size 2500 sqft
- RMB3.5 Medium Density Residential, min lot size 3500 sqft
- RS Single Family Residential, min lot size 5000 sqft
- RSB4 Single Family Residential, min lot size 4000 sqft

INDUSTRIAL

- I Industrial

OTHER

- PD Planned Development
- PF Public Facilities



**CITY OF HAYWARD
MITIGATED NEGATIVE DECLARATION**

Notice is hereby given that the City of Hayward finds that could not have a significant effect on the environment as prescribed by the California Environmental Quality Act of 1970, as amended will occur for the following proposed project:

I. PROJECT DESCRIPTION:

Project title: Eden Village; Site Plan Review PL-2013-0349, Zone Change Application No. PL-2013-0350 and Vesting Tentative Tract Map Application No. PL-2013-0351 (8151).

Description of project: The project proposes a subdivision of approximately 1.49 acres in order to develop 13 single-family homes and a tot lot that would be provided access from a new private street and existing public streets. All 13 units are proposed to be detached units. All existing structures will be demolished as part of this request. The existing on-site structures include three (3) warehouse buildings, a wooded building used for storage, a store room and three (3) residential structures (living units).

Project review involves consideration of a vesting tentative map, rezoning and site plan review.

II. FINDING PROJECT WILL NOT SIGNIFICANTLY AFFECT ENVIRONMENT:

The proposed project, with the mitigation measures identified in the attached initial study checklist, will not have a significant effect on the environment.

FINDINGS SUPPORTING DECLARATION:

1. The proposed project has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and an Initial Study Environmental Evaluation Checklist has been prepared for the proposed project. The Initial Study has determined that the proposed project, with the recommended mitigation measures, could not result in significant effects on the environment.
2. The project will not adversely affect any scenic resources. A lighting plan will be required to ensure that light and glare do not affect area views. Also, compliance with the City's Design Guidelines will ensure visual impacts are minimized. Landscape plans will also be required to ensure that structures are appropriately screened.
3. The project will not have an adverse effect on agricultural land since the subject site is not used for such purposes, does not contain prime, unique or Statewide important farmland.
4. The project will not result in significant impacts related to changes in air quality. When the property is developed the City will require the developer to submit a construction Best Management Practice (BMP) program prior to the issuance of any grading or building permit.
5. The project, proposed on properties surrounded by other residential development and within an urbanized area, will not result in significant impacts to biological resources. Any trees removed are required to be replaced as per the City's Tree Preservation ordinance.

6. The project will not result in significant impacts to known cultural resources including historical resources, archaeological resources, paleontological resources, unique topography or disturb human remains.
7. The project will not result in significant impacts to geology and soils. The project is located west of the Hayward fault, which poses potential risk to any development in the city of Hayward. Recommendations of the project geotechnical engineer will be required to be incorporated into project design and implemented throughout construction, to address such items as seismic shaking. Construction will also be required to comply with the California Building Code standards to minimize seismic risk due to ground shaking.
8. The project will not lead to the exposure of people to hazardous materials.
9. The project will be required to meet all water quality standards as part of the normal development review and construction process, to be addressed in a Stormwater Pollution Prevention Plan and Erosion Control Plan that utilize best management practices. Drainage improvements will be required to accommodate stormwater runoff, so as not to negatively impact the existing downstream drainage system of the Alameda County Flood Control and Water Conservation District.
10. The project is consistent with the overall density supported by the Hayward General Plan. In addition, the project will be required to be consistent with the City of Hayward's Design Guidelines.
11. The project will not result in any long-term noise impacts. Construction noise will be mitigated through restriction on construction hours, mufflers, etc., to be approved as part of the future building permits for the homes.
12. The project will not result in significant impacts related to population and housing in that the amount of development proposed is within the range of development analyzed in the Hayward General Plan.
13. The project will not result in a significant impact to public services in that development is at least as intensive as that proposed was analyzed in the Hayward General Plan EIR and found to have less-than-significant impacts.

III. PERSON WHO PREPARED INITIAL STUDY:



Damon Golubics, Senior Planner
Dated: June 12, 2014

I. COPY OF ENVIRONMENTAL CHECKLIST IS ATTACHED

For additional information, please contact the City of Hayward, Planning Division, 777 B Street, Hayward, CA 94541-5007, telephone (510) 583-4200

DISTRIBUTION/POSTING

- Provide copies to all organizations and individuals requesting it in writing.
- Provide a copy to the Alameda County Clerk's Office.
- Reference in all public hearing notices to be distributed 20 days in advance of initial public hearing and/or published once in Daily Review 20 days prior to hearing.
- Project file.
- Post immediately upon receipt at the City Clerk's Office, the Main City Hall bulletin board, and in all City library branches, and do not remove until the date after the public hearing.



**DEPARTMENT OF DEVELOPMENT SERVICES
Planning Division**

INITIAL STUDY CHECKLIST

Project Title: Eden Village

Lead agency name/address: City of Hayward / 777 B Street, Hayward

Contact person: Damon Golubics, Senior Planner

Project location: The properties are in the Mt. Eden neighborhood, generally south of West Street traversing between Mohr Drive and Eden Lane. The specific site addresses for this development request are 24570 and 24582 Eden Avenue and 24655 Mohr Drive.

Project sponsors

Name and Address: Chen & Shu Fen Liu; 31259 Weigman Rd., Hayward, CA 94544

Existing General Plan Designation: Medium Density Residential

Existing Zoning: RS (Single Family Residential)

Project description: The project proposes a subdivision of approximately 1.49 acres in order to develop 13 single-family homes and a tot lot that would be provided access from a new private street and existing public streets. All 13 units are proposed to be detached units. All existing structures will be demolished as part of this request. The existing on-site structures include three (3) warehouse buildings, a wooded building used for storage, a store room and three (3) residential structures (living units).

Approval of the project would require a change to the zoning designation for the site, from *Single Family Residential / Special Lot Standards Combining District (RS-B4)* to *Planned Development (PD)*.

Surrounding land uses and setting: The project site is comprised of three parcels, which primarily contain residential development. The project site is surrounded by a mixture of large and small lot developed residential sites. The general area is in the western portion of the City.

Other public agencies whose approval is required: None

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|--|---|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input checked="" type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality |
| <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities / Service Systems | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



Damon Golubics, Senior Planner



Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

ENVIRONMENTAL ISSUES:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS -- Would the project:				
a) Have a substantial adverse effect on a scenic vista? Comment <i>There are no designated scenic vistas in the vicinity of the project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? Comment <i>The project is not located within a state scenic highway; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings? Comment <i>The existing site is a mix of developed and undeveloped land. The proposed single family homes will add to the visual character of the site; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? Comment <i>The new residential units will add some additional light to this area, but the amount is considered less than significant given the surrounding developed area; no mitigation is required.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

II. AGRICULTURE AND FOREST

RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Resources Board. -- Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? Comment <i>The project does not involve any Prime Farmland, Unique Farmland or Farmland of Statewide Importance; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? Comment <i>The project site is not zoned for agricultural uses nor under a Williamson Act contract; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? Comment <i>The project does not involve the rezoning of forest land or timberland; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use? Comment <i>The project does not involve the loss of forest land or involve conversion of forest land; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? Comment <i>The project does not involve changes to the environment that could result in conversion of Farmland or forest land; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan? Comment <i>The project is a residential in-fill project located near a public transit bus line and will not conflict with the goals of the air quality plan; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? Comment <i>The applicant submitted an air quality assessment dated April 1, 2014 from Illingworth & Rodkin, Inc. evaluating construction air quality impacts and concluded that the project would have a less than significant impact with respect to community risk caused by construction activities. The Bay Area Air Quality Management District (BAAQMD) has established screening criteria as part of their CEQA guidance to assist in determining if a proposed project could result in potentially significant air quality impacts. Based on the District's criteria, the proposed project of 13 new homes screens below what would require additional evaluation; thus the proposed project and impacts caused by construction activities will not violate any air quality standard and the impact is less than significant.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<p>c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? Comment <i>The proposed project meets the screening criteria in Table 3-1 of the Air District's CEQA Guidelines; thus, it can be determined that the project would result in a less-than-significant cumulative impact to air quality from criteria air pollutants and precursor emissions.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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<p>d) Expose sensitive receptors to substantial pollutant concentrations? Comment <i>The project is an in-fill development located in an already developed area that will not involve exposing sensitive receptors to substantial pollutant concentrations; thus the impact is less than significant.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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<p>e) Create objectionable odors affecting a substantial number of people? Comment <i>The project is an in-fill residential development that will not create any objectionable odors; thus no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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IV. BIOLOGICAL RESOURCES -- Would the project:

<p>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>Department of Fish and Game or U.S. Fish and Wildlife Service? Comment <i>The applicant submitted a biological resource assessment prepared by David J. Powers and Associates dated March 3, 2014 that the project site, as developed and disturbed/ruderal habit, is generally unsuitable for special status plant and animal species, however, the existing structures and vegetation on the project site provide habitat for a variety of nesting birds. Requirements for avoiding impacts to special status and/or migratory bird species can be summarized as follow:</i></p> <p>Mitigation Measure 1: <i>Pre-construction nesting bird surveys shall be completed prior to vegetation removal or any construction related activity occur during the breeding season (February through August) in order to avoid impacts to nesting birds. Surveys shall be completed by qualified biologists no more than 14 days before initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to initiation of construction activities during the late part of the breeding season (May through August). If nests are observed, the biologist in consultation with California Department of Fish and Wildlife, will determine an adequate buffer zone and other minimization measures to ensure that nests will not be disturbed during project construction. Avoidance buffers and minimization shall be utilized until the qualified biologist determines that the nest is no longer being utilized. Results of the survey shall be submitted to the City of Hayward Planning Division. Following these recommendations will reduce impacts to a level of insignificance.</i></p>				
<p>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? Comment <i>The project area is largely developed and does not contain any riparian habitat or known sensitive natural communities; thus, no impact.</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? Comment <i>The project site, located in an urban setting, contains no wetlands; thus, no</i></p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>impact.</p> <p>d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? Comment <i>The existing structures and vegetation on the project site provide a habitat for a variety of nesting birds. Following the Mitigation Measure 1 requirements will reduce any impact to special status and/or migratory bird species to a less than significant level.</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? Comment <i>The project site contains mature trees that will be impacted and the applicant proposes removal of 14 trees to accommodate 13 new homes. Preservation and/or protection of trees on adjacent properties are suggested as part of the project. Arbortech prepared an arborist report and tree appraisal dated April 18, 2014 identifying methods for tree preservation and tree replacement to mitigate for the potential impacts. The following requirements will reduce impacts to a level of insignificance.</i></p> <p>Mitigation Measure 2: <i>The applicant shall implement all recommendations in the tree evaluation report including protection of all trees adjacent to the project site to be preserved during all phases of the development:</i></p> <ul style="list-style-type: none"> • <i>All construction activity (grading, filling, paving, excavation, landscaping, etc.) shall respect a tree protection zone (TPZ) around protected trees. The TPZ should be a distance of 1.0 times the dripline radius measured from the trunk of the tree. Exception to this standard could be considered provided it is demonstrated that an encroachment into the TPZ will not affect the root system or the health of the tree, and it is authorized by a certified Arborist or comparable specialist.</i> • <i>Temporary protective fencing shall be installed around the dripline of existing trees prior to commencement of any construction activity conducted within 25' of tree canopy. The fence shall be clearly marked to prevent inadvertent encroachment by heavy machinery.</i> • <i>Drainage will not be allowed to pond</i> 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>around the base of any tree.</p> <ul style="list-style-type: none"> • A Certified Arborist shall be retained to perform any necessary pruning of trees during construction activity. • Roots exposed, as a result of construction activities shall be covered with wet burlap top avoid desiccation, and should be buried as soon as practicable. • Only a Certified Arborist shall make specific recommendations as to where existing trees can safely tolerate some level of fill within the dripline. • Trenches which are required within the TPZ shall be hand dug or bored (tunneled) under the root(s) to minimize damage. • Construction materials and heavy equipment shall be properly stored away from protected trees to avoid spillage or damage. • All sub-contractors shall be provided a copy of the Tree Protection Plan. 				

<p>f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?</p> <p>Comment The project site is not located in an area covered by an adopted Habitat Conservation Plan or Natural Community Conservation Plan; thus, no impact.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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V. CULTURAL RESOURCES -- Would the project:

<p>a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5? Comment: All existing structures will be demolished as part of this request. The existing on-site structures include three (3) warehouse buildings, a wooded building used for storage, a store room and three (3) residential structures (living units). None of the structures have any documented historical significance, thus requiring preservation. The applicant submitted a cultural resources evaluation of the Eden Village project prepared by Archaeological Resource Service dated March 26, 2014 and it was determined that no potentially significant cultural resources were observed during the evaluation nor were any revealed pursuant to a literature search; thus, no impact.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? Comment <i>Based upon a literature search and surface examination of the site by Archaeological Resource Service, there are no known archaeological resources in the vicinity, however, there is the possibility of buried cultural deposits associated with the prehistoric past. In Hayward, buried cultural remains are often found buried up to several feet deep in alluvial soils that border San Francisco Bay. Since the project site is quite a distance from the bay edge, it is unlikely that significant archaeological resources will be discovered; thus the impact is considered less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? Comment <i>Based on the site reconnaissance of the subject property conducted by Archaeological Resource Service, there are no known paleontological resources or unique geological features on or near the site; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Disturb any human remains, including those interred outside of formal cemeteries? Comment <i>There are no known human remains nor cemeteries nearby the project site; however, standard procedures for grading operations would be followed during development, which require that if any such remains or resources are discovered, grading operations are halted and the resources/remains are evaluated by a qualified professional and, if necessary, mitigation plans are formulated and implemented. These standard measures will be conditions of approval should the project be approved; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p>Publication 42. Comment: Based upon a soils investigation report prepared by Geotechnical Engineering, Inc. (GEI) dated July 5, 2013, the project site is not within the State's Earthquake Fault Zone. Therefore, impacts related to fault rupture are not anticipated.</p>				
<p>ii) Strong seismic ground shaking? Comment: An earthquake of moderate to high magnitude could cause considerable ground shaking at the site; however, all structures will be designed using sound engineering judgment and adhere to the latest California Building Code (CBC) requirements, thus the impact is considered less than significant.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>iii) Seismic-related ground failure, including liquefaction? Comment: The site is located within an area that may be susceptible to liquefaction. A design level geotechnical evaluation shall be conducted and submitted for review and approval prior to issuance of building permits and if liquefaction is determined to be probable, measures as recommended by the project geotechnical consultant shall be implemented. Such measures, such as special foundation construction as recommended by GEI in their soils investigation report dated July 5, 2013, will reduce the significance of liquefaction-related impacts to a level of insignificance.</p> <p>Mitigation Measure 3: Prior to issuance of a Building Permit for the project, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>iv) Landslides? Comment: Due to the relatively flat site topography, landslides are not likely; thus no impact.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>b) Result in substantial soil erosion or the loss of topsoil? Comment: Although the project would result in an increase in impervious surface, the project site is relatively flat and erosion control measures that are typically required for such projects, including but not limited to graveling construction entrances and protecting drain inlets will address such impacts. Therefore, the potential for substantial erosion or loss of topsoil is considered insignificant.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? Comment: <i>The site is relatively flat and such impacts are not anticipated, thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? Comment: <i>According to the GEI soil investigation report dated July 5, 2013, moderate to highly expansive clay soils were observed at a soil depth of 4 to 12 feet on the project site. The assessment recommends specific criteria be followed for all earthwork, subgrade preparation, foundation construction, compaction in structural areas and drainage be observed, controlled and approved by the project Geotechnical Engineer. Implementation of the recommendations in the soil investigation report will mitigate the impacts of the expansive soils to a less than significant level.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Mitigation Measure 4: *All specific criteria as identified in the GEI soil investigation report dated July 5, 2013 shall be implemented for all earthwork, subgrade preparation, foundation construction, compaction in structural areas and drainage and be observed, controlled and approved by the project Geotechnical Engineer during all phases of project permitting and construction.*

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? Comment: <i>The project will be connected to an existing sewer system with sufficient capacity and does not involve septic tanks or other alternative wastewater; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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VII. GREENHOUSE GAS EMISSIONS --
Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? Comment: <i>The Bay Area Air Quality Management District (BAAQMD) has established screening criteria as part of their CEQA guidance to assist in determining if a proposed</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>project could result in operational-related impacts to Greenhouse Gases. The project involves the construction of 13 new single family homes. Single-family home projects with less than 56 dwelling units have been identified by the BAAQMD Air Quality Guidelines as having emissions less than 1,100 metric tons of CO₂e per year which is below the threshold recommended by the Air District for evaluation of greenhouse gas emissions for new land use projects; thus no impact.</i>				

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? Comment <i>As discussed in VIIa above, the project will not exceed the threshold for operational greenhouse gases; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? Comment <i>The project is an in-fill residential project that does not involve the transport or use of hazardous materials; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? Comment: <i>A Phase I and limited Phase II assessments were conducted on the three parcels. Naturally occurring arsenic is found on the project site and throughout most of Alameda County. The level of arsenic is at or below the mean for Alameda County and are not considered "anthropogenic." It is the opinion of ERAS Environmental, Inc. that these adverse environmental conditions can be mitigated pursuant to encapsulating the development site with clean fill material and a dust control plan be implemented and in effect during the entire construction phase of the project; thus the exposure and impact of naturally occurring arsenic at the site will be mitigated to a less than significant level.</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Mitigation Measure 5: *In order to control and contain naturally occurring arsenic found on the project site, clean fill material shall be brought in to encapsulate the site and dust control measures shall be in place to ensure dust control at the site kept at acceptable level. The applicant shall submit a plan*

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>prepared by a California Registered Professional Geologist that encapsulates the site with clean fill material and dust control is maintained throughout the duration of the construction phase of the project. Plans shall be submitted prior to issuance of a building permit for the project.</i>				
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? Comment: <i>The project will not emit hazardous materials, substances, or waste; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? Comment: <i>The project site is not on a list of hazardous materials sites; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? Comment: <i>Although the site is located within two miles of the Hayward Executive Airport, development is proposed that is consistent with the Hayward General Plan, consisting of two-story residential units. Therefore, safety hazard related impacts are considered to be less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? Comment: <i>The site is not located within the vicinity of a private air strip and therefore, no such impacts would occur as a result of the project.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? Comment: <i>The project would not interfere with an adopted emergency response plan or emergency evacuation plan. In fact, the project would result in extension of the City's public water system to the area, thereby improving fire-fighting capabilities in the area.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? **Comment:** *The project site is located within a suburban setting, away from areas with wildland fire potential. Therefore, no such impacts related to wildland fires are anticipated.*

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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IX. HYDROLOGY AND WATER QUALITY

-- Would the project:

a) Violate any water quality standards or waste discharge requirements? **Comment:** *The project will comply with all water quality and wastewater discharge requirements of the city; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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Comment: *The project will be connected to the existing water supply and will not involve the use of water wells and will not deplete groundwater supplies or interfere with groundwater recharge; thus, no impact.*

c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? **Comment:** *The project site is an infill site. All drainage from the site is required to be treated before it enters the storm drain system and managed such that post-development run-off rates do not exceed pre-development run-off rates; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? **Comment:** *The project site is an infill site. All drainage from the site is required to be treated before it enters the storm drain system and managed such that post-development run-off rates do not exceed pre-development run-off rates; thus, no impact.*

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? Comment <i>The project site is an infill site. All drainage from the site is required to be treated before it enters the storm drain system and there is sufficient capacity to handle any drainage from the property; thus, the impact is considered less than significant.</i>				
f) Otherwise substantially degrade water quality? Comment <i>The project site is an infill. All drainage from the site is required to be treated before it enters the storm drain system; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? Comment <i>The project site is not located within a 100-year flood hazard area; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? Comment <i>The project site is not located within a 100-year flood hazard area; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? Comment <i>The project site is not located within a 100-year flood hazard area; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? Comment <i>The project site is not located within a 100-year flood hazard area; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
X. LAND USE AND PLANNING -- Would the project:				
a) Physically divide an established community? Comment: <i>The development is proposed in a developed suburban setting and would not divide an established community; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
for the purpose of avoiding or mitigating an environmental effect? Comment <i>The project involves construction of 13 new single-family homes and is consistent with the designated General Plan density. The project does include a request to modify the zoning designation; however, the Planned Development designation is to allow for flexibility in the development standards, not to accommodate additional density not anticipated by the General Plan, thus no impact.</i>				

c) Conflict with any applicable habitat conservation plan or natural community conservation plan? Comment <i>The project site is not covered by any habitat conservation plan or natural community conservation plan; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XI. MINERAL RESOURCES -- Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? Comment <i>There are no known mineral resources on the project site; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? Comment <i>There are no known mineral resources on the project site; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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XII. NOISE -- Would the project result in:

a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? Comment: <i>The project is a residential development and will not involve an increase in the ambient noise levels above standards established in the General Plan; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? Comment: <i>No significant vibration impacts are anticipated for the project site; thus, no</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>impact.</i>				
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? Comment <i>The project is a residential development and will not involve an increase in the ambient noise levels in the area; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? Comment <i>Existing residential development will experience a slight increase in ambient noise levels during the construction of the proposed project. Construction is limited to the allowable hours per the City's Noise Ordinance; thus the impact is considered less-than-significant and no mitigation is required.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? Comment: <i>Pursuant to the Hayward Executive Airport Land Use Compatibility Plan, the development site lies within Safety Compatibility Zone No. 6. Construction of new single family homes within this plan zone is permitted. New home residents may experience some increased level of noises associated with airport operations, however, this impact would be a less than significant impact and no mitigation is required.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? Comment <i>The project is not located within the vicinity of a private air strip; thus, no impact</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XIII. POPULATION AND HOUSING --				
Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? Comment <i>The project involves the construction of 13 new residential units, however, the residential development is consistent with the density established by the City's General Plan; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? Comment: <i>The project involves the demolition of a few homes and outbuildings in order to construct an additional 13 single family units; however, the majority of the project site is vacant and the impact is considered less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? Comment: <i>The project involves the demolition of a few homes and outbuildings in order to construct an additional 13 single family units; however, the majority of the project site is vacant and the impact is considered less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

XIV. PUBLIC SERVICES --

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection? Comment: <i>No such facilities are required and therefore, no such impacts are expected to occur.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection? Comment: <i>No such facilities are required and therefore, no such impacts are expected to occur.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools? Comment: <i>The project site is within the Eden Gardens Elementary School, Ochoa Middle School and Mt. Eden High School attendance areas of the Hayward Unified School District. The developer will be required to pay school impact mitigation fees, which, per State law, is considered full mitigation and this impact is considered less than significant.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parks? Comment: <i>The project proponent would be required to pay park dedication in-lieu fees. Such measures would reduce such impacts to levels of insignificance.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other public facilities? Comment: <i>Approval of the project may impact long-term maintenance of roads, streetlights and</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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other public facilities; however, the project does not exceed density envisioned by the General Plan thus the impact is considered less than significant.

XV. RECREATION --

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? **Comment** *Each new single family home will have private yard space, access to a tot lot and a common outdoor patio area. The development is also located near Greenwood Park and future residents will be able to utilize this facility. In addition, the developer will be required to pay applicable park in-lieu fees; thus the impact is considered less-than-significant.*

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? **Comment** *Each new single family home will have private yard space, access to a tot lot and a common outdoor patio area. The development is also located near Greenwood Park and future residents will be able to utilize this facility. In addition, the developer will be required to pay applicable park in-lieu fees; thus the impact is considered less-than-significant.*

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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XVI. TRANSPORTATION/TRAFFIC --

Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? **Comment:** *Kittelson and Associates, Inc. prepared a Transportation Impact Analysis for the proposed project and the project will not conflict with any applicable plans, ordinance, nor policies related to the circulation system; thus no*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>impact.</i>				
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways Comment: <i>No level of service will be impacted by the construction of the additional residential units on an existing in-fill lot; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? Comment: <i>The project involves no change to air traffic patterns; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? Comment: <i>The project has been designed to meet all City requirements, including site distance and will not increase any hazards; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access? Comment: <i>The project is on an in-fill site completely accessible and will not result in inadequate emergency access; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? Comment: <i>The project does not involve any conflicts or changes to policies, plans or programs related to public transit, bicycle or pedestrian facilities; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
XVII. UTILITIES AND SERVICE SYSTEMS				
-- Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? Comment: <i>The project will not exceed wastewater treatment requirements; thus no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? Comment: <i>There is sufficient capacity to</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>accommodate the proposed project; thus, no impact.</i>				
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project' s projected demand in addition to the provider' s existing commitments? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project' s solid waste disposal needs? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste? Comment <i>There is sufficient capacity to accommodate the proposed project; thus, no impact.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? Comment: <i>As discussed under the Biology Resources section, the existing structures and vegetation on the project site provide habitat for a variety of nesting birds and the project would entail removal of some protected trees, as defined by the City of Hayward's</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<p><i>Tree Preservation Ordinance. Mitigation measures, including installation of tree protection measures for preserved trees, replacement of all removed trees, preparation of pre-construction nesting bird surveys prior to any vegetation removal, have been identified to reduce such impacts to levels of insignificance. As discussed in the Geology/Soils section, the site soil may be susceptible to liquefaction. Mitigation measures include having the applicant conduct a design level geotechnical evaluation for review and approval incorporating any recommendations for building safety into the final home design reducing the identified impacts to a less than significant level. As discussed in the Hazards and Hazardous Materials section, naturally occurring arsenic is found on the project site and throughout Alameda County. Mitigation measures include having the applicant conduct soil remediation of the project site design bringing arsenic levels down to acceptable and safe levels there by reducing the identified impact to a less than significant level.</i></p> <p>Mitigation Measures: <i>Pre-construction nesting bird surveys shall be completed prior to vegetation removal or any construction related activity occur during the breeding season (February through August) in order to avoid impacts to nesting birds. Surveys shall be completed by qualified biologists no more than 14 days before initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to initiation of construction activities during the late part of the breeding season (May through August). If nests are observed, the biologist in consultation with California Department of Fish and Wildlife, will determine an adequate buffer zone and other minimization measures to ensure that nests will not be disturbed during project construction. Avoidance buffers and minimization shall be utilized until the qualified biologist determines that the nest is no longer being utilized. Results of the survey shall be submitted to the City of Hayward Planning Division. Following these recommendations will reduce impacts to a level of insignificance.</i></p>				
<p><i>The applicant shall implement all recommendations in the tree evaluation report including protection of all trees adjacent to the project site to be preserved during all phases of the development:</i></p> <ul style="list-style-type: none"> <li data-bbox="243 1722 771 1848">• <i>All construction activity (grading, filling, paving, excavation, landscaping, etc.) shall respect a tree protection zone (TPZ) around protected trees. The TPZ should be a</i> 				

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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distance of 1.0 times the dripline radius measured from the trunk of the tree. Exception to this standard could be considered provided it is demonstrated that an encroachment into the TPZ will not affect the root system or the health of the tree, and it is authorized by a certified Arborist or comparable specialist.

- *Temporary protective fencing shall be installed around the dripline of existing trees prior to commencement of any construction activity conducted within 25' of tree canopy. The fence shall be clearly marked to prevent inadvertent encroachment by heavy machinery.*
- *Drainage will not be allowed to pond around the base of any tree.*
- *A Certified Arborist shall be retained to perform any necessary pruning of trees during construction activity.*
- *Roots exposed, as a result of construction activities shall be covered with wet burlap top avoid desiccation, and should be buried as soon as practicable.*
- *Only a Certified Arborist shall make specific recommendations as to where existing trees can safely tolerate some level of fill within the dripline.*
- *Trenches which are required within the TPZ shall be hand dug or bored (tunneled) under the root(s) to minimize damage.*
- *Construction materials and heavy equipment shall be properly stored away from protected trees to avoid spillage or damage.*
- *All sub-contractors shall be provided a copy of the Tree Protection Plan.*

Prior to issuance of a Building Permit for the project, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.

All specific criteria as identified in the GEI soil investigation report dated July 5, 2013 shall be implemented for all earthwork, subgrade preparation, foundation construction, compaction in structural areas and drainage and be observed, controlled and approved by the project Geotechnical Engineer during

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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all phases of project permitting and construction.

In order to control and contain naturally occurring arsenic found on the project site, clean fill material shall be brought in to encapsulate the site and dust control measures shall be in place to ensure dust control at the site kept at acceptable level. The applicant shall submit a plan prepared by a California Registered Professional Geologist that encapsulates the site with clean fill material and dust control is maintained throughout the duration of the construction phase of the project. Plans shall be submitted prior to issuance of a building permit for the project.

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? **Comment:** *The proposed 13-lot development is consistent with the density of development identified in both the City's General Plan, therefore, no such impacts are anticipated.*

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? **Comment:** *As discussed under the Biology Resources section, the existing structures and vegetation on the project site provide habitat for a variety of nesting birds and the project would entail removal of some protected trees, as defined by the City of Hayward's Tree Preservation Ordinance. Mitigation measures, including installation of tree protection measures for preserved trees, replacement of all removed trees, preparation of pre-construction nesting bird surveys prior to any vegetation removal, have been identified to reduce such impacts to levels of insignificance. As discussed in the Geology/Soils section, the site soil may be susceptible to liquefaction. Mitigation measures include having the applicant conduct a design level geotechnical evaluation for review and approval incorporating any recommendations for building safety into the final home design reducing the identified impacts to a less than significant level. As discussed in the Hazards and Hazardous Materials section, naturally occurring arsenic is found on the project site and throughout Alameda County. Mitigation measures include having the applicant conduct soil remediation of the project site design*

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Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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bringing arsenic levels down to acceptable and safe levels there by reducing the identified impact to a less than significant level.

Mitigation Measures: *Pre-construction nesting bird surveys shall be completed prior to vegetation removal or any construction related activity occur during the breeding season (February through August) in order to avoid impacts to nesting birds. Surveys shall be completed by qualified biologists no more than 14 days before initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to initiation of construction activities during the late part of the breeding season (May through August). If nests are observed, the biologist in consultation with California Department of Fish and Wildlife, will determine an adequate buffer zone and other minimization measures to ensure that nests will not be disturbed during project construction. Avoidance buffers and minimization shall be utilized until the qualified biologist determines that the nest is no longer being utilized. Results of the survey shall be submitted to the City of Hayward Planning Division. Following these recommendations will reduce impacts to a level of insignificance.*

The applicant shall implement all recommendations in the tree evaluation report including protection of all trees adjacent to the project site to be preserved during all phases of the development:

- *All construction activity (grading, filling, paving, excavation, landscaping, etc.) shall respect a tree protection zone (TPZ) around protected trees. The TPZ should be a distance of 1.0 times the dripline radius measured from the trunk of the tree. Exception to this standard could be considered provided it is demonstrated that an encroachment into the TPZ will not affect the root system or the health of the tree, and it is authorized by a certified Arborist or comparable specialist.*
- *Temporary protective fencing shall be installed around the dripline of existing trees prior to commencement of any construction activity conducted within 25' of tree canopy. The fence shall be clearly marked to prevent inadvertent encroachment by heavy machinery.*
- *Drainage will not be allowed to pond around the base of any tree.*

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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- *A Certified Arborist shall be retained to perform any necessary pruning of trees during construction activity.*
- *Roots exposed, as a result of construction activities shall be covered with wet burlap top avoid desiccation, and should be buried as soon as practicable.*
- *Only a Certified Arborist shall make specific recommendations as to where existing trees can safely tolerate some level of fill within the dripline.*
- *Trenches which are required within the TPZ shall be hand dug or bored (tunneled) under the root(s) to minimize damage.*
- *Construction materials and heavy equipment shall be properly stored away from protected trees to avoid spillage or damage.*
- *All sub-contractors shall be provided a copy of the Tree Protection Plan.*

Prior to issuance of a Building Permit for the project, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.

All specific criteria as identified in the GEI soil investigation report dated July 5, 2013 shall be implemented for all earthwork, subgrade preparation, foundation construction, compaction in structural areas and drainage and be observed, controlled and approved by the project Geotechnical Engineer during all phases of project permitting and construction.

In order to control and contain naturally occurring arsenic found on the project site, clean fill material shall be brought in to encapsulate the site and dust control measures shall be in place to ensure dust control at the site kept at acceptable level. The applicant shall submit a plan prepared by a California Registered Professional Geologist that encapsulates the site with clean fill material and dust control is maintained throughout the duration of the construction phase of the project. Plans shall be submitted prior to issuance of a building permit for the project.

Eden Village

Mitigation Monitoring and Reporting Program

Site Plan Review PL-2013-0349
 Zone Change Application No. PL-2013-0350 and Vesting Tentative
 Tract Map Application No. PL-2013-0351 (8151);
 Che Chen & Shu Fen Liu (Applicant/Owner)

June 12, 2014

Mitigation 1

Significant environmental Impact:

The applicant submitted a biological resource assessment prepared by David J. Powers and Associates dated March 3, 2014 that the project site, as developed and disturbed/ruderal habit, is generally unsuitable for special status plant and animal species, however, the existing structures and vegetation on the project site provide habitat for a variety of nesting birds. Requirements for avoiding impacts to special status and/or migratory bird species can be summarized as follow:

Mitigation Measure:

Pre-construction nesting bird surveys shall be completed prior to vegetation removal or any construction related activity occur during the breeding season (February through August) in order to avoid impacts to nesting birds. Surveys shall be completed by qualified biologists no more than 14 days before initiation of construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to initiation of construction activities during the late part of the breeding season (May through August). If nests are observed, the biologist in consultation with California Department of Fish and Wildlife, will determine an adequate buffer zone and other minimization measures to ensure that nests will not be disturbed during project construction. Avoidance buffers and minimization shall be utilized until the qualified biologist determines that the nest is no longer being utilized. Results of the survey shall be submitted to the City of Hayward Planning Division.

Following these recommendations will reduce impacts to a level of insignificance.

Implementation Responsibility: Project developer

Monitoring Responsibility: City of Hayward Planning Division

Timing: Prior to any project construction

Mitigation 2**Significant environmental Impact:**

The project site contains mature trees that will be impacted and the applicant proposes removal of 14 trees to accommodate 13 new homes. Preservation and/or protection of trees on adjacent properties are suggested as part of the project. Arbortech prepared an arborist report and tree appraisal dated April 18, 2014 identifying methods for tree preservation and tree replacement to mitigate for the potential impacts. The following requirements will reduce impacts to a level of insignificance.

Mitigation Measure:

The applicant shall implement all recommendations in the tree evaluation report including protection of all trees adjacent to the project site to be preserved during all phases of the development:

- All construction activity (grading, filling, paving, excavation, landscaping, etc.) shall respect a tree protection zone (TPZ) around protected trees. The TPZ should be a distance of 1.0 times the dripline radius measured from the trunk of the tree. Exception to this standard could be considered provided it is demonstrated that an encroachment into the TPZ will not affect the root system or the health of the tree, and it is authorized by a certified Arborist or comparable specialist.
- Temporary protective fencing shall be installed around the dripline of existing trees prior to commencement of any construction activity conducted within 25' of tree canopy. The fence shall be clearly marked to prevent inadvertent encroachment by heavy machinery.
- Drainage will not be allowed to pond around the base of any tree.
- A Certified Arborist shall be retained to perform any necessary pruning of trees during construction activity.
- Roots exposed, as a result of construction activities shall be covered with wet burlap top avoid desiccation, and should be buried as soon as practicable.
- Only a Certified Arborist shall make specific recommendations as to where existing trees can safely tolerate some level of fill within the dripline.
- Trenches which are required within the TPZ shall be hand dug or bored (tunneled) under the root(s) to minimize damage.

- Construction materials and heavy equipment shall be properly stored away from protected trees to avoid spillage or damage.
- All sub-contractors shall be provided a copy of the Tree Protection Plan.

Implementation Responsibility: Project developer

Monitoring Responsibility: City of Hayward Planning Division

Timing: Prior to any project construction and during project construction

Mitigation 3

Significant environmental Impact:

The site is located within an area that may be susceptible to liquefaction. A design level geotechnical evaluation shall be conducted and submitted for review and approval prior to issuance of building permits and if liquefaction is determined to be probable, measures as recommended by the project geotechnical consultant shall be implemented. Such measures, such as special foundation construction as recommended by GEI in their soils investigation report dated July 5, 2013, will reduce the significance of liquefaction-related impacts to a level of insignificance.

Mitigation Measure:

Prior to issuance of a Building Permit for the project, the applicant shall conduct a design level geotechnical evaluation and submit that for review and approval and any recommendations shall be incorporated into the final design of the project.

Implementation Responsibility: Project developer

Monitoring Responsibility: City of Hayward Building Division

Timing: Prior issuance of a Building Permit for the project

Mitigation 4

Significant environmental Impact:

According to the GEI soil investigation report dated July 5, 2013, moderate to highly expansive clay soils were observed at a soil depth of 4 to 12 feet on the project site. The assessment recommends specific criteria be followed for all earthwork, subgrade preparation, foundation construction, compaction in structural areas and drainage be observed, controlled and approved by the project Geotechnical Engineer. Implementation of the recommendations in the soil investigation report will mitigate the impacts of the expansive soils to a less than significant level.

Mitigation Measure:

All specific criteria as identified in the GEI soil investigation report dated July 5, 2013 shall be implemented for all earthwork, subgrade preparation, foundation construction, compaction in structural areas and drainage and be observed, controlled and approved by the project Geotechnical Engineer during all phases of project permitting and construction.

Implementation Responsibility: Project developer

Monitoring Responsibility: City of Hayward Building Division & Department of Public Works

Timing: Prior to issuance of a Grading and/or Building Permit for the project

Mitigation 5**Significant environmental Impact:**

A Phase I and limited Phase II assessments were conducted on the three parcels. Naturally occurring arsenic is found on the project site and throughout most of Alameda County. The level of arsenic is at or below the mean for Alameda County and are not considered “anthropogenic.” It is the opinion of ERAS Environmental, Inc. that these adverse environmental conditions can be mitigated pursuant to encapsulating the development site with clean fill material and a dust control plan be implemented and in effect during the entire construction phase of the project; thus the exposure and impact of naturally occurring arsenic at the site will be mitigated to a less than significant level.

Mitigation Measure:

In order to control and contain naturally occurring arsenic found on the project site, clean fill material shall be brought in to encapsulate the site and dust control measures shall be in place to ensure dust control at the site kept at acceptable level. The applicant shall submit a plan prepared by a California Registered Professional Geologist that encapsulates the site with clean fill material and dust control is maintained throughout the duration of the construction phase of the project. Plans shall be submitted prior to issuance of a building permit for the project.

Implementation Responsibility: Project developer

Monitoring Responsibility: City of Hayward Planning Division and Building Division

Timing: During project grading and the full duration of project construction



**MINUTES OF THE REGULAR MEETING OF THE
CITY OF HAYWARD PLANNING COMMISSION
Council Chambers
Thursday, July 24, 2014, 7:00 p.m.
777 B Street, Hayward, CA94541**

MEETING

A regular meeting of the Hayward Planning Commission was called to order at 7:00 p.m. by Vice Chair McDermott.

ROLL CALL

Present: COMMISSIONERS: Loché, Trivedi, Faria, Lavelle
CHAIRPERSON: McDermott
Absent: COMMISSIONERS: None
CHAIRPERSON: None

Commissioner Lavelle led in the Pledge of Allegiance.

Staff Members Present: Buizer, Golubics, Lawson, Madhukansh-Singh

General Public Present: 10

PUBLIC COMMENTS

Michael Galvan spoke about the development of the old Holiday Bowl site, indicating his support for single story housing or multi-story developments with elevators that will promote increased accessibility and aging in place.

WORK SESSION

1. Preliminary Review of Proposed Project Concept: Horizontal Mixed Use project on the former Holiday Bowl Site at Mission and Industrial as presented by Doug Rich of Valley Oak Partners

Planning Manager Buizer provided a synopsis of the staff report. She noted that there is not an application for review at this time; however, there is a Conceptual Plan for review of the former Holiday Bowl site. She pointed out that this location has been identified as a catalyst site in the Economic Development Strategic Plan. She noted that the project site is zoned for mixed use, which will primarily consist of residential units.

Doug Rich, project applicant and representative for Valley Oak Partners, noted the importance of Mission Boulevard and Industrial Parkway as a catalyst for the area, stating that his firm would like to make this site a high quality commercial district and residential area that will spur further development along Mission Boulevard. He shared that the organization of the site is centered around the civic plaza and the open space area and he highlighted that the plaza will provide

important economic benefits for the surrounding retailers. Mr. Rich stated that the idea was to make the site a destination retail location which could be a place where people could visit and congregate throughout the day. He said that the outdoor plaza would feature public art and landscaping that will make the plaza an active outdoor place that will also be visually attractive. He stated that urban planning throughout the Bay Area has evolved demonstrating that pushing retail establishments out and closer to the street and tucking the parking behind the retail buildings helps to activate the street and creates a strong architectural and visual edge. Furthermore, the project site will feature residential components above the retail to enhance the vertical architectural edge. Mr. Rich shared that comments about making single level living space available in the development was expressed at the City Council meeting as well as the present Planning Commission meeting. He noted that the project will strive to provide a variety of housing types and added that his firm will explore utilizing the residential units above the retail uses for this purpose as it will help promote aging in place. He stated that the central green space location will create an active area for residents. Mr. Rich indicated that it was being considered to orient some of the housing units so that they face the golf course. He said that the interior sites will be completed with residential homes that are owner occupied.

Commissioner Faria was pleased with the layout of the development project and stated that she was excited that a project may soon commence at this site. Although she liked the idea of having an outdoor plaza for the retail establishments, she was concerned about the safety of the people who would be sitting in the plaza as the intersection gets to be very busy with traffic during peak commuting hours. She asked if it would be possible to install a barrier protecting individuals occupying the plaza area. Mr. Rich confirmed for Commissioner Faria that the paved walkway would be six feet wide and that the entire width of the walkway would be fourteen feet wide. Commissioner Faria commented that with other development projects in the City, a paved walkway of eight to ten feet was determined to be wide enough to accommodate both pedestrians and bicyclists.

Commissioner Trivedi was pleased that the Planning Commission was being presented with the opportunity to give feedback to the developer early on in the development process and was appreciative that a project was being proposed for this vacant site along one of Hayward's main corridors. He supported a mixed use project that would include retail on the ground floor and residential above. He stated that he would like to see more retail establishments in the project. Commissioner Trivedi commented that one benefit of orienting homes towards the golf course was that it would improve safety by having more eyes on the pathway. In response to Commissioner Trivedi's question about the retail uses envisioned for the site, the applicant indicated that some retailers being considered were a smaller grocery store, a bagel shop, and/or a coffee shop. Commissioner Trivedi stated that it would be ideal if the entire triangle where the project site is located could be developed or redeveloped. Mr. Rich responded that his firm was in conversation with the owners of the adjacent parcels regarding the possibility of acquiring the remaining parcels within the triangle area. Commissioner Trivedi said that although the civic space proposed at the corner of the intersection sounded like a good idea, he was concerned about the exhaust and noise generated from the vehicles passing by.

Commissioner Loché echoed the concerns raised by Commissioner Trivedi regarding the need for additional retail uses fronting Mission Boulevard. In regards to Commissioner Loché's questions about the proximity of the proposed development site to the California State University East Bay



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(CSUEB), Mr. Rich responded that his firm was considering the feasibility of having public transportation that would help University students gain access to the retail uses, especially for night life uses. Commissioner Loché pointed out that it would be advantageous to give University students more options aside from Downtown Hayward as a destination site to visit. He added that some of the housing could even be used to target students attending CSUEB and he underscored that students should be kept in mind as this site is being developed. Commissioner Loché asked the applicant if it was anticipated that residents would utilize the parking designated for the retail uses. Mr. Rich responded that the design would be such that the access to the commercial areas will be distinct and separated from the residential areas. Commissioner Loché pointed out that it was important to keep in mind how easily accessible public transit options such as BART, would be to the development site. Mr. Rich noted for Commissioner Loché that the project was expected to have townhomes ranging in size from 1,600 sq. ft. to 2,200 sq. ft. and single level units that would be 800 sq. ft. to 1,200 sq. ft. He added that based upon this range of options, he envisioned the price of the units to accommodate prospective residents from differing income levels.

Commissioner Lavelle commented that if the single level living is to be located on top of the retail uses, then this would necessitate the need for elevators for accessibility reasons, thereby driving up the cost of purchasing the single level units. She stated that some type of barrier would be needed separating people sitting in the proposed plaza area from the noisy traffic passing by on the streets. Otherwise, people may not feel comfortable hanging out in this area; she suggested moving the seating area inwards where it would be closer to the parking lot. Commissioner Lavelle favored increasing the number of retail uses as this could be supported by residents of the South Hayward area. She recommended that the applicant consider a sports theme for the project that would be consistent with the past and present uses that have operated in that area. She noted that if a bar or restaurant is the main retail attraction at this site, then this would attract visitors walking from nearby neighborhoods as well as the proposed development, thereby decreasing some of the parking concerns in the area. Commissioner Lavelle added that there is a need for more places in Hayward where people can gather to watch sporting events on television and emphasized that she was favorable to this type of use at the proposed site. As another possible use, she recommended a rotating art and photography gallery that will invite visitors of all ages to view and purchase artwork and/or have coffee in the area. She urged the developer to work with the owner of the adjacent apartment complex about potentially improving this site. She concluded that the Holiday Bowl site has been vacant for nearly a decade and that she was looking forward to seeing this site developed and improved.

Vice Chair McDermott stressed the need for a small grocery store in this area. She supported having a sports bar in the area and increasing the number of retail uses at this location. She agreed with her fellow Commissioners regarding safety and noise concerns for an outdoor seating area in the plaza. Vice Chair McDermott stated that it was important to the community to provide housing options promoting aging in place. Mr. Rich indicated for Vice Chair McDermott that the number of parcels proposed for the development has not yet been determined. Vice Chair McDermott supported the

conceptual plan of the project and was appreciative that the retail uses would create additional jobs in Hayward.

Commissioner Trivedi encouraged the applicant to be considerate of the impact that any future construction may have on the quality of life of current residents living nearby. He reiterated that he has a strong preference for incorporating more retail uses in the project. Mr. Rich commented that his firm had originally intended to include more retail extending down Mission Boulevard; however, after having conversations with potential commercial tenants, it was emphasized that the development attract the right type of tenants. The applicant was avoiding a situation where any excess retail spaces would be filled with uses that were inconsistent with their vision for the development. He added that if the development could capture the right type of commercial tenants early on and if these businesses were viable, then this catalyst site could be used to spur additional development along Mission Boulevard.

PUBLIC HEARING

2. Adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approval of a Zone Change from RS/B4 (Single Family Residential/ B4 Special Lot Standards Combining District) to PD (Planned Development) (Application No. PL-2013-0349) and Vesting Tentative Tract Map No. VTTM 8151 (Application No. PL-2013-0351) associated with Thirteen Detached Single Family Homes on a 1.45-Acre Parcel Located at 24582 and 24570 Eden Avenue and 24655 Mohr Drive – Che Chen and Shu Fen Liu (Applicant & Owner)

Senior Planner Golubics provided a synopsis of the staff report.

Senior Planner Golubics confirmed for Commissioner Trivedi that there is a single family residential unit on the western portion of the property and there are two additional residences located on the eastern portion of the property which are presently occupied by tenants. He pointed out that there are additional buildings on the property which were utilized for agricultural uses in the past. Additionally, there was a tractor repair business that was in operation approximately ten years ago at this site. Mr. Golubics clarified for Commissioner Trivedi that the private road offers a through connection between Eden Avenue and Mohr Drive and noted that there was a speed bump along the road to slow down traffic for motorists using this road as a cut through street.

Commissioner Lavelle asked what level of Leadership in Energy & Environmental Design (LEED) certification the applicant will provide for the homes. Senior Planner Golubics indicated that due to this project being on a smaller scale, it was not financially feasible for the applicant to provide a higher level of LEED certification; instead, the applicant will provide the entry level LEED certification. Commissioner Lavelle highlighted that the provision of the LEED certification as a green energy feature was an attractive selling point for the project. She expressed concern if the oak and evergreen trees would be appropriate to use in this development and wondered if the City's Landscape Architect foresaw any problems with the roots of these trees getting into the main sewer and causing damage. Senior Planner Golubics responded that the City's Landscape Architect did review the conceptual plans of the project and that she would review the project once again during the Precise Plan phase of the project. Commissioner Lavelle commented that it would not be appropriate to use evergreen trees that drop a lot of pine needles onto the ground or on rooftops as



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this could create a fire hazard, especially during dry drought seasons. She urged the applicant to pick the right type of trees for the site that will make the neighborhood an enjoyable place to live in. In regards to Commissioner Lavelle's question about the cost of the public art to be used at the two entry points in the subdivision, Mr. Golubics noted that the public art will be integrated into the Precise Plan and the cost of the artwork was still a detail to be determined. Commissioner Lavelle suggested that the artwork should be tasteful and fitting of the neighborhood, noting that the proposed project would be an improvement to the current parcel and she indicated her support for a planned development for this site. Mr. Golubics confirmed for Commissioner Lavelle that Condition of Approval No. 102 (o) regarding the subdivision being no less than 75% owner occupied would be enforced by the Homeowners Association, noting that this requirement has come out of City Council review of development projects in Hayward and was a standard requirement of other projects in the City. He underscored that the goal of this condition of approval was to avoid the proposed subdivision turning into predominantly rental units.

Commissioner Faria raised the concern whether the decorative LED lighting would fit in with the surrounding neighborhood. Senior Planner Golubics indicated that one of the goals of the development was to have ample lighting which would be unique to this development; he provided assurance that lighting would not spillover to the main streets. Commissioner Faria was concerned that there would not be adequate parking for residents of the development. Mr. Golubics conceded that the size of the site did have some constraints regarding parking; however, the applicant was going to meet this challenge by offering six street spaces within the subdivision. He noted that staff is recommending that an additional two parking spaces be made available on the southwestern part of the subdivision as this would assist in alleviating some parking concerns. Commissioner Faria stated that large homes such as those planned for in the proposed subdivision are likely to have multiple individuals and/or families residing there, which would equate to more vehicles per residence. Commissioner Faria asked if neighboring residents had been consulted about the two-story residences being constructed in the development and also about high growing trees that may obstruct the visual space in the area. Mr. Golubics stated that staff held a community meeting regarding the project and one of the takeaways from the meeting was to have additional trees and buffering for lots 7, 8 and 9 that would provide a permanent screen from the proposed two-story homes looking down into the backyards of surrounding residences. He shared that evergreens were identified as the tree variety of choice as these trees provided screening year-round. He added that the community members who participated in this meeting have not expressed any other concerns since the previous meeting was held one year ago.

In response to Commissioner Loché's question about following up with current residents of the neighborhood who had privacy concerns regarding the construction of two-story homes located adjacently, Mr. Golubics indicated that staff could contact these residents once again during the Precise Plan phase of the project.

Senior Planner Golubics clarified for Commissioner Trivedi that the Precise Plan phase of the project is performed on the staff level and that this project will not return to the Planning Commission for further review. In regards to an email received from a resident on Mohr Drive (Attachment V), Commissioner Trivedi questioned if staff has explored traffic calming measures for Mohr Drive. Mr. Golubics stated that the traffic study evaluated West Street, Mohr Drive, Eden Avenue, and Depot Road and according to the data gathered from this study, there was no lower level of service at these intersections and they were maintained at an A, B, or C. He added that it was a borderline case to have the developer conduct a traffic study as this is typically required if the City's Traffic Engineer observes that the development will result in 40 or 50 new vehicle trips during peak hours. Mr. Golubics reported that the proposed project would create 32 additional vehicle trips during peak hours; however, the project did surpass the threshold for the number of daily trips, which was 161 vehicle trips, thereby requiring the traffic study. He summarized that there would not be a significant amount of traffic generated from the development of the thirteen new homes. To address the concerns of the Mohr Drive resident, Commissioner Trivedi requested that staff look into general traffic concerns along Mohr Drive. Mr. Golubics indicated that Planning Division staff in conjunction with the Police Department will look into the speeding issues on Mohr Drive and would possibly conduct targeted enforcement of vehicles exceeding the speed limit.

In response to Vice Chair McDermott's question about public artwork being required of other development projects in the City, Senior Planner Golubics said that the Cannery development project involving the Libitzky property, also had a requirement for public artwork. He indicated that staff has not seen a conceptual plan for the artwork and that they are not at the Precise Plan stage with this project yet; however, the Planning Commission did require the developer to work with the Hayward Area Historical Society in coming up with artwork reflective of the Cannery's history.

Vice Chair McDermott supported having a full bathroom on the first floor as this would promote aging in place and would meet the needs of individuals with physical limitations. Mr. Golubics clarified for Vice Chair McDermott that the developer will lay the foundation so that it is elevated and in a manner where the foundation does not expand or contract with the soil. He indicated that the building permit phase will ensure that the foundation is built properly.

Vice Chair McDermott commented that if the occupancy of residences within a particular development decreases below 75% owner occupied, then it becomes difficult for future home owners to obtain financing within that development.

Nik Sernande, project applicant with ARK Studio West and Laif McClellan, project applicant with Santa Cruz Real Estate Living, responded to questions that the Planning Commissioners had about the subdivision project.

Mr. Sernande indicated for Commissioner Lavelle that they do not have any specific styles in mind for the public artwork to be displayed at the proposed subdivision and he stated that they were flexible regarding the artwork and would work with the City so that the development could be approved.

Commissioner Faria spoke favorably of the drawings of the homes in the proposed subdivision. She asked what the capacity of the solar panels would be and whether this would be sufficient to meet the energy needs of the residential units. Mr. Sernande said that the number of solar panels the



**MINUTES OF THE REGULAR MEETING OF THE
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Council Chambers
Thursday, July 24, 2014, 7:00 p.m.
777 B Street, Hayward, CA94541**

homes will be equipped with, which was ten solar panels, was based upon the recommendation of the solar energy contractor.

Commissioner Trivedi requested that the applicant be considerate of the water demands that the landscaping in the subdivision would require due to the current drought climate being experienced locally. In response to Commissioner Trivedi's question about the playground structure that would be included in the development as an amenity, Mr. Sernande stated that the main purpose in having the tot lot adjacent to the bioretention area is to provide green space on Eden Avenue and Mohr Drive and to minimize the look of a larger development within this area. He indicated that it was cost prohibitive to go beyond (basic) LEED certification for a development project of this size. He noted that the design principles of this project feature sustainable/green components such as LED lighting, electric vehicle charging stations, and solar panels within each home. Mr. Sernande shared that another goal is to provide ample green spaces for the community to enjoy which is why the subdivision will be called "Eden Village." With regards to landscaping, he noted that the plant varieties which will be used will be California drought tolerant plants. Commissioner Trivedi encouraged the applicant to utilize natural landscaping. In response to Commissioner Trivedi's question about how much yard area each home would have, Mr. Sernande responded that the lot sizes are on average 3,400 sq. ft. and the houses are 2,000 sq. ft. Mr. Sernande noted for Commissioner Trivedi that he was amenable to modifying the design plan to include full bathrooms on the first floor. Commissioner Trivedi was pleased with the color palette being used in the subdivision; however, he indicated that the design of the homes was ranch style and was less modern than he would have liked to see.

Vice Chair McDermott was pleased that the applicant was receptive to changing the half bathroom to a full bathroom on the first level as this would meet the needs of the community.

Vice Chair McDermott opened and closed the public hearing at 8:43 p.m.

Vice Chair McDermott said she would prefer that every unit require a full bathroom on the first floor. Commissioner Loché was supportive of this as it would promote aging in place and also, the applicant was amenable to this.

Commissioner Lavelle agreed with the concept of having full bathrooms on the first floor of every unit; however, she cautioned against this modification in the design plan as it might increase the purchase price of the residential units. She suggested that the following alternative be mandated through a condition of approval requiring six units to have full bathrooms on the first floor and the remaining seven units to have the full bathroom available as an option. Commissioner Lavelle stated that she was impressed with the style of the homes, highlighting that the homes varied from one another on the interior and exterior.

Commissioner Faria agreed that considering that all of the units will have a bedroom on the first floor then all of these units should also have a full bathroom on the first floor.

Commissioner Trivedi pointed out that per the design plan all units already have 2.5 bathroom units. He said that the units as depicted are large enough where adding a full bathroom on the first floor was a feasible requirement. Commissioner Trivedi made a motion to approve the staff recommendation with a condition that all units include a full bathroom on the first floor. Commissioner Lavelle seconded the motion and offered a friendly amendment to Condition of Approval No. 11(k) that the Precise Plan be modified to state that the exterior colors of the units are not orange, yellow, or pink.

AYES:	Commissioners Loché, Trivedi, Faria, Lavelle Vice Chair McDermott
NOES:	None
ABSENT:	None
ABSTAIN:	None

COMMISSION REPORTS

3. Oral Report on Planning and Zoning Matters

In response to Vice Chair McDermott's question on when the next Planning Commission meeting will be held, Planning Manager Buizer responded that she will notify the Planning Commissioners of future meeting dates shortly via email.

Planning Manager Buizer announced that the City Council will be conducting interviews for the vacancies on the City's Board/Commissions/Committee/Task Force and she stated that the new members will be appointed at the City Council Meeting on September 16, 2014.

Vice Chair McDermott announced that former Planning Commissioner Lamnin was elected to the Hayward City Council and former Planning Commissioner Márquez was appointed to the City Council. She offered her congratulations to both Council Members.

4. Commissioners' Announcements, Referrals

Commissioner Lavelle shared that the Off the Grid Food Trucks has been approved to move to a new location on Watkins Street, directly in front of the City Hall Plaza. She encouraged residents and employees in the downtown area to stop by and grab a bite to eat at one of the food trucks. In response to Commissioner Lavelle's question about the coin operated Laundromat on A Street and modifications to the parking requirements, Planning Manager Buizer stated that the proposal for this establishment is to have a coin operated Laundromat and also to operate a laundry service. The establishment has expressed that customers typically drop off laundry and are not visiting the Laundromat for extended periods of time; therefore, the establishment has requested a reduction in parking which would be consistent with the requirements of the central parking district. Commissioner Lavelle announced that the third and final Downtown Hayward Street Party for the summer will be held on Thursday, August 21, 2014 and she encouraged the community to attend this fun event.



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Vice Chair McDermott expressed concern that the Off the Grid Food Truck event has been approved for two years. She suggested that in the future, the City enter into agreements with new undertakings for shorter periods of time, such as a one year agreement.

APPROVAL OF MINUTES

5. None.

ADJOURNMENT

Vice Chair McDermott adjourned the meeting at 8:59 p.m.

APPROVED:

Vishal Trivedi, Secretary
Planning Commission

ATTEST:

Avinta Madhukansh-Singh, Senior Secretary
Office of the City Clerk

EXISTING	PROPOSED	DESCRIPTION
---	---	SUBDIVISION BOUNDARY
---	---	RIGHT-OF-WAY
---	---	PROPERTY LINE
---	---	PUBLIC UTILITY EASEMENT
---	---	FENCE
---	---	SIDWALK
---	---	SPOT ELEVATIONS
---	---	LOT NUMBER
---	---	TRAFFIC DIRECTION
---	---	STORM DRAIN
---	---	SANITARY SEWER
---	---	WATER
---	---	SANITARY SEWER MANHOLE
---	---	STORM DRAIN MANHOLE
---	---	CATCH BASIN
---	---	FIELD INLET
---	---	FIRE HYDRANT
---	---	POWER POLE

ABBREVIATIONS	
BD	BOUNDARY
CL	CENTER LINE
FC	FACE OF CURB
GB	GRADE BREAK
HP	HIGH POINT
INV	INVERT
LP	LOW POINT
LS	LANDSCAPE
P	PAD
PL	PROPERTY LINE
PP	POWER POLE
PUE	PUBLIC UTILITY EASEMENT
R/W	RIGHT-OF-WAY
SD	STORM DRAIN
SS	SANITARY SEWER
SW	SIDEWALK
TC	TOP OF CURB
TG	TOP OF GRATE
W	WATER

SHEET INDEX	
TM.1	EXISTING PROPERTY
TM.2	SITE & CIRCULATION PLAN
TM.3	GRADING PLAN
TM.4	UTILITY PLAN

CONTACTS

- OWNER/DEVELOPER/ARCHITECT: CHE CHEN LIU & SHU FEN LIU
ROYOLA PACIFIC
31259 WEGMAN ROAD
HAYWARD, CA 94544
(510) 487-9129
CONTACT: ANDY LIU
CONTACT: LAIF McLELLAN
CONTACT: NIK SERNADE
- ENGINEER: CARLSON, BARBEE & GIBSON, INC.
2633 CAMINO RAMON, SUITE 350
SAN RAMON, CA 94583
(925) 866-0322
LEE ROSENBLATT, RCE #65469
- SOILS ENGINEER: GEOTECHNICAL ENGINEERING, INC.
38750 PASEO PADRE PARKWAY
FREMONT, CA 94536
(510) 791-0100
CONTACT: ALAN S. BORIS, RCE 155

I, ANDY LIU, AGREE TO THE FILING OF SAID MAP AND TO COMPLY WITH THE PROVISIONS OF THE CITY OF HAYWARD SUBDIVISION ORDINANCE AND THE STATE MAP ACT AS THEY APPLY TO THE PROCESSING AND APPROVAL OF SAID MAP.

BY: *Andy Liu* DATE: _____

I, LEE ROSENBLATT, CERTIFY THAT THIS TENTATIVE MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT IT COMPLIES WITH THE CITY OF HAYWARD SUBDIVISION ORDINANCE AND THE STATE MAP ACT.

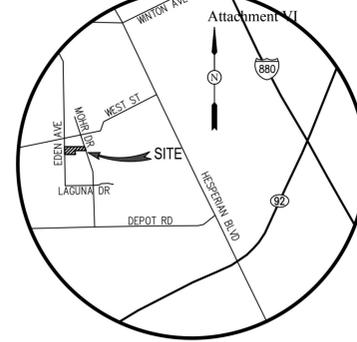
BY: *Lee Rosenblatt* DATE: *4/14/14*

A SOILS REPORT ON THIS PROPERTY HAS BEEN PREPARED BY GEOTECHNICAL ENGINEERING INC. ENTITLED REPORT - SOILS INVESTIGATION, DATED JULY 5, 2013, WHICH HAS BEEN FILED WITH THE CITY OF HAYWARD.

BY: *Alan S. Boris* DATE: *04/18/14*

I, CHRISTOPHER S. HARMISON, A LICENSED LAND SURVEYOR IN THE STATE OF CALIFORNIA, HEREBY STATE THAT THIS TENTATIVE MAP IS BASED UPON A SURVEY UNDER MY DIRECT SUPERVISION AND THAT IT COMPLIES WITH THE CITY OF HAYWARD SUBDIVISION ORDINANCE AND THE STATE MAP ACT.

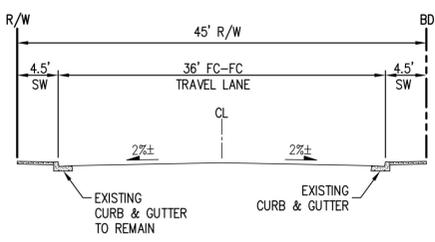
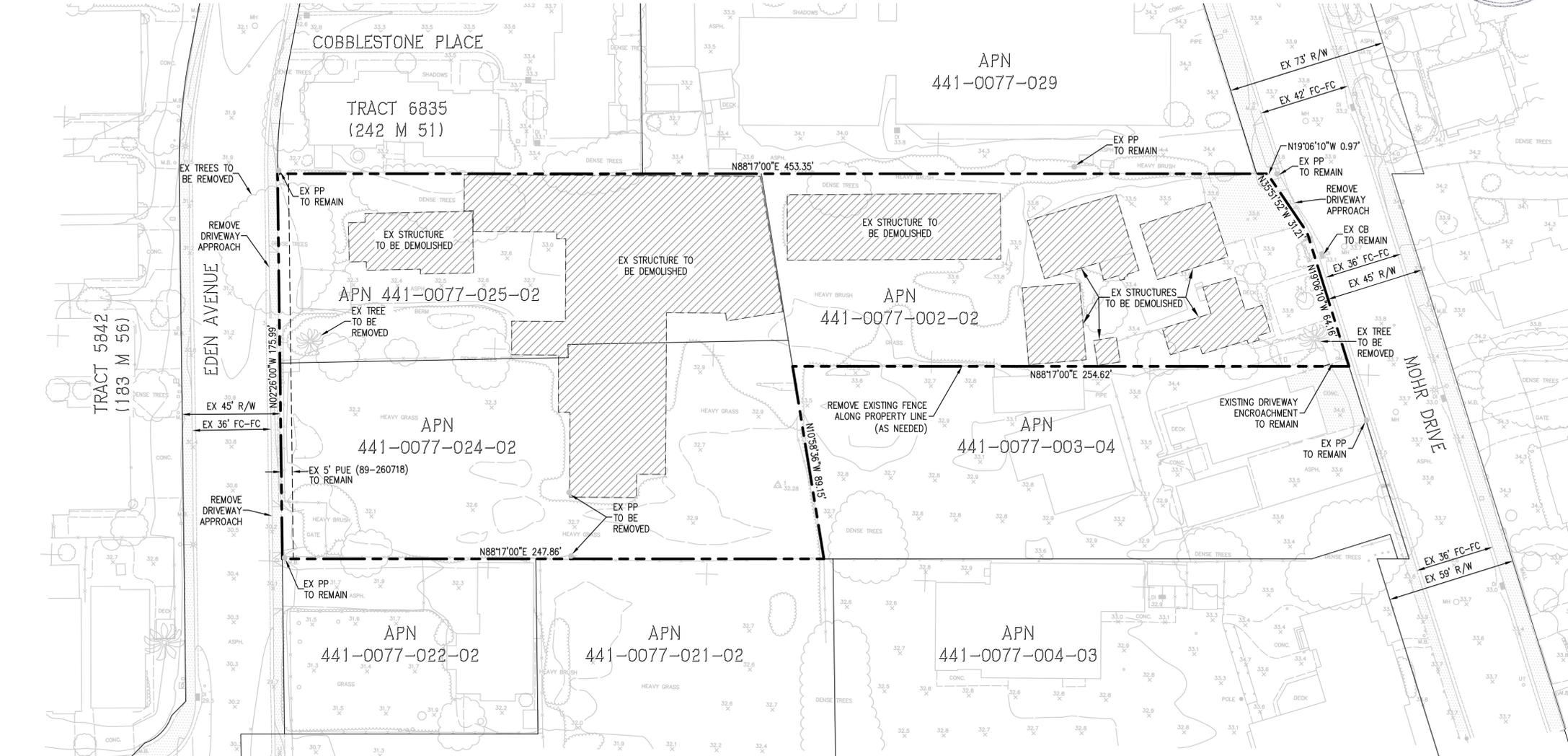
BY: *Christopher S. Harmison* DATE: *4/14/2014*



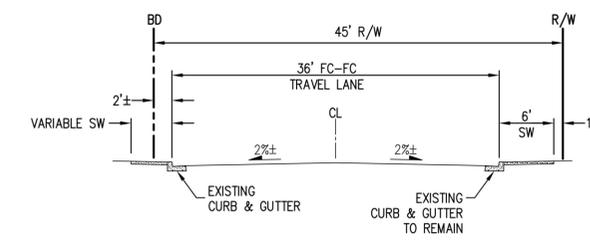
VICINITY MAP
NOT TO SCALE

GENERAL NOTES:

- ASSESSORS PARCEL NO: 441-0077-002-02; 441-0077-024-02 & 441-0077-025-02
- SITE ADDRESS: 24582 & 24570 EDEN AVENUE/24655 MOHR DRIVE HAYWARD, CA
- SITE AREA: 1.45± AC
- EXISTING ZONING: SINGLE-FAMILY RESIDENTIAL B4
PROPOSED ZONING: PLANNED DEVELOPMENT
- EXISTING USE: SINGLE-FAMILY DWELLING
PROPOSED USE: SINGLE-FAMILY DWELLING
- MINIMUM SINGLE FAMILY LOT SIZE: 46' X 63' (2,898 SF)
- BENCHMARK: THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CITY OF HAYWARD BENCHMARK INTERSECTION OF WEST STREET AND MOHR DRIVE ELEVATION: 32.612 FEET (NGVD 29)
- EXISTING STRUCTURES: ALL EXISTING BUILDINGS, PAVEMENT, AND TREES WITHIN BOUNDARY TO BE REMOVED
- STREETS: ALL STREETS WITHIN THE DEVELOPMENT WILL BE PUBLIC STREETS WITH AND WILL BE OWNED AND MAINTAINED BY THE CITY OF HAYWARD. THE MINIMUM LONGITUDINAL SLOPE OF ALL STREETS WILL BE 0.50%
- STREET TREES: STREET TREES ALONG STREETS WITHIN THE DEVELOPMENT WILL BE PROVIDED AS REQUIRED BY THE CITY OF HAYWARD AND WILL BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION. LOCATION AND SPECIES TO BE SHOWN ON FUTURE LANDSCAPE CONSTRUCTION DOCUMENTS IN CONFORMANCE WITH PROJECT CONDITIONS OF APPROVAL.
- STREET LIGHTS: ALL EXISTING STREET LIGHTS ALONG EDEN AVENUE AND MOHR DRIVE TO BE RELOCATED (AS NEEDED). ALL STREET LIGHTS ALONG EDEN AVENUE AND MOHR DRIVE TO BE MAINTAINED BY THE CITY OF HAYWARD. ALL STREET LIGHTS WITHIN THE DEVELOPMENT WILL BE PRIVATE AND PRIVATELY MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
- FENCING: ALL EXISTING FENCING WITHIN THE DEVELOPMENT LIMIT TO BE REMOVED.
- PUBLIC UTILITIES: PROPOSED ONSITE WATER AND SANITARY SEWER FACILITIES WILL BE PUBLIC AND WILL BE OWNED AND MAINTAINED BY THE CITY OF HAYWARD.
- PRIVATE UTILITIES: PROPOSED ONSITE STORM DRAIN FACILITIES WILL BE PRIVATE AND PRIVATELY MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
- LANDSCAPE: ALL LANDSCAPE AREAS WITHIN PARCEL A, PARCEL B AND ADJACENT TO STREET A INCLUDING THE FRONT YARD OF EACH LOT WILL BE PRIVATE AND PRIVATELY MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
- FLOOD ZONE: ZONE X - AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN REFER TO: FLOOD INSURANCE RATE MAP PANEL 06001C0288G (AUGUST 3, 2009)
- ONSITE WELLS: NONE
- WATER: CITY OF HAYWARD
- SANITARY SEWER: CITY OF HAYWARD
- STORM DRAIN: PROPOSED STORM DRAIN FACILITIES WITHIN EDEN AVENUE WILL BE PUBLIC AND WILL BE OWNED AND MAINTAINED BY THE CITY OF HAYWARD. ALL OTHER ONSITE STORM DRAIN FACILITIES WILL BE PRIVATE AND PRIVATELY MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
- GAS & ELECTRIC: PG&E
- TELEPHONE: AT&T
- CABLE TV: COMCAST CABLE
- DIMENSIONS: ALL DIMENSIONS ARE PRELIMINARY AND SUBJECT TO FINAL MAP
- EASEMENTS: ALL EXISTING EASEMENTS TO REMAIN



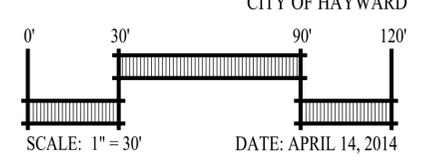
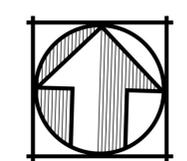
EDEN AVENUE
NOT TO SCALE



MOHR DRIVE
NOT TO SCALE

EXISTING PROPERTY VESTING TENTATIVE MAP

EDEN VILLAGE - TRACT 8151



SCALE: 1" = 30'

DATE: APRIL 14, 2014

CITY OF HAYWARD ALAMEDA COUNTY CALIFORNIA

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2633 CAMINO RAMON, SUITE 350 SAN RAMON, CALIFORNIA 94583 (925) 866-0322

SHEET NO. **TM.1**
OF 16 SHEETS



PARKING SUMMARY

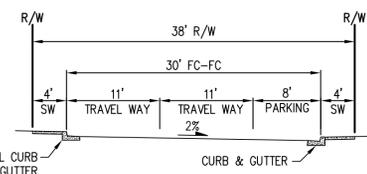
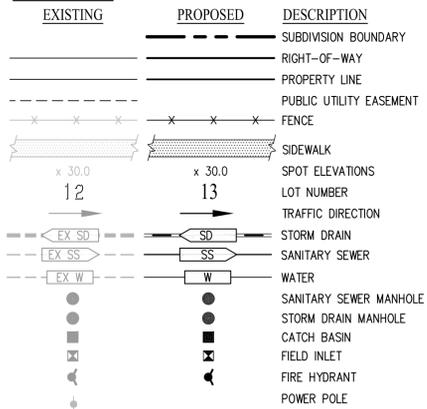
PARKING TYPE	PARKING REQUIRED*		PARKING PROVIDED	
	RATIO	NUMBER OF SPACES	RATIO	NUMBER OF SPACES
GARAGE	2 SPACES/DU	26 SPACES	2 SPACES/DU	26 SPACES
ON-STREET/DRIVEWAY	2 SPACE/DU*	8 SPACES	2 SPACES/DU	26 SPACES
GUEST	0.10 SPACE/DU	2 SPACES	0.4 SPACE/DU	6 SPACES
TOTAL	-	36 SPACES	-	58 SPACES**

* PER CITY OF HAYWARD OFF-STREET PARKING STANDARDS FOR SINGLE-FAMILY DWELLINGS.
 ** DOES NOT INCLUDE 6 ON-STREET PUBLIC PARKING SPACES ALONG MOHR DRIVE AND EDEN AVENUE ALONGSIDE PROPERTY FRONTAGE.

GENERAL NOTES:

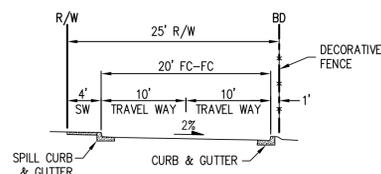
- EXISTING ZONING: SINGLE-FAMILY RESIDENTIAL B4
- PROPOSED ZONING: PLANNED DEVELOPMENT
- EXISTING USE: SINGLE-FAMILY DWELLING
- PROPOSED USE: SINGLE-FAMILY DWELLING
- TOTAL SITE AREA: 1.45± AC
- TOTAL NUMBER OF LOTS: 13 LOTS; 2 PARCELS
- GROSS DENSITY: 9.0 UNITS/AC
- NET DENSITY: 12.0 UNITS/AC
- STREETS: THE MINIMUM LONGITUDINAL SLOPE OF ALL STREETS IS 0.50%
- SIDEWALKS: THE MINIMUM WIDTH OF ALL SIDEWALKS AND PATHWAYS WILL BE 4 FEET
- TOTAL IMPERVIOUS SURFACE: 0.88 AC±

LEGEND



STREET A

(LOTS 5-13)
NOT TO SCALE



STREET A

(LOTS 1-4)
NOT TO SCALE

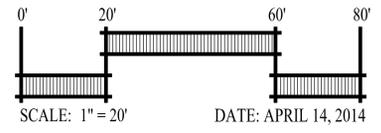
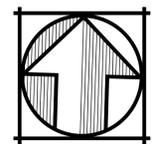
PAVEMENT DESIGN CHART

STREET	T1	R	ASPHALTIC CONCRETE (AC)	CALTRANS CLASS 2 AGGREGATE BASE (AB)	TOTAL PAVEMENT THICKNESS
STREET A	4.5	5	3"	12.0"	15.0"

NOTES:
1. R-VALUE TO BE FINALIZED BY GEOTECHNICAL ENGINEER WITH FINAL DESIGN.

SITE & CIRCULATION PLAN
VESTING TENTATIVE MAP
EDEN VILLAGE - TRACT 8151

CITY OF HAYWARD ALAMEDA COUNTY CALIFORNIA



DATE: APRIL 14, 2014

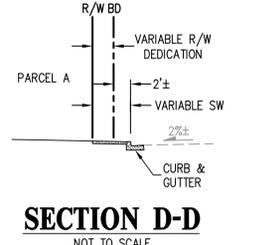
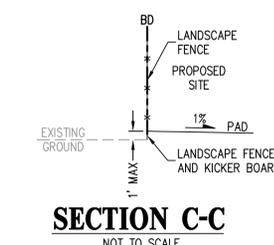
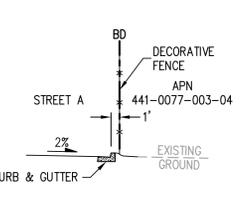
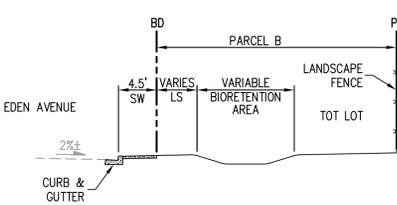
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 2833 CAMINO RAMON, SUITE 350
 SAN RAMON, CALIFORNIA 94583 (925) 866-0322

SHEET NO.
TM.2
 OF 16 SHEETS



LEGEND

EXISTING	PROPOSED	DESCRIPTION
---	---	SUBDIVISION BOUNDARY
---	---	RIGHT-OF-WAY
---	---	PROPERTY LINE
---	---	PUBLIC UTILITY EASEMENT
---	---	FENCE
---	---	SIDEWALK
---	---	SPOT ELEVATIONS
---	---	LOT NUMBER
---	---	TRAFFIC DIRECTION
---	---	STORM DRAIN
---	---	SANITARY SEWER
---	---	WATER
---	---	SANITARY SEWER MANHOLE
---	---	STORM DRAIN MANHOLE
---	---	CATCH BASIN
---	---	FIELD INLET
---	---	FIRE HYDRANT
---	---	POWER POLE



EARTHWORK SUMMARY

DESCRIPTION	CUT	FILL
ROUGH GRADING	850 CY	550 CY
BALANCE		300 CY
TOTAL	850 CY	850 CY

NOTES:
1. EARTHWORK QUANTITIES ARE APPROXIMATE AND REPRESENT RAW NUMBERS ONLY.

GRADING PLAN

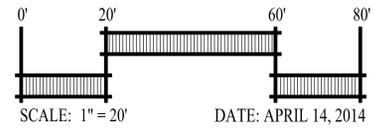
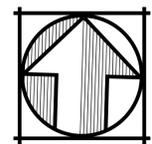
VESTING TENTATIVE MAP

EDEN VILLAGE - TRACT 8151

CITY OF HAYWARD ALAMEDA COUNTY CALIFORNIA

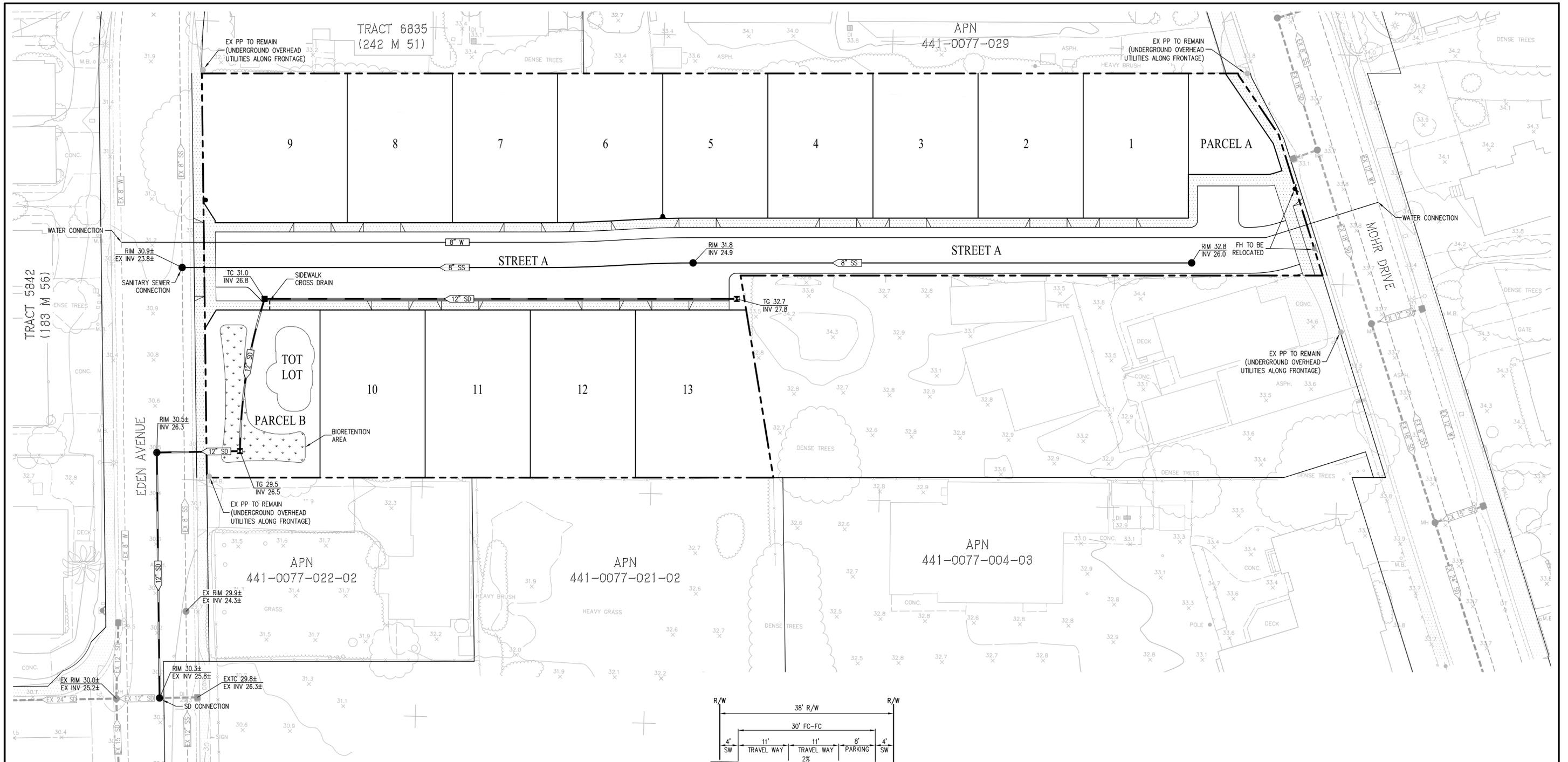
GRADING NOTES:

- GRADING WILL BE DONE AS PART OF THIS TRACT
- THE LIMIT OF GRADING IS THE PROPOSED SUBDIVISION BOUNDARY
- ELEMENTS OF GRADING ARE IN CONFORMANCE WITH PRELIMINARY SOILS REPORT



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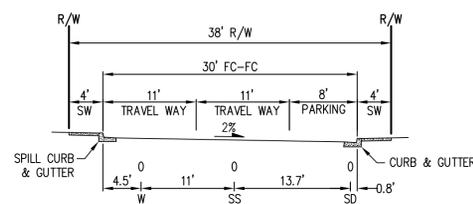
SHEET NO.
TM.3
OF 16 SHEETS



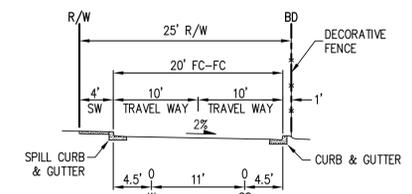
LEGEND

EXISTING	PROPOSED	DESCRIPTION
---	---	SUBDIVISION BOUNDARY
---	---	RIGHT-OF-WAY
---	---	PROPERTY LINE
---	---	PUBLIC UTILITY EASEMENT
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---	---	TRAFFIC DIRECTION
---	---	STORM DRAIN
---	---	SANITARY SEWER
---	---	WATER
---	---	SANITARY SEWER MANHOLE
---	---	STORM DRAIN MANHOLE
---	---	CATCH BASIN
---	---	FIELD INLET
---	---	FIRE HYDRANT
---	---	POWER POLE

- UTILITY NOTES:**
- EXISTING UTILITIES: ALL EXISTING UTILITIES WITHIN THE BOUNDARY TO BE REMOVED UNLESS OTHERWISE NOTED. ALL EXISTING OVERHEAD POWERLINES/UTILITIES ALONG THE FRONTAGE OF EDEN AVENUE AND MOHR DRIVE WILL BE UNDERGROUND.
 - PUBLIC UTILITIES: PROPOSED ONSITE WATER AND SANITARY SEWER FACILITIES WILL BE PUBLIC AND WILL BE OWNED AND MAINTAINED BY THE CITY OF HAYWARD.
 - PRIVATE UTILITIES: PROPOSED ONSITE STORM DRAIN FACILITIES WILL BE PRIVATE AND PRIVATELY MAINTAINED BY THE HOMEOWNER'S ASSOCIATION.
 - STORM DRAIN: PROPOSED STORM DRAIN FACILITIES WITHIN EDEN AVENUE WILL BE PUBLIC AND WILL BE OWNED AND MAINTAINED BY THE CITY OF HAYWARD. ALL OTHER ONSITE STORM DRAIN FACILITIES WILL BE PRIVATE AND PRIVATELY MAINTAINED BY THE HOMEOWNER'S ASSOCIATION. MINIMUM SLOPE OF PROPOSED STORM DRAIN PIPE = 0.003.
 - SANITARY SEWER: ALL SANITARY SEWER FACILITIES TO BE CONSTRUCTED PER CITY OF HAYWARD STANDARDS. MINIMUM SLOPE OF PROPOSED SANITARY SEWER PIPE = 0.005.
 - WATER: ALL WATER FACILITIES TO BE CONSTRUCTED PER CITY OF HAYWARD STANDARDS.
 - GAS & ELECTRIC: PG&E
 - TELEPHONE: AT&T
 - CABLE TV: COMCAST CABLE
 - UTILITIES: UTILITIES SHOWN ARE TO BE USED AS A GUIDE AND MAY CHANGE DURING FINAL DESIGN. DESIGN SHALL ADHERE TO CITY OF HAYWARD STANDARDS.



STREET A
(LOTS 5-13)
NOT TO SCALE

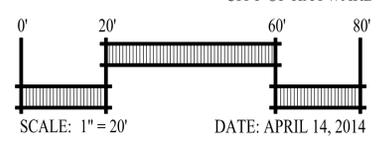
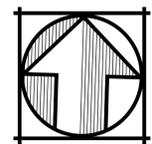


STREET A
(LOTS 1-4)
NOT TO SCALE

UTILITY PLAN

VESTING TENTATIVE MAP

EDEN AVENUE - TRACT 8151

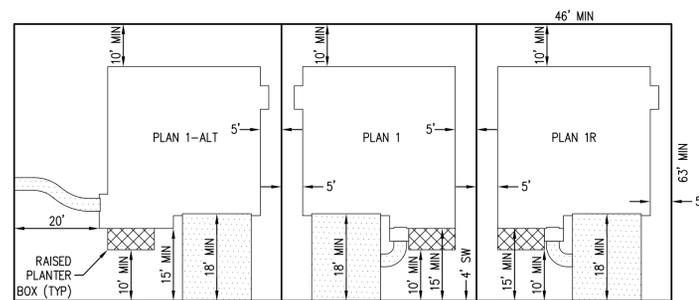


CITY OF HAYWARD ALAMEDA COUNTY CALIFORNIA

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SHEET NO. **TM.4**
OF 16 SHEETS



TYPICAL SINGLE FAMILY LAYOUT & SETBACKS
(NOT TO SCALE)

TYPICAL BUILDING & LOT SIZE

PLAN	PLAN SF	PLAN TOTAL	PLAN MIX (% TOTAL)	MIN LOT AREA, SF	BUILDING FOOTPRINT, SF	MAX LOT COVERAGE
1	2,387	7	54%	2,898	1,324	46%
1R	2,387	5	38%	2,898	1,324	46%
1-ALT	2,387	1	8%	4,084	1,326	32%
TOTAL		13	100%			

- NOTES:
- TYPICAL SETBACKS AS SHOWN ON THIS SITE PLAN INDICATE THE MOST RESTRICTIVE ALLOWABLE SETBACKS.
 - ARCHITECTURAL POPPS OUTS SUCH AS SECOND STORY OVERHANGS, FIREPLACES, MEDIA NICHES, NOOKS, ETC MAY PROJECT 2 FEET INTO SETBACKS.

PLANNED DEVELOPMENT SITE PLAN EDEN VILLAGE - TRACT 8151

CITY OF HAYWARD ALAMEDA COUNTY CALIFORNIA

DATE: APRIL 14, 2014

Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS

2833 CAMINO RAMON, SUITE 350
SAN RAMON, CALIFORNIA 94583 (925) 866-0322

SHEET NO.
C.1
OF 16 SHEETS

EDEN VILLAGE
DEVELOPMENT



5. LEFT ELEVATION

SCALE: 1/4" = 1'-0"

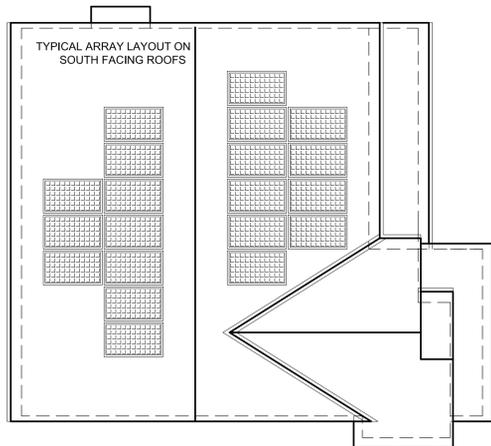


4. FRONT ELEVATION

SCALE: 1/4" = 1'-0"

ISSUED FOR: _____ DATE: _____

1. ALL UNITS TO HAVE 10 SOLAR PANEL ARRAYS ON SOUTH FACING ROOF DEPENDING ON PARCEL LOCATION ON SITE DEVELOPMENT MAP



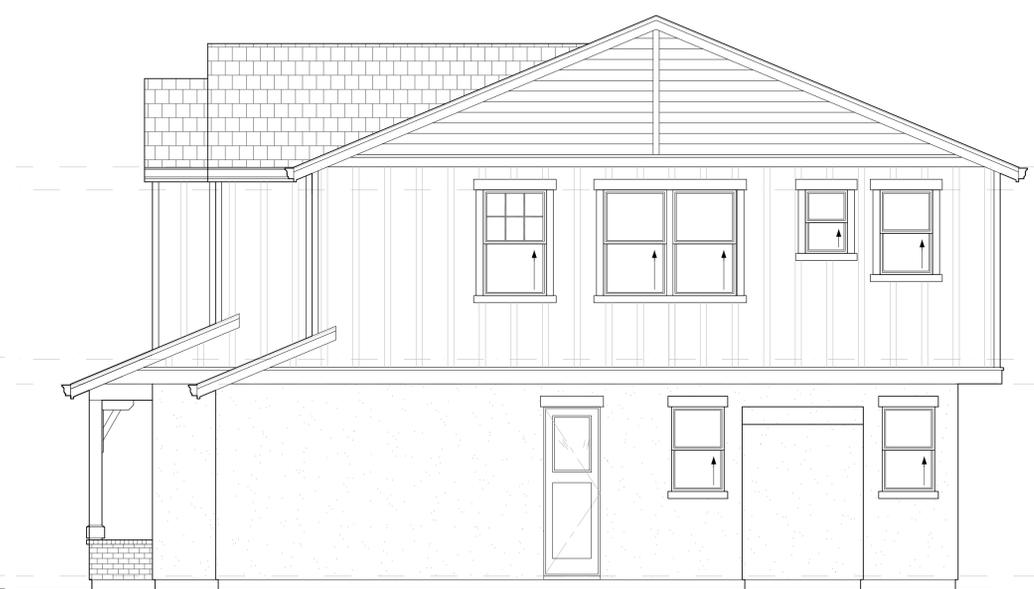
3. ROOF PLAN

SCALE: 1/8" = 1'-0"



2. REAR ELEVATION

SCALE: 1/4" = 1'-0"



1. RIGHT ELEVATION

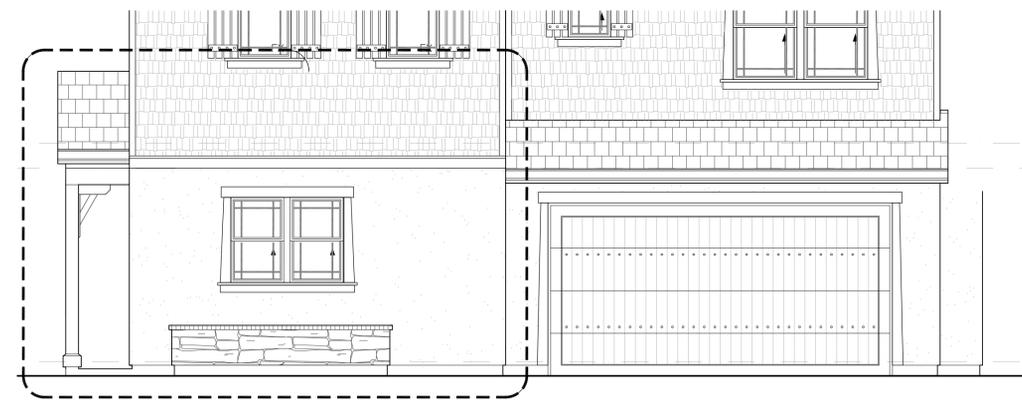
SCALE: 1/4" = 1'-0"



A.2
ELEVATIONS AND ROOF PLAN -
HOUSE A

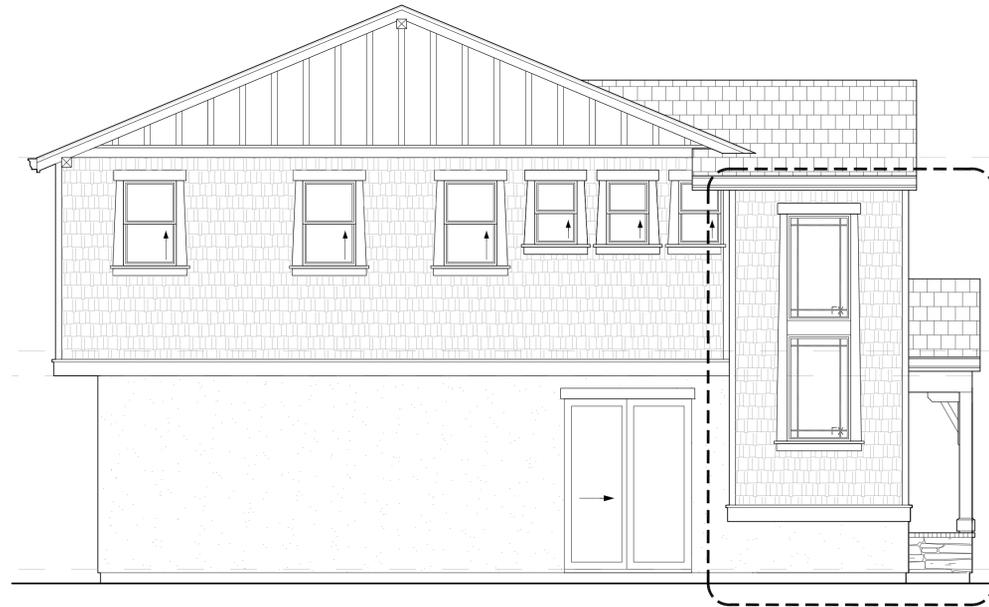
PROJECT NO. _____

EDEN VILLAGE
DEVELOPMENT



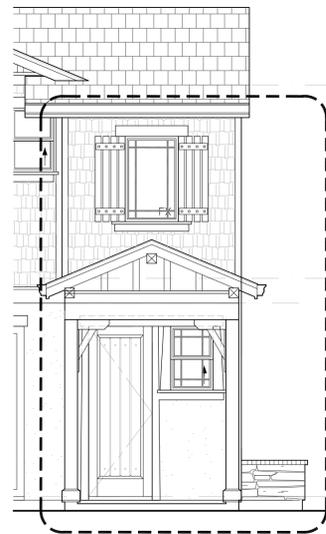
7. END UNIT

SCALE: 1/4" = 1'-0"



6. LEFT ELEVATION

SCALE: 1/4" = 1'-0"



5. END UNIT

SCALE: 1/4" = 1'-0"

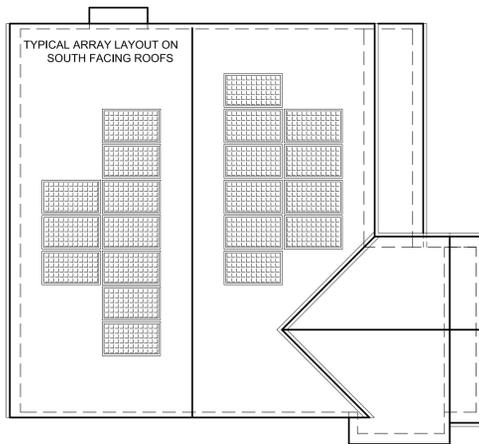


4. FRONT ELEVATION

SCALE: 1/4" = 1'-0"

ISSUED FOR: _____ DATE: _____

1. ALL UNITS TO HAVE 10 SOLAR PANEL ARRAYS ON SOUTH FACING ROOF DEPENDING ON PARCEL LOCATION ON SITE DEVELOPMENT MAP



3. ROOF PLAN

SCALE: 1/8" = 1'-0"



2. REAR ELEVATION

SCALE: 1/4" = 1'-0"



1. RIGHT ELEVATION

SCALE: 1/4" = 1'-0"



A.4
ELEVATIONS AND ROOF PLAN -
HOUSE C

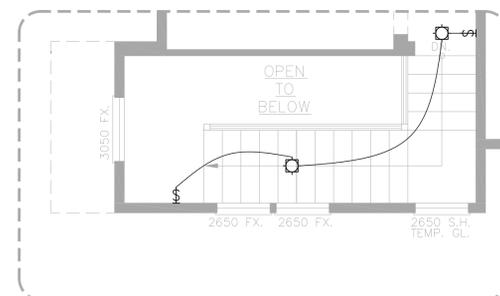
PROJECT NO. _____

EDEN VILLAGE DEVELOPMENT

ISSUED FOR: _____ DATE: _____

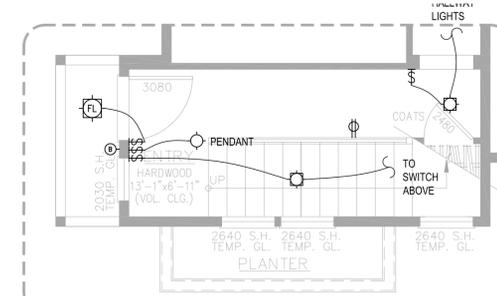
MECHANICAL, ELECTRICAL, AND PLUMBING SYMBOL LEGEND

	SWITCH		VACANCY DETECTOR (CEILING)		INCANDESCENT LIGHT FIXTURE (CEILING)		FLUORESCENT LIGHT/FAN COMBO(RECESSED)
	3-WAY SWITCH		VACANCY DETECTOR (WALL)		INCANDESCENT LIGHT FIXTURE (WALL)		FAN/LIGHT SIDE-BY-SIDE COMBO (RECESSED)
	4-WAY SWITCH		JUNCTION BOX 220V		STEP LIGHT (RECESSED)		CEILING FAN
	DIMMER SWITCH		GARAGE DOOR SWITCH		WALL WASHER LIGHT FIXTURE (RECESSED)		GAS METER
	PHONE JACK		LIGHTED ADDRESS SIGN		LIGHT FIXTURE (RECESSED)		ELECTRICAL MAIN PANEL
	DATA JACK		SHOWER HEAD		FLUORESCENT LIGHT FIXTURE (RECESSED)		ELECTRICAL SUB PANEL
	PHONE/DATA JACK		HOT WATER STUB		FLUORESCENT STRIP LIGHT		MANUAL-ON OCCUPANCY SENSOR & MOTION SENSOR SWITCH THAT COMPLIES WITH CEC SECTION 119(d) & SHALL NOT HAVE A CONTROL THAT ALLOWS THE LUMINARIES TO BE TURNED ON AUTOMATICALLY OR THAT HAS AN OVERRIDE ALLOWING THE LUMINARIES TO BE ALWAYS ON.
	COMBO JACK		COLD WATER STUB		FLUORESCENT LIGHT FIXTURE (SURFACE) SEE PLAN FOR SIZE		
	PLUG AND PLAY OUTLET		HOSE BIB W/ BACKFLOW PREVENTION DEVICE		TRACK LIGHTING		
	T.V. CABLE JACK		SMOKE DETECTOR - HARD WIRED		BATHROOM EXHAUST FAN W/ HUMIDISTAT (CAL GREEN 4.506.1)		
	KEY VALVE (GAS)		INTERCONNECTED W/ BATTERY BACK-UP		FAN		
	GAS STUB		CARBON MONOXIDE / SMOKE DETECTOR		WHOLE BUILDING VENTILATION FAN - SEE CFM REQ. (CENC 150 (O) & CAL GREEN 4.507.1)		
	VACUUM PORT		COMBO - HARD WIRED, INTERCONNECTED W/ BATTERY BACK UP		INCANDESCENT LIGHT/FAN COMBO (RECESSED)		
	DISPOSAL		DUPLX RECEPTACLE				
	DOORBELL		1/2 HOT RECEPTACLE				
	CHIMES		FOURPLEX RECEPTACLE				
	THERMOSTAT		QUARTER HOT FOURPLEX RECEPTACLE				
	PHOTOCELL SENSOR		220V RECEPTACLE				



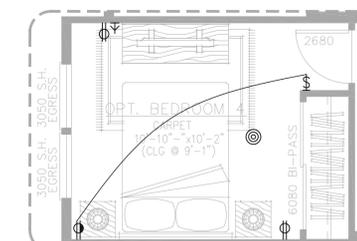
3. END UNIT SECOND FLOOR ENTRY

SCALE: 1/4" = 1'-0"



2. END UNIT FIRST FLOOR ENTRY

SCALE: 1/4" = 1'-0"



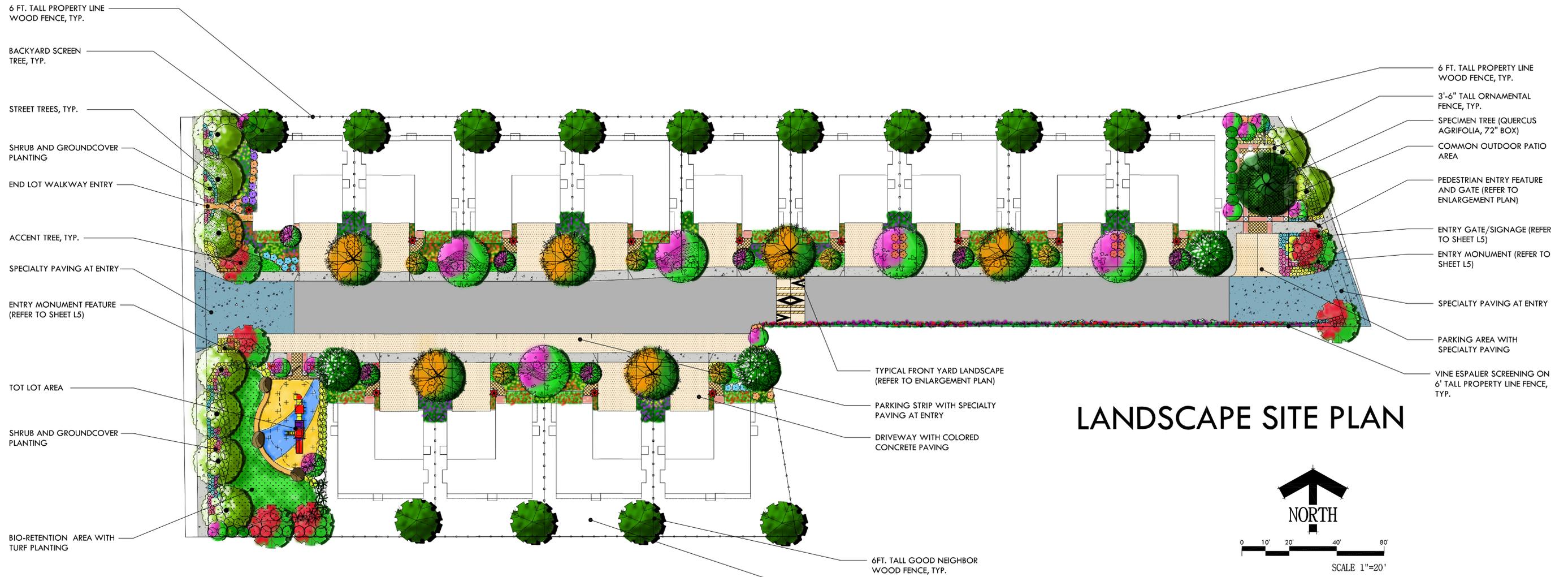
1. OPTIONAL BEDROOM

SCALE: 1/4" = 1'-0"

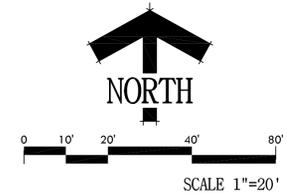


A.6

OPTIONS LIGHTING PLANS



LANDSCAPE SITE PLAN



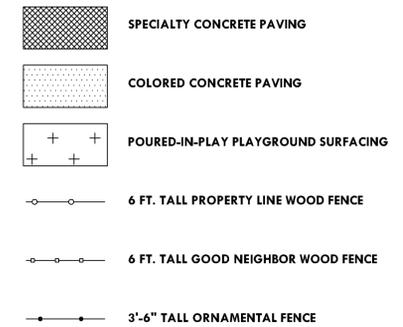
PRELIMINARY PLANT PALETTE/LEGEND

SCIENTIFIC NAME	COMMON NAME	SIZE/NOTES
SPECIMEN TREE		
QUERCUS AGRIFOLIA	COAST LIVE OAK	72 IN BOX
STREET TREES		
MAGNOLIA GRANDIFLORA 'D.D. BLANCHARD'	D.D. BLANCHARD MAGNOLIA	48 IN BOX
FRONT YARD/ACCENT TREES		
ACER PALMATUM 'SANGO KAKU'	CORAL BARK JAPANESE MAPLE	15 GAL
PISTACIA CHINENSIS	CHINESE PISTACHE	15 GAL
PRUNUS SERRULATA 'AMANOGAWA'	JAPANESE FLOWERING CHERRY	15 GAL
PRUNUS CERASIFERA 'THUNDERCLOUD'	THUNDERCLOUD FLOWERING PLUM	15 GAL
FRUIT TREES		
CITRUS 'MEIWA'	KUMQUAT	15 GAL
CITRUS RETICULATA 'OWARI'	MANDARIN ORANGE	15 GAL
PRUNUS SALICINA 'BEAUTY'	BEAUTY JAPANESE PLUM	15 GAL
SHRUBS		
BUDDLEIA HYBRID 'LOCHINCH'	BUDDLEIA HYBRID	5 GAL
EUONYMUS JAPONICUS 'GREEN SPIRE'	GREEN SPIRE EUONYMUS	5 GAL
LIGULARIA STENOCEPHALA	LEOPARD PLANT	5 GAL
ROSMARINUS OFFICIALIS 'BARBECUE'	BARBECUE ROSMARY	5 GAL
RHODODENDRON HYBRIDS	AZALEAS	5 GAL
STRELITZIA REGINAE	BIRD OF PARADISE	5 GAL
BACKYARD SCREEN TREES		
DRIMYS WINTERI	WINTER'S BARK VARIETY	15 GAL
CITRUS (LEMON)	PUMPKINO	15 GAL
CITRUS (ORANGE)	ORANGE VARIETY	15 GAL
RAPHIOLEPIS 'MONTIC'	INDIAN HAWTHORN	15 GAL

SCIENTIFIC NAME	COMMON NAME	SIZE/NOTES
GRASSES/BAMBOO/GRASSLIKE PLANTS		
FARGESIA ROBUSTA 'CAMPBELL'	CLUMPING BAMBOO	5 GAL
LAVANDULA 'PROVENCE'	FRENCH LAVENDER	5 GAL
MISCANTHUS SINENSIS	MAIDEN GRASS	5 GAL
PENNISETUM ORIENTALIS	ORIENTAL FOUNTAIN GRASS	5 GAL
PENNISETUM SETACEUM 'RUBRUM'	RED FOUNTAIN GRASS	5 GAL
VINES		
BOUGAINVILLEA 'BARBARA KARST'	BARBARA KARST BOUGAINVILLEA	5 GAL
HARDENBERGIA 'WANDERING LILAC VINE'	LILAC VINE	5 GAL
JASMINUM SAMBAC 'GRAND DUKE'	ARABIAN JASMINE	5 GAL
RAISED PLANTER PLANTS		
IRIS VARIETY	IRIS	1 GAL
ERIGERON KARVINSKIANUS	MEXICAN DAISY	1 GAL
ESCHSCHOLZIA CALIFORNICA	CALIFORNIA POPPY	1 GAL
LILIUM VARIETY	LILY	1 GAL
GROUND COVER		
HYPERICUM X MOSERIUM TRICOLOR	TRICOLOR ST. JOHN'S WORT	FLATS, 12" O.C.
SEDUM SPATHULIFOLIUM	BROADLEAF STONECROP	FLATS, 12" O.C.
VERBENA HYBRID 'HOMESTEAD PURPLE'	HOMESTEAD PRURPLE VERBENA	FLATS, 12" O.C.

TURF SOD	DESCRIPTION
[Pattern]	NATIVE MOW FREE (FROM DELTA BLUE GRASS)
[Pattern]	BIO-FILTRATION SOD (FROM DELTA BLUE GRASS)

MATERIALS/SURFACING LEGEND



NOTES

- SEE CIVIL PLANS, TM.1 FOR EXISTING TREE REMOVAL
- TREES TO BE PLANTED PER CITY OF HAYWARD STANDARD PLANTING DETAILS.

LANDSCAPE SITE PLAN

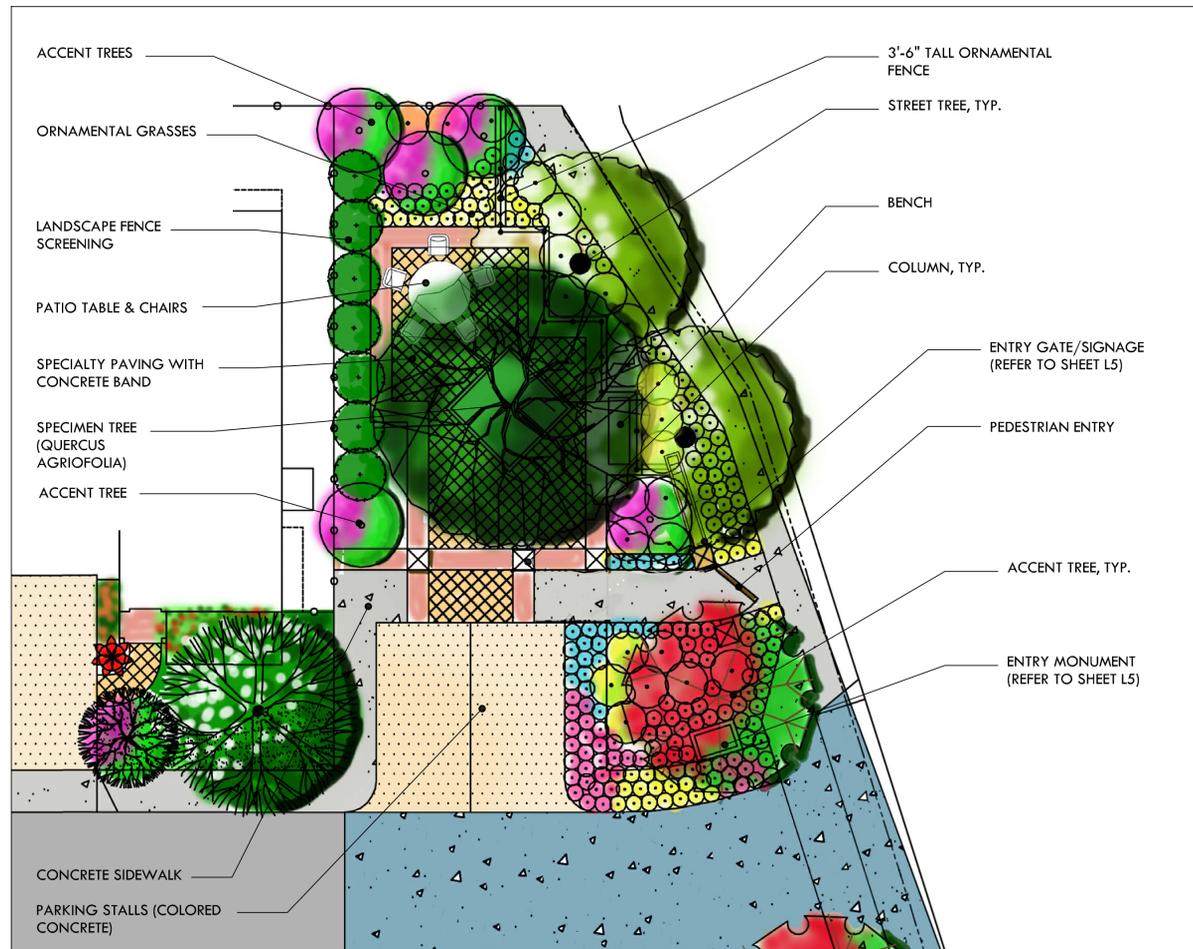
RTS Landscape Architecture

2531 La Mirada Drive, San Jose, CA 95125
 RTSLandscapeArchitecture@gmail.com
 ph: 408.896.9895
 CA License Number LA 5910

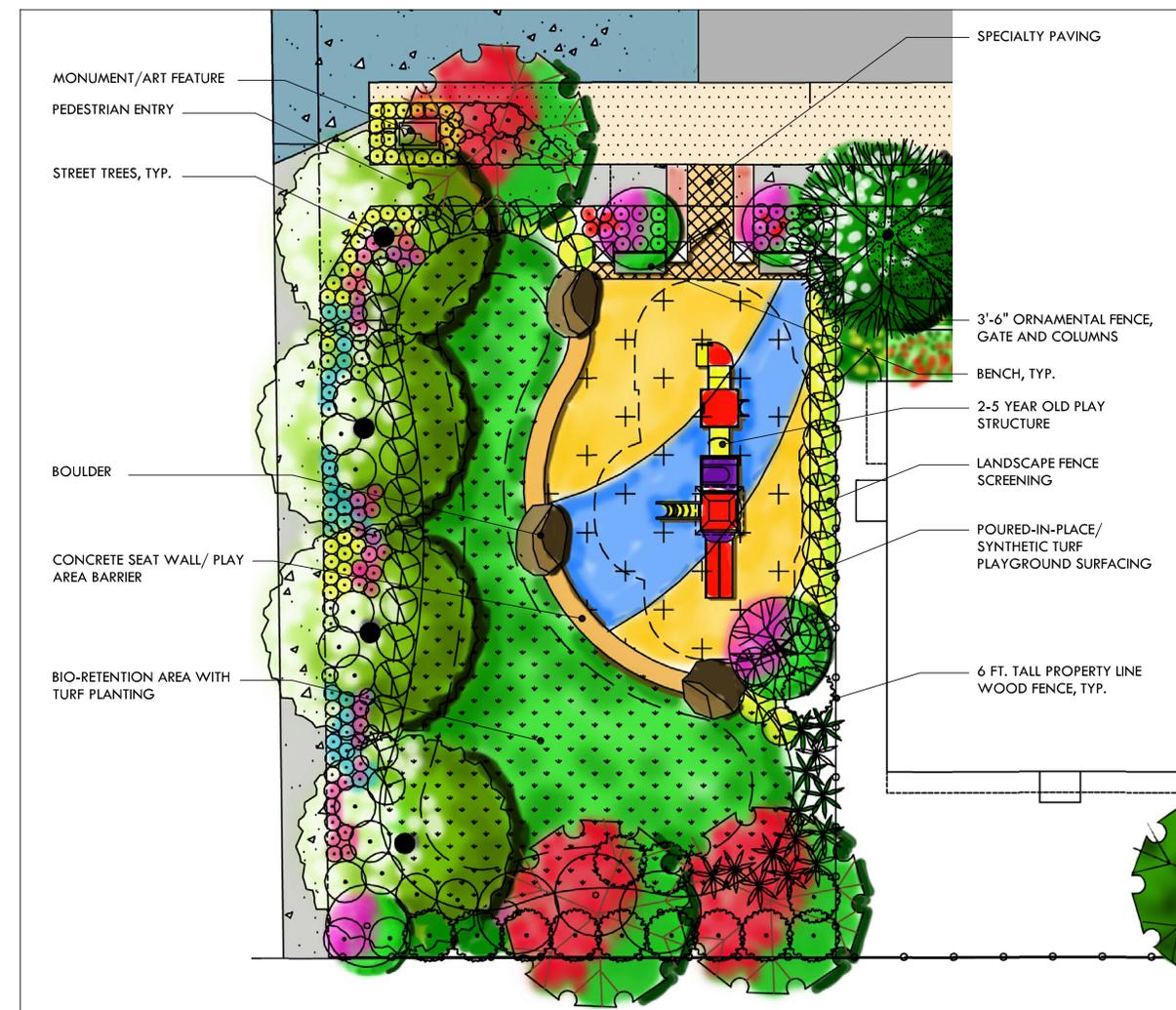
SHEET

L.1

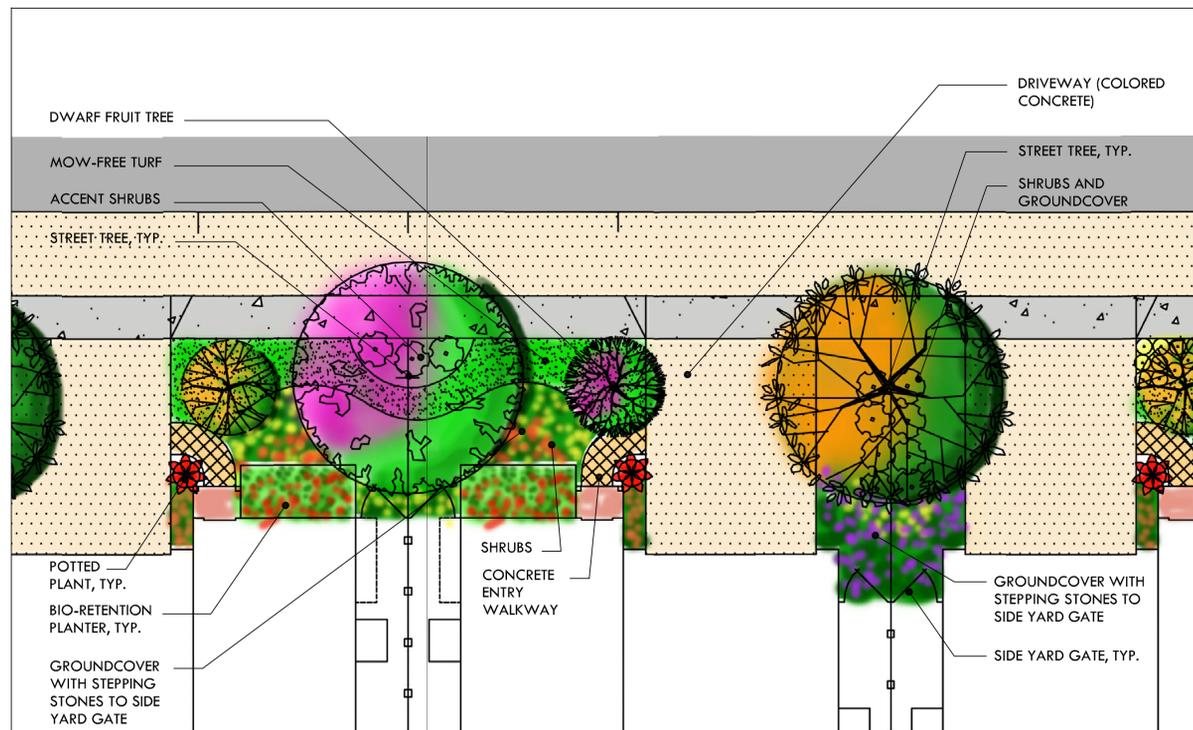
OF 16 SHEETS
 April 14, 2014



COMMON OUTDOOR PATIO AREA ENLARGEMENT



TOT LOT/BIO-RETENTION ENLARGEMENT



TYPICAL FRONT YARD ENLARGEMENT



2-5 YEAR OLD PLAY STRUCTURE



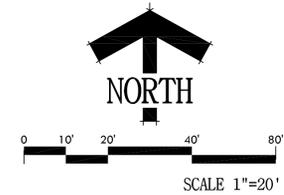
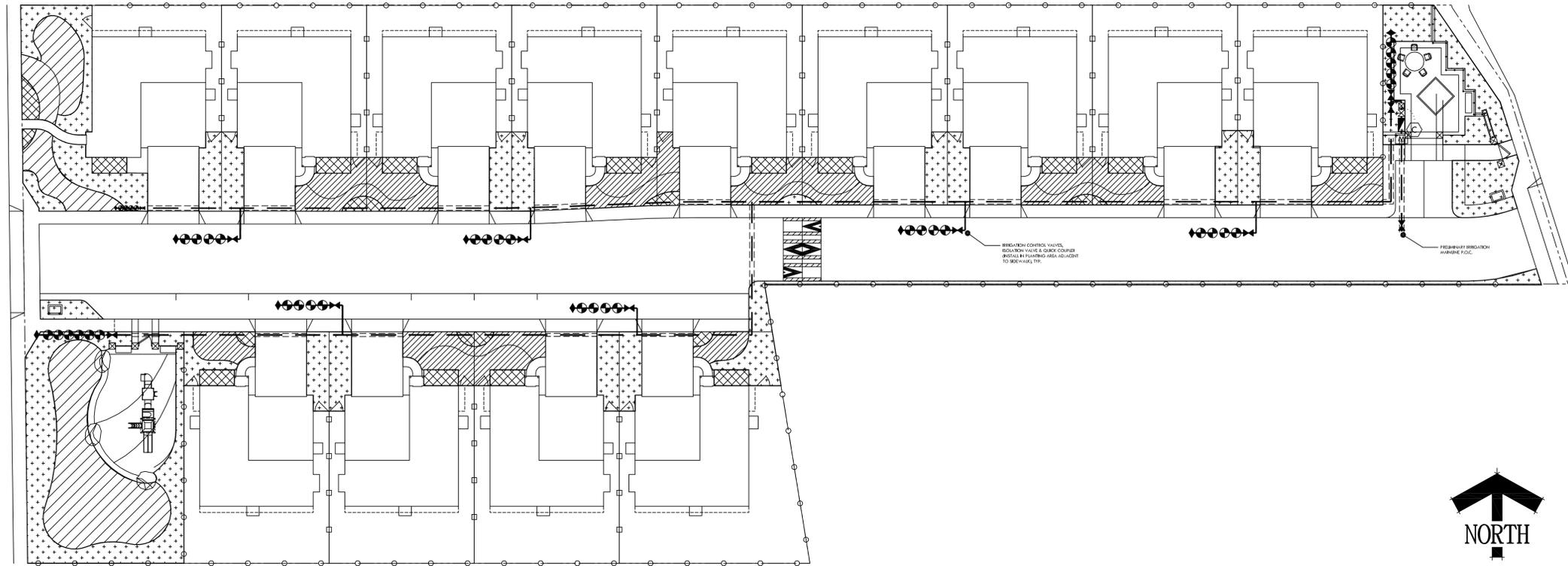
SITE FURNISHINGS AND MISCELLANEOUS BUILT ELEMENTS

ENLARGEMENTS PLANS



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 2531 La Mirada Drive, San Jose, CA 95125
 RTSlandscapearchitecture@gmail.com
 ph: 408.896.9895
 CA License Number LA 5910

SHEET
L.2
 OF 16 SHEETS
 April 14, 2014



LEGEND

-  **ZONE 'A' - WATER CONSERVING PLANTS WITH STREAM SPRINKLERS**
-  **ZONE 'B' - CALIFORNIA NATIVE FESCUE LAWN OR BIO-RETENTION LAWN WITH STREAM SPRINKLERS**
-  **ZONE 'C' - WATER CONSERVING PLANTS WITH DRIP EMITTERS**
-  **IRRIGATION MAINLINE ROUTING**
-  **SLEEVE LOCATIONS**
-  **IRRIGATION CONTROL VALVE (PRELIMINARY LOCATIONS)**
-  **IRRIGATION BACKFLOW (PRELIMINARY LOCATIONS)**
-  **QUICK COUPLER VALVE (PRELIMINARY LOCATIONS)**
-  **ISOLATION VALVE (PRELIMINARY LOCATIONS)**
-  **FLOW SENSOR (PRELIMINARY LOCATION)**
-  **MASTER VALVE (PRELIMINARY LOCATION)**
-  **IRRIGATION METER - FRONT YARD AND COMMON AREAS (PRELIMINARY LOCATION)**
-  **CONTROLLER (PRELIMINARY LOCATION)**

NOTES

1. ALL TREES TO BE IRRIGATED WITH TWO (2) BUBBLERS PER TREE. SELECTED SHRUBS MAY ALSO BE REQUIRED TO BE IRRIGATED WITH ONE (1) BUBBLER PER SHRUB, AS APPLICABLE.
2. EACH PRIVATE BACK YARD SHALL BE PROVIDED A HOSE BIB. LOCATION TO BE DETERMINED.
3. POTTED PLANT IDENTIFIED AT THE ENTRY TO EACH RESIDENCE (AS SHOWN ON THE LANDSCAPE SITE PLAN) SHALL BE IRRIGATED WITH DRIP IRRIGATION.
4. IRRIGATION SYSTEM PRODUCTS AND MANUFACTURERS TO BE DETERMINED.
5. BACKYARD TREE PLANTING TO BE IRRIGATED BY HOMEOWNER.

PRELIMINARY IRRIGATION PLAN

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VINES



JASMINUM SAMBAC 'GRAND DUKE' - ARABIAN JASMINE



HARDENBERGIA 'WANDERING LILAC VINE' - LILAC VINE



BOUGAINVILLEA 'BARBARA KARST' - BARBARA KARST BOUGAINVILLEA

POTTED PLANTS



BEGONIA - DRAGON WING BEGONIA



PIERIS JAPONICA 'PURITY' - PURITY PIERIS



SPIREA 'BRIDAL WREATH' - BRIDAL WREATH SPIREA

FRUIT TREES



CITRUS RETICULATA 'OWARI' - MANDARIN ORANGE



PRUNUS SALICINA 'BEAUTY' - BEAUTY JAPANESE PLUM

TURF SOD



NATIVE MOW FREE (FROM DELTA BLUE GRASS)



BIO-FILTRATION SOD (FROM DELTA BLUE GRASS)

TREES



PRUNUS SERRULATA 'AMANOGAWA' - JAPANESE FLOWERING CHERRY (ACCENT TREE)



QUERCUS AGRIFOLIA - COAST LIVE OAK (SPECIMEN TREE)



PRUNUS CERASIFERA 'THUNDERCLOUD' - THUNDERCLOUD FLOWERING PLUM (ACCENT TREE/STREET TREE)



MAGNOLIA GRANDIFLORA 'D.D. BLANCHARD' - D.D. BLANCHARD MAGNOLIA (STREET TREE)



PISTACIA CHINENSIS - CHINESE PISTACHE (STREET TREE)



ACER PALMATUM 'SANGO KAKU' - CORAL BARK JAPANESE MAPLE (ACCENT TREE)

GROUND COVER



SEDUM SPATHULIFOLIUM - BROADLEAF STONECROP



VERBENA HYBRID 'HOMESTEAD PURPLE'



HYPERICUM X MOSERIANUM TRICOLOR

RAISED PLANTER PLANTS



IRIS VARIETY



ERIGERON KARVINSKIANUS - MEXICAN DAISY



LILIUM VARIETY



ESCHSCHOLZIA CALIFORNICA - CALIFORNIA POPPY

SHRUBS



EUONYMUS JAPONICUS 'GREENSPIRE' - GREEN SPIRE EUONYMUS



ROSMARINUS OFFICINALIS 'BARBEQUE' - BARBEQUE ROSEMARY



RHODODENDRON HYBRIDS - AZALEAS



LIGURIA STENOCEPHALA - LEOPARD PLANT



STRELITZIA REGINAE - BIRD OF PARADISE



BUDDLEJA HYBRID 'LOCHINCH' - BUDDLEJA HYBRID

BACKYARD SCREEN TREES



RAPHIOLEPIS 'MONTIC' - INDIAN HAWTHORN



CITRUS 'PUMMELE'



DRIMYS WINTERI - WINTER'S BARK

GRASSES/BAMBOO/GRASS LIKE PLANTS



PENNISETUM ORIENTALE - ORIENTAL FOUNTAIN GRASS



PENNISETUM SETACEUM 'RUBRUM' - RED FOUNTAIN GRASS



LAVANDULA 'PROVENCE' - FRENCH LAVENDER



MISCANTHUS SINENSIS - MAIDEN GRASS



FARGESIA ROBUSTA 'CAMPBELL' - CLUMPING BAMBOO

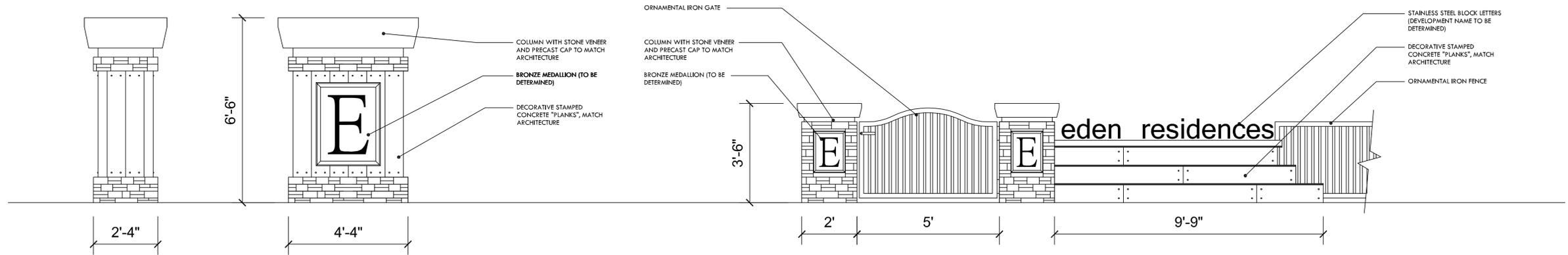


EQUISETUM HYPERMALE - HORSE TAIL

PLANT IMAGES

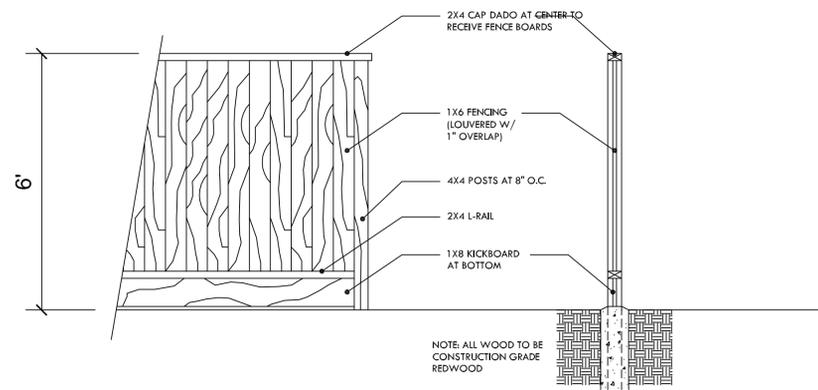
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SHEET
L.4
 OF 16 SHEETS
 April 14, 2014



CONCEPTUAL ENTRY MONUMENT ELEVATION

CONCEPTUAL ENTRY GATE/SIGNAGE ELEVATION



6 FT. TALL GOOD NEIGHBOR WOOD FENCE, TYP.



L.E.D. STREET LIGHTING (TBD)

FENCING & SIGNAGE IMAGES

<p>RTS Landscape Architecture 2531 La Mirada Drive, San Jose, CA 95125 RTSlandscapearchitecture@gmail.com ph: 408.896.9895 CA License Number LA 5910</p>		<p>SHEET L.5 OF 16 SHEETS April 14, 2014</p>
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Damon Golubics

From:
Sent: Friday, September 27, 2013 2:48 PM
To: Damon Golubics
Subject: ref: PL 2013-0351 8151

Dear Mr. Golubics,

I object to the request for zone change from RM to the planned development of 13 single homes on the property of 24655 Mohr Drive & two properties on Eden Ave.

I have owned my property @ 24887 Mohr Drive for 30 years (since December 1983). Presently, Mohr Drive is like a speedway from 7:00am to 9:00am and 3:30 pm to 6:00pm every day. It is nearly impossible to safely back out of our driveway because of the constant increasingly speeding vehicles. They roll through the stop signs & drive in excess of the posted speed limit of 25.

I object to the zone change to build 13 homes as there will be 26 + more vehicles driving on Mohr Drive. I object to that housing density in my neighborhood.

By the way, why doesn't Hayward extend Eden Ave through to Depot Road. That would elevate some of the heavy traffic on Mohr Drive?

Regards, Phyllis M Hellwig

DATE: September 16, 2014

TO: Mayor and City Council

FROM: Director of Library and Community Services

SUBJECT: Adoption of the Community Development Block Grant (CDBG) Compliance Policy Manual; and Review of a Proposed Substantial Amendment to the FY 2015 CDBG Annual Action Plan.

RECOMMENDATION

That the Council:

- Adopts the City of Hayward Community Development Block Grant (CDBG) Compliance Policy Manual (see Attachment I), which has been compiled and updated in response to guidance received from the U.S. Department of Housing and Urban Development (HUD)
- Reviews and comments on a draft Substantial Amendment to the FY 2015 Annual Action Plan, which will be presented to Council for final review and authorization on October 21, 2014 (see Attachments III and IV).

BACKGROUND

I. CDBG Program Overview

Since 1975, the City of Hayward has administered Community Development Block Grant (CDBG) funds received from the U.S. Department of Housing and Urban Development (HUD). The CDBG program was authorized by Congress under Title I of the Housing and Community Development Act of 1974.

Nationally, the CDBG program provides annual grants on a formula basis to 1209 general units of local government and States. As a general unit of local government with a population greater than 50,000, the City of Hayward receives a formula CDBG allocation from HUD each year.

To provide additional background information relevant to the discussion contained in this report, what follows is a brief overview of the essential aspects of the CDBG program.

a) *Entitlement Jurisdictions*

Because of Hayward's population size, it is considered a CDBG Entitlement jurisdiction. As such, formula grant funding is provided annually to the City upon HUD's approval of Council's CDBG allocations, which form the substantive portion of the City's Annual Action Plan. The formula by which CDBG Entitlement funding is determined considers the total Congressional budget appropriation to HUD, and is calculated according to each Entitlement jurisdiction's population size and poverty level derived from the most recent Census data.

b) *Applicable Laws and Regulations*

The CDBG program is regulation-heavy and administratively complex. As is the case with many federal programs, and especially with housing and community development programs, CDBG is subject to multiple layers of regulations and rules at the federal, state, and local levels. In addition to the federal legislation that created CDBG in 1974 (Title I of the Housing and Community Development Act) and subsequent amendments to it in later years, other federal statutes and requirements that apply to the CDBG program include several Office of Management and Budget (OMB) Circulars, multiple sections of the Code of Federal Regulations (CFR), the Davis-Bacon and Related Acts, and others.

c) *National Objectives*

Each activity funded by CDBG must meet one or more of three broad national objectives for the program. Activities that fail to substantially meet one of these three national objectives are considered ineligible for CDBG funding:

1. Benefit low- and moderate-income persons;
2. Prevent or eliminate slums or blight; or,
3. Address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which other funding is not available.

d) *Eligible Beneficiaries and Activities*

In addition to meeting national objectives, at least 70% of CDBG funds must be used for activities that benefit low- and moderate-income persons. CDBG funds may be used for activities which include, but are not limited to:

- Construction of public facilities and improvements, such as water and sewer facilities, street improvements, neighborhood centers, and the conversion of school buildings for eligible purposes
- Rehabilitation of residential and non-residential structures
- Provision of assistance to profit-motivated businesses to carry out economic development and job creation/retention activities
- Activities relating to energy conservation and renewable energy resources
- Acquisition of real property

- Public services, within certain limits (no greater than 15% of the total Entitlement Award).

Generally, the following types of activities are NOT eligible:

- Acquisition, construction, or reconstruction of buildings for the general conduct of government
- Political activities
- Certain income payments
- Construction of new housing (with some exceptions).

e) Administrative Requirements

To receive its annual CDBG entitlement grant, the City must develop and submit to HUD a Consolidated Plan. The Consolidated Plan is the City's comprehensive planning document and application for HUD funding under the CDBG, HOME Investment Partnerships, and Emergency Shelter Grants (ESG) programs. In the Consolidated Plan, the City must identify its goals for these programs as well as for housing programs. The Consolidated Plan must include several required certifications, including that not less than 70% of the CDBG funds received will be used for activities that benefit low- and moderate-income persons, and that the City will affirmatively further fair housing, among others.

f) Citizen Participation Plan

The City is required to develop and follow a detailed Citizen Participation Plan that encourages and provides for citizen participation in the process by which the City proposes to use CDBG funds. The Council-appointed Community Services Commission, which convenes public meetings monthly and allows for regular public input throughout the CDBG funding deliberations process, is the primary body that fulfills the Citizen Participation requirement. Per HUD eligibility requirements, the Citizen Participation Plan must:

- Provide citizens with reasonable and timely access to local meetings, information, and records related to the grantee's proposed and actual use of funds
- Provide for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the program, including the development of needs, the review of proposed activities, and review of program performance
- Provide for timely written answers to written complaints and grievances
- Identify how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate

II. HUD Monitoring Update

In addition to the regularly occurring monitoring and reporting processes that take place throughout each program year, HUD periodically conducts more comprehensive financial monitoring reviews of each of the 1,209 CDBG grantee jurisdictions within its purview nationwide. In May of 2014, HUD selected the City of Hayward CDBG program for a complete

and comprehensive financial monitoring and reconciliation spanning thirty-eight years of program activity from 1976 to 2014.

This was an extraordinarily exhaustive and challenging process that involved meticulously sifting through voluminous archival files in multiple formats, including hand-written and typewritten records and files from the years before the age of computerization. Staff worked closely with the HUD monitor to review the entire program history from 1976 to the present, and in many cases was able to proactively resolve issues or concerns as they were identified.

Throughout the monitoring process, staff and HUD maintained excellent and ongoing communication. HUD shared concerns with staff as they were identified and made preliminary recommendations, which are listed in Attachment III. In a proactive step by the City, several of the recommendations have already been implemented. Staff anticipates that the vast majority of the concerns will be fully resolved by the end of FY 2015, and that all concerns will be fully resolved by the end of FY 2016.

A final monitoring report is expected to be issued by HUD on or about September 30, 2014. Staff will continue to advise Council on the status of the HUD monitoring and progress toward resolution of concerns as the concerns become more focused and are brought down to the remaining items.

DISCUSSION

I. HUD Monitoring Update - Key Action Steps

As previously reported to Council in a memo from the Assistant City Manager on June 21, 2014, two key action steps recommended by HUD during the monitoring process have been proactively completed and resolved. A brief review of those actions follows:

a) Unspent CDBG Administrative Balance

During the monitoring process, HUD and staff identified unspent CDBG administrative balance in the amount of \$380,795. The unspent balance was the accumulated result of administrative overdraws from the CDBG Line of Credit that were made too early in the program process by a former employee who no longer works for the City. None of these prematurely drawn funds were spent because the projects did not ultimately get implemented. Because CDBG operates on a reimbursement-only basis, these funds should not have been drawn until after the projects had been implemented and/or eligible expenses verified.

To resolve this concern, and in consultation with HUD and the Finance Department, the full amount of unspent administrative balance, \$380,795 was immediately returned to the City's CDBG Line of Credit with HUD via wire transfer on July 27, 2014. These funds were returned from the City's CDBG fund; there was no impact to the General Fund. These funds remain available in the City's CDBG Line of Credit for allocation to future CDBG-eligible City projects.

b) *Return of Accrued Interest*

During the monitoring process, accrued interest income generated by CDBG funds in past years totaling \$44,818 was identified, primarily interest accrued in the Small Business Revolving Loan Fund. Per CDBG requirements, all such interest income must be returned to the U.S. Treasury each year. The City has returned all interest income each year since 2001; however it was found that this interest was not returned in the years 1995-2000. Also, some interest had accrued on the unspent CDBG administrative balance mentioned above.

- \$ 43,483 – Interest from the Small Business Revolving Loan Fund in the years 1995 to 2000
- \$ 1,335 – Interest on the \$380,795 unspent CDBG administrative balance mentioned above.

To resolve this concern, and in consultation with HUD and the Finance Department, previously unreturned interest income in the amount of \$44,818 was immediately returned to the U.S Treasury via wire transfer on July 27, 2014. These funds were returned from the City's CDBG fund balance; there was no impact to the General Fund.

A third critically important action step recommended by HUD is still pending, which is the authorization of a Substantial Amendment to utilize the remaining unspent CDBG fund balance from past program years. That recommended action is discussed in further detail later in this report, and will be brought to Council for review and authorization on October 21, 2014.

II. CDBG Compliance Policy Manual

In coordination with HUD, staff has compiled a comprehensive CDBG Compliance Policy Manual ("Manual") to help clarify and resolve previously unclear or outdated policies identified during the monitoring process with HUD. This policy manual serves to update and codify the City of Hayward's specific policies for operating the administratively complex and process-laden CDBG program. It codifies the best practices, policies, and procedures for the CDBG program as set forth by HUD, and outlines the City of Hayward's local policies for operating the CDBG program within the framework of HUD's requirements, including allowed local preferences. The full text of the manual is included with this report as Attachment I.

Some of the Manual's key policy elements are highlighted in the sections that follow. These policy elements are being highlighted for discussion because:

- They were identified by HUD as potential concerns during the monitoring process;
- They entail significant modifications to past policy or practice; or
- They are HUD-specified program requirements and/or best practices that had not been previously codified in any City of Hayward policy documents:

a) *Program Income, p.10*

Program income is the gross income received by the City and its subrecipients directly generated from the use of CDBG funds. Program income includes:

- Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- Proceeds from the sale or lease of equipment purchased with CDBG funds;
- Gross income from the use or rental of real or personal property acquired, constructed or improved with CDBG funds, less costs incidental to the generation of income;
- Payments of principal and interest on loans made using CDBG funds;
- Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;
- Interest earned on an Revolving Loan Fund pending its disposition;
- Interest earned on program income;
- Funds collected through special assessments on properties not owned and occupied by Low-Mod Income households in order to recover the CDBG portion of a public improvement.
- Subgrantee income from an ownership interest in a for-profit entity that was assisted with CDBG.

In the City of Hayward, current local policy is to use program income funds only for the same purpose as that from which it originated. For example, per program policy adopted by Council in 1990, program income from the Small Business Revolving Loan fund (SBRL) can only be used to make more SBRL loans. However, HUD regulations provide for greater flexibility than this, and allow room for local preferences in how this program income can be used.

Since the recession, loans have been less popular and fewer applicants qualify for them, resulting in far fewer loans made. This resulted in an accumulation of unspent program income in the SBRL program fund. Per the Code of Federal Regulations, program income funds must be expended before requesting additional drawdowns of CDBG entitlement funds.

To allow for more flexible use of the funds, which would also allow more timely and productive expenditure of program income funds, HUD recommends that the City's local policy preference be modified to allow the usage of program income for a wider range of projects than local policy currently provides. That modification is codified in this policy.

The new policy stipulates that SBRL Program Income could potentially be used for any CDBG-eligible projects within the purview of Economic Development, not necessarily just for loans. For example, Council could authorize the use of future program income toward infrastructure, services, job creation projects, or other business attraction incentives, subject to CDBG guidelines.

At this time there are no program income funds available in the SBRL fund. However, additional program income will be received in the future. Under this policy, Council could designate those funds for a wider range of CDBG-eligible Economic Development purposes than current policy allows.

b) Conflicts of Interest, p.24

HUD's Conflict of Interest policy restricts elected officials or appointed commissioners from participating in the selection, award, or administration of CDBG contracts if a real or perceived conflict of interest would be involved.

This restriction is applicable to members of the City Council, Community Services Commission, Economic Development Committee, Library Commission, and any other parties that may have contact with the CDBG program.

Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for an award:

- an employee, officer, or agent of the subrecipient;
- any member of an employee's, officer's, or agent's immediate family;
- an employee's, agent's, or officer's partner; or
- such persons during their tenure and for a period of one (1) year after leaving the grantee or subrecipient organization.

During the monitoring process, five members of the Community Services Commission (CSC) were identified as having potential Conflicts of Interest as defined by HUD.

In two cases, the conflicts were such that HUD advised their immediate recusal from service on the CSC. In one of these cases, it was discovered that the Commissioner is a recipient of a loan, made long ago but still active, from a CDBG-funded subrecipient program.

In the other case, it was discovered that the Commissioner had entered into service on a CDBG-funded subrecipient agency's board of directors. When these Commissioners were advised of these conflicts and HUD's recommendation, both Commissioners voluntarily resigned from service.

In the other three cases, Commissioners were found to have only minor conflicts of interest resulting from their status as volunteers with CDBG-funded subrecipient agencies. HUD noted that these conflicts of interest ordinarily would render the individuals ineligible for service on the CSC, but did not require that they be recused from service at this time.

This one-time exception was provided with the caveat that the City will exercise diligence to ensure that any future conflicts of interest will be avoided. This increased awareness of potential real or apparent perceived conflict of interest was integrated into Council's most recent Boards and Commissions process.

c) Program Oversight, p.30

Because of the complex eligibility requirements of CDBG and the types of activities funded by CDBG in most cities, it is not uncommon for CDBG-funded activities to occasionally go underspent or unspent. For example: a project is awarded an allocation of CDBG funding and then is completed, but due to low bids and other cost-saving factors, it finishes significantly under budget. Alternately, the project is completed but submits costs that are ineligible and cannot be reimbursed. It also occasionally happens that funded projects go completely unspent. For example: an activity is awarded CDBG funding but then is unable to meet post-award eligibility or reporting requirements and is never initiated. In another case, a CDBG-funded project fails to launch due to unforeseen external events, personnel changes, or other reasons. All of the above circumstances result in unspent CDBG fund balance for which there is no identified project or activity.

Timely expenditure of CDBG funds is of critical importance to HUD. CDBG jurisdictions are subject to an annual “timeliness spending test” each year. Any unspent CDBG funds in excess of 1.5 times the amount of the City’s annual CDBG Entitlement grant are at risk of forfeiture back to the U.S. Treasury.

To avoid timeliness issues, HUD recommends local jurisdictions adopt program oversight policies that provide enough flexibility to expediently apply any one-time unspent or underspent funds to eligible projects for the public benefit and expend those funds during the same CDBG Program Year.

Per this policy, when underspent or unspent CDBG funds become available, and depending on project size and scope, the City Manager may bring one-time eligible projects directly to the City Council for authorization as deemed necessary and appropriate for the timely expenditure of these funds, consistent with current City policies and Council Priorities. This provides the City greater flexibility to redirect these one-time funds in a timelier and more efficient manner than the traditional funding deliberation process, which typically takes twelve months or longer.

City infrastructure projects are the most likely uses for any one-time CDBG funds that may become available because they are not subject to a formula spending cap. Public Services activities (i.e., social services activities funded with CDBG) and administrative expenditures are subject to spending caps of 15% and 20% of the City’s annual CDBG Entitlement award, respectively. For this reason, City infrastructure projects are the most flexible option and would automatically qualify for these one-time funds as long as they meet a national objective and are a CDBG-eligible use.

In the event the amount of reauthorized funds exceeds \$250,000 (approximately 15% of the City’s total annual CDBG Entitlement grant), a public hearing would still be required.

d) Economic Development, p. 38

This policy modifies existing Small Business Revolving Loan program policies to allow for greater flexibility in how the City utilizes CDBG funds to support Economic Development activities.

In past years, City policy has been that program income generated by revolving loan funds such as the Small Business Revolving Loan (SBRL) program may only be used for additional loans of the same type. HUD does not require this restriction, and actually allows for some local preference in the use of program income funds.

Since the recession, loans have been less popular and fewer loans have been made. This resulted in a significant accumulation of unspent program income in the City's revolving loan funds, which was noted by HUD as a potential concern.

To help mitigate the accumulation of program income, HUD recommends that the City modify its policies to allow a wider range of CDBG-eligible economic development activities, not just small business loans.

For example, SBRL program income could be used for any of the following CDBG-eligible economic development activities:

- Acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements;
- Assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project;
- Economic development services, including, but not limited to, outreach efforts; screening of applicants; reviewing/underwriting applications; preparation of all necessary agreements; management of activities; and the screening, referral, and placement of applicants for employment;
- Grants and/or loans for the development of Microenterprises.

This policy modification would enable the City to utilize CDBG funds toward any of the above activities at the discretion of Council, provided that the activities meet HUD and CDBG requirements.

e) Annual Allocation of CDBG Funding, p. 31

HUD notes that the City of Hayward's process for annual allocation of CDBG funding is atypical for an Entitlement jurisdiction of its size. The City's current process is to combine City-operated programs and HUD-required housing elements in the same funding pool and competitive application process used by external applicants. This limits the City's ability to

flexibly and sustainably use CDBG funding to support essential City operated programs and HUD-required fair housing activities.

By comparison, most CDBG Entitlement jurisdictions in the State of California and Bay Area separate the City-operated programs and HUD-required fair housing activities and allocate CDBG funding to those activities first, according to their estimated costs. After those allocations are established, then any allocations of CDBG funding to external applicants are considered.

While the City of Hayward generally does not provide social services directly to the public, the City does operate numerous essential programs and projects that benefit low-income Hayward residents. In each of these activities, the City is by far the most qualified and cost-effective service provider. Many of these programs and projects are funded in whole or in part by CDBG.

Essential City-operated programs and activities funded by CDBG in recent years include the acquisition of the Matt Jimenez Community Center, the Housing Rehabilitation program, the Small Business/ Economic Development program, the Family Education/ Homework Center Program, the Mural Art Blight Abatement program, and the Weekes Park ADA Accessible Parking Project, among others.

This policy modification will allow greater flexibility and sustainability in how the City uses CDBG funds to support essential City projects and HUD-required fair housing activities. By allocating funds for these essential and required activities first, it allows for a more accurate analysis of funding availability to be provided to the external applicants for CDBG funding. It also provides for a more transparent process and sets clearer expectations for the external applicants and the public.

This concludes the overview of key policy elements. The complete draft CDBG Compliance Policy Manual is included with this report as Attachment I.

III. Substantial Amendment for Expenditure of Reconciled Funds from 1976 – 2014

The recent, multi-year HUD monitoring process was exhaustive and comprehensive, and examined in detail every CDBG-funded activity the City has undertaken over the past thirty-eight years. In a span of time that large, it was not unexpected to find activities that resulted in under spent or unspent funds.

HUD and staff worked closely together to identify every single CDBG-funded activity of the past thirty-eight years, and to calculate the exact amount of any unspent or underspent available funds. The resulting total amount of unspent CDBG fund balance from the years 1976 through 2014 is \$1,387,328. This equates to approximately 2% of all CDBG funds received by the City over the long period.

HUD recommends that the City utilize these newly reconciled CDBG funds toward a shovel-ready project that can be initiated and completed within eighteen months, thus expending these funds efficiently and effectively for the public benefit while avoiding timeliness spending issues.

To this end, HUD has provided prior review and approval for a project to implement significant street improvements in a low income eligible census tract located in the Jackson Triangle, a.k.a. the Hayward Promise Neighborhood. The Hayward Promise Neighborhood is a high-need area of Hayward that has been identified by the City and a coalition of partners including the U.S. Department of Education as a national focus neighborhood and case study for significant infrastructure and education reinvestment.

The proposed Hayward Promise Neighborhood Street Improvement Project meets all the criteria recommended by HUD for the use of the newly reconciled CDBG funds. The project would provide for significant street improvements to residential streets in the qualifying census tract as shown in Attachment III. All interior residential streets within the census tract are identified as potential subjects for street improvements. Prioritization of the individual streets and the improvements to be implemented would be based on need as determined by the City's Pavement Management Index and other objective analysis including eligibility per HUD requirements for the use of CDBG funding, and the amount of available funds for street improvements in consideration of variables such as construction bids and other contingencies.

Utilization of these one-time CDBG funds requires Council authorization of a Substantial Amendment to the CDBG Annual Action Plan. Authorization of a Substantial Amendment requires a thirty-day public notification period prior to adoption. The notification period begins with the Council notification and review of the draft resolution on September 16, 2014. The proposed project and Substantial Amendment will be presented to Council for final review and approval on October 21, 2014.

FISCAL IMPACT

Community Development Block Grant (CDBG) funds rest in a dedicated Special Revenue fund, and CDBG guidelines allow for costs associated with administering the CDBG program such as personnel and related costs to be charged to that fund within certain limits. As such, the CDBG program has a neutral impact to the General Fund.

On July 27, 2014, per the recommendation of HUD and the Finance Department, a total amount of \$380,794.95 in unspent CDBG fund balance was returned to the City's CDBG Line of Credit. The returned funds remain available to the City for allocation to future CDBG-eligible projects. This administrative transfer of funds had no impact to the General Fund.

Also on July 27, 2014, previously unreturned interest income from the years 1995-2000 in the amount of \$43,483.33 was returned to the U.S Treasury, per HUD requirements. These funds were returned from the City's CDBG fund balance; there was no impact to the General Fund.

The monitoring process identified unspent CDBG fund balance from the years 1976-2014 in the amount of \$1,387,328. HUD recommends that these newly reconciled CDBG funds be utilized

toward a shovel-ready project that can be initiated and completed within eighteen months. Use of these funds requires Council approval of a Substantial Amendment to the CDBG Annual Action Plan, which staff will prepare for Council review and authorization on October 21, 2014.

NEXT STEPS

Should Council approve the draft CDBG Compliance Policy Manual, staff will:

- Integrate the Council's comments and input into the finalized CDBG Compliance Policy Manual, which will serve as a guiding document for the operations and administration of the City's CDBG program.
- Prepare a Substantial Amendment to the FY 2015 CDBG Annual Action Plan for Council review and authorization on October 21, 2014.

Prepared by: Dawn Jaeger, Community Services Manager

Recommended by: Sean Reinhart, Director of Library and Community Services

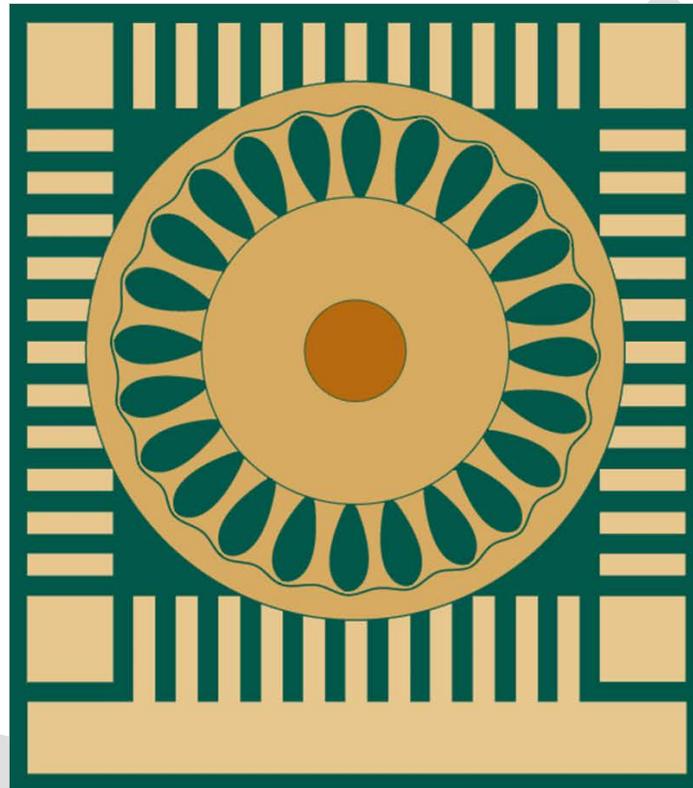
Approved by:



Fran David, City Manager

- Attachment I: Draft CDBG Compliance Policy Manual
- Attachment II: Resolution to Adopt the Community Development Block Grant (CDBG) Compliance Policy Manual
- Attachment III: HUD Monitoring Status Update - Summary List of Anticipated Concerns and Recommended Action Steps
- Attachment IV: Draft Resolution Authorizing a Substantial Amendment to the FY 2015 CDBG Annual Action Plan

CITY OF
HAYWARD
HEART OF THE BAY



COMMUNITY DEVELOPMENT BLOCK GRANT

COMPLIANCE POLICIES

(Updated September 16, 2014)

Department of Library & Community Services

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NATIONAL PROGRAM GUIDELINES

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Key Definitions

This section provides definitions of key CDBG topics and terms.

The Act: The [Housing and Community Development Act of 1974](#) makes funds available to qualified cities to develop of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities.

Action Plan: An annual plan that outlines proposed housing and community development objectives, activities, and budget in the City of Hayward. The plan includes information regarding federal, state, and local funding resources, a description of each activity to be implemented, and other actions that the City will take to address barriers to affordable housing, support anti-poverty strategies, and facilitate fair housing.

Adjusted Award: Amount of CDBG funds available to subrecipients after City Programs, administration, fair housing, and audit allocations are deducted

Administrative Cap: A maximum of 20 percent of the sum of the entitlement grant plus program income that is received during the program year may be spent on planning and administration costs.

Alameda County HOME Consortium: A consortium of all Cities in Alameda County, except for the Cities of Oakland and Berkeley, that directly receives HOME Investment Partnership Program (HOME) funds from HUD to expand the supply of decent, safe, sanitary, and affordable housing for very-low and low-income households.

Application Review Committee (ARC): A subcommittee of the Community Services Commission formed to interview applicants and make preliminary funding recommendations.

Capacity Building: Activities that build the capacity of the CDBG program, Sub-recipients, and program delivery to low income Hayward residents. Capacity building activities are subject to the 20 percent administrative cap.

CDBG: The Community Development Block Grant (CDBG) program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The CDBG program provides annual grants on a formula basis to 1209 general units of local government and States.

CDBG Recipient: Local governments are known as grantees or recipients, and also referred to as units of general local government (UGLGs). Under the Entitlement CDBG Program, the City of Hayward receives funding directly from HUD.

CFR: The *Code of Federal Regulations* (CFR) is the codification of the general and permanent rules and regulations (sometimes called administrative law) published in the Federal Register by the executive departments and agencies of the federal government of the United States. The CFR is divided into 50 titles that represent broad areas subject to federal regulation.

Citizen Participation Plan: A plan prepared by the City of Hayward in accordance with [24 CFR 570.486](#) which describes how the City will include and encourage citizen participation, especially by low and moderate income citizens.

City Program: An eligible activity or service provided by City of Hayward staff through a non-competitive application process.

Conflict of Interest: When an individual or organization is involved in multiple interests, one of which could corrupt or be perceived corrupt fair and objective allocation of funds or procurement of goods and services.

Consolidated Annual Performance and Evaluation Report (CAPER): An annual report prepared by the City of Hayward in accordance with [24 CFR Part 91](#), on the objectives, activities, and budget set forth in the Annual Action Plan and the progress on the three-to five-year Consolidated Plan.

Consolidated Plan: The Consolidated Plan is a three-to five-year strategic plan prepared by the City in accordance with [24 CFR Part 91](#), and describes needs, resources, priorities and proposed activities to be undertaken with respect to HUD's Office of Community Planning and Development CPD formula programs, including CDBG. An approved Consolidated Plan is one which has been approved by HUD.

Contractors: A contractor is an entity paid with CDBG funds in return for a specific service (e.g., construction). Contractors must be selected through a competitive procurement process.

Community Services Commission (CSC): An advisory body to City Council which encourages a planned and orderly approach to the development of community services in the City of Hayward. The CSC reviews, evaluates, and makes recommendations to the City Council on proposals submitted by agencies seeking City-administered funding, including but not limited to Community Development Block Grant (CDBG) and Social Services Program Funding.

Corrective Action Plan: A plan prepared by a subrecipient or city partner to correct issues of non-compliance within a specific schedule.

Cost Allocation: The identification, aggregation, and assignment of centralized costs.

Cost Allocation Plan: A description of a process whereby services provided on a centralized basis (e.g., motor pools, computer centers, purchasing and accounting services) can be identified and assigned to benefited departments/agencies (e.g., the department/agency administering the CDBG program) on a reasonable and consistent basis.

CPD: The Office of Community Planning and Development (CPD) is an office within HUD. CPD administers and provides federal oversight of the CDBG program, along with other federal programs that provide decent housing, a suitable living environment, and expand economic opportunities for low and moderate income persons.

Davis-Bacon Act: Establishes the requirement for paying the local prevailing wages and fringe benefits, as determined by the U.S. Department of Labor, laborers and mechanics. It applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000.

Draw Down: Refers to the process of requesting and receiving CDBG funds. Grantees draw down funds from a line of credit established by HUD, while subrecipients typically draw down funds from grantees.

Economic Development: Activities to improve the economic health and standard of living in Hayward. Depending on the nature of the activity, eligible economic development activities may be subject to the Public Services or Administrative caps.

Entitlement Community: A city in a metropolitan area with a population of 50,000 or more, a principal city of a metropolitan area, or an urban county with a population of at least 200,000 (excluding the population of metropolitan cities located therein) that receives an annual allocation of CDBG funds directly from HUD under the CDBG Entitlement Program. An Entitlement Community is sometimes referred to by HUD as a grantee or recipient.

Entitlement Grant: Federal funds received by an entitlement community in a program year.

Fiscal Sponsor: A non-profit organization that applies for CDBG funding on behalf of an organization or group, also known as a Fiscal Agent. The fiscal sponsor accepts responsibility to serve as a fiscal conduit for a City of Hayward-funded project, receiving and disbursing funds related to the grant, and administering the requirements throughout the City of Hayward grant process. The sponsored organization or group completes the project activity.

Funding Cycle: The time period associated with the City of Hayward’s allocation of projected CDBG funds for the upcoming program year(s). The funding cycle is most commonly an annual cycle that begins in August and ends in April.

Household: All the persons who occupy a housing unit. The occupants may be a single family, one person living alone, two or more families living together, or any groups of related or unrelated persons who share living arrangements.

Housing Rehabilitation: Activities that assist homeowners with the repair, rehabilitation, or reconstruction of owner-occupied units.

HUD: CDBG funds are provided to states through the U.S. Department of Housing and Urban Development (HUD). HUD established the regulations and requirements for the program and has oversight responsibilities for the use of CDBG funds.

HUD Guidelines: All [tools](#), [guidebooks](#), [trainings](#), [notices](#), and other guiding materials and correspondence provided by HUD or CPD regarding the laws and regulations of CDBG Program.

Integrated Disbursement and Information System (IDIS): A nationwide database that provides HUD with current information regarding program activities and funding data. The City of Hayward uses IDIS to fund and report on its CDBG Program.

Income: Adjusted gross income as defined by the IRS Form 1040.

Indirect Costs: Costs that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective.

Indirect Cost Rate: A device for determining in a reasonable manner the proportion of indirect costs each program should bear. It is the ratio (expressed as a percentage) of the indirect costs to a direct cost base.

Indirect Cost Rate Proposal: The documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate.

Job Creation/Retention: A mandatory public benefit standard that requires at least one full-time, permanent job per \$35,000 of CDBG funds used be created or retained.

Low – and Moderate Income: Low- and moderate income (also referred to in this manual as LMI) means family or household annual income less than the Section 8 Low Income Limit, generally 80 percent of the area median income, or a person within such household, as established by HUD.

Low-Income Household/Family: A household/family having an income equal to or less than the Section 8 Very Low Income limit (50% of the area median income) as established by HUD.

Microenterprise: A business that has five or fewer employees, one or more of whom own the enterprise.

Minimum Contracting Standards: A set of standards required before the execution of a Subrecipient Agreement. The standards indicate the minimum administrative and financial framework required to manage public funds.

Minority Business Enterprise (MBE): A business concern that is at least 51% owned by one or more individuals who are African American, Hispanic American, Native American, Asian-Pacific American or Asian-Indian American; and whose management and daily business operations are controlled by one or more of these owners.

Moderate-Income Household/Family: A household/family having an income equal to or less than the Section 8 Low Income limit (80% of area median income) established by HUD, but greater than the Section 8 Very Low Income limit (50% of area median income) established by HUD.

Monitoring Visits: Visits to subrecipient and city partner programs by Department of Library and Community Services staff to evaluate the progress/performance of the program and/or to provide technical assistance.

Neighborhood Services: Services that benefit an entire neighborhood and correspond with the neighborhood's or census tract's geographic boundaries.

OMB: The Office of Management and Budget (OMB) is the largest office within the Executive Office of the President of the United States (EOP). The main function of the OMB is to assist the President in preparing the budget. The OMB issues budget instructions or information, known as circulars, to Federal agencies.

PR Reports: Standard CDBG program reports generated in IDIS that provide financial and performance information. 66 different PR reports are available in a noncontiguous range from PR01 to PR95. PR05 and PR07 provide draw down details.

Presumed Benefit: Benefit a group of clientele that is presumed to be principally Low – and moderate income. Presumed benefit groups include abused children, battered spouses, severely disabled adults, homeless persons, illiterate adults, persons with AIDs, migrant farm workers, and elderly persons over 62-years-of-age.

Program Income: Program income is the gross income received by the City and its subrecipients directly generated from the use of CDBG funds.

Program Year: City of Hayward's Program Year begins July 1 and concludes June 30 of the following year.

Public Service Activity: Eligible public service activities including but not limited to those concerned with employment, crime prevention, child care, health, homelessness, drug abuse, education, fair housing counseling, energy conservation, and welfare. To be eligible for CDBG assistance, a public service must be either a new service or a quantifiable increase.

Public Services Cap: A maximum of 15 percent of the sum of the entitlement grant plus program income that is received during the program year may be spent on public service activities.

Revolving Fund (RLF): A separate fund established to carryout eligible housing and/or economic development activities which generate program income. The fund reuses program income in making the same types of activities.

Section 3: Section 3 of the Housing and Urban Development (HUD) Act of 1968 established the Section 3 Program, which requires recipients of HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

Small Business: The U.S. Small Business Administration is responsible for defining small businesses. Small Businesses are commonly identified by 500 employees or less for manufacturing and mining industries and \$7.5 million or less in average annual receipts for non-mining industries. However, there are a number of exceptions.

Statement/Scope of Work: An exhibit of the subrecipient agreement which must include the a project description, the national objective claimed, activity descriptions, intended beneficiaries (number and type), detailed budget and location(s) of program-related activity.

Subrecipient: An entity charged with implementation of one or more activities funded with Hayward CDBG dollars.

Subrecipient Agreement: A written agreement between the City of Hayward and the subrecipient that is required before CDBG funds are disbursed.

Substantial Amendment: An amendment to the Action Plan or the Consolidated Plan as required when 25 percent of the original award for an activity or plans to utilize funds under a different activity category are proposed.

Technical Assistance: Assistance to an entity by another entity more knowledgeable in the applicable subject field, resulting in increased capacity or knowledge of the assisted entity.

Timeliness: Carrying out CDBG-funded activities in a timely manner.

Timeliness Spending Test: A test conducted sixty days prior to the end of the current program year, to ensure that the amount of entitlement grant funds available to the City of Hayward under grant agreements but undisbursed by the U.S. Treasury is not more than 1.5 times the entitlement grant amount for the current program year.

Urgent Need: Activities designed to alleviate existing conditions of recent origin (18 months) that pose serious threats to the health and welfare of the community; this objective may only be used if the community cannot finance necessary activities with other sources

Women's Business Enterprise (WBE): A business concern that is at least 51% owned by one or more women and whose management and daily business operations are controlled by one or more of these owners.

Overview

These policies are a combination of federal rules and local policies used to oversee the Community Development Block Grant Program (CDBG) for the City of Hayward. They reflect best practices and policies as set forth by the U.S. Department of Housing and Urban Development (HUD). These policies will be updated on an ongoing basis and shall always reflect a coordination of HUD's National Objectives, Eligible Activities, and City Priorities. HUD regulations, guidebooks, and manuals will supersede any future conflicting policies. The citation reference from [Title 24 Code of Federal Regulations \(CFR\) Part 570 - Community Development Block Grants](#) can be found in parentheses next to each heading below.

While there are many aspects that must be considered in selecting activities to assist under the CDBG program, there are six key steps a grant recipient should take in the early stages of the process of determining if CDBG funds may be used to assist a proposed activity.

1. Determine if the activity falls within a category of explicitly authorized activities in the [CDBG statute](#). Generally, if an activity does not fall within a category of explicitly authorized activities in the statute, the activity is considered ineligible. HUD's [Guide to National Objectives and Eligible Activities](#) describes all categories of basic eligibility that were authorized at the time of publication.
2. Determine if a proposed activity that appears not to be included in the statute's list of eligible activities has actually been interpreted as eligible under the statute by the [CDBG Eligible Activity regulations](#).
3. Determine if the proposed activity can meet one of the national objectives of the program, allotted by the eligible activity.
4. Ensure that carrying out the activity with CDBG funds will not result in the City's certification that at least 70 percent of CDBG expenditures will be for activities that are considered to benefit L/M income persons over the one, two, or three consecutive program years specified by the grant recipient.
5. Review proposed costs of the activity to determine if they appear to be necessary and reasonable and will otherwise conform with the requirements of The Office of Management and Budget (OMB) Circulars [A-87](#), "Cost Principles for State, Local, and Indian Tribal Governments," [A-122](#), "Cost Principles for Non-Profit Organizations," [A-21](#), "Cost Principles for Educational Institutions," [24 CFR Part 84](#), "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations;" or [24 CFR Part 85](#),

‘Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments’, as applicable.

6. Complete the environmental review and clearance procedures for the project of which the activity is a part. Law prohibits HUD from releasing funds for a CDBG activity until the grant recipient certifies that it has met its responsibilities with respect to environmental protection.

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National Objectives

([24 CFR 570.208](#))

Statutory Citations Section [101\(c\)](#), [Section 104\(b\)\(3\)](#), [105\(c\)](#) of the Act

Challenge to presumption: The program rules state that an activity that meets the specified criteria for a national objective will be presumed to have met that objective. However, it should be noted that, although it is presumed that all CDBG-assisted activities may involve some benefit to LMI persons or households, the regulations provide that in any case where there is substantial evidence that an activity might not principally benefit LMI persons, even though the activity conforms to a literal reading of LMI Benefit criteria, the presumption that the activity meets the national objective may be rebutted by HUD.

In order to be considered eligible for funding, activities must meet one of three CDBG national objectives

1. Low & Moderate Income (LMI) Benefit

- Area Benefit: activities available for the benefit of all the residents in a particular area, where at least 51 percent of those residents are low-moderate income persons.
- Limited Clientele: activities benefiting low-moderate income residents, as defined by annually established HUD income limits, or a specific group with Presumed Benefit (e.g. abused children, elderly persons, battered spouses) as indicated in 24 CFR [570.208\(2\)\(a\)](#), at least 51 percent of whom are LMI persons.
- Housing: activities carried out for the purpose of providing or improving permanent residential structures that, upon completion, will be occupied by LMI households.
- Job Creation/Retention: activities designed to create or retain permanent jobs where at least 51 percent of the jobs involve the employment of LMI persons.

2. Slum & Blight Removal

- Area Basis: activities undertaken to eliminate specific conditions of blight, physical decay, or environmental contamination that are located in a designated area of distress, including acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, or rehabilitation. Rehabilitation must

eliminate conditions that are detrimental to public health/safety; acquisition and relocation must be precursors to other activities that eliminate blight.

- **Spot Basis:** activities undertaken to eliminate specific conditions of blight, physical decay, or environmental contamination at specific sites not located in designated blighted areas, including acquisition, clearance, relocation, historic preservation, remediation of environmentally contaminated properties, or rehabilitation. Rehabilitation must eliminate conditions that are detrimental to public health/safety; acquisition and relocation must be precursors to other activities that eliminate blight.

3. Urgent Need

- Activities designed to alleviate existing conditions of recent origin (18 months) that pose serious threats to the health and welfare of the community; this objective may only be used if the community cannot finance necessary activities with other sources.

Categorical Limits

([24 CFR 570.200](#) and [570.201](#))

At least 70 percent of CDBG funds utilized during three consecutive program years, as specified by the grantee, must be expended for LMI benefit; the costs of planning and program administration are excluded from this calculation. (24 CFR 570.200(a)(3))

The amount of CDBG funds obligated for public service activities in each program year may not exceed 15 percent of the total entitlement grant for that program year, plus 15 percent of the program income received during the preceding program year. (24 CFR 570.201(e)(1))

The amount of CDBG funds obligated for planning and administration activities in each program year may not exceed 20 percent of the total entitlement grant for that program year plus the program income received during that program year. (24 CFR 570.200(g))

Program Income

([24 CFR 570.500](#) and [570.504](#))

Unless the funds are in a Revolving Fund (RLF), program income funds must be used before requesting additional drawdowns of entitlement funds.

The City may reuse any revenue generated from projects undertaken with CDBG funding towards any other eligible activities within the entitlement community. The City shall prioritize one-time City infrastructure projects for these funds. Furthermore, any program income earned by a subrecipient or City Program may be retained by the subrecipient or City Program provided the income is treated as additional CDBG funds and thus subject to all applicable federal and local requirements.

Program Income Defined: Program income is the gross income received by the City and its subrecipients directly generated from the use of CDBG funds.

Program income includes:

- Proceeds from the sale or lease of property purchased or improved with CDBG funds;
- Proceeds from the sale or lease of equipment purchased with CDBG funds;
- Gross income from the use or rental of real or personal property acquired, constructed or improved by the City less costs incidental to the generation of income;
- Payments of principal and interest on loans made using CDBG funds;
- Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;
- Interest earned on an RLF pending its disposition;
- Interest earned on program income;
- Funds collected through special assessments on properties not owned and occupied by LMI households in order to recover the CDBG portion of a public improvement.
- Subgrantee income from an ownership interest in a for-profit entity that was assisted with CDBG.

Program income does not include:

- Any income received in a single year by the City's subrecipients, that does not exceed \$25,000; and
- Amounts generated by activities that are financed by a loan guaranteed under [section 108 of the Act](#); and
- proceeds from fund raising activities carried out by subrecipients receiving CDBG assistance; and

- funds collected through special assessments used to recover the non-CDBG portion of a public improvement; and
- proceeds from the disposition of real property acquired or improved with CDBG funds when the disposition occurs after the applicable time period specified in [24 CFR 570.503\(b\)\(7\)\(i\)](#) for subrecipient-controlled property, or [in 24 CFR 570.505](#) for recipient-controlled property.

Program income paid to the City is always program income and is not subject to the \$25,000 exclusion and must be distributed under the method of distribution. The program income should be distributed, as feasible, prior to additional draws from Treasury.

Program income retained by the City is treated as additional CDBG funds subject to all CDBG requirements.

Program income that is held in a revolving fund does not have to be used before grant funds are drawn down for a different type of CDBG project. However, program income in a revolving fund must be used before additional grant funds are drawn down for revolving fund activities.

Cost Principles

OMB [Circulars A-87](#) (state and local governments) and [A-122](#) (nonprofits) provide basic guidelines for determining whether a cost is allowable.

To be allowable under CDBG (and other federal programs), cost must meet the following general criteria:

- Be necessary and reasonable for proper and efficient performance and administration of the federal award;
- Be allocable to the federal award under the provisions of the OMB circulars (see below);
- Be authorized or not prohibited under state or local laws or regulations;
- Conform to any limitations or exclusions set forth in the OMB circulars, federal laws, terms and conditions of the federal award, or other governing regulations as to types or amounts of cost items;
- Be consistent with policies, regulations and procedures that apply uniformly to both federal awards and other activities of the governmental unit;
- Be accorded consistent treatment; a cost may not be assigned to the CDBG program as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the program as an indirect cost;
- Be determined in accordance with generally accepted accounting principles;
- Not be included as a cost or used to meet cost sharing or matching requirements of any other federal award in either the current or a prior period, except as specifically provided by federal law or regulation;
- Be the net of applicable credits (that is, any credits such as discounts or price adjustments must be deducted from the total costs charged); and
- Be adequately documented.

The OMB circulars also contain a “selected” list of costs that are allowable or unallowable. However, the fact that an item of cost is not included does not mean it’s unallowable. Rather the cost’s allowability is determined by reference to the basic guidelines.

Cost Allocation

Costs charged to CDBG must also be allocable to the CDBG program.

A cost is allocable if it is treated consistently with other costs incurred for the same purpose in like circumstances (i.e., states/ units of general local government must treat costs consistently for all grant programs); and:

- Is incurred specifically for the CDBG program;
- Benefits both the CDBG program and other work and can be distributed in reasonable proportion to the benefits received; or
- Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.

Any costs allocable to a particular federal award or cost objective (such as CDBG) may not be charged to other federal awards to overcome funding deficiencies, to avoid restrictions imposed by law or the terms of the federal award, or for other reasons.

Indirect Costs – State and Local Governments

[OMB Circular A-87](#) (State and Local Governments)

[OMB Circular A-87](#) requires that governmental entities support indirect costs with a cost allocation plan or an indirect cost proposal prepared in accordance with the circular. Indirect costs should be allocated in a manner which will result in the grant program bearing its fair share of total indirect costs.

A central service cost allocation plan is required if the local government has indirect costs resulting from centralized services that will be charged to federal awards.

A central service cost allocation plan, for the purposes of local governments, refers to a description of a process whereby services provided on a centralized basis (e.g., motor pools, computer centers, purchasing and accounting services) can be identified and assigned to benefited departments/agencies (e.g., the department/agency administering the CDBG program) on a reasonable and consistent basis.

Refer to [Attachment C of OMB Circular A-87](#) for additional information.

An indirect cost rate proposal is required if the local government has indirect costs resulting from centralized services that will be charged to federal awards and other indirect costs originating in various departments/agencies carrying out federal awards.

An indirect cost rate proposal is the documentation prepared by a governmental entity to substantiate its request for the establishment of an indirect cost rate. This rate, expressed in percentage terms, is applied to direct costs in order to determine the amount of reimbursement a state can obtain for indirect costs.

Indirect Costs - Nonprofits

[OMB Circular A-122](#) (Nonprofits)

Under [OMB Circular A-122](#), there are three methods nonprofits are required to utilize for allocating indirect costs. Each method is applicable to certain specific circumstances.

Simplified allocation method:

- Used when a nonprofit organization has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree.
- The indirect cost rate is calculated by separating the organization's total costs for the base period (e.g., fiscal year) as either direct or indirect, and dividing the total allowable indirect costs by an equitable distribution base (total direct costs, direct salaries or other equitable distribution base).

Multiple allocation base method:

- Used when major functions benefit in varying degrees from indirect costs.
- Costs are separated into distinct groupings, and each grouping is then allocated to benefiting functions by means of a base which best measures relative benefits. An indirect cost rate must be developed for each grouping.

Direct allocation method:

- This method may be used for those nonprofits that treat all costs as direct costs except general administration and general expenses.
- These joint costs are prorated individually as direct costs to cost objectives using a base most appropriate to the particular cost being prorated. The base must be established in accordance with reasonable criteria and must be supported by current data.
- Indirect cost rates determined through one of the three prescribed methods must be submitted to and approved by the federal agency that provides the largest dollar value of funds to the nonprofit.
- A written agreement is executed between the nonprofit and the approving federal agency signifying the approval of the proposed indirect cost rate.

Standards for Financial Management Systems

The City must have financial management systems in place to comply with the following standards:

- Provide effective control over and accountability for all funds, property and other assets;
- Identify the source and application of funds for federally-sponsored activities, including records and reports that:
 - Verify the “reasonableness, allowability and allocability” of costs; and
 - Verify that funds have not been used in violation of any of the restrictions or prohibitions that apply to the federal assistance (through the use of budget controls and adequate accounting records).
 - Permit the accurate, complete and timely disclosure of financial results in accordance with HUD reporting requirements or, for City, state reporting requirements.
 - Minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by the state or City.

Accounting Records

The City is required to have accounting records that sufficiently identify the source and application of CDBG funds provided to them.

To meet this requirement, the City's accounting system should include at least the following elements:

- Chart of accounts - This is a list of account names and the numbers assigned to each of the account names. The names provide a description of the type of transactions that will be recorded in each account (e.g., an account titled "cash" denotes that only transactions affecting cash should be recorded in that account). The account number is required by most accounting software programs and is assigned to an account name to group similar types of accounts. For example, all asset accounts will begin with a "#1" and all liability accounts will begin with a "#2". A typical chart of accounts will generally include the following categories: assets, liabilities, net assets/fund balance, revenues and expenses.
- Cash receipts journal - A cash receipts journal documents, in chronological order, when funds were received, in what amounts and from what sources.
- Cash disbursements journal - A cash disbursements journal documents, in chronological order, when an expense was incurred, for what purpose, how much was paid and to whom it was paid.
- Payroll journal - A payroll journal documents payroll and payroll related benefit expenses on salaries and benefits, including distinguishing between categories for regulatory purposes.
- General ledger - A general ledger summarizes, in chronological order, the activity and financial status of all the accounts of an organization. Information is transferred to the general ledger after it is entered into the appropriate journal. Entries transferred to the general ledger should be cross-referenced to the applicable journal to permit the tracing of any financial transaction.

All journal entries must be properly approved and supported by source documentation.

Documentation must show that costs charged against CDBG were:

- Incurred during the effective period of the agreement with HUD or, for Units of general local government, with the State;
 - Actually paid out (or properly accrued);
 - Expended on eligible items; and
 - Approved by the appropriate official(s) within the organization.

- Source documentation must explain the basis of the costs incurred and the actual dates of the expenditure. For example:
 - Source documentation for payroll would include employment letters, authorizations for rates of pay and benefits and time and attendance records.
 - Source documentation on supplies would include purchase orders or purchase requisition forms, invoices from vendors, canceled checks made to vendors, information on where the supplies are stored and the purpose for which they are being used.
- The City must ensure that their accounting records include reliable, up-to-date information on the sources and uses of CDBG funds, including:
 - Amount of federal funds received;
 - Current authorization of funds;
 - Obligations of funds;
 - Unobligated balances;
 - Assets and liabilities;
 - Program income; and
 - Actual expenditures broken down by the grant program and year for which the funds are derived and the activity on which the funds were used.

Environmental Review Procedures

([24 CFR 570.604](#))

The environmental review procedures must be completed for each CDBG subrecipient and City Program activity, as applicable.

Environmental Review Record

The City must prepare and maintain a written record of the environmental review undertaken for each project. This written record or file is called the Environmental Review Record (ERR), and it must be available for public review upon request.

The ERR shall contain all the environmental review documents, public notices (and proof of their publication), and written determinations or environmental findings required by [24 CFR Part 58](#) as evidence of review, decision making and actions pertaining to a particular project.

The document shall:

- Describe the project and each of the activities comprising the project, regardless of individual activity funding source; and
- Evaluate the effects of the project or the activities on the human environment;
- Document compliance with applicable statutes and authorities; and
- Record the written determinations and other review findings required by [24 CFR Part 58](#).

The ERR will vary in length and content depending upon the level of review required for the categories of activities.

Public comments, concerns and appropriate resolution by the recipient are extremely important and must be fully documented in the ERR.

The four environmental classifications are:

- Exempt Activities,
- Categorically Excluded Activities,
- Activities Requiring an Environment Assessment, or
- Activities Requiring an Environmental Impact Statement.

Regardless of the number of activities associated with a project, a single environmental review is required. Aggregating related activities ensures the recipient adequately addresses and analyzes the separate and combined impacts of a proposed project.

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Faith-Based Activities

[\(24 CFR 570.200\)](#)

Religious or faith-based organizations are eligible to participate in the CDBG program. Local government representatives and CDBG program administrators shall not discriminate against an organization on the basis of its religious affiliation.

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Report Submission Requirements

([24 CFR 570.302](#))

CDBG entitlement communities must submit the following documents:

1. Action Plan
2. Consolidated Annual Performance and Evaluation Report (CAPER)
3. Consolidated Plan three to five years, as chosen by the entitlement community

Creation of these documents must follow HUD requirements for content and citizen participation (see [24 CFR 570.486\(a\)](#) and the City of Hayward [Citizen Participation Plan](#)).

Location of Activities

[\(24 CFR 570.309\)](#)

CDBG funds may be awarded to an activity outside the jurisdiction of the entitlement community only if it can be determined that the activity directly benefits the entitlement community's residents.

Documentation of these benefits must be provided before CDBG funds are awarded for the activity.

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Conflict of Interest

([24 CFR 570.611](#))

There are two sets of conflict of interest provisions applicable to activities carried out with CDBG funding. The first set, applicable to the procurement of goods and services by subrecipients, is the procurement regulations located at [24 CFR 84.44](#) and [85.36](#). (See [24 CFR 570.611\(a\)\(1\)](#).) The second set of provisions is located at [24 CFR 570.611\(a\)\(2\)](#). These provisions cover situations not covered by parts [84](#) and [85](#).

With respect to procurement activities, the subrecipient must maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. At a minimum, these standards must:

- Require that no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict would be involved.

Such a conflict would arise when any of the following parties has a financial or other interest in the firm selected for an award:

- an employee, officer, or agent of the subrecipient;
 - any member of an employee's, officer's, or agent's immediate family;
 - an employee's, agent's, or officer's partner; or
 - an organization which employs or is about to employ any of those in the preceding section.
- Require that employees, agents, and officers of the subrecipient neither solicit nor accept gratuities, favors, or anything of value from contractors, or parties to subagreements. However, subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. Provide for disciplinary actions to be applied for any violations of such standards by employees, agents, or officers of the subrecipient.

With respect to all other CDBG-assisted activities, the general standard is that no employee, agent, or officer of the subrecipient, who exercises decision-making responsibility with respect to CDBG funds and activities, is allowed to obtain a financial interest in or benefit from CDBG activities, or have a financial interest in any contract, subcontract, or agreement regarding those activities or in the proceeds of the activities. Specific provisions include that:

- This requirement applies to any person who is an employee, agent, consultant, officer, or elected or appointed official of the grantee, a designated public agency, or a subrecipient, and to their immediate family members, and business partner(s).
- The requirement applies for such persons during their tenure and for a period of 1 year after leaving the grantee or subrecipient organization.
- Upon written request, exceptions may be granted by HUD on a case-by-case basis, after consideration of the cumulative effect of various factors listed at [24 CFR 570.611\(d\)](#), and only with: (a) full disclosure of the potential conflict, and (b) a legal opinion of the grantee's attorney that there would be no violation of state or local laws in granting the exception. (Exceptions cannot be made retroactively.)

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Operating Problems and Non-Compliance

All Department of Library and Community Services personnel are responsible for communicating any CDBG problems and/or noncompliance issues with laws and regulations upward and in writing. Divisional staff will report to the Community Services Manager, and the Community Services Manager will communicate to the Director of Library and Community Services for guidance. The Director of Library and Community Services will communicate to the City Manager and/or the City Attorney to provide direction to staff as to next steps and corrections.

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Notification of Illegal Acts or Irregularities

All City of Hayward personnel and subrecipients are responsible for immediately notifying the Community Services Manager and the Director of Library and Community Services of any illegal acts or irregularities associated with the CDBG program by recipient or subrecipient staff. It shall be required that staff conduct an investigation of written allegations and if found to be true or unverifiable, HUD shall be notified and staff shall request guidance as to follow-up action. In the event that staff is conducting illegal acts or irregularities, HUD should be immediately notified at (415) 489-6597.

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LOCAL PROGRAM GUIDELINES

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Overview

These local guidelines expand on and clarify how the national guidelines are applied to the City of Hayward's CDBG Program, which has operated since 1975 as an entitlement grantee. The [Housing and Community Development Act of 1974](#) makes funds available to qualified cities to develop of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities. The exact amount of CDBG funding allocated to the City is based on a formula that incorporates several urban characteristics including population, age and condition of the City's housing stock, demographics, and incidence of poverty.

Local program guidelines are intended to guide City staff in program implementation and provide a framework for operating the program in compliance with federal statutes, best practices, and local policies. These guidelines are elastic to allow for expansion and contraction of policies as activities, community needs, interpretations, guidance, and statutes change and/or as clarification is required.

Program Oversight

The City Council, composed of six Council Members and one Mayor, serves as the governing body to authorize and approve CDBG program activities in the City of Hayward. Executive authority for the execution of CDBG contractual agreements and expenditure of CDBG funds rests with the City Manager, as authorized by the City Council.

CDBG program administration is provided by the Department of Library and Community Services. The Director of Library and Community Services and/or their designee shall make presentations and provide recommendations to the City Council regarding the CDBG program.

The Community Services Commission serves as the citizen advisory body to the CDBG program, in fulfillment of [Citizen Participation Plan](#).

The Director of Library and Community Services may propose one-time CDBG-eligible City infrastructure projects to the City Manager for previously allocated but unspent CDBG funding. The City Manager may bring such one-time projects directly to the City Council for authorization as deemed necessary and appropriate for the timely expenditure of CDBG funds.

All public hearings are reasonably noticed as required by [24 CFR 570.486\(a\)](#), with a minimum 14-day Public Hearing Notice.

Annual Allocation of CDBG Funding

The City of Hayward's Program Year begins July 1 and concludes June 30 of the following year. Each program year, administration, audit and fair housing costs will be subtracted from the annual entitlement award amount to determine the adjusted award. The adjusted award will first be available to City of Hayward Departments/Programs/ component units that wish to undertake projects. After the City allocation process is complete, any remaining funds may be allocated to eligible community partner and public services applicants at the discretion of the Council. The City of Hayward may from time to time exercise the option to use a two or three year Funding Cycle in conjunction with a multi-year budget if the time frame fits within the Consolidated Plan.

The Community Services Commission will begin its funding process in the fall. This includes a call for applications, review of applications, interviews, and then funding deliberations.

City Program Allocation Process

City of Hayward Departments will have the opportunity to submit CDBG funding proposals for activities. Priority will be given to Housing Rehabilitation, Neighborhood Services, and Economic Development. All City proposals will include information relating to goals, outputs, budget/financing, detailed activity descriptions, capacity and performance. Community Services staff, per HUD rules and regulations, will perform an administrative review of each proposal to ensure that:

Proposed activities are included within the listing of eligible activities ([24.CFR.570.201](#))
Proposed activities do not fall within a category of explicitly ineligible activities ([24.CFR.570.207](#))

Proposed activities will meet one of the national objectives of the program ([24.CFR.570.200](#)), allotted by the eligible activity.

Proposed activities will address priority needs as identified in the Consolidated Plan

Upon completion of the administrative review, the proposals will be presented to the Community Services Commission for review, with funding amounts previously determined. These proposals will be submitted to the City Council in conjunction with the Commission's recommended Adjusted Award Allocations.

Subrecipient Allocation Process

The subrecipient application process will begin after staff's administrative review of proposals and determination of funding amounts for city programs and end with recommended allocations being announced. Applications will be made available for approximately one month and be received online. All applications must be received by the announced deadline; no exceptions will be made. Department of Library and Community Services staff will perform an administrative review of each proposal, per HUD rules and regulations, to ensure the standards listed in [24.CFR.570](#), will be met if proposed activities are funded, and that entities are eligible recipients.

Upon completion of the administrative review, the applications will be presented to the Community Services Commission which will review and make funding recommendations for each subrecipient proposal. Department of Library and Community Services staff will make separate recommendations to City Council in conjunction with the Commission's recommendations.

The Community Services Manager will facilitate meetings with this Commission to offer guidance on evaluation and analysis of currently funded CDBG activities. Commission members will have the opportunity to sign up to serve on categorical Application Review Committees (ARCs) to conduct applicant interviews. Commissioners will be presented with an overview of the federal CDBG Program, a summary of each proposal, and an explanation of the proposal process. Following the interviews, recommendations by each ARC will be made to the Commission. The entire Commission will deliberate the recommendations of each ARC, comments will be collected by Department of Library and Community Services staff who will compile all results. A subsequent meeting of the Commission, as calendared, will be held to finalize funding recommendations based on Commission deliberations, community needs and funding availability.

In completing their funding recommendation, the Commission will utilize an estimated CDBG entitlement award dollar amount, which will be calculated based on past awards and available information on HUD's future funding strategies. The Commission's recommendations will be presented to City Council in a work session and a public hearing. All public hearings are reasonably noticed as required by [24 CFR 570.486\(a\)](#), with a minimum 14-day Public Hearing Notice. City Council-approved recommended CDBG allocations will be announced by May.

Estimated vs. Actual Entitlement Award

If there is any differential between the estimated award presented during the application process and the actual award as announced by HUD, the Director of Library and Community Services shall make a determination for administratively resolving any differential.

Agreement/Memorandum of Understanding

Subrecipients of CDBG funds must enter into a subrecipient agreement with the City of Hayward. Written agreements are required before any CDBG funds will be disbursed. This subrecipient agreement serves as a formal contract addressing the various policies outlined in this document, in addition to contract amount/term, reimbursement requests, quarterly reporting, monitoring, financial management guidelines, uniform administrative requirements, suspension and termination, reversion of assets, conflict of interest, and additional federal standards, including lead-based paint regulations and the Davis Bacon Act. Furthermore, each City Program receiving CDBG funds must sign a Memorandum of Understanding (MOU) indicating an understanding of the items above.

Statement/Scope of Work

All subrecipients and City Programs shall submit a concise Statement/Scope of Work that illustrates an implementation plan for their CDBG activity. This Statement, which will be attached to the subrecipient agreement/MOU includes: national objective claimed, activity descriptions, intended beneficiaries (number and type), detailed budget and location(s) of program-related activity.

Report Submissions

All subrecipients and City Programs are required to submit Quarterly Activity Reports by the 15th of the month following the end of each quarter. If said reports are not received by the requested date, future payments will be withheld, and entities will not be recommended for future funding. In the instance that reports are not being submitted correctly, or in a timely manner, a subrecipient or City Program may be called to address the Community Services Commission on reasoning behind the tardiness.

Examination of Records/Monitoring

The subrecipient and City Program shall maintain records (including books, documentation and other evidence) pertaining to the costs of carrying out their activity to the extent of detail that will adequately reflect net costs, direct and indirect labor, materials, equipment, supplies/services, and other expenses. Authorized representatives of the City or HUD shall have access to subrecipient and City Program records at reasonable times of the business day for inspection, audit or reproduction. Subrecipients and City Programs must make these records available throughout the program year and four years after it expires. Furthermore, Department of Library and Community Services staff may schedule monitoring visits with the subrecipient to evaluate the progress/performance of the program and provide technical assistance. Staff may also conduct monitoring reviews of a subrecipient at any time, without prior notification. Subrecipients that receive CDBG funds for multiple consecutive program years are subject to on-site monitoring reviews every two years, at minimum.

Procurement

The HUD Procurement Policy found in 24 CFR [Part 84](#) and [85](#) applies to all CDBG activities, including both City Programs and subrecipients that involve the purchase of equipment, materials, supplies and/or services. A copy of this policy will be distributed to all subrecipients.

City Programs and subrecipients are encouraged to make positive efforts to use small businesses, minority-owned firms (MBE), and women's business enterprises (WBE) in procuring services of all types. It is not required that program participants use MBE/WBE financial institutions, but it is encouraged.

City Programs and subrecipients are encouraged to make positive efforts to use Section 3 businesses in procuring services of all types. Good faith efforts must be documented for all construction projects. [Section 3 of the Housing and Urban Development Act of 1968](#) is designed to increase local job opportunities for low income individuals.

Local Categorical Limits

The following limits expand upon federal categorical limits associated with the CDBG program:

- At least 70 percent of CDBG funds utilized during a single program year must be expended for LMI benefit; this excludes planning/CDBG administration activities.
- The amount of CDBG funds obligated for public service activities shall be based on [HUD guidelines](#).
- Program Income used toward other eligible activities outside of the funding process may not exceed 15 percent in the year program income is committed
- The amount of CDBG funds obligated for planning/CDBG administration activities in each program year shall be based on [HUD guidelines](#).
- Any single award will not be less than \$10,000.

Program Administration

HUD requires entitlement communities to provide for efficient and adequate administration of CDBG programming. Administration costs include: salary/fringe, necessary training/travel, supplies and telephone/postage, in addition to fair housing services and audit costs. The necessary amount for fulfilling this requirement will be identified by the Director of Library and Community Services and the Director of Finance.

This amount will be deducted from the estimated amount available for the program year and not included in the estimates of the adjusted award. For additional internal control of program administration, a detailed description of these costs will be presented in the City's Budget.

Other administrative costs are associated with Technology, Professional Services, Cost Allocation and other necessary services. This may include costs of external service providers contracted by the City to perform necessary functions such as online application and data processing services. Examples of external service providers include EveryOne Home Homeless Management Information System (HMIS) and CityData Services.

Services will be procured in accordance with procurement policies in [24 CFR Part 85](#). City preference is for all subrecipients, including fair housing activities and those seeking funding for technical assistance to businesses (not in connection with other special economic development activities) and capacity building, to meet a national objective and not be funded from the administrative cap.

Economic Development

Special Economic Development Projects ([24 CFR 570.203](#))

CDBG funds may be used for special economic development activities in addition to other activities. Selection of economic development activities will follow all guidelines outlined in [24 CFR 570.209](#).

Special economic development activities include:

Acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements
Assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project

Economic development services, including, but not limited to, outreach efforts; screening of applicants; reviewing/underwriting applications; preparation of all necessary agreements; management of activities; and the screening, referral, and placement of applicants for employment.

Public Benefit Standards for Special Economic Development

The City of Hayward will apply aggregate standards of public benefit to individual special economic development projects. Projects must create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or provide access to goods and services to at least one low-moderate income person per \$350 of CDBG funds used.

MicroEnterprise

The City of Hayward will allow Economic Development funds to be used as grants and/or loans for the development of Microenterprises.

Program Income

Any program income (as defined under [24 CFR 570.500\(a\)](#)) gained from any activity of the subrecipient may be retained by the subrecipient or City Program provided the income is treated as additional CDBG funds subject to all applicable requirements governing the use of CDBG funds. Anticipated program income must be documented and described in the subrecipient or City Program proposal/application. Furthermore, any and all program income received must be reported to the Department of Library and Community Services, unless otherwise specified in the subrecipient's contract.

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Drawdown Procedures

Overview

The City of Hayward is on a reimbursement basis with HUD for the CDBG program. Similarly, subrecipients and contractors are on a reimbursement basis with the City for expenses incurred in CDBG program activities. As the City or its subrecipients incur expenses, claims for payment are submitted, reviewed and approved for payment by appropriate CDBG program staff who then sends claims for payment to the Finance Department. After checks have been issued for these claims, drawdowns of these expenses are completed in Integrated Disbursement & Information System (IDIS).

1.0 Drawdown Responsibilities

- 1.1. Analyst I will prepare drawdown spreadsheet titled FY XX-XX Drawdown #Y (e.g., FY 12-13 Drawdown #1). Any other description can be added after the draw number; e.g. timeliness draw. By using this nomenclature for the title, the reviewer will know exactly what this particular drawdown spreadsheet contains.
- 1.2. Analyst I will email the drawdown packet, with will include the drawdown spreadsheet and all backup documentation for the period that verifies expenditures in this draw. That email will go to the Community Services Manager and the Director of Library and Community Services for approval prior to any draw being initiated. After the first draw is made, the PR07 report will also be included in this email so that the reviewer/approver can see exactly how much has been drawn from IDIS for all periods within the Fiscal Year.
- 1.3. The Community Services Manager and the Director of Library and Community Services will review and approve the drawdown spreadsheet within two (2) business days of receipt unless there is a problem with the spreadsheet. If there are any questions, problems or issues, the Analyst I will respond and revise the drawdown spreadsheet as appropriate prior to approval.
- 1.4. Analyst I will input approved drawdown data into IDIS.
- 1.5. Analyst II will review that data against the drawdown spreadsheet and approve the drawdown in IDIS.

2.0 Preparation of drawdown spreadsheet

- 2.1. The Monday following the last Friday of the month, Analyst I will begin to cross reference source documentation with the general ledger. If any discrepancies exist, Analyst I will research that discrepancy and a note will be made in the drawdown packet explaining the discrepancy and any required follow up. Source documentation will consist of subrecipient reimbursement spreadsheets maintained in citydataservices.net, and other sources as needed.
- 2.2. Analyst I will prepare the drawdown spreadsheet. Analyst I will complete the drawdown detail and program income detail worksheets before confirming accuracy or making any changes to the open activity and drawdown spreadsheet worksheets.

3.0 Drawdowns

3.1. Requirements:

- 3.1.1. All activity setup screens must be complete.
- 3.1.2. Activities must have funds committed from one or more funding sources.
- 3.1.3. Program income must be used before requesting additional entitlement funds.
- 3.1.4. Payments reimbursed with HUD grant funds **MUST** have an IDIS number.

3.2. Drawdown Approval

- 3.2.1. Two people required for completion of the drawdown in IDIS. Analyst I creates drawdown. Analyst II approves drawdown.

3.3. Drawdown Revisions

- 3.3.1. Repayments include excessive draws and ineligible uses.
- 3.3.2. When amounts are small (less than \$100,000) and can be used to satisfy immediate cash needs, then net available cash out of next draw requests, just like program income.

- 3.3.3. Use revise drawdown to move all or a portion of a drawdown to activity that will use the money. Example: We did not really spend \$500 on Activity X. We actually spent \$400 on Activity X and this \$100 was used for Activity Y.

3.4. *IDIS passwords*

Each person entitled to utilize IDIS shall have a unique password. These passwords shall be kept confidential and known only to the person using them for IDIS access. At no time shall anyone else have access to that password.

3.5. *Keeping track of IDIS draws*

- 3.5.1. All drawdowns, with complete spreadsheet detail and backup documentation, will be maintained electronically on the City of Hayward network server under “T Drive: CDBG Plans & Reports/Drawdowns/ FY ___-___/ # ___”.

- 3.5.2. A drawdown file will be maintained with hard copy Administrative files for the Fiscal Year. As draws are done for actual cleared expenses, and may include multiple years, the file does not represent the expenses for the Fiscal Year in which is it maintained. Documentation for each draw will include the signed drawdown spreadsheet, the PR07 Report for the vouchers associated with the draw showing “completed” voucher status, and other relevant documentation as determined by Analyst I. PR05 will be included at the end after the last draw for all relevant program years.

3.6. *Monthly drawdowns.*

City staff shall complete the approval for the monthly drawdowns by the second Friday of the following month.

Audit Requirements

The Office of Management and Budget ([OMB Circular A-133 – Audits of States, Local Governments, and Non-Profit Organizations](#)) and [OMB Circular A-133 Compliance Supplement](#) and the [State Single Audit Guidelines](#) require major state programs (awards over \$100,000) and federal programs (awards over \$500,000) to complete a single audit. The necessary amount for fulfilling these requirements will be identified by the Department of Finance and the City's independent auditors. This amount will be deducted from the estimated amount available for the program year and not included in the estimates of the adjusted award. Cost allocations will be associated with the most current Cost Allocation Schedule adopted by the Hayward City Council. The City will not fund any outside agency audits with CDBG money unless the outside agency receives not less than \$500,000 in federal funds.

The City of Hayward must ensure that all subrecipients and City Programs maintain accurate records of their CDBG funds expended. Thus, all subrecipients and City Programs are required to complete an independent fiscal audit prior to submitting an application, unless an alternate arrangement has been made to use a fiscal sponsor. Fiscal sponsors, agencies willing to provide an umbrella for non-audited agencies, shall have a current independent fiscal audit, and may receive up to 10% of the applicant's award. . Audits shall be conducted by qualified personnel in a manner which meets the audit standards of the Comptroller General of the U.S. Government Accountability Office (GAO). Applications without audits will be deemed ineligible without review. All audits will be reviewed by administrative staff for compliance.

Unspent Grant Funds

Any uncommitted CDBG funds remaining at the end of the program year will be reprogrammed for use in the subsequent program year, unless the reprogramming of said funds would inhibit the City's ability to meet the timeliness spending test. In order to demonstrate funds are committed, all subrecipients and City Programs must present documentation to demonstrate that funds are indeed contracted for a specific project. If funds are not under contract, but designated for a specific project, a carryover request, including both substantial documentation of plans for expending funds and a timeline for the expenditure, should be submitted to the Director of Library and Community Services for approval three months prior to the end of the Fiscal Year. If the carryover request is approved, monthly progress reports on spend down must be filed with the Department of Library and Community Services, which will present them as information items to the Community Services Commission. Any unspent grant funds not under contract after June 30, will be recouped by the City and reprogrammed for use in the subsequent program year.

If the carry forward of unspent grant funds would inhibit the City's ability to meet the timeliness spending test, allocations of CDBG funding in total amounts less than \$250,000 in a single Program Year may be directed toward eligible City Projects/Programs within the same category of the unspent allocation. The Director of Library and Community Services may propose one-time CDBG-eligible City infrastructure projects to the City Manager for such previously allocated but unspent CDBG funding. Depending on project size and scope, the City Manager may bring such one-time projects directly to the City Council for authorization as deemed necessary and appropriate for the timely expenditure of CDBG funds. This eliminates the need for a public hearing for previously allocated funds less than \$250,000 and creates a more efficient process for meeting future timeliness. Reallocations of unspent CDBG funding in total amounts greater than \$250,000 in a single Program Year shall be presented to the City Council in a Public Hearing, and if approved by Council, submitted to HUD as a Substantial Amendment. All public hearings are reasonably noticed as required by [24 CFR 570.486\(a\)](#), with a minimum 14-day Public Hearing Notice.

Financial Management Systems

Subrecipients and City Programs must employ financial management systems that are capable of generating regular financial status reports indicating the dollar amount allocated (including budget revisions), amount obligated, and amount expended for each activity. The system must permit the comparison of actual expenditures and revenues against budgeted amounts. The City must be able to isolate/trace every CDBG dollar received. This system must be compliant with the Federal Guidelines, including but not limited to OMB Circulars [A-21](#), [A-87](#), [A-122](#), and [A-133](#); [24 CFR Parts 570](#), [84](#), and [85](#).

Payment Requests

Subrecipients will submit written requests for payment with attached supporting documentation to the Department of Library and Community Services. Payment requests shall be allowed on a reimbursement basis (i.e. only after expenditures have been incurred and cleared) and shall be reviewed to ensure the expenditures are in conformity with the use of funds as described in the Statement of Work.

If source documentation is deemed inadequate or incorrect by Staff, all payments will be withheld until all required documents have been submitted. Payment requests received and approved will be processed and a check issued in accordance with the Department of Finance payment processes.

All payment requests must contain an original signature. Requests can be submitted online, but must be scanned and uploaded with the original signature. City Programs shall request payment via the departmental approval process. The request subject to approval by the Director of Library and Community Services to ensure that reimbursements reflect the original activity for which funds were awarded. Failure to provide accurate documentation violates the subrecipient agreement.

Consolidated Plan Submission

The City of Hayward has elected to submit a Consolidated Plan to HUD every five years, and is required to submit the Consolidated Plan to HUD a minimum of 45 days before the start of a new plan period. The [Citizen Participation Plan](#) provides for and encourages citizens to participate in the development of the Consolidated Plan, which will begin approximately one year before the required submittal date.

City Definitions

- Subrecipient - an entity charged with implementation of one or more activities funded with Hayward CDBG dollars
- City program - an eligible activity or service provided by City of Hayward staff through a non-competitive application process.
- Adjusted Award - the amount of CDBG funds available to subrecipients after City Programs, administration, fair housing, and audit allocations are deducted

Analysis of Impediments to Fair Housing Choice

Funding for production/updating of the [City of Hayward Analysis of Impediments to Fair Housing Choice](#) will be approved every five years, and performed in conjunction with the Alameda County HOME Consortium and Consolidated Planning process. (See [Federal Fair Housing Requirements](#)).

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Change of Use

If a subrecipient or City Program wishes to utilize a portion of funds for an activity not identified on their original application, they are required to submit a detailed letter to the Director of Library and Community Services explaining the reasoning for and amount of the proposed change. Changes will be reviewed for eligibility and require administrative approval by the Director of Library and Community Services. Changes involving an amount greater than 25 percent of the original award for that activity or plans to utilize funds under a different activity category shall require a Substantial Amendment.

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Displacement/Relocation

Due to the potential liability for long-term assistance and burdens placed on affected tenants, the City of Hayward will avoid funding CDBG projects that involve permanent residential displacement or business relocation unless displacement/relocation prove to be the only means available to correct a public health/safety hazard or other critical condition. In such cases, the City of Hayward will follow Real Estate Acquisition and Relocation Policy and Guidance set forth in [HUD handbook 1378](#).

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Disputes

Any dispute concerning a question of fact arising under a subrecipient program or City Program shall be resolved by Community Services Division staff, who shall relay his/her decision in writing to the subrecipient or City Program, in addition to furnishing a copy to the City Manager. The decision of Community Services Division staff shall be final and conclusive unless the subrecipient or City Program furnishes a written appeal to the City Manager within ten days of the date of receipt of such copy. The decision of the City Manager in such appeals shall be final and binding.

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Suspension/Probation and Termination

The City may place a subrecipient/city partner on probation, suspend, or terminate the Agreement/MOU, as accorded by [24 CFR 85.43](#) and [24 CFR 85.44](#). When minor compliance issues exist (such as failure to maintain Minimum Contracting Standards), an informal approach via phone calls and e-mail may occur first and funds may be held until compliance is met. If compliance of the minor issue is not met within 10 business days or if another compliance issue exists, a certified letter requiring a Corrective Action Plan will be sent to the Executive Director, Chief Operating Officer, Board of Director's and/or Department Director's attention. In the case of suspension or probation, depending upon the severity of the compliance problem, city staff shall provide not less than two (2) and not more than 10 business days to submit a Corrective Action Plan. If the agency does not implement the Corrective Action Plan according to the approved schedule, that will be grounds for termination.

If a subrecipient/city partner fails to fulfill its obligations, the City Manager may terminate the contract, in whole or part, by providing written notice of the termination and specifying the effective date, at least five (5) days before the effective date of such termination. If funds were used in a non-eligible manner, the staff liaison will include written documentation of the determination and the sum due for repayment or deduction from undisbursed funds as appropriate.

The subrecipient/city partner and the City Manager may terminate the contract for any reason upon giving at least 30 days written notice prior to the effective date. In the case of partial termination, the portion to be terminated must be specified in the notice. If the staff liaison determines that the partial termination will prevent the program from accomplishing the purpose of the award, the City Manager may completely terminate the contract.

CDBG Collection Procedures

Upon any condition of loan default: 1) nonpayment; 2) lack of insurance; 3) violation of rent limitations; 4) failure to report on use or continued eligibility; 5) change in title or use without approval; 6) default on senior loans; 7) any other reason as defined by the loan agreement, the Lender or hired loan servicer will send out a letter to Borrower notifying them of the default situation. A monthly report of defaulted loans will be submitted to the City Manager.

Active collection efforts will begin on any loan that is in default for 31 or more days. Attempts will be made to assist borrower in bringing and keeping the loan current. Letters to Borrower will be sent the Borrower every 30 days, documenting attempts. These attempts will be conveyed in an increasingly urgent manner until default has reached 90 days in default, at which time the Lender may consider aggressive collection proceedings to recover funds: 1) foreclosure; 2) claim collateral; 3) civil or criminal lawsuits; 4) sell debt to a collections agency; and 5) any other available judicial procedure to recover funds owed. Lender's staff will consider the following factors before initiating any of these measures:

1. Can the loan be cured and can the rates and terms be adjusted to correct default, avoid aggressive collection proceedings and best protect funds? Can a work out plan be initiated?
2. Can the Borrower refinance with a private lender and pay off the Lender?
3. Can the Borrower sell the property and pay off the Lender?
4. Does the balance warrant aggressive collection proceedings? Will it be more costly to pursue recovery than to bad-debt the loan?
5. Will collection of collateral cause individuals to be displaced or become homeless?
6. Will the sales price of the property "as is" cover the principal and interest owed, costs of necessary advances (i.e. fire insurance premiums, monthly yard maintenance, monthly space rents if a mobile home, property taxes, inspections to prevent vandalism, etc.), and costs of aggressive collection proceedings (i.e. foreclosure, disposition, legal fees, marketing, procurement of services, consultants, etc.)?

Lender's staff or hired loan servicer will consider all the above factors, and prepare a recommendation to pursue aggressive collection proceedings or bad debt the loan. Recommendations for bad debts under \$10,000 may be administratively approved by the Director of Library and Community Services. Recommendations of \$10,000 or more require

approval by the Director of Library and Community Services, Director of Finance, City Attorney, City Manager, and City Council. City Council makes the final decision on all aggressive collection proceedings and bad debt write-offs on CDBG loans over \$10,000, and is advised of any bad debt write-off on CDBG loans under \$10,000.

If aggressive collection proceedings are approved, the Borrower be notified, by certified mail, a thirty-day notification of foreclosure or other proceeding. This notification must include the exact amount of funds to be remitted to the Lender to prevent foreclosure or other action. Lawsuits and other judicial proceedings will be handled by the City's Attorney's office or outside counsel, at the discretion of the City Attorney.

At the end of thirty days, the Lender or hired loan servicer will contact a reputable foreclosure service or local title company, procured in compliance with [24 CFR Part 85](#), to prepare and record documents and make all necessary notifications to the owner and other lenders. The service will advise the Lender of all required documentation to initiate foreclosure or other actions (Note and Deed of Trust usually) and funds required from the owner to cancel foreclosure or other proceedings. The service will keep the Lender informed of the progress of the foreclosure or other proceedings. When the process is completed, the Lender will recover funds by selling collateral at auction.

Following administrative or City Council approval, as appropriate, bad debts will be removed from the inventory or control records and any necessary reconveyance documentation will be prepared and filed. All documentation will be maintained by CDBG staff and copies will be provided to the Finance Department - Revenue Division for availability during audits.

City of Hayward Operated Programs

All CDBG Funded Programs may maintain program specific guidelines, so long as they are in agreement with these Community Development Block Grant Compliance Policies and all other applicable local, state, and federal laws and statutes. Program specific guidelines for City of Hayward operated programs, either by the Department of Library and Community Services or other Departments, are included by reference. Current program specific guidelines include:

1. [Housing Rehabilitation Program Guidelines and Thresholds](#)
2. [Small Business Revolving Loan Fund Program Guidelines](#)

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APPENDIX

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Appendix A

Suggested Areas for Study and Evaluation of Internal Accounting Controls

The second standard of field work states: "There is to be a proper study and evaluation of existing internal control as a basis for reliance there on and for the determination of the resultant extent of the tests to which auditing procedures are to be restricted."

The extent of internal control that an organization should establish is a judgment that must be made by management of the entity. That judgment is affected by circumstances, such as the size of the organization and the number of personnel available, and by conclusion about the relationship of costs and benefits.

This appendix presents an inventory of areas that could be the subject of internal accounting control procedures. Though the inventory is extensive, it is not represented as being all inclusive. Moreover, it is unlikely that procedures in all these areas would be desirable in a single situation.

Budgets and planning

Segregation of Duties

1. Segregation of responsibilities for budget preparation, adoption, execution, and reporting.

Procedural Controls

Preparation

2. Awareness of budgets and budgetary procedures required by law.
3. Preparation of budgets for all significant activities regardless of whether mandated by law.
4. Preparation of budget calendar to make orderly submission and approval of the budget.
5. Development and preparation of initial budget submission by major departments and activity centers.
6. Review of departmental budgets by the finance or budget officer and corrections by departments of oversights or integration of the executive's goals and objectives.
7. Compatibility of the type of budgeting performed (traditional, program, performance) with the accounting system.
8. Preparation of the budget in sufficient detail (responsibility level) to provide a meaningful tool with which to monitor subsequent performance.
9. Budget of interfund and interdepartmental transfers, if appropriate.

Adoption

10. Budget hearings to obtain citizen input.
11. Submission of the budget to the legislative body for approval; clear communication to operating departments or agencies of the affects of legislatively mandated budget modifications, either increases or decreases.
12. Coincident with adoption of the budget, action of the legislative body as appropriate, to —
 - Adopt legislation to implement the raising of budgeted revenues
 - Initiate expenditure appropriations.
13. Recording in the accounting records of estimated revenues and appropriations for later comparison to actual amounts realized or incurred.
14. Recording in the accounting system of budgets that have been approved by grantors in connection with grant activity.
15. Publication of budgets if required by law.

Execution

16. Formal adoption and communication of procedures establishing authority and responsibility for transfers between budget categories.
17. Use of allotment system to control the flow of expenditures or commitments.
18. Approval as to availability of funds by accounting department before issuance of purchase order of expenditure commitment.
19. Processing and approval of requests for supplemental appropriations or budget changes the same way as the original budget is processed and approved (or as required by law)
20. Controls to ensure knowledge of outstanding commitments if liabilities and expenditures are recorded on an encumbrance or obligation basis.

Reporting

21. Comparisons of actual expenditures to budget with reasonable (monthly) frequency and on a timely basis.
22. Discussion of reports with departmental personnel and receiving explanations for significant variations from budget.
23. Timely notification of both the executive and legislative branches of expenditures in excess of appropriations or budget.
24. Publication of actual results of operations against the budget.

Cash

Segregation of Duties

1. Segregation of responsibilities for collection and deposit preparation functions from those for recording cash receipts and general ledger entries.
2. Segregation of responsibilities for cash receipts functions from those for cash disbursements.
3. Segregation of responsibilities for disbursement preparation and disbursement approval functions from those for recording or entering cash disbursements information on the general ledger.
4. Segregation of responsibilities for the disbursement approval function from those for the disbursement, voucher preparation, and purchasing functions.
5. Segregation of responsibilities for entries in the cash receipt and disbursement records from those for general ledger entries.
6. Segregation of responsibilities for preparing and approval bank account reconciliations from those for other cash receipt or disbursement functions.
7. If EDP is used, maintenance of the principle of segregation of duties within processing activities.

Procedural Controls

Collections

8. Timely deposit (preferably daily) of all receipts.
9. Controls over the collection, timely deposit, and recording of collections in the accounting records in each collection location.
10. Timely notice of cash receipts from separate collection locations to general accounting department.
11. Comparison of daily reported receipts on a test basis to bank statements to verify timeliness of deposits.
12. Placing a restrictive endorsement on incoming checks as soon as received.
13. Delivery of "not sufficient funds" checks to someone independent of processing and recording of cash receipts.
14. Procedures for follow-up of "not sufficient funds" checks.
15. Controls to ensure that checks are returned promptly for deposit if checks received are forwarded to be used as posting media to taxpayers' or customers' accounts.
16. Receipts controlled by cash register, pre-numbering receipts, or other equivalent means if payments are made in person (over the counter).
17. Accounting for such receipts and balancing them to collections daily.
18. Facilities for protection un-deposited cash receipts.

Disbursements

19. Control over warrant or check-signing machines as to signature plates and usage.
20. Procedures providing for immediate notification to banks when warrant of check signers leave the unit or are otherwise no longer authorized to sign.

21. Furnishing invoices and supported documents to the signer prior to signing the warrant or check.
22. Setting reasonable limits on amounts that can be paid by facsimile signatures.
23. Requiring two signatures on warrants or checks over a slated amount.
24. Maintaining signature plates in the custody of the person whose facsimile signature is on the plate when not in use.
25. Using plates only under the signer's control and recording machine reading by the signer or appropriate designee to ascertain that all checks or warrants signed are properly accounted for by comparison to document control totals.
26. Direct delivery to the mail room of signed warrants or checks, making them inaccessible to persons who requested, prepared, or recorded them.
27. Prohibiting the drawing of warrants or checks to cash or bearer.

Custody

28. Maintenance of controls over the supply of unused and voided warrants or checks.
29. Proper authorization of bank accounts.
30. Periodically reviewing and formally reauthorizing depositories.
31. Controls and physical safeguards surrounding working (petty cash) funds.
32. Maintenance of adequate fidelity insurance.
33. Maintenance of separate bank accounts for each fund, or if not, adequate fund control over pooled cash.

Detail Accounting

34. Procedures ensuring that collections and disbursements are recorded accurately and promptly.
35. Procedures for authorizing and recording interbank and interfund transfers providing for proper accounting for those transactions.
36. General ledger control over all bank accounts.
37. Delivery of bank statements and paid warrants of checks in unopened envelopes directly to the employee preparing the reconciliation.
38. Procedures for steps essential to an effective reconciliation, particularly-
 - Comparison of warrants or checks in appropriate detail with disbursement records.
 - Examination of signature and endorsements, at least on a test basis.
 - Accounting for numerical sequence of warrants or checks used.
 - Comparison of deposit amounts and dates with cash receipt entries.
 - Footing of cash books.
39. Review and approval of all reconciliations and investigation of unusual reconciling items by and official who is not responsible for receipts and disbursements, including recording evidence of the review and approval by signing the reconciliation.
40. Periodic investigation of checks outstanding for a considerable time.

Investments

Segregation of Duties

1. Segregation of responsibilities for initiating, evaluating, and approving transactions from those for detail accounting, general ledger, and other related functions.
2. Segregation of responsibilities for initiating transactions from those for final approvals that commit government resources.
3. Segregation of responsibilities for monitoring investment market values and performance from those for investment acquisition,
4. Segregation of responsibilities for maintaining detail accounting records from those for general ledger entries.
5. Assignment of custodial responsibilities for securities or other documents evidencing ownership of other rights to an official who has no accounting duties.
6. If EDP is used, maintaining the principle of segregation of duties within processing activities.

Procedural Controls

Approval

7. If applicable, procedures adequate to ensure that only investments that are permitted by law are acquired.

8. Formal establishment and periodic review of investment policy guidelines.
9. Integration of the investment program with cash management program and expenditure requirements.
10. Established authority and responsibility for investment opportunity evaluation and purchase.
11. Periodic evaluation of the performance of the investment portfolio by persons independent of investment portfolio management activities.
12. Formal establishment of procedures governing the level and nature of approvals required to purchase or sell and investment.
13. Use of competitive bidding for certificate of deposit purchases.

Custody

14. Adequate physical safeguards and custodial procedures over —
 - Negotiable and non-negotiable securities owned.
 - Legal documents or agreements evidencing ownership or other rights.
15. Dual signatures or authorizations to obtain release of securities from safekeeping or to obtain access to the government unit's safe deposit box.
16. Authorization by the legislative body of persons with access to securities.
17. Registering all securities in the name of the government unit.
18. Periodic inspection of confirmation of securities from safekeeping agents.
19. Bonding of individuals with access to securities.

Detail Accounting

20. Maintenance of detail accounting records for investments.
21. Procedures to ensure that transactions arising from investments are properly processed, including income and amortization entries.
22. Controls to ensure that investment earnings are credited to the fund from which resources were provided for the investment.
23. A periodic comparison between income received and the amount specified by the terms of the security of publicly available investment information.
24. Controls to ensure that transactions are recorded on a timely basis.

General Ledger

25. Procedures for reconciling the detail accounting records with the general ledger control.
26. Periodic review of the nature of investments included in general ledger balances.

Revenues and Receivables

Segregation of Duties

1. Segregation of the responsibilities for billing property taxes and services from collection and accounting.
2. Segregation of the responsibilities for maintaining detail accounts receivable records from collections and general ledger posting.
3. Segregation of collection, control, and deposit of funds activities from maintain accounting records.
4. Maintenance of the property tax assessment rolls by individuals not engaged in any accounting or collection function.
5. Segregation of the responsibilities for entries in the cash receipts records from those for general ledger entries.
6. If EDP is used, maintenance of the principle of segregation of duties within processing activities.

Procedures Control

Data and File Maintenance

Property taxes

7. Controls to ensure that additions, deletions, transfers, and abatements are properly and timely reflected in property tax records.
8. Procedures to make property assessments in accordance with the law or legislative intent with prompt adjustment of records.

Sales, income, and other taxes

9. Cross-referencing returns filed against a data base of previous taxpayers.
10. Organization and integration of the records in such a fashion that probable taxpayers are identified as a result of reporting of other governmental activities such as licensing.

License fees and permits

11. If annual payments are involved, procedures to ensure that previous years' records are properly updated for new registrants and withdrawals.
12. Use of the updated records as the basis for billing persons subjected to payment.

Fines, forfeitures, and court fees

13. Maintaining and using court and other records of payments due as a basis for collections.
14. Procedures surrounding the control, issuance, and disposition of traffic violations to ensure that amounts due are assessed and collected.

Enterprise and other service revenues

15. Maintaining controls that provide assurances that customer data base and, where appropriate, usage records are accurately maintained to ensure that amounts due are billed.

Billing/Remittance Verification

Property taxes

16. Controls within the billing system to ensure that eligible property owners are billed.
17. Controls to ensure that tax assessments are being properly applied against tax rates and special charges are being considered in the preparation of billing amounts.
18. Controls to ensure that tax exemptions are within the law and properly approved.

Sales, income and other taxes

19. Reviewing returns for mathematical accuracy.
20. Correlation of current year's taxpayer's returns with prior year's returns and accounting for and reviewing differences.
21. Separate review and approval of claims for refunds.
22. Audits of returns filed to provide reasonable assurance that taxable income is properly reported.

License fees and permits

23. Comparison of current year receipts to those for prior years and review of explanations of variations by senior officials.

Fines, forfeitures, and court fees

24. Procedures providing for correlation of amounts collected with records of court proceedings.
25. Sequentially numbering and satisfactorily accounting for tickets for fines, arrests, and so forth.

Enterprise and other service revenues

26. If billing is based on usage, performing service readings in a timely fashion.
27. Periodic rotation of the assignments of meter readers.
28. Billing procedures providing for identification and investigation of unusual patterns of use.

.General

29. Billing of taxes and fees in a timely fashion.
30. Procedures designed for other revenue areas ensuring timely payment of amounts due.
31. Periodic review and approval by the legislative body of the rates of taxes, fines, fees, and services.

32. Periodic review and approval by the legislative body of programs of tax exemption or relief.
33. Authorization by the legislative body of utility rate schedules.
34. Procedures providing for timely notification of the accounting department at the time, tax, service, or other billings or claims are prepared and rendered.
35. Numerical or batch processing controls over tax, fee, service, or other billings.
36. Controls over the billing of miscellaneous revenues (for example, side walk replacement and tree removal assessments).
37. Procedures to prevent the interception or alteration by unauthorized persons of billing or statements after preparation but before they are mailed.
38. Prompt investigation of disputes with billing amounts that are reported by taxpayers or service recipients by an individual independent of receivables record keeping.
39. Controls providing reasonable assurances that restricted revenues are expended only for restricted purposes.

Collection

40. Placing a restrictive endorsement on incoming checks as soon as received.
41. Procedures providing reasonable assurances that interest and penalties are properly charged on delinquent taxes, fees, or charges for service.
42. Procedures providing for the timely filing of liens on property for non-payment in all cases permitted by law.
43. Controls surrounding the collection, timely deposit, and recording of collections in the accounting records at each collection location.
44. Timely notice of cash receipts from separate collection centers to general accounting department.
45. If payments are made in person, use of receipts for payment and accounting for and balancing of such receipts to collections.
46. Segregation and timely remittance of amounts collected on behalf of other governments.
47. Monitoring taxes and fees collected by another unit of government to assure timely receipt and subjecting amounts received to reviews for reasonableness.
48. Reviewing delinquent accounts and considering them for charge off on a timely basis.
49. Formally approved write offs or other reductions of receivables by senior officials not involved in the collection function.
50. Procedures providing for execution of all legal remedies to collect charge off of uncollectible accounts, including tax sale of property, liens, and so forth.

Account Receivables Record Keeping

51. Controls in the system that provide assurances that individual receivable records are posted only from authorized source documents.
52. Reconciling the aggregate collections on accounts receivable against postings to individual receivable accounts.
53. Where appropriate (for example, in proprietary funds), mailing statements of account balance on a timely basis.

General Ledger

54. Regular preparation of trial balances of individual receivable accounts.
55. Reconciliation of trial balances with general ledger control accounts and investigation of reconciling items by other than accounts receivable clerks.
56. Periodic review of aged accounts receivable balances by supervisory personnel.
57. Procedures providing for timely and direct notification of the accounting department of billings and collection activity.

Grant and Entitlement Monitoring

Grants.

58. Properly fixed responsibility for monitoring grant activities.
59. A central grant monitoring activity.
60. Procedures to monitor compliance with —
 - Financial reporting requirements.
 - Use of funds and other conditions in accordance with grant terms.
 - Timely billing of accounts due under grants.
61. Accounting for grant activity so that it can be separated from the accounting for locally funded activities.

62. System for obtaining grantor approval before incurring expenditures in excess of budgeting amounts or for unbudgeted expenditures.
63. Processing grant revenues and disbursements under the same degree of controls applicable to the organization's other transactions (budget, procurement, etc).
64. Including requirements in sub-grantee agreement conditions as well as grantee's standards.
65. Reasonable procedures and controls to provide assurances of compliance with recipient eligibility requirements established by grants.
66. Establishing an indirect plan by all grantor agencies.
67. Approval of the plan by all grantor agencies.
68. Establishing audit cognizance for rates generated by the plan.

Entitlements

69. Comparison of the amount of funds received with the amount anticipated by a reasonable official and investigation of unusual variances.
70. Procedures to ensure that funds received are spent in accordance with legal requirements and spending restrictions.
71. Review of any statistical or data reports that form the basis for revenue distribution by a responsible official before submission.

Capital assets

Segregation of Duties

1. Segregation of responsibilities for initiating, evaluating, and approving capital expenditures, leases, and maintenance or repair projects from those for project accounting, property records, and general ledger functions.
2. Segregation of responsibilities for initiating capital asset transactions from those for final approvals that commit government resources.
3. Segregation of responsibilities for the project accounting and property records functions from the general ledger function.
4. Segregation of responsibilities for the project accounting and property records function from the custodial function.
5. Assigning the responsibilities for the periodic physical inventories of capital assets to responsible officials who have no custodial or record keeping responsibilities.
6. If EDP is used, maintaining the principle of segregation of duties with processing activities.

Procedural Controls

Authorization

7. Identification of those individuals authorized to initiate capital asset transactions and clear definition of the limits of their authority.
8. Establish guidelines with respect to key considerations such as prices to be paid, acceptable vendors and terms, asset quality standards, and the provisions of grants or bonds that may finance the expenditures.
9. Preparation of a separate capital projects budget.

Executive or Legislative Approval

10. Requiring written executive or legislative approval for all significant capital asset projects or acquisitions.
11. Procedures for authorizing, approving, and documenting sales or other disposition of capital assets.
12. Procedures for approving decisions regarding financing alternatives and accounting principles, practices, and methods.
13. Procedures providing for obtaining grantor (federal/state) approval, if required, for the use of grant funds for capital asset acquisitions.
14. Subjecting grant-funded acquisitions to the same controls as internally funded acquisitions.
15. Requiring supplemental authorizations, including, if appropriate, those of grantor agency, for expenditures in excess of originally approved amounts.

Project Accounting

16. Engaging a qualified employee or independent firm to inspect and monitor technically complex projects.
17. Establishing and maintaining project cost records for capital expenditure and repair projects.
18. Reporting procedures for in-progress and completed projects.
19. Procedures to identify completed projects so that timely transfers to the appropriate accounts can be made.
20. Review of the accounting distribution to ensure proper allocation of charges to fixed asset and expenditure projects.

21. If construction work is performed by contractors, procedures to provide for and maintain control over construction projects and progress billings.
22. The unit of government having the right to audit contractor's records.
23. Exercising the right to audit contractor records during project performance.
24. Audits of contractor compliance with EEO, Davis Bacon, and other regulations and contract terms, in addition to costs.

Asset Accountability

25. Maintaining detail property records for all significant self-constructed, donated, purchased, or leased assets.
26. Establishing the accountability for each asset.
27. Procedures for periodic inventory of documents evidencing property rights (for example, deeds, leases, and the like).
28. Physical safeguards over assets.
29. Procedures ensuring that purchase materials and services for capital expenditure and repair projects are subjected to the same levels of controls as exist for all other procurements (for example, receiving, approval, checking).
30. Periodically comparing detail property records with existing assets.
31. Investigating differences between records and physical counts and adjusting the records to reflect shortages.
32. Procedures ensuring that capital assets are adequately insured.
33. Subjecting lease transactions to control procedures similar to those required for other capital expenditures.
34. Properly identifying equipment by metal numbered tags or other means of positive identification.
35. Carrying fully depreciated assets in the accounting records as a means of providing accounting control.
36. Procedures for monitoring the appropriate disposition of property acquired with grant funds.

General Ledger

37. Periodic reconciliation of the detail property records with the general ledger control accounts.
38. Procedures and policies to —
 - Distinguish between capital project fund expenditures and operating budget expenditures.
 - Identifying operating budget expenditures to be capitalized in fixed asset fund.
 - Distinguish between capital and operating leases.
 - Govern depreciation methods and practices.
39. If costs are expected to be charged against federal grants, depreciation policies or methods of computing allowances in accord with the standards outlined in OMB circulars or grantor agency regulations; if not, adjusting depreciation charged to grants accordingly.
40. The accounting records should be adjusted promptly—both the asset and related allowance for depreciation—when items of plant and equipment are retired, sold, or transferred.

Procurement and Payables

Segregation of Duties

1. Segregation of responsibilities for the requisition, purchasing, and receiving functions from the invoice processing, accounts payable, and general ledger functions.
2. Segregation of responsibilities for the purchasing function from the requisitioning and receiving functions.
3. Segregation of responsibilities for the invoice processing and accounts payable functions from the general ledger functions.
4. Segregation of responsibilities for the disbursement preparation and disbursement approval functions from those for recording cash disbursements and general ledger entries.
5. Segregation of responsibilities for the disbursement approval function from those for the disbursement preparation function.
6. Segregation of responsibilities for entries in the cash disbursement records from those for general ledger entries.
7. If EDP is used, maintaining the principle of segregation of duties within processing activities.

Procedural Control

Requisitioning

8. Initiation of purchases of goods and services by properly authorized requisitions bearing the approval of officials designated to authorize requisitions.
9. Using and accounting for pre-numbered requisitions.
10. Indicating and appropriation to be charged on the purchase requisition by the person requesting the purchase.
11. Before commitment, verification by the accounting or budget department that there are sufficient unobligated funds remaining under the appropriation to meet the proposed expenditure.
12. Having technical specifications accompanying requests for special purpose (non-shelf items) materials or personal services.
13. Structuring purchasing authorizations to give appropriate recognition to the nature and size of purchases and the experience of purchasing personnel.
14. Purchase order and contract issuance and approval procedures.
15. Periodic review of purchase prices by a responsible employee independent of the purchasing department.
16. Use of competitive bidding procedures.
17. If practicable, rotation on a regular basis of contract or purchasing officer's areas of responsibility.
18. Provisions in contracts for materials, services, or facilities acquired on other than a fixed price basis that provide for an audit of contractors' costs, with payments subject to audit results.
19. Procedures for public advertisement of non-shelf item procurements in accordance with legal requirements.
20. Periodic review of recurring purchases and documentation of the justification for informal rather than competitive bids.
21. Establishing, documenting, and distributing policies regarding conflicts of interest and business practice policies.
22. Issuing purchase orders and contracts under numerical of some other suitable control.
23. Obtaining an adequate number of price quotations before placing orders not subject to competitive bidding.
24. Prohibiting splitting orders to avoid higher levels of approval.
25. Maintenance of price lists and other appropriate records of price quotations by the purchasing department.
26. Maintenance of a record of suppliers who have not met quality or other performance standards by the purchasing department.
27. Modification of procedures when funds disbursed under grant or loan agreements and related regulations impose requirements that differ from the organization's normal policies.
28. Institution of procedures to identify, before order entry, costs and expenditures not allowable under grant (federal/state) programs.
29. Maintenance of an adequate record of open purchase orders and agreements.
30. Prohibiting or adequately controlling purchases made for the accommodation of employees.
31. Considering bid and performance bonds if construction contracts are to be awarded.
32. Pre-determining selection criteria for awarding personal service or construction contracts and requiring adequate documentation of the award process.
33. Subjecting changes or purchase orders to the same controls and approvals as the original agreement.

Receiving

34. Preparation of receiving reports for all purchased goods.
35. Procedures for the filing of claims against carriers or vendors for shortages or damaged materials.
36. Taking steps to ensure that goods received are accurately counted and examined to see that they meet quality standards.
37. Maintaining a permanent record of material received by the receiving department.
38. Numerically accounting for or otherwise controlling receiving reports to ensure that all receipts are reported to the accounting department.
39. Sending copies of receiving reports directly to purchasing, accounting, and if appropriate, inventory record keeping.
40. With respect to procurement for special purpose materials, services, or facilities, assigning a governmental technical representative to monitor and evaluate contractor performance and approve receipt of services.
41. If a receiving department is not used, adequate procedures to ensure that goods for which payment is made have been received; verification by someone other than the individual approving payment that goods have been received and meet quality standards.

Invoice Processing

42. Invoice processing procedures providing for —
 - Obtaining directly from issuing departments of copies of purchase orders and receiving reports.
 - Comparison of invoice quantities, prices, and terms with those indicated on purchase order.
 - Comparison of invoice quantities with those indicated on receiving reports.
 - As appropriate, checking accuracy of calculations.

43. Receiving all invoices from vendors in central location, such as the account department.
44. Procedures ensuring that the accounts payable system is properly accounting for unmatched receiving reports and invoices.
45. Relating requests for progress payments under long-term contracts to contractors' efforts and formally approving them.
46. Procedures for processing invoices not involving materials or supplies (for example, lease or rental payments, utility bills).
47. Procedures ensuring accurate account distribution of all entries resulting from invoice processing.
48. If applicable, limiting access to EDP master vendor file to employees authorized to make changes.
49. Maintenance by the accounting department of a current list of those authorized to approve expenditures.
50. Procedures for submission and approval of reimbursement to employees for travel and other expenses.
51. Establishment of control by accounting department over invoices received before releasing them for departmental approval and other processing.
52. Review of the distribution of charges in the accounting department by a person competent to pass on the propriety of the distribution.
53. Review and approval of invoices (vouchers) for completeness of supporting documents and required clerical checking by a senior employee.
54. If an invoice is received from a supplier not previously dealt with, taking steps to ascertain that the supplier actually exists.
55. Making payments only on the basis of original invoices.
56. Fixing responsibility for seeing that all cash discounts are taken and, if applicable, that exemption from sales, federal excise, and other taxes are claimed.
57. Referring differences in invoice and purchase order price, terms, shipping arrangements, or quantities to purchasing for review and approval.
58. Recording and following up partial deliveries by the accounting department.
59. Promptly notifying the accounting and purchasing departments of returned purchases, and correlating such purchases with vendor credit advices.
60. Reviewing the program and expenditure account to be charged for propriety and budget conformity.
61. Having check signers or other responsible officials determine that restricted revenues are expended only for restricted purposes.
62. If applicable, procedures to ensure adjustment of the reserve for encumbrances (obligations) when invoices are prepared for payment.

Disbursements

63. Disbursement approval and warrant or check signing procedures.
64. Control over warrant or check signing machines as to signature plates or usage.
65. Procedures to notify banks when a new signer is authorized or a previous signer leaves the employ of the government.
66. Furnishing and having the signer review invoices and supporting data before signing the warrant or check.
67. Setting reasonable limits on amounts that can be paid by facsimile signatures.
68. Requiring two signatures on all warrants of checks over a stated amount.
69. Maintaining signature plates in the custody of the person whose facsimile signature is on the plate when not in use.
70. Using plates only under the signer's control and having that person on an appropriate designee record machine reading to ascertain that all checks or warrants signed are properly accounted for.
71. Cancellation of invoices and supporting documents by or in the presence of the signer at time of signing.
72. Delivery of signed warrants or checks directly to the mail room, making them inaccessible to persons who requested, prepared, or recorded them.
73. Cross-reference warrants or checks to vouchers.
74. Control of and accounting for warrants or checks with safeguards over those unused and voided.
75. Prohibiting the drawing of warrants or checks to cash or bearer.
76. Procedures ensuring that warrants or checks that have been signed and issued are recorded promptly.

Accounts Payable Encumbrances or Obligations

77. Regular comparison of statements from vendors with recorded amounts payable.
78. If an encumbrance (obligation) system is used, monthly reconciliation of outstanding purchase orders to the reserve for encumbrances (obligations).
79. Recording encumbrance (obligation) entries based only on approved purchase orders.
80. Procedures ensuring that accounts payable and encumbrances (obligations) are applied against the appropriate account.
81. Procedures ensuring that department heads are notified of payments made against accounts payable and encumbrances (obligations).

General Ledger

82. Regular preparation of trial balances of reserve for encumbrances (obligations) and accounts payable.
83. Checking the footing and testing the trial balances to the individual items as well as comparing the total to the general ledger balance by an employee other than the accounts payable clerk.
84. Posting transactions between funds in all affected funds in the same accounting period and on a timely basis.

Grant and Entitlement Monitoring

85. Disbursing grants only on the basis of approved applications.
86. Defining (for example, in regulations) and communicating to grantees their reporting and compliance requirements.
87. Procedures to monitor grantee compliance with grant terms.
88. Subjecting financial operations of grantees to periodic a timely audit.
89. Sufficiently timely monitoring of recipients to permit curtailment of any abuse before complete funds disbursement.
90. Disbursing funds to grantees only on an as-needed basis.
91. A level of grant approval authority that spears appropriate.
92. Investigation of failure by grantees to meet financial reporting requirements on a timely basis.
93. Requiring grantees to evidence correction previously detected deficiencies before approval of an extension or renewal of a grant.
94. Entitlement procedures ensuring that statistics or data used to allocate funds are accurately accumulated (for example, census bureau forms).
95. Requiring statements of recipient compliance with entitlement conditions (for example, statement of assurances) to be filed and having responsible official review them.
96. Review of audited financial statements or other compliance requirements of entitlement recipients on a timely basis and investigation of unusual items.

Employee Compensation

Segregation of Duties

1. Segregation of responsibilities for supervision and time-keeping functions from personnel, payroll processing, disbursement, and general ledger functions.
2. Segregation of responsibilities for the payroll processing function from the general ledger function.
3. Supervision of payroll distribution by employees –
 - Who are not responsible for hiring or firing employees.
 - Who do not approve time reports.
 - Who take no part in payroll preparation.
4. Segregation of responsibilities for initiating payments under employee benefit plans from accounting and general ledger functions.
5. Reconciliation of the payroll bank account regularly by employees independent of all other payroll transaction processing activities.
6. If EDP is used, maintaining the principle of segregation of duties in processing activities.

Procedural Controls

Personnel

7. Properly authorizing, approving, and documenting all changes in employment (additions and terminations), salary and wage rates, and payroll deductions.
8. Promptly reporting notices of additions, separations, and changes in salaries, wages, and deductions to the payroll-processing function.
9. Maintaining appropriate payroll records for accumulated employee benefits (vacation, pension data, etc.).
10. Interviewing terminating employees as a check on departure and as a final review of any termination settlement by the personnel department.
11. Written personnel policies.
12. Establishing controls to ensure that payroll costs charged to grants are in compliance with grant agreements.
13. Payroll and personnel policies governing compensation that are in accordance with the requirements of great agreements.
14. Determining that wages are at or above the federal minimum wage.

Supervision/Timekeeping

15. Review and approval of hours worked, overtime hours, and other special benefits by the employee's supervisor.
16. Timekeeping and attendance records and procedures.
17. Review for completeness and approval of time cards or other time reports by the employees' supervisor.
18. Punching of time cards, if used, only by the employees to whom they are issued.
19. Placing the time clock in a position where it can be observed by a supervisor.
20. Procedures for authorizing, approving, and recording vacations, holidays, and sick leave and approving and controlling compensatory time.

Payroll Processing

21. Controls over payroll preparation.
22. Approval and documentation of changes to the EDP master payroll file.
23. Limiting access to the EDP master payroll file to employees who are authorized to make changes.
24. Review and approval of completed payroll registers before disbursements are made.
25. Review of documents supporting employee benefit payments (such as accumulated vacation or sick leave) before disbursements are made.
26. Review for reasonableness of comparisons (reconciliations) of gross pay of current to prior period payrolls by a knowledgeable person not otherwise involved in payroll processing.
27. Review of payroll (examination of authorizations for changes noted on reconciliations) by an employee not involved in its preparation.
28. Balancing the distribution of dollars and hours of gross pay with payroll registers, and review by someone independent but knowledgeable of this area.
29. Including in the review a comparison to amount appropriated and budgeted.
30. Prohibiting payroll advances to officials and employees or subjecting them to appropriate view.

Disbursement

31. Keeping the signature plates and use of the payroll check signing machines under control of the official whose name appears on the signature plate or an employee to whom he has delegated that responsibility.
32. Maintaining a log that reconciles the counter on the check signing machine with the number of checks issued in each payroll.
33. Maintaining a separate, imprest-basis, payroll bank account.
34. Regularly reconciling the payroll bank account.
35. Comparing payroll check endorsements, on a test basis, with signatures on file by someone independent of the payroll department.
36. If payment is made in cash, requiring signed receipts; having someone independent of the payroll department compare them, on a test basis, with signatures on file.
37. Controlling the supply of unused payroll checks.
38. Requiring employees to provide identification before given checks or pay envelopes.
39. Prohibiting employees from accepting another employee's pay.
40. Returning unclaimed wages to a custodian independent of payroll department.
41. Having employees who distributed checks or pay envelopes make a report of unclaimed wages directly to the accounting department.
42. Making payments of unclaimed wages at a later date only upon presentation of appropriate evidence of employment and approval by an officer or employee who is not responsible for payroll preparation or time reporting.
43. Compare W-2 forms to payroll records and mailing by employees not otherwise involved in the payroll process.
44. Procedures for investigating returned W-2's.
45. Periodic distribution of payroll checks by the internal auditors to ascertain that employees exist for all checks prepared.

General Ledger

46. Adequate account coding procedures for classification of employee compensation and benefit cost so that such costs are recorded in the proper general ledger account.
47. Proper recording or disclosure of accrued liabilities for unpaid employee compensation and benefit costs.

Electronic Data Processing

Segregation of Duties

1. Independence of the EDP department from the accounting and operating departments for which it processes data.

2. Appropriate segregation of duties within the data processing function for (a) systems development (design and programming), (b) operations.
3. In smaller and minicomputer installations with limited opportunities for segregation of duties, procedures for user departments to –
 - Utilize batch or other input controls.
 - Control master files changes.
 - Balance master files between processing cycles.
4. Having the personnel policies of the EDP function include such procedures as reference checks, security statements, rotation of duties, and terminated employee security measures that enhance segregation of duties and otherwise improve controls.

Procedural Controls

User Controls

5. Controls over preparation and approval of input transactions outside the EDP department and prohibiting the department from initiating transactions.
6. Having user exercise control procedures over input to ensure that all approved input is processed correctly through the system and only once.
7. Having controls over entry of data in on-line systems to restrict access to terminals and data entry to authorized employees.
8. On-line systems controls that prevent documents from being keyed into the system more than once and that permit tracing from computer output to data source and vice versa.
9. Controls over changes to master files, such as requiring preparation of specific forms indicating data to be changed, approval by a supervisor in the user department, and verifying against a printout of changes.
10. User controls over rejected transactions through the use of a computerized suspense file of rejected transactions or an auxiliary manual system.
11. User department management reconciliation of output totals to input totals for all data submitted, reconciliation of the overall file balances, and review of outputs for reasonableness.
12. Procedures within the data processing control functions that provide that data is properly controlled between the user and EDP department.
13. Controls over data entry, for example, that include adequate supervision, up-to-date instructions, key verification of important fields, and self-checking digits.
14. Program controls over entry of data into on-line systems.
15. Editing and validation of input data.
16. Data processing controls over rejected transactions.
17. Controls for balancing transaction and master files.
18. Procedures within data processing control function concerning review and distribution of output.

General Controls

19. Controls over changes to system software.
20. Controls over use and retention of tape and disk files, including provisions for retention of adequate records to provide back-up capabilities.
21. Controls that limit access to data processing equipment, tapes, disks, system documentation, and application program documentation to authorized employees.
22. Use of a job accounting system (or console logs) to ensure that scheduled programs are processed and proper procedures followed and that supervisory personnel know that only required programs have been processed.
23. Supervision of EDP department employees for all shifts.
24. Documentation of procedures to be followed by computer operators.
25. Documentation of the data processing system such that the organization could continue to operate if important data processing employees leave.
26. Procedures to protect against a loss of important files, programs, or equipment.
27. Insurance to cover equipment, programs, and data files.
28. User approved written specifications for new systems and modifications to existing systems.
29. Procedures to test and implement new systems and modifications to existing application systems.

Financial Reporting

Segregation of Duties

1. Segregation of the final review and approval of financial reports from the responsibility for preparation of the reports.
2. Segregation of the responsibilities for maintaining the general ledger for those for maintaining subsidiary ledgers.
3. Segregation of the responsibilities for maintaining the general ledger and custody of assets.
4. Segregation of the preparation and approval functions for journal entries.
5. Segregation of principle accounting, treasury, and custody functions.
6. If EDP is used, maintaining the principle of segregation of duties within processing activities.

General Ledger

7. A formal plan of organization for the unit of government under which reporting responsibilities are clearly defined and reasonably aligned.
8. Supervision of a principal accounting officer over accounting records and accounting employees at all locations.
9. General ledger control over all assets and transactions of all departments of the organization.
10. Bonding employees in positions of trust in amounts required by statutes of organization policy.
11. Written accounting, policy, and procedural manuals that are distributed to appropriate personnel.
12. Updating the accounting, policy, and procedural manuals as necessary.
13. Procedures to ensure that only authorized persons can alter or establish a new accounting principle, policy, or procedure to be used by the organization.
14. Security for accounting records.
15. A formal policy regarding conflicts of interest.
16. Requiring written representations from appropriate personnel as to compliance with accounting policies and procedures and ethics policies.
17. Prohibiting or closely controlling loans to officials or employees.
18. Periodically evaluating the adequacy and effectiveness of the internal accounting controls relating to the organization's transaction systems (procurement, revenues and receivables, etc.).
19. Implementing measures to correct weakness.

Closing

20. Procedures and policies for closing the accounts for a reporting period sufficient to ensure that accounts are closed, adjusted, and reviewed on a timely basis.
21. Procedures to ensure that all accounting systems have included all transactions applicable to the reporting period.
22. Review and approval of valuation reserves or other account balances based on estimates.
23. Having all journal entries reviewed, approved, and supported by adequate descriptions or documentation.
24. Controls that ensure that only authorized individuals can initiate entries.

Combining

25. Procedures to ensure the orderly and effective accumulation of financial data.
26. Procedures for orderly processing of financial data received from departments and other accounting units.
27. Procedures to permit the recording and review of special entries generated in the combining process.

Preparation, Review, and Approval.

28. Procedures to ensure that financial reports are supported by either underlying account records or other documentation.
29. Procedures providing reasonable assurances that all data required to be included in legal as well as public reports are properly disclosed.
30. Procedures to ensure that financial reports are prepared on a consistent basis.
31. Review and approval of financial reports at appropriate levels of management and , if appropriate, the legislature before public release.
32. Procedures to ensure that all requirements for filing of financial reports are met (for example, senior levels of government, bondholders, and public.).

HAYWARD CITY COUNCIL
RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION ADOPTING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
COMPLIANCE POLICY MANUAL AND AUTHORIZING THE CITY MANAGER TO
IMPLEMENT THE POLICIES CONTAINED THEREIN.

WHEREAS the Housing and Community Development Act of 1974 makes funds available to qualified cities for certain community development activities and the City of Hayward is qualified to receive certain funds pursuant to said act; and

WHEREAS the City of Hayward has completed a comprehensive review of the Community Development Block Grant (CDBG) Program from its inception in 1976 to the present day, including a review of past and current program policies and practices, and has identified policy modifications that will improve the CDBG program's performance and increase its positive impact for the benefit of the citizens and community of Hayward; and

WHEREAS the City Council has considered the updated Community Development Block Grant (CDBG) Compliance Policy Manual to codify those policies and serve as a guiding document for the operations and administration of the City's CDBG program,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Hayward hereby adopts the aforesaid Community Development Block Grant (CDBG) Compliance Policy Manual and authorizes the City Manager to implement the policies therein.

IN COUNCIL, HAYWARD, CALIFORNIA, September 16, 2014

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:
MAYOR: Halliday

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

HUD Monitoring Status Update
Summary List of Anticipated Concerns and Recommended Action Steps
September 16, 2014

HUD periodically conducts comprehensive financial monitoring reviews of each of the 1,200 CDBG grantee jurisdictions in its purview nationwide. In May of 2014, HUD selected the City of Hayward CDBG program for a comprehensive financial monitoring and reconciliation going back to the program's inception in 1975.

Throughout the monitoring process, staff and HUD maintained excellent and ongoing communication. HUD shared concerns with staff as they were identified and made preliminary recommendations which are listed below. Staff worked closely with HUD to proactively alleviate concerns as soon as they were identified.

The final monitoring report is expected to be issued by HUD on or about September 30, 2014.

Staff anticipates that the vast majority of the concerns that have been identified to date will be fully resolved by the end of FY 2015, and that all concerns will be fully resolved by the end of FY 2016.

What follows is a summary list of concerns and action steps anticipated to be recommended by HUD as a result of the monitoring. In many cases, the recommended actions have already been completed or are in progress. The status of each anticipated concern/recommendation is indicated in the list. While this list is fairly comprehensive and includes all known concerns discussed with HUD to date, the final monitoring report could potentially include additional concerns and/or recommendations.

1) Unspent CDBG Administrative Fund Balance (Cash Fund)

Status: Resolved.

During the monitoring process, HUD and staff identified unspent CDBG administrative fund balance in the amount of \$380,795. The unspent fund balance was the accumulated result of administrative overdraws from the CDBG Line of Credit that were made in error by a former employee who no longer works for the City. None of these erroneously drawn funds were spent. However, because CDBG operates on a reimbursement-only basis, these funds should not have been drawn until after eligible expenses had occurred.

To resolve this concern, and in consultation with HUD and the Finance Department, the full amount of unspent administrative balance, \$380,795 was returned to the City's CDBG Line of Credit with HUD via wire transfer on July 27, 2014. These funds were returned from the City's CDBG fund. There was no impact to the General Fund. These funds remain available in the City's CDBG Line of Credit for allocation to future CDBG-eligible City projects.

2) Return of Accrued Interest

Status: Resolved.

During the monitoring process, HUD and staff identified accrued interest income generated by CDBG funds in past years totaling \$44,818, primarily due to interest accrued in the Small Business Revolving Loan Fund. Per CDBG requirements, all such interest income must be returned to the U.S. Treasury each year. Although the City has returned all interest income each year since 2001, it was found that this interest was not returned in the years 1995-2000. In addition, a small amount of interest had accrued on the unspent CDBG administrative balance mentioned above.

- \$ 43,483 – Interest accrued in the SBRL fund in the years 1995 to 2000
- \$ 1,335 – Interest accrued on the \$380,795 unspent CDBG administrative balance mentioned above.

To resolve this concern, and in consultation with HUD and the Finance Department, previously unreturned interest income in the amount of \$44,818 was returned to the U.S Treasury via wire transfer on July 27,

2014. These funds were returned from the City's CDBG fund balance. There was no impact to the General Fund.

3) Financial Administration and Systems

Status: In progress.

a) Cost Allocation Plan

Projected completion: November 2014

HUD identified that the City does not have a current HUD-approved Cost Allocation Plan (CAP). The federal OMB-A87 requires that the City have a HUD approved CAP for reimbursement of indirect staff charges(i.e., benefits and overhead) by the CDBG Program. The Finance Department recently completed the 2014 CAP and the plan will be submitted to HUD for approval immediately.

b) Accounting System

Projected completion: January 2015

HUD identified concerns with the City's accounting for overhead and fringe benefit costs allocated to CDBG programs in its MUNIS financial system. Currently the City accounts for its salary related expenses in the FMIS system and prepares journal entries to record the information in MUNIS. This method does not allow the system to allocate overhead and benefit costs, which are currently being charged at a rate of 100% to CDBG programs without regard for the staff's level of effort. There are adjustments booked to remove the portion that does not belong to CDBG, but tracking this inside the system and providing supporting evidence to HUD has been less than successful. This is a temporary issue that will be resolved when the City implements the MUNIS payroll module in January 2015.

4) Revolving Loan Program Income

Status: In progress.

a) Economic Development – Small Business Loan Program Income

Status: Completed.

In past years, City policy has been that program income generated by the Small Business Revolving Loan (SBRL) program may only be used for additional SBRL loans. HUD does not require this restriction, and actually allows for some local preference in the use of program income funds.

Since the recession, loans have been less popular and fewer loans have been made. This had resulted in a significant accumulation of unspent program income in the SBRL program fund totaling \$490,502 as of August 1, 2014, which was noted by HUD as a potential concern.

The concern regarding unspent SBRL program income was largely alleviated on August 12, 2014 when the SBRL Sub-Committee of the Economic Development Committee recommended approval of three new credit requests from Geoff Harries, owner of Buffalo's Bill's Brewpub and the newly formed Russell City Distillery, LLC. The approved credit requests are as follows:

- Steinbeck Brewing Company dba Buffalo Bill's Brewpub loan consolidation in the amount of \$62,186. This consolidation combines the balances owing on two current SBRL loans, and defers payments for twenty years, with monthly payments to begin thereafter for ten additional years. The terms are no interest or payment for 20 years and then 120 payments at 1% interest of \$544.77 (P&I). This loan will free up cash flow for the final stages of opening the new Russell City Distillery and tasting venue.
- Steinbeck Brewing Company dba Buffalo Bill's Brewpub loan in the amount of \$70,000. This is a new SBRL loan that will enable Mr. Harries to expand the distribution of the Buffalo Bill's Brewpub bottled beer brand, which is currently sold in 38 states. This loan will create two new full-time employees to expand the brand's marketing and sales activities. The terms are 7 years at zero interest rate, payment deferred for 6 months and then 78 payments of \$897.44.
- Russell City Distillery, Inc. loan in the amount of \$100,000. This is a new SBRL loan that will be used for finalizing building permits and city hookup fees, laboratory equipment, oak whiskey barrels, forklift, and packaging materials for the new Russell City Distillery and tasting venue. This loan will create at least five new full-time employees at the new location. The terms are 2

years deferred payment and then 96 payments of \$1,172.96 (P&I) at 3% interest for a total term of 10 years.

To fully resolve the concern regarding accumulation of program income, HUD recommends that the City modify its CDBG policies for the Use of Program Income to allow for any program income generated by revolving loan funds to be applied toward any other CDBG-eligible Economic Development activities, not just more loans. Other eligible activities include technical assistance, infrastructure improvements, and microenterprise investment, among others.

The recommended policy modifications are included in the Draft CDBG Compliance Policy Manual that is being presented to Council for approval on September 16, 2014.

b) Housing Rehabilitation Loan Program Income

Status: In progress.

Similar to the SBRL program, past City policy has been to restrict the use of Housing Rehabilitation Loan Program (HRLP) program income only to make more HRLP loans. HUD does not require this restriction, and actually allows for some local preference in the use of program income funds.

Since the recession, HRLP loans have been less popular, and fewer low-income homeowners have had sufficient equity in their homes to qualify for these loans, resulting in fewer loans being made. This resulted in a significant accumulation of unspent program income in the HRLP revolving loan fund totaling \$510,870 which was noted by HUD as a potential concern.

To resolve this concern, HUD recommends that the City modify its policies for the Use of CDBG Program Income to provide more flexibility by allowing for program income generated by HRLP revolving loan funds to be applied toward other CDBG-eligible facilities and infrastructure projects, not just more HRLP loans. Other eligible activities include residential street improvements, public facility accessibility and infrastructure improvements, and Minor Home Repair grants, among others

The recommended policy modifications are included in the Draft CDBG Compliance Policy Manual that is being presented to Council for approval on September 16, 2014.

5) Revolving Loan Fund Programs - Rate of Default

Status: In progress.

HUD and staff worked together closely to identify a strategy to mitigate the rate of default in the SBRL and HRLP revolving loan programs. While some defaults are to be expected due to the nature of these programs as gap financing for small businesses and low-income homeowners, since the Great Recession it has become evident that many loans made in the pre-recession years are now at serious risk of default. An outline of the strategy identified by HUD and staff to resolve this concern follows:

a) Small Business Revolving Loan Program

Projected completion: July 2015

- Conduct a comprehensive reconciliation of all outstanding loans
- Identify the risk factors and causes of defaults
- Develop loan modification programs to allow for businesses to become current
- Survey current loan recipients to assess interest in modification
- Implement loan modifications

b) Housing Rehabilitation Loan Program

Projected completion: July 2015

- Conduct a comprehensive reconciliation of all outstanding loans (*completed*)
- Identify defaults (*completed*)
- Develop multi-tier loan program for new and modified loans (zero interest, deferral, etc.)
- Survey current loan recipients to assess interest in modification
- Implement loan modifications.

6) CDBG Compliance Policy Manual

Status: Pending Council adoption on September 16, 2014

HUD recommends Council adoption of an updated CDBG Compliance Policy Manual addressing needs, best practices, and concerns. A draft CDBG Compliance Policy Manual is being presented to Council for approval on a September 16, 2014. Upon approval of the Policy Manual, a procedure manual outlining the implementation of those policies will be developed by staff and completed no later than January, 2015

7) Conflicts of Interest

Status: Resolved

During the monitoring process, five members of the Community Services Commission (CSC) were identified as having potential Conflicts of Interest as defined by HUD. In two cases, the conflicts were such that HUD advised their immediate recusal from service on the CSC. In one of these cases, it was discovered that the Commissioner is a recipient of a loan, made long ago but still active, from a CDBG-funded subrecipient program. In the other case, it was discovered that the Commissioner had entered into service on a CDBG-funded subrecipient agency's board of directors. When these Commissioners were advised of these conflicts and HUD's policy, both Commissioners voluntarily resigned from service. In the other three cases, Commissioners were found to have only minor conflicts of interest resulting from their status as volunteers with CDBG-funded subrecipient agencies. HUD noted that each of these conflicts of interest ordinarily would render the individuals ineligible for service on the CSC, but did not require that they be recused from service at this time. This one-time exception was provided with the caveat that the City will exercise diligence to ensure that any future conflicts of interest will be avoided.

8) Staff Capacity / Training

Status: Completed.

HUD recommends staff attend training and information sessions to stay abreast of new requirements and procedures pertaining to CDBG and other HUD-funded programs. Staff has attended all recommended training and information sessions, including:

- Basically CDBG (*Completed*)
- Section 3 Requirements for State and Entitlement CDBG Grantees (*Completed*)
- Davis-Bacon Act (*Completed*)

9) Centralized Administration and Reporting of HUD / CDBG Funded programs

Status: In progress

HUD recommends that administration and reporting for all HUD-funded activities be managed by one department which would serve as a single point of contact and oversee all monitoring and reporting for these programs to ensure they are meeting HUD standards. A list of identified programs for centralized administration and reporting follows:

- CDBG Entitlement Grant Program (*Operational dept: L&CS*)
- CALHOME Grant Program (*Operational dept: L&CS*)
- Emergency Support Grant Project (*Operational dept: L&CS*)
- Economic Development Program (*Operational dept: CMO*)
- HOME Program (*Operational dept: CMO*)

Staff recommends that the Library and Community Services department (L&CS), which currently provides primary administration for the CDBG program, assumes this role for all HUD-identified programs. The programs would still operate within separate departments as currently structured; only centralized oversight and administration for reporting purposes is being recommended by HUD. For example, the Economic Development function would remain in the City Manager's Office (CMO), however responsibility for administrative reporting of CDBG-related economic development activities to HUD would rest with the L&CS department.

HUD further recommends the implementation of interdepartmental Memoranda of Understanding where applicable, to clarify roles and scopes of responsibility for each department in cases where a program's operational department is different from its administrative department.

10) Expenditure of Reconciled Funds from 1976 – 2014

Status: Pending Council adoption of proposed Substantial Amendment on October 21, 2014

The monitoring process was exhaustive and comprehensive, and examined in detail every CDBG-funded activity the City has undertaken over the past 38 years. In a span of time that large, it was not unexpected to find many activities that were funded yet which were either completed under budget and thus underspent, or which for one reason or another were never executed, thus leaving the funds completely unspent.

HUD and staff worked closely together to identify every single CDBG-funded activity of the past 38 years, and to calculate the exact amount of any unspent or underspent available funds. The resulting total amount of unspent CDBG fund balance from the years 1976 through 2014 is \$1,387,328. This equates to approximately 2% of total CDBG funds received by the City over the past 38 years.

HUD recommends that these newly reconciled CDBG funds be utilized toward a shovel-ready project that can be initiated and completed within two years, thus expending these funds efficiently and effectively for the public benefit.

To this end, HUD has provided prior review and approval for a project to implement significant street improvements in a low income eligible census tract located in the Jackson Triangle a.k.a. the Hayward Promise Neighborhood. The Hayward Promise Neighborhood is a high-need area of Hayward that has been identified by the City and a coalition of community partners as a target neighborhood for significant infrastructure and education reinvestment, and which has been further identified as such by the U.S. Department of Education.

The proposed Hayward Promise Neighborhood Street Improvement Project meets all the criteria recommended by HUD for the use of the newly reconciled funds. The project would provide for significant street improvements to residential streets in the qualifying census tract as shown in the chart and map in Figure 1 and Figure 2, respectively. All interior streets within the census tract are identified as potential subjects for street improvements; HUD recommends prioritization of the individual streets and the improvements to be implemented based on need as determined by Pavement Index and other objective analysis, eligibility per HUD requirements for the use of CDBG funding, and the amount of available funds for street improvements in consideration of variables such as construction bids and other contingencies.

Utilization of these funds requires Council authorization of a Substantial Amendment to the CDBG Annual Action Plan. Authorization of a Substantial Amendment requires a thirty day public notification period prior to adoption. The notification period will begins with the Council review of the draft resolution on September 16, 2014. The proposed project and Substantial Amendment will be presented to Council for final review and approval on October 21, 2014.

Figure 1. Preliminary list of streets

PMP Recommendation

Street Names	Begin	End	Current PCI	Last Treatment	Treatment Yr	PMP Rec'd Treatment	PMP Rec'd Treatment Year	Treatment Cost
Cody Rd.	Sublette Dr	Whitman St	27	SS	2003	Recon	2015	\$69,842
Frederick Avenue	Soto Rd	Muir Rd	32	SS	2003	Recon	2015	\$150,446
Langley Way	Soto Rd	Tioga Rd	23	SS	2003	Recon	2015	\$134,615
Mardie Street	Joyce St	Whitman St	46	SS	2003	Mill and OL	2015	\$90,303
Pontiac Street	Dale St	Jackson St	70	OL	2005	OL	2015	\$189,418
Thomas Avenue	Evelyn Ln	Orchard Ave	42	SS	2003	Mill and OL	2015	\$125,829
Tioga Road	Orchard Ave	Langley Way	18	SS	2003	Recon	2015	\$228,659
Ambrose Ct.	Soto Rd	CDS	27	SS	2003	Recon	2016	\$120,939
Charles Avenue	Culp Ave	End	28	SS	2003	Recon	2016	\$92,123
Lander Avenue	Wyeth Rd	Custer Rd	30	SS	2003	Recon	2016	\$139,439
							Total	\$1,341,613

Streets to include if funds allow								
Thomas Avenue	Sycamore Ave	Silva Ave	22	SS	2003	Recon	2016	\$134,361
Arvilla Lane	Orchard Ave	CDS	32	SS	2003	Recon	2017	\$159,806
Muir Street	Culp Ave	End	30	SS	2003	Recon	2017	\$92,619
Thomas Avenue	667 ft nw/o Orchard	Sycamore Ave	74	SS	2012	OL	2017	\$94,202
Waterson Ct.	CDS	Traynor St	31	SS	2003	Recon	2017	\$71,209
Custer Road	Lander Ave	Sublette Dr	33	SS	2003	Recon	2018	\$124,931
Brooks Way	Culp Ave	End	59	SS	2008	Mill and OL	2019	\$74,609
Culp Avenue	Soto Rd	Muir Rd	37	SS	2003	Recon	2019	\$159,906

Figure 2. HUD qualified Census tract 4366.01



August, 2014

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HAYWARD CITY COUNCIL
RESOLUTION NO. _____

Introduced by Council Member _____

RESOLUTION AUTHORIZING A SUBSTANTIAL AMENDMENT TO THE CITY OF HAYWARD
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FISCAL YEAR 2015 ANNUAL ACTION
PLAN FOR THE HAYWARD PROMISE NEIGHBORHOOD STREET IMPROVEMENT PROJECT.

WHEREAS the Housing and Community Development Act of 1974 makes funds available to qualified cities for certain community development activities and the City of Hayward is qualified to receive certain funds pursuant to said act; and

WHEREAS the City Council has considered public testimony and the FY 2015 CDBG Program and previously approved the Annual Action Plan; and

WHEREAS the City Council has considered the environmental impact of the Hayward Promise Neighborhood Street Improvement Project and hereby finds and determines that the project is categorically excluded from the National Environmental Protection Act or will be subject to later environmental review and finds and determines that the activities are categorically exempt from environmental review pursuant to Section 1b5311 of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS the Council has considered a proposed Substantial Amendment to the CDBG FY 2015 Annual Action Plan to utilize reconciled funds from 1976-2014 for the implementation of the Promise Neighborhood Street Improvement Project,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Hayward hereby approves the aforesaid Substantial Amendment to the FY 2015 Community Development Block Grant Action Plan and authorizes City staff to submit the required documentation to the US Department of Housing and Urban Development.

IN COUNCIL, HAYWARD, CALIFORNIA, October 21, 2014

ADOPTED BY THE FOLLOWING VOTE:

- AYES: COUNCIL MEMBERS:
- NOES: COUNCIL MEMBERS:
- ABSTAIN: COUNCIL MEMBERS:
MAYOR: Halliday
- ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

DATE: September 16, 2014

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT: Approval of Temporary Appointment of Administrative Analyst III

RECOMMENDATION

That the City Council adopts the attached resolution for exception to the 180-day wait period for the hiring of CalPERS annuitants and to temporarily appoint Marilyn Mosher as a recent CalPERS annuitant to the position of Administrative Analyst III in the Utilities & Environmental Services Department.

BACKGROUND

As of January 1, 2013, CalPERS requires a retired employee to wait for 180 days before accepting temporary employment. Per Government Code 7522(f)(1), an exception to the 180-day waiting period may be made if the employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting. The Government Code also limits compensation to the hourly rate for the position that is most closely related to the duties performed, in this case, the Administrative Analyst III classification. By law, temporary employees may not receive benefits, compensation in lieu of benefits, or any other form of compensation.

Marilyn Mosher has served as an Administrative Analyst III in the Utilities & Environmental Services Department for many years and is responsible for a multitude of specialized assignments that touch on a wide range of departmental functions. These include analytical and management tasks, such as departmental budget preparation and monitoring, developing policies and procedures, and providing support to operational functions. The position has also assumed responsibility for functions that are specific to utilities entities. In some utilities agencies, the latter functions may be contracted out to consultants or engineers. Examples include: analysis of water and sewer revenue requirements and appropriate service rates and charges; water resource planning activities such as recycled water feasibility evaluations; preparation of urban water management plans required by the State; and implementation of complex special projects such as the advanced metering infrastructure feasibility study and pilot tests.

Ms. Mosher plans to retire on October 3, after a 27-year career with the City, most of which was spent in Utilities. In order to accomplish several critical current and upcoming tasks that require specialized

knowledge and skills, staff recommends the temporary appointment of Ms. Mosher to the position of Administrative Analyst III, in accordance with Government Code §21224.

DISCUSSION

Staff recommends that the Council approve temporarily appointing Marilyn Mosher as a CalPERS annuitant to the position of Administrative Analyst III to perform the functions described above and other comparable projects for which she is uniquely qualified. The appointment can be terminated at any time by either party; however, the current plan is that it would continue until a new Administrative Analyst III is recruited for and filled on a permanent basis, and some knowledge transfer has occurred. The number of hours would not exceed 960 in a fiscal year. Ms. Mosher is agreeable to the terms and conditions of the proposed temporary employment.

With Ms. Mosher's upcoming retirement, staff has considered various options to continue work on important efforts in support of the Council's sustainability priorities, as well as to complete other near term limited duration assignments that are time sensitive and require specialized knowledge. Ms. Mosher has acquired such specialized knowledge and skills over the course of her sixteen years in the department. While some of her responsibilities can and will be assigned to other existing staff, and, in time, a replacement Administrative Analyst III, the most cost effective means of accomplishing these assignments within the necessary time frame is to temporarily appoint Ms. Mosher to the position. Recruitment and selection of a permanent successor to Ms. Mosher will be initiated soon after the retirement date; however, there is typically a period of several months before an appointment is made and the new person is in place.

Ms. Mosher's specialized expertise is particularly needed in the near term in the following areas:

- Administration of pilot studies for Advanced Metering Infrastructure (AMI) systems, which are just getting underway and will have a six-to-nine-month duration. AMI involves complex technology and data analysis, and a successful pilot will depend in large part on knowledgeable and dedicated staff involvement.
- Guiding the development of sewer and water rates and charges, which will get underway towards the end of this calendar year via a consultant and be brought to the City Council in early- to mid-spring. Managing a rate study involves knowledge of the principles and practices of rate setting and requirements of State Proposition 218, and water conservation pricing. Rate adjustments were last adopted in July 2013
- Developing the project guidelines for development of the 2015 Urban Water Management Plan (UWMP), which is due to the State in 2015, and which generally takes six to nine months to complete. This document is a comprehensive forward look at water demand and supply, conservation, emergency planning, drought contingency planning and other key water delivery considerations. It is prepared every five years. While many cities and water agencies pay consultants to prepare the document, the U&ES Administrative Analyst III has prepared the last three in house, most recently the 2010 UWMP, all of which were approved by the State Department of Water Resources without change.

ECONOMIC IMPACT

Costs would be fully borne by the water and wastewater operating funds, with no impact on the General Fund. The cost can be managed without the need for additional water or sewer rate adjustments to customers, beyond what is already projected.

FISCAL IMPACT

Since no benefits or additional compensation beyond an hourly salary rate would be paid, the total cost of this temporary appointment, which will not exceed 960 hours in FY 2015, will not exceed \$50,000 in a fiscal year. A full-time Analyst III would cost approximately \$75,000 for the same period; and an outside consultant assistance for similar work would be considerably higher and would still require City staff time to guide and support the consultants.

PUBLIC CONTACT

No public contact has been initiated related to this item.

NEXT STEPS

If approved by the City Council, staff will prepare the necessary documents for this temporary appointment, ensuring that all Government Code requirements are met related to retiree employment.

Prepared and Recommended by: Alex Ameri, Director of Utilities & Environmental Services

Approved by:



Fran David, City Manager

Attachments:

Attachment I: Draft Resolution

HAYWARD CITY COUNCIL
RESOLUTION NO. _____
Introduced by Council Member _____

RESOLUTION FOR EXCEPTION TO THE 180-DAY WAIT PERIOD
AND APPROVAL OF TEMPORARY APPOINTMENT
TO THE POSITION OF ADMINISTRATIVE ANALYST III

WHEREAS, in compliance with Government Code section 7522.56 the City of Hayward must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since his or her retirement date; and

WHEREAS, Marilyn Mosher retired from the City of Hayward in the position of Administrative Analyst III, effective October 4, 2014; and

WHEREAS, section 7522.56 requires that post retirement employment commence no earlier than 180 days after the retirement date, which is April 2, 2015 without this certification resolution; and

WHEREAS, section 7522.56 provides that this exception to the 180 day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the City Council of the City of Hayward and Marilyn Mosher certify that Marilyn Mosher has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the City Council of the City of Hayward hereby appoints Marilyn Mosher as an extra help retired annuitant to perform the duties of the Administrative Analyst III for the City of Hayward under Government Code section 21224, effective October 6, 2014; and

WHEREAS, the entire employment agreement, contract or appointment document between Marilyn Mosher and the City of Hayward has been reviewed by this body and is attached herein; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base monthly salary for this position is \$8,983.86 and the hourly equivalent is \$51.83, and the minimum base monthly salary for this position is \$7,390.93 and the hourly equivalent is \$42.64; and

WHEREAS, the hourly rate paid to Marilyn Mosher will be \$51.83, which is her current hourly rate before retirement; and

DATE: September 16, 2014

TO: Mayor and City Council

FROM: Assistant City Manager

SUBJECT: Conditional Authorization of Issuance of Multi-Family Housing Revenue Bonds (South Hayward BART Family and Senior Affordable Apartments) 2014 Series A and Execution of Related Documents

RECOMMENDATION

That the City Council:

- a) Adopts the attached resolution (Attachment I) conditionally authorizing the issuance of up to \$33,000,000 in tax-exempt multifamily housing revenue bonds, to assist in the development of the South Hayward BART Family and Senior Affordable Apartments Project; and
- b) Conditionally authorizes the City Manager to execute implementing documents in connection with the proposed bond issuance.

BACKGROUND

On June 14, 2011, Council approved financing for the South Hayward BART Affordable Housing project (the Project)¹ to be developed by Eden Housing, Inc. (Eden). The Project will be located at 28901 Mission Boulevard and will include 151 units (86 affordable units to low income-families, 64 affordable units to low-income seniors, and one manager's unit). Once it is complete, this development will be a catalyst in the South Hayward community, creating a vibrant, high quality living environment for residents adjacent to the BART station and offering neighborhood amenities that currently do not exist.

Included in the City-approved financing are \$900,000 in HOME funds, \$813,000 in Neighborhood Stabilization Program II (NSP2) funds, and \$4.25 Million in Housing Authority funds from the former Low and Moderate Income Housing Fund (Low-Mod fund). In addition to this financing, on June 17, 2014, Council approved an additional \$1 Million in backstop funding for the project

¹ <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2011/CCA11PDF/cca061411full.pdf>. See pages 7-9 of item #7 - "Approval of Certain Financing for Affordable Housing at the South Hayward BART Station Transit-Oriented Development."

from the Housing Authority/Low-Mod fund.² Eden would be able to access these funds only as needed to pay for appropriately documented construction cost overruns.

DISCUSSION

Project Financing. In addition to the City-approved financing, the Project financing includes approximately \$3.9 Million in non-competitive 4% Low Income Housing Tax Credits (Tax Credits) and \$33 Million in Tax-Exempt Multifamily Housing Revenue Bonds (Bonds), the largest source of external financing for the Project. The Bonds will fund construction of the Project and will be largely repaid from the permanent funding sources, with a modest amount continuing as permanent financing for the Project, as further described below.

The Bond proceeds will initially be structured as a construction loan to Eden with a minimum 24-month and a maximum 36-month term. After completion of construction of the Project, permanent financing sources, including the Tax Credits and the State Department of Housing and Community Development (HCD) Transit-Oriented Development (TOD) and Infill Infrastructure Grant (IIG) programs, will be used to pay down most of the Bond-funded loan, leaving approximately \$2.6 M as an amortized loan, which will be part of the permanent financing for the Project. The following is an estimate of permanent funding sources for the Project:

Sources	Amount
Tax Exempt Bonds	\$2,593,400
HCD TOD Loan	\$15,101,383
Housing Authority Loan	\$4,250,000
City of Hayward HOME Loan	\$900,000
City of Hayward NSP2 Loan	\$813,000
Alameda County NSP2 Loan	\$577,005
MHSA Loan	\$872,695
AHP Loan	\$1,500,000
HCD IIG Loan	\$4,500,000
General Partner	\$100
Tax Credit Equity (from Investor)	\$22,101,505
Total:	\$53,209,088

The Bonds. Eden has requested that the City serve as issuer for the Bonds in an amount not to exceed \$33,000,000. In order to do so, on May 13, 2014, the City Council conducted a Tax Equity and Fiscal Responsibility Act of 1985 (TEFRA) hearing and approved a resolution of inducement for federal tax purposes, authorizing the issuance of Bonds for the Project.³ The Bonds are qualified private activity bonds which require an allocation of private activity volume cap from the State.

² The report is available at: <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2014/CCA14PDF/cca061714full.pdf>. See item No. 12

³ The report is available at: <http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2014/CCA14PDF/cca051314full.pdf>. See item No. 3

Thus, at the May 13, 2014 meeting, staff also requested authorization from the City Council to re-apply to the California Debt Limit Allocation Committee (CDLAC) for an allocation of Bonds. On July 16, 2014, CDLAC adopted a resolution granting an allocation of Bonds to the City upon review of the application and a determination that the Project meets the program requirements. However, staff is recommending an approval of the Bond issuance conditioned upon the transfer of the interest in the market-rate parcel of the development from JMJ Development, LLC to the prospective buyer because the current transfer conditions require that if the transfer does not occur, staff would have to seek Council approval for a decoupling of the Project from the market-rate development proposed at a parcel adjoining the Project site.

Eden has accepted a proposal from Wells Fargo Bank, National Association (WFB) to purchase the Bonds on a private-placement basis. The Indenture of Trust between the City and U.S. Bank National Association, as bond trustee⁴, provides that the City does not back the bonds and is not liable to make bond payments under any circumstances. Thus, the City is free of any responsibility or obligation to pay principal or interest on the Bonds. In addition, the City's credit worthiness is not involved in or affected by this transaction. In other words, the Bonds would be limited special obligations of the City, meaning that the City simply acts as a conduit for the Bond issuance process and is not financially responsible for repayment.

Affordable homes for families and seniors for fifty-five years. As mentioned above, the Bonds will be complemented by non-competitive 4% Tax Credits. When used together, both programs provide the most favorable financing for the Project to effectively leverage the City's funds. In addition to this, most of the sources listed in the above table require soft repayment terms (if any) and some will be provided as an operating subsidy for the Project. This will enable the Project to rent approximately 27% of the units (or forty one) at rents affordable to extremely low-income families and seniors (those earning 30% of the Area Median Income (AMI)). The rest of the units will be affordable to very-low income families and seniors (those earning 50% of AMI).⁵

The different layers of Project financing described in this report will result in the recordation of covenants against the Project by each lender or funder involved. These covenants will overlap or complement each other, which will guarantee that all the units remain affordable for fifty-five (55) years to income-eligible families and seniors.

The attached bond resolution conditionally authorizes the issuance of the Bonds and authorizes the City Manager to execute the associated Bond documents, which are on file in the office of the City Clerk. The resolution also names the law firm of Jones Hall as bond counsel and CSG Advisors as financial advisor to the City in connection with the issuance of the Bonds.

⁴ The Indenture of Trust is a customary legal agreement entered into by the City to provide for the issuance of bonds. It states the terms of the bonds and describes the sources of funds to be used for repayment (in this case, the bonds are to be repaid with funds provided by the owner of the Project). The counterparty to the Indenture of Trust will be U.S. Bank National Association, as trustee. The trustee acts on behalf of the purchaser of the bonds, and its role is to collect payments and, if necessary, enforce the Indenture of Trust. U.S. Bank was selected because they act as trustee on most of the City's housing bond issues and will therefore provide continuity.

⁵ 2014 extremely low- and very low-income limits for a four-person household are \$28,050 and \$46,750, respectively.

ECONOMIC IMPACT

Issuing the Bonds for the development of the Project will have a significant economic impact on the City as it will allow the Project to be constructed and thereby serve as a catalyst for other development in the South Hayward BART station area, including the development of transit-oriented, market-rate housing. The economic benefits of the Project have been discussed at length in previous staff reports about the Project.⁶

FISCAL IMPACT

The issuance of bonds does not represent a financial impact to the General Fund and the General Fund is not responsible for repayment of these bonds. All costs associated with issuance of the bonds will be reimbursed through bond proceeds, including the City's fees for bond counsel, legal counsel, and financial advisor. Also, the City will receive annual administrative fees throughout the Project's fifty-five year affordability period. These fees will help to offset some of the City staff costs associated with implementation of the Project. Particularly, these fees will help the City offset its staff costs related to its ongoing monitoring of the Project's affordability, occupancy, and maintenance restrictions stemming from the sources of funding utilized by the City to facilitate the development of this Project. These sources of funding include the City's Inclusionary Housing Ordinance, the Bonds, the Housing Authority Low-Mod funds, and the Federal HOME and NSP2 program funding.

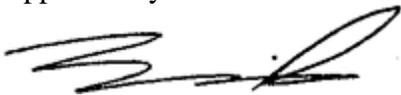
NEXT STEPS

If the City Council approves the attached resolution, the financing will be scheduled to close in the middle of October this year. Construction work is expected to commence soon after and to be completed in the summer or early fall of 2016.

Prepared by: Omar Cortez, Housing Development Specialist

Recommended by: Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachment I Resolution Authorizing the Issuance of Bonds and Related Actions

HAYWARD CITY COUNCIL

RESOLUTION NO. 14-___

**RESOLUTION OF THE CITY OF HAYWARD AUTHORIZING THE
ISSUANCE, SALE AND DELIVERY OF CITY OF HAYWARD MULTIFAMILY
HOUSING REVENUE BONDS (SOUTH HAYWARD BART FAMILY AND
SENIOR AFFORDABLE APARTMENTS) 2014 SERIES A, AUTHORIZING THE
EXECUTION AND DELIVERY OF A INDENTURE OF TRUST, A LOAN
AGREEMENT AND A REGULATORY AGREEMENT AND DECLARATION OF
RESTRICTIVE COVENANTS, AND AUTHORIZING THE EXECUTION AND
DELIVERY OF AND APPROVING OTHER RELATED DOCUMENTS AND
APPROVING OTHER RELATED ACTIONS IN CONNECTION THEREWITH**

WHEREAS, Chapter 7 of Part 5 of Division 31 of the California Health and Safety Code, as the same may be amended (the “Act”), and City of Hayward Ordinance No. 81-023, adopted on June 16, 1981 and codified at Article 10 of Chapter 8 of the City of Hayward Municipal Code, as the same may be amended (the “Ordinance” and together with the Act, the “Bond Law”) authorizes the City of Hayward (the “City”) to incur indebtedness for the purpose of financing the acquisition, construction and development of multifamily rental housing facilities to be occupied in whole or in part by persons of low and very low income; and

WHEREAS, the City has been requested to issue its Multifamily Housing Revenue Bonds (South Hayward BART Family and Senior Affordable Apartments) 2014 Series A (the “Bonds”) in accordance with the Bond Law, the proceeds of which are proposed to be used to make a loan to Eden South Hayward, L.P., a California limited partnership (the “Borrower”), to finance the acquisition and construction of a 150-unit multifamily rental housing project (with one manager’s unit) to be known as South Hayward BART Family and Senior Affordable Apartments, located at Dixon and Tennyson Roads, Hayward, California, (the “Project”); and

WHEREAS, there have been placed on file with the City Clerk prior to this meeting the following documents and agreements in furtherance of the transactions described above:

- (1) A proposed form of Indenture of Trust (the “Indenture”), among the City, U.S. Bank National Association, as trustee (the “Trustee”) and Wells Fargo Bank, National Association, as bondowner representative (the “Bondowner Representative”);
- (2) A proposed form of Loan Agreement among the City, the Bondowner Representative and the Borrower (the “Loan Agreement”); and
- (3) A proposed form of Regulatory Agreement and Declaration of Restrictive Covenants among the City, the Trustee and the Borrower (the “Regulatory Agreement”);

WHEREAS, the City has received an application from the California Debt Limit Allocation Committee for an allocation of private activity bond volume cap in an amount sufficient to provide for the issuance of the Bonds (the “Allocation”);

WHEREAS, the South Hayward BART Phase 1 project includes a parcel that adjoins the Project and is proposed to be developed with market-rate housing (the “Market Rate Parcel”);

WHEREAS, in September 2014, the Market Rate Parcel is proposed to be transferred by the current owner, JMJ Development, LLC, to AMCAL or an affiliate thereof (the “Market Rate Transfer”) for the ultimate development of market-rate housing;

WHEREAS, all other conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of the Bonds as contemplated by this resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Act.

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

Section 1. The City hereby finds and declares that the above recitals are true and correct.

Section 2. Pursuant to the Act and the Indenture, revenue bonds of the City, designated as “City of Hayward Multifamily Housing Revenue Bonds (South Hayward BART Family and Senior Affordable Apartments), 2014 Series A” in an aggregate principal amount not to exceed \$33,000,000 (the “Bonds”), are hereby authorized to be issued in draw-down form or all at one time. The Bonds shall be executed by the manual or facsimile signature of the City Manager of the City, and attested by the manual or facsimile signature of the City Clerk of the City, in the form set forth in and otherwise in accordance with the Indenture.

Section 3. The form of Indenture on file with the City Clerk is hereby approved. The City Manager is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Indenture in said form, with such additions thereto or changes therein as are recommended or approved by the City Manager upon consultation with bond counsel to the City, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Indenture.

Section 4. The form of Loan Agreement on file with the City Clerk is hereby approved. The City Manager is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Loan Agreement in said form, with such additions thereto or changes therein as are recommended or approved by the City Manager upon consultation with bond counsel to the City, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Loan Agreement.

Section 5. The form of Regulatory Agreement on file with the City Clerk is hereby approved. The City Manager is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Regulatory Agreement in said form, with such additions thereto or changes therein as are recommended or approved by such officers upon consultation with bond counsel to the City, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Regulatory Agreement.

Section 6. The Bonds, when executed, shall be delivered to Wells Fargo Bank, National Association, as the initial holder thereof, upon the funding of the initial advance of the Loan (as defined in the Indenture) with the purchase price for the initial draw of the Bonds.

Section 7. The law firm of Jones Hall, A Professional Law Corporation, is hereby named as bond counsel to the City in connection with the issuance of the Bonds. The financial advisory firm of

CGS Advisors, Inc. is hereby named as financial advisor to the City in connection with the issuance of the Bonds. The fees and expenses of bond counsel and the financial advisor are to be paid solely from the proceeds of the Bonds or directly by the Borrower.

Section 8. All actions heretofore taken by the officers and agents of the City with respect to the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the proper officers of the City, including the City Manager, are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this Resolution and resolutions heretofore adopted by the City and in order to carry out the Program, including but not limited to those certificates, agreements, deeds of trust and other documents described in the Indenture, the Loan Agreement, the Regulatory Agreement, and the other documents herein approved and any certificates, agreements or documents as may be necessary to further the purpose hereof, including, but not limited to, any subordination agreement required to be executed in connection with the proposed financing, but which shall not create any obligation or liability of the City other than with respect to the revenues and assets derived from the proceeds of the Bonds.

Section 9. This resolution shall take effect immediately upon its adoption; provided, that the authority granted hereunder shall be conditioned upon the completion of the Market Rate Transfer.

IN COUNCIL, HAYWARD, CALIFORNIA, September 16, 2014.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward