



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 01/28/03
AGENDA ITEM 2
WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: Director of Public Works
SUBJECT: Authorization for City Manager to Execute Termination of Lease Agreement with WF Cinema Holdings, L.P.

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution, which authorizes the City Manager to execute a Termination of Lease with WF Cinema Holdings, L.P.

BACKGROUND:

In early 1972, the City and Cineamerica Theatres, L.P. (Festival Cinemas 9), entered into a 50-year land lease for approximately 8.12 acres of Airport property (as amended). The building houses a nine-screen theater on Airport property at 19901 Hesperian Boulevard. In late 1997, WestStar Cinemas (doing business as Mann Theatres) acquired all of Cineamerica's theater operations including its leasehold interest with the City. The lease termination date is July 31, 2025. The zoning is Planned Development (PD). Rent paid to City is approximately \$102,148 per year.

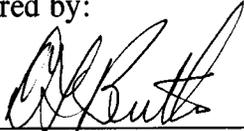
The construction of two new theater complexes in San Leandro and Union City dramatically reduced revenues to Mann Theaters. After struggling for several years to continue operation of its Hayward theater, WestStar Cinema can no longer afford to do so and for financial reasons closed its Hayward facility on January 26.

The City has negotiated a Lease Termination Agreement (the "Agreement") with WestStar addressing several important points. They include: ongoing maintenance and upkeep of the facility and grounds; landscaping; fencing improvements; public safety; appearance of the vacant building and parking lot; and methods to minimize vandalism, graffiti and itinerants. There is the additional issue of asbestos in the building. At the City's request, WestStar completed two asbestos surveys. Some trace elements of asbestos in various mastics, glues and floor coverings were discovered, but levels are not significant.

Mitigation of these issues is a negotiated one-time cash payment to the City of \$400,000, which will cover the initial cost of removing asbestos from the building, protecting the glass façade from vandalism, and improving the overall appearance of the leased premises (i.e., landscaping and parking lot repairs). In addition, the Fee is intended to permit continuous, ongoing security and maintenance expenses for up to two years (or until a new tenant is located). Staff believes that it is in the best interest of the City to achieve a negotiated agreement on lease termination. In a bankruptcy situation, the City would likely not receive monies for ongoing maintenance and asbestos removal. Additionally, with nearly 20 years remaining on the lease, the community is now capable of attracting a more advantageous commercial reuse of the property.

Based on a study commissioned by the City to determine appropriate uses for this site (and others fronting Hesperian), the consultant determined that retail activity of a sub-regional nature to be appropriate. The results of the study were reviewed with the Council Airport Committee. In addition to maintaining the property free of debris and other material, efforts will be initiated to find a suitable replacement tenant.

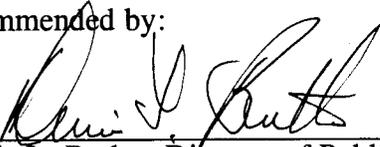
Prepared by:



For

Brent S. Shiner, Airport Manager

Recommended by:



Dennis L. Butler, Director of Public Works

Approved by:



Jesús Armas, City Manager

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. _____

Introduced by Council Member _____

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1/24/03

RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A TERMINATION OF LEASE
AGREEMENT BETWEEN THE CITY OF HAYWARD
AND WF CINEMA HOLDINGS, L.P.

BE IT RESOLVED by the City Council of the City of Hayward that the
City Manager is hereby authorized and directed to execute on behalf of the City of
Hayward a Termination of Lease Agreement between the City of Hayward and WF
Cinema Holdings, LP, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2003

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