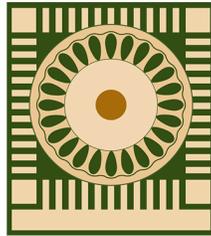


# **CITY OF HAYWARD**

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
[www.Hayward-CA.gov](http://www.Hayward-CA.gov)



CITY OF  
**HAYWARD**  
HEART OF THE BAY

## **Agenda**

**Tuesday, May 16, 2017**

**7:00 PM**

**Council Chambers**

## **City Council**

**Mayor Barbara Halliday**  
**Mayor Pro Tempore Sara Lamnin**  
**Council Member Francisco Zermeño**  
**Council Member Marvin Peixoto**  
**Council Member Al Mendall**  
**Council Member Elisa Márquez**  
**Council Member Mark Salinas**

**CITY COUNCIL MEETING**

**CALL TO ORDER Pledge of Allegiance: Council Member Salinas**

**ROLL CALL**

**CLOSED SESSION ANNOUNCEMENT**

**PRESENTATIONS**

National Police Week May 14-20, 2017

Environmental Awards Presentation

**PUBLIC COMMENTS**

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

**ACTION ITEMS**

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

**CONSENT**

1. [CONS 17-273](#) Adoption of an Ordinance Amending Chapter 10, Article 25 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 2016-02751 Relating to the Construction of a 93-room, Four Story Hotel, 7,225 Square Feet of Community-Serving Retail Use, and 140 Townhome Condominium Units Homes at 25501 and 25551 Mission Boulevard

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Summary of Ordinance Published on 05/12/17](#)  
[Attachment III Resolution with Revised Conditions of Approval](#)

**WORK SESSION**

*Work Session items are non-action items. Although the Council may discuss or direct staff to follow up on these items, no formal action will be taken. Any formal action will be placed on the agenda at a subsequent meeting in the action sections of the agenda.*

2. [WS 17-017](#) Recommended FY 2018 and FY 2019 Water and Sewer Service Rates and Connection Fees (Report from Director of Utilities and Environmental Services Ameri)

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Proposed FY 2018 Water Rate Comparisons](#)  
[Attachment III Proposed FY 2018 Sewer Rate Comparisons](#)  
[Attachment IV Water Working Capital Balances](#)  
[Attachment V Wastewater Fund Working Capital Balances](#)

**PUBLIC HEARING**

3. [PH 17-049](#) Approval of a Resolution Approving Government Code Section 52201 Summary Report and Authorizing the City Manager to Negotiate and Execute a Purchase and Sale Agreement with William Lyon Homes, Inc. (the "Developer") for Specified Properties Located in South Hayward near Dixon and Valle Vista Avenues and Making Specified Findings in association therewith (Report from City Manager McAdoo)

**Attachments:** [Attachment I Staff Report](#)  
[Attachment II Resolution](#)  
[Attachment III Section 52201 Summary Report](#)

**CITY MANAGER'S COMMENTS**

An oral report from the City Manager on upcoming activities, events, or other items of general interest to Council and the Public.

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

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

**ADJOURNMENT****NEXT SPECIAL MEETING – MAY 20, 2017, 9:00 AM****PUBLIC COMMENT RULES**

*Any member of the public desiring to address the Council shall limit her/his address to three (3) minutes unless less or further time has been granted by the Presiding Officer or in accordance with the section under Public Hearings. The Presiding Officer has the discretion to shorten or lengthen the maximum time members may speak. 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 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.*

*Assistance will be provided to those requiring language assistance. To ensure that interpreters are available at the meeting. Interested persons must request the accommodation at least 48 hours in advance of the meeting by contacting the City Clerk at (510) 583-4400.*



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
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**File #:** CONS 17-273

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**DATE:** May 16, 2017

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Adoption of an Ordinance Amending Chapter 10, Article 25 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 2016-02751 Relating to the Construction of a 93-room, Four Story Hotel, 7,225 Square Feet of Community-Serving Retail Use, and 140 Townhome Condominium Units Homes at 25501 and 25551 Mission Boulevard

**RECOMMENDATION**

That the Council adopts the Ordinance introduced on May 9, 2017.

**ATTACHMENTS**

Attachment I Staff Report  
Attachment II Summary of Ordinance Published on 05/12/2017  
Attachment III Resolution with Revised Conditions of Approval



DATE: May 16, 2017

TO: Mayor and City Council

FROM: City Clerk

SUBJECT Adoption of an Ordinance Amending Chapter 10, Article 25 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 2016-02751 Relating to the Construction of a 93-room, Four Story Hotel, 7,225 Square Feet of Community-Serving Retail Use, and 140 Townhome Condominium Units Homes at 25501 and 25551 Mission Boulevard

#### RECOMMENDATION

That the Council adopts the Ordinance introduced on May 9, 2017.

#### BACKGROUND

The conditions of approval attached to the resolution that Council adopted on May 9, 2017 were modified to require that solar photovoltaic systems be installed atop the hotel and residential buildings, and to include a new condition that states, “The hotel/retail building pad shall be rough graded prior to the issuance of a certificate of occupancy for the first residential unit; the hotel/retail building shall be in vertical construction phase before a certificate of occupancy is issued for the 130<sup>th</sup> residential unit, and be completed prior to issuance of certificate of occupancy for the last residential unit.” Also, as indicated during the May 9 public hearing, Condition No. 52i requires that garages for each unit “...be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas.”

The Ordinance was introduced by Council Member Zermeño at the May 9, 2017 special meeting of the City Council with the following vote:

AYES: Council Members: Zermeño, Márquez, Mendall, Lamnin, Salinas  
Mayor Halliday

NOES: Peixoto

ABSENT: None

ABSTAIN: None

#### FISCAL IMPACT

There is no fiscal impact.

## PUBLIC CONTACT

The summary of the Ordinance was published in the Hayward Daily Review on Friday, May 12, 2017. Adoption at this time is therefore appropriate.

## NEXT STEPS

The Hayward Municipal Code will be updated accordingly.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', is written above a horizontal line.

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Kelly McAdoo, City Manager

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

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 25 OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION WITH ZONE CHANGE APPLICATION NO. 2016-02751 RELATING TO THE CONSTRUCTION OF A 93-ROOM, FOUR STORY HOTEL, 7,225 SQUARE FEET OF COMMUNITY-SERVING RETAIL USE, AND 140 TOWNHOME CONDOMINIUM UNITS HOMES AT 25501 AND 25551 MISSION BOULEVARD

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

Section 1. Rezoning.

Article 25 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone a 1.9-acre portion of an 8.7 acre area of the properties located at 25501 and 2551 Mission Boulevard (APNs: 444-0060-019-04, 444-0060-030-00, and 444-0060-031-00) from transect zone district T4-2 Urban General Zone Commercial Overlay 1 to district T4-2 Urban General Zone Commercial Overlay Zone 2.

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 reasonably interpreted to give effect to intentions of the City Council.

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held May 9, 2017, the above-entitled Ordinance was introduced by Council Member Zermeño.

This Ordinance will be considered for adoption at the meeting of the Hayward City Council, to be held on May 16, 2017, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: May 12, 2017  
Miriam Lens, City Clerk  
City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 17-\_\_\_\_

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

RESOLUTION ADOPTING AN EIR ADDENDUM, AND  
APPROVING A CONDITIONAL USE PERMIT, ADMINISTRATIVE  
USE PERMIT, WARRANT, VESTING TENTATIVE TRACT MAP  
8345 AND ZONE CHANGE (APPLICATION NO. 2016-02751)  
PERTAINING TO THE SUBDIVISION AND CONSTRUCTION OF A  
93-ROOM, FOUR STORY HOTEL, 7,225 SQUARE FEET OF  
COMMUNITY-SERVING RETAIL SPACE, AND 140 TOWNHOME  
CONDOMINIUM UNITS AT 25501 AND 25551 MISSION  
BOULEVARD AND 671 BERRY AVENUE

WHEREAS, on May 25, 2016, an Application by MLC Holdings, Inc. (Applicant), Auto Mission, Ltd. and Charles L. Pifer (Property Owners) was submitted for a Zone Change for 1.9 acres from T4-2 Urban General Commercial Overlay Zone 1 to T4-2 Commercial Overlay Zone 2, a Conditional Use Permit to allow ground floor residential units in the T4-2 Urban General Commercial Overlay Zone 2, an Administrative Use Permit to allow a hotel in the T4-2 Commercial Overlay Zone 1, a Warrant for excess parking for residential condominiums, and Vesting Tentative Tract Map 8345 for the property located at 25501 and 25551 Mission Boulevard and 671 Berry Avenue for the construction of a 93-room, four story hotel, 7,225 square feet of community-serving retail use, and 140 townhome condominium units (the "Project"); and

WHEREAS, an Addendum to the Mission Boulevard Corridor Specific Plan and Form-Based Code Environmental Impact Report (EIR) (SCH 2011042076) 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 continued from April 20, 2017 and held on April 27, 2017, and recommended that the City Council adopt the EIR Addendum and conditionally approve the Project; and

WHEREAS, the City Council held a public hearing on May 9, 2017 that was noticed in the manner required by law.

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 to prepare an Addendum to the Mission Boulevard Corridor Specific Plan and Form-Based Code Environmental Impact Report (EIR) (SCH 2011042076) (EIR Addendum). No new significant impacts were identified nor were any new mitigation measures anticipated or required and that all potentially significant impacts could be reduced to a level of insignificance.
2. That the proposed EIR Addendum was prepared by the City of Hayward as Lead Agency and was circulated within the regular public review period.
3. That the proposed EIR Addendum was independently reviewed, considered and analyzed by the City Council and reflects the independent judgement of the City Council; that such independent judgement 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 EIR Addendum and the administrative record as a whole); that the City Council adopts the proposed and its findings and conclusions as its source of environmental information; and that the proposed EIR Addendum is legally adequate and was completed in compliance with CEQA.
4. That the proposed EIR Addendum 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 EIR Addendum will be adopted and implemented. Based on the EIR Addendum and the whole record before the City Council, 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 EIR Addendum was presented to the City Council, which reviewed and considered the information contained therein prior to 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 94541.

ZONE CHANGE

6. 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 of Sustainable Mixed Use and policies related to density and availability of a variety of housing types, specifically:

- The density is consistent with the Mission Boulevard Corridor Form- Based Code.
- The project incorporates sustainability measures as an objective of this land use.

LU-3.6 Residential Design Strategies: The City shall encourage residential developments to incorporate design features that encourage walking within neighborhoods by:

- Creating a highly connected block and street network.
- Designing new streets with wide sidewalks, planting strips, street trees, and pedestrian-scaled lighting.
- Orienting homes, townhomes, and apartment, and condominium buildings toward streets or public spaces.
- Locating garages for homes and townhomes along rear alleys (if available) or behind or to the side of the front facade of the home.
- Enhancing the front facade of homes, townhomes, and apartment and condominium buildings with porches, stoops, balconies, and/or front patios.
- Ensuring that windows are provided on facades that front streets or public spaces.

LU-3.7 Infill Development in Neighborhoods: The City shall protect the pattern and character of existing neighborhoods by requiring new infill developments to have complimentary building forms and site features.

H-3.1 Diversity of Housing Types: The City shall implement land use policies that allow for a range of residential densities and housing types, prices, ownership, and size, including low density single-family uses, moderate-density townhomes, and higher-density apartments, condominiums, transit-oriented developments, live-work units, and units in mixed-use developments.

H-3.3 Sustainable Housing Development: The City shall improve affordability by promoting sustainable housing practices that incorporate a ‘whole system’ approach to siting, designing, and constructing housing that is integrated into the building site, consumes less water and improves water quality, reduces the use of energy use, and other resources, and minimizes its impact on the surrounding environment.

H-3.4 Residential Uses Close to Services: The City shall encourage development of residential uses close to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes.

H-3.6 Flexible Standards and Regulations: The City shall allow flexibility within the City’s standards and regulations to encourage a variety of housing types.

H-4.1 Flexible Development Standards: The City shall review and adjust as appropriate residential development standards, regulations, ordinances, departmental processing procedures, and residential fees that are determined to be a constraint on the

development of housing, particularly housing for lower- and moderate-income households and for persons with special needs.

The Project is located on infill sites in a transitional area adjacent to an existing residential development and other newer residential developments. The proposed development utilizes unique architecture to make this development blend with the urbanist Hotel architecture but also complements the residential condominiums, as well as the adjacent developments. Utilizing exclusive architecture and private roadways for this infill development ensures the entire area maintains a harmonious, cohesive appearance. In addition, the site design is consistent with the surrounding area with homes fronting onto private streets or along common walkways or paseos that run between rows of homes with garages located in alleys behind the homes.

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

The proposed project site is a reuse of a previously developed site along a primary city thoroughfare. As conditioned, there are/would be utilities available with adequate capacity to serve the proposed development. The project also is required to construct or participate in the construction of perimeter and related improvements. In addition, the project is required to underground any overhead utilities in front of the project site and/or abutting any public street.

8. 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 applicant has proposed a development that integrates density, livability, and renewable energy sources (solar energy systems, electric vehicle charging, etc.). The project provides a well-balanced neighborhood of townhouse condominiums that include private outdoor balconies, common outdoor areas, and an urban farm. The floor plans offer living arrangements that meet market demand for a variety of household types with ground floor suites, dual master suites, and traditional family lifestyles.

Furthermore, as discussed in the EIR Addendum, the Project will have no significant impacts or adverse impacts on surrounding development that already have been addressed in previously adopted environmental documentation and would be subject to implementation of mitigation measures.

9. 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 Sustainable Mixed Use land use design and the T4-1 and T4-2 transect zoning districts of the Mission Boulevard Corridor Form-Based Code.

The applicant is seeking a zone change for that portion of the project site (approximately 1.9 acres) from Commercial Overlay Zone 1 to Commercial Overlay Zone 2, which would allow development of ground floor residential uses with a Conditional Use Permit. The project would provide a unique feature not typically found in developments in Hayward: a community farm, which would provide better access to local and fresh food for the residents of the project.

### SITE PLAN REVIEW

10. The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City.

The area is undergoing a transition from automotive and retail uses to mixed use. Surrounding structures typically are older, underdeveloped, and low profile. However, the area is planned for rejuvenation and intensification. The residential development would be three-story walk-up condos, and the hotel would be a four-story upscale, extended stay hotel of a well-known operator. The density is compatible with the surrounding residential uses and the extended stay nature of the hotel contributes to its compatibility. The residential uses would serve demands for new housing opportunities and would be an appropriate use at a distance off the thoroughfare. Adjacent uses to the north and west also are multi-family residential.

11. The development takes into consideration physical and environmental constraints.

The project site generally is flat. Development would be constrained only by a BART right-of-way along its westerly boundary and existing development (including the vehicular circulation system) on the remainder of its perimeter. The project site is designed with appropriate access and vehicular circulation and is not further constrained.

12. The development complies with the intent of City development policies and regulations.

The proposed project would allow the reuse of vacant, abandoned, or underutilized properties within an existing urban area. The proposed project is consistent with the intent and uses anticipated for Sustainable Mixed Use and complies with the Hayward Mission Boulevard Corridor Form Based Code.

13. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.

The hotel use would be compatible with commuters and nearby university needs and activities. The residential uses would be compatible with adjacent multi-family residential uses to the north and west.

CONDITIONAL USE PERMIT (CUP) and ADMINISTRATIVE USE PERMIT (AUP)

14. The proposed use is desirable for the public convenience or welfare.

The proposed hotel and commercial uses will bring back quality and productive enterprises to abandoned or underperforming properties. An extended stay, high quality hotel of a known franchise would be a desirable use for the area. The proposed residential uses will increase the supply of needed housing opportunities within the City and substantially improve currently underutilized property.

15. The proposed use will not impair the character and integrity of the zoning district and surrounding area.

The proposed commercial and residential uses will not impair the character and integrity of the zoning district but will enhance it by revitalizing it with inhabitants. The project will integrate land uses consistent with the Urban General Zones in the Form-Based Code, conform to designated density, and implement sustainable measures of development.

16. The proposed use will not be detrimental to the public health, safety, or general welfare.

The proposed hotel, commercial, and residential uses will not be detrimental to the public health safety, or general welfare. They will improve the area with productive uses and increase the available supply of housing. The site is designed with adequate circulation and incorporates measures of sustainability such as the urban farm, solar energy, and water quality measures. The City is projected to earn substantial revenues from transient occupancy taxes to offset public services costs.

17. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning district involved.

The proposed hotel, commercial, and residential uses are in harmony with applicable City policies by reinvigorating abandoned or underperforming properties. Parcelization will be configured to meet current development needs. Commercial services and residential uses will be placed in proximity to create a community atmosphere. Public improvements will be updated and function as intended.

WARRANT

18. Policy Consistency. The Warrant is consistent with the General Plan and overall objectives of this Code.

The warrant to allow excess parking for the condo units will, in fact, be an enhancement to the density and mixed use nature of the project, and be responsive to concerns of the City Council to ensure adequate on-site parking is provided.

19. **Compatibility.** The Warrant is justified by environmental features or site conditions; historic development patterns of the property or neighborhood; or the interest in promoting creativity and personal expression in site planning and development.

Market demand dictates that for-sale/condominium or townhome residential products typically are provided with two covered spaces per unit, and guest spaces are provided for convenience and for ease of use. The extra parking would not negatively impact the character envisioned for the Mission Boulevard Corridor planning area or for the Sustainable Mixed Use land use designation.

Also, warrants for extra parking were approved for projects in the area at the south end of Dollar Avenue a few hundred feet from the project site. This area is further away from the BART stations in Hayward than most of the other areas in the Form-Based Code area.

20. **No Adverse Impact.** The Warrant would result in development that is not detrimental to the public health, safety, or welfare, or injurious to the property or improvements in the vicinity and in the same zoning district.

Approval of the Warrant for excess parking with the residential portion of the proposed project would not be detrimental to the public health, safety, or welfare, or injurious to the property or improvements in the vicinity and in the same zoning district. In fact, it would enhance the public health, safety, and welfare by improving vehicular circulation. Designated guest parking areas would accommodate guests and minimize the potential for impacts between pedestrians/residents and vehicles.

21. **Special Privilege.** The Warrant would not affect substantial compliance with this Code or grant a special privilege inconsistent with the limitations upon other properties in the vicinity and in the same zoning district.

The provision to allow the additional 25 on-site, guest parking spaces for the condos would, in fact, be a benefit to the function of the residential community and would exceed requirements while remaining within the intended character of the zoning district.

#### VESTING TENTATIVE TRACT MAP 8345

22. That the proposed map is consistent with applicable general and specific plans as specified in Section 64541 of the Subdivision Map Act. [Subdivision Map Act §66474(a)]

Vesting Tentative Tract Map 8345 with Conditions of Approval substantially conforms to the State Subdivision Map Act, the City's Subdivision Regulations, and the General Plan. No Specific Plan applies to the Project.

23. That the design or improvement of the proposed subdivision is consistent with applicable general plan and specific plans. [Subdivision Map Act §66474(b)]

The proposed subdivision, as demonstrated by the findings associated with the Zone Change Application AND Site Plan Review is of a design consistent with the City's General Plan.

24. That the site is physically suitable for the type of development. Subdivision Map Act §66474(c)]

The preliminary geotechnical investigation and geotechnical exploration report performed by Engeo Incorporated dated September 11, 2015, demonstrates that the proposed project is feasible and the proposed subdivision would occur on a site suitable for the proposed development with the recommendation that a design level geotechnical investigation be conducted prior to construction to review the geotechnical aspects of the project. The site provides sufficient lane widths and ingress/egress points, pedestrian facilities and infrastructure locations, such as water and sewer lines, storm drains and stormwater treatment areas, to support the number of units and commercial structures being proposed.

25. That the site is physically suitable for the proposed density of development. [Subdivision Map Act §66474(d)]

The preliminary geotechnical investigation and geotechnical exploration report performed by Engeo Incorporated dated September 11, 2015, demonstrates that the proposed project is feasible and the proposed subdivision would occur on a site suitable for the proposed development with the recommendation that a design level geotechnical investigation be conducted prior to construction to review the geotechnical aspects of the project. Density is not a factor that makes the site suitable or less suitable for development.

26. That the design of this infill project and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. [Subdivision Map Act §66474(e)]

The approval of Vesting Tentative Map Tract 8345, as conditioned, will have no significant impact on the environment, cumulative or otherwise. An Addendum to the EIR for the Hayward Mission Boulevard Corridor Specific Plan prepared pursuant to the guidelines of the California Environmental Quality Act (CEQA) for the development of this site demonstrates that substantial adverse environmental damage, including to fish or wildlife and their habitat, would not result from the proposed project.

27. That the design of the subdivision or type of improvements are not likely to cause serious public health problems. [Subdivision Map Act §66474(f)]

As conditioned, adequate capacity will exist to provide sanitary sewer service to the Project site. Measures to ensure bio-treatment of stormwater runoff are included as Conditions of Approval, thereby reducing the likelihood of serious public health problems. There are no other aspects of the Project with the potential to cause serious public health problems.

28. That the design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. [Subdivision Map Act §66474(g)]

The building improvement plan shall reflect all easements needed to accommodate the project development. The private streets 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). Upon completion of the proposed improvements, the streets and utilities would be adequate to serve the project. New public easements are to be offered for dedication as necessary.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Addendum to the EIR (Exhibit "B") and approves the Project, subject to the adoption of the companion ordinance (Ordinance No. 17-\_\_\_\_) and the attached conditions of approval (Exhibit "A").

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2017

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

May 9, 2017

Mission Crossings  
(Mission Boulevard, Torrano Avenue, and Berry Avenue)  
MLC Holdings, Inc. (Applicant)

Zone Change from T4-2 Urban General Zone (17.5 min to 35 units max per net acre) with a Commercial Overlay Zone 1 to T4-2 with a Commercial Overlay Zone 2, Site Development Review, Conditional Use Permit to allow ground floor residential units in Commercial Overlay Zone 2, Administrative Use Permit to allow a hotel in the T4-2 zone, a Warrant for excess parking, and Vesting Tentative Map 8345 associated with the subdivision (Tract 8345)  
(Application No. 201602751)

#### General

1. Approval - This approval shall be for those plans as generally shown and presented to the Planning Commission on April 20, 2017 and City Council on May 2, 2017, and on file in the Community Development Department, and other plans, text, and diagrams relating to this application and as specified as the following Conditions of Approval for this project. This approval is subject to adoption of the EIR Addendum to the Mission Corridor Specific Plan EIR and adoption of an ordinance for the requested Zone Change and the other approvals related to application subject to the Conditions of Approval listed below.
2. Effective Date/Expiration - The project approval shall coincide with the approval period for the Vesting Tentative Tract Map (Tract 8345). If a building permit is issued for construction of improvements authorized by the Zone Change approval, said approval shall be void two years after issuance of the building permits, or three years after approval of Precise Plan application, whichever is later, unless the construction authorized by the building permits has been substantially completed or substantial sums have been expended towards the project.
3. 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.
4. Fee - Prior to building permit issuance, Applicant/Developer must pay all applicable development fees, as determined by the City Engineer in accordance with the most current approved fee schedule adopted by the City Council, including but not limited to, utility connection fees.
5. Fee - The Applicant/Developer shall be obligated for the following additional fees. The amount of the fee shall be paid in accordance with the fee schedule in effect at the time

- the Vesting Tentative Tract Map was accepted as complete, unless otherwise indicated herein.
6. 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.
  7. 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 plans unless otherwise indicated herein.
  8. The Applicant/Developer shall not obstruct the noted sight distance areas. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation.
  9. All existing public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements where the easement is located within landscape areas.
  10. Prior to any work within public right of way or City easement, the Applicant/Developer shall obtain an encroachment permit from the City.
  11. It is applicant's responsibility to get permit or approval from all affected agencies or private parties. Please provide a copy of these permits or approval to the City with your building permit application submittal.
  12. The Applicant/Developer shall submit an AutoCAD file format (release 2010 or later) in a CD of approved map and 'as-built' improvement plans showing all public improvements and utility layouts that can be used to update the City's Base Maps.
  13. Prior to building permit issuance, Applicant/Developer shall dedicate necessary easements along Street frontages, including but not limited to 6-foot Public Utility Easement (PUE).
  14. The building improvement plan shall reflect all easements needed to accommodate the project development. The private streets 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).
  15. **Public Improvements** - Prior building permit issuance, the Applicant/Developer shall obtain design approval and bond for all necessary public improvements along Mission Boulevard, Torrano Avenue, and Berry Avenue, including but not limited to the following:
    - a. Removal and installation of new curb, gutter, and sidewalk along entire Torrano Avenue frontage.
    - b. Install necessary new street lights along the Berry Avenue from project frontage to Mission Boulevard.

- c. The entire width of Torrano Avenue along the project frontage shall be milled and overlaid with a minimum 2" hot mix asphalt with dig outs as necessary.
- d. Install conduits & junction boxes to allow installation of future fiber optic network within the project/subdivision which will be owned and maintained by the City.
- e. The existing driveway to be abandoned along Mission Blvd. shall be removed and replaced with standard curb, gutter, and sidewalk.
- f. Remove, replace, and plant street trees along project frontages per City Landscape Architect direction.

Plans for all public improvements shall be prepared on Mylar (22"x34" sheets) and developer shall submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The public facilities such as water meters, RP backflow preventers, sewer clean outs, etc., shall be placed so access is maintained and kept clear of traffic. All improvements must be in accordance with the City of Hayward standard detail and specs and built to the City Engineer's satisfaction, and accepted by the City prior to issuance of any first certificate of occupancy for the project.

- 16. Agreement - Prior to building permit issuance, Applicant/Developer shall execute a public improvement 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 agreement.
- 17. Water quality - Applicant/Developer shall comply with the regional permits requirements for both pre-construction and post-construction requirements. Storm water management shall be in compliance with Municipal Regional Permit.
- 18. Water quality - 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. The condominium site HOA shall be responsible for maintenance and up keeping of the stormwater treatment measures for the entire site including Parcel A.
  - c. 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).
  - d. 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.

- e. 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.
  - f. 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.
  - g. The following documents pursuant to the Cleanwater Program requirements and completed and submitted with improvement and grading plans:
    - 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).
19. **Water Quality** - 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.
20. **Water Quality** - Construction activities which disturb 1 acre or greater are viewed as a source of pollution and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. Following are the specific requirements for regulated construction sites:
- a. 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 during the construction. 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.
  - b. Before commencing any grading or construction activities at the project site, the Applicant/Developer may need to 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
21. **Water Quality** - The Applicant/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.
22. **Storm** - The on-site storm drain system is privately owned and maintained by the home owner association (HOA).

23. Storm - 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 storm water detention measures sufficient to reduce the peak runoff to a level that will not cause capacity of downstream channels to be exceeded. Existing offsite drainage patterns, i.e., tributary areas, drainage amount, and velocity shall not be altered by the development. 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.
24. Storm - The project plan measures 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.
25. Storm - 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 Applicant/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. The starting water surface elevation(s) for the proposed project's hydraulic calculations and the corresponding determination of grate/rim elevations for all the on-site storm drainage structures shall be based on Federal Emergency Management Agency's Flood Insurance Study for the 100-year storm event.

- h. 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.
26. Sewer - Sewer service is available from the City of Hayward and is subject to standard conditions and fees in effect at the time of application.
27. Water - Water service is available from the City of Hayward and is subject to standard conditions and fees in effect at the time of application.
28. Water - Water mains and services, including the meters must be located at least 10 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.
29. Water - All water services 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 Applicant/Developer may only construct new services in conjunction with the construction of new water mains. Only Water Distribution Personnel shall perform operation of valves on the Hayward Water.
30. Water - 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.
31. Water - 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.
32. Water - Each lot shall have an individual water meter.
- a. All water meters shall be radio-read type.
- 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.
33. Water - Each structure shall have its own fire service, sized per the requirements of the Fire Department. Fire Services shall have an above ground Double Check Valve Assembly per City Standard SD-201 and SD-204. Residential combined domestic and fire services are allowed, per City Standard SD-216. The minimum size for a residential fire service connection is 1".
34. Water - 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.
35. Utilities - All service to the development shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company, and local 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.

36. Utilities - All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the Street frontages 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.
37. Utilities - The Applicant/Developer shall provide and install the appropriate facilities, conduit, junction boxes, etc., to allow for installation of a fiber optic network within the development.
38. Utilities - All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.
39. Utilities - 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.
40. General - All driveway entrances on Torrano Avenue and Berry Avenue shall be designed as per SD-110A, with decorative entrances.
41. General Submittal – Prior to building permit issuance, 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. Easement document;
  - d. Signed Public Improvement Agreement; and
  - e. Public Improvement bonds.
42. General Submittal – To avoid or reduce the potential impact related to the site specific geotechnical hazards related to seismic hazards, the project Applicant/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.
  - b. New construction will comply with the latest California Building Code and mitigation measures outlined in the Geotechnical Investigation report.
  - c. For each building constructed in the development plan area, the required site specific geotechnical investigation shall address expansive soils and provide appropriate engineering and construction techniques to reduce potential damage to buildings.
  - d. To reduce the potential impacts related to the presence of low to moderately expansive clays in the subsurface soils of the project site, mitigation measures to avoid the effects of expansive soils outlined in the Geotechnical Investigation shall be followed.
43. Construction BMP - The Applicant/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.
44. Construction BMP - All diesel powered equipment ( $\geq$  100 horsepower) shall be California Air Resources Board (CARB) Tier 3 Certified or better.

45. Construction BMP - 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 8:00 AM to 5:00 PM Monday through Friday with no work on weekends and Holidays unless revised hours and days are authorized by the City Engineer. 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.
  - f. The Applicant/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.
  - g. Daily clean-up of trash and debris shall occur on project street frontages, 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.
  - 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.
  - w. The Applicant/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.
46. General Construction - 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.
47. General Construction - 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 be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.
48. General Construction - Prior to final inspections, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
49. General Construction - All buildings shall be designed using the California Building Codes in effective at the time of submitting building permit applications.
50. General Construction - All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.
51. General Construction - All public 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.

52. HOA - Prior to or concurrent with final map recordation, the Conditions, Covenants and Restrictions (CC&Rs) creating homeowners association (HOA) for the proposed residential shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&Rs 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. The CC&Rs shall include provisions to allow future adjacent developments to annex into HOA if appropriate.
  - b. Each owner shall automatically become a member of the association(s) and shall be subject to a proportionate share of maintenance expenses.
  - c. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the HOA(s).
  - d. The HOA shall be managed and maintained by a professional property management company.
  - e. The HOA(s) shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The HOA(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 HOA fails to maintain the decorative walls, landscaping, and irrigation in all 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 72 hours of inspection or within 72 hours of notification by the City.
  - 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 HOA. The HOA 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, the formation of a design review committee 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 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 home owners association and shall have a decorative design approved by the Planning Director and the City Engineer.
  - n. Street sweeping of private streets, alleys and parking bays shall be conducted at least once a month.
  - o. Balconies may not be used for storage and personal items may not be draped over the railings.
  - p. The HOA 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.
  - q. The Applicant/Developer or HOA shall maintain all fencing, parking surfaces, common landscaping, lighting, trash enclosures, 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 HOA 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.
53. General - The Applicant/Developer 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.

## Landscape

### Hotel Site/Residential Site/Standards

54. Prior to approval of a planning or building permit, detailed landscape and irrigation plans shall be reviewed and approved by the City. The design shall be prepared by a licensed landscape architect on an accurately surveyed base plan in compliance with the City's Hayward Mission Boulevard Corridor Form-Based Code. The improvement plans (construction documents) shall be in full compliance with the City's Bay-Friendly Water Efficient Landscape Ordinance (California Building Code Title 23). The plans shall also comply with other relevant sections in Municipal Codes. Existing tree locations shall be shown on the plan and the trees shall be identified whether to be preserved or removed.
55. All information included on the plan shall be legible.
56. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be twenty-two (22) inches by thirty-four (34) inches without an exception. A signing block shall be provided in the low right side on each sheet of Mylar. The signing block shall contain a signature line and a date line for City of Hayward, Landscape Architect. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer.
57. Tree mitigation shall be done above and beyond required trees. When required trees are upsized from the required, the cost difference between the required and upsized trees can be used toward meeting the tree mitigation goal. Minimum required tree size for street and front yard trees are twenty-four-inch-box and screening and parking lot shade trees are fifteen gallon. Revise tree mitigation summary chart shall be included in the landscape plan.
58. A tree preservation bond will be required for all trees that are to remain, and the bond will be in effect throughout the construction period and until completion of the entire project improvements. If any trees that are designated as saved are removed or damaged during construction shall be replaced with trees of equal size and equal value.
59. Minimum dimension for any planting area shall be five feet measured from back of curb/paving/structure to back of curb/paving/structure.
60. Hotel Site: Tree selection at the rear of the hotel building shall be re-evaluated to create attractive home frontage.
61. Hotel Site: Impervious surface shall not be allowed in the first layer other than allowed driveways.
62. Hotel Site: A minimum twenty-four-inch-box single species of tree shall be planted within the first layer as street frontage tree at every thirty feet on center or appropriate to specified species.
63. Housing Site: Each unit shall have a minimum one twenty-four-inch-box tree planted in the unit frontage. When a residential development abuts multi-family or non-residential developments, evergreen buffer tree shall be planted at every twenty feet on center or to achieve adequate screening between two developments.
64. Routine shearing or hedging of plants shall not be allowed in the City of Hayward in accordance with Bay-Friendly Water Efficient Landscape Ordinance. Proposed plant palette shall include plants' height and spread at maturity except for trees. Proposed spacing shall not be less than the spread at maturity. Substitute plants from the

- proposed plant palette that will require the prohibited maintenance activities, or increase proposed plant spacing.
65. A wider landscape area shall be provided if necessary to accommodate both bio-treatment and tree planting requirements when landscape setback area is used in compliance with the C3. Stormwater Treatment requirements.
  66. Bio-treatment area shall be irrigated with matched precipitation rotator type, or as efficient overhead spray irrigation system allowing “cycle and soaking” program function on a separate valve.
  67. The trees should be twenty feet from the 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. Root barrier shall be provided for all trees that are located within seven feet of paved edges or structure. Trees shall be planted according to the City Standard Detail SD-122.
  68. Children’s playground equipment certification: Health and Safety Code in Chapter 4 titled “Safe Recreational Land Use (115725 – 115800)” calls for compliance with standard of ASTM and federal Consumer Protection and Safety Commission. Playground equipment is required an inspection by a certified playground safety inspector by the National Playground Safety Institute, and the certification letter shall be submitted City Landscape Architect prior to the final inspection and issuance of Certificate of Occupancy.
  69. A separate irrigation water meter shall be provided for the residential development for the landscape area that will be maintained by HOA. Another irrigation water meter shall be provided for the hotel property.
  70. 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 80% 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.
  71. Upon completion of landscape and irrigation installation, the project landscape architect shall conduct an inspection for compliance with the approved landscape and irrigation improvement plans, and the conditions of approval above. Once the installation is fully accepted, Attachment C. Document of Final Acceptance and Appendix C. Certificate of Completion Part 1 through Part 7 shall be completed by the project landscape architect and submitted to City Landscape Architect and request for a landscape inspection for the City's approval for issuance of Certificate of Occupancy.

## Fire

### Water Supply

72. Provide the water/fire flow test data information on the plan, including static pressure, residual pressure, pitot pressure, test flow, calculated available water flow at 20psi and test date. The data should be less than 5 years old. This information may be requested from the Hayward Public Works Department. A new test should be requested if updated data is not available.

73. The minimum fire flow of 1,500 gpm shall be provided for building up to 3,600 square feet. A fire flow shall be provided in accordance with the 2013 California Fire Code Table B105.1 based on the construction type and building area when building exceeding 3,600 square feet.
74. The average spacing between hydrants is 300 feet. Any portion of the building or facility shall be within 400 feet of a fire hydrant.
75. Type of fire hydrant(s) to be installed shall be Modified Steamer Hydrant (Clow Valve Co. Model LB 614 with one 2-1/2" outlet and one 4-1/2" outlet) in single-family residential area or Double Steamer Hydrant (Clow Valve Co. Model 865 with one 2-1/2" outlet & two 4-1/2" outlets) in other areas. Fire hydrant(s), when installed as part of the fire sprinkler system service line, shall be installed on the line so as to remain independently controlled and in operable condition when the fire sprinkler system is closed. (Fire Hydrant locations are subject to change per the Authority Having Jurisdiction.)
76. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants

#### Fire Access

77. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches. The minimum fire apparatus access road with a fire hydrant is 26 feet.
78. All drive ways shall be designed and engineered to withstand 75,000 lbs. gross vehicle weight of fire apparatus. Such standard is also applicable to pavers or decorative concrete. Design of the public streets and private streets and courts shall meet City of Hayward Fire Department Standards.
79. 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.
80. When buildings or portion of buildings or facilities exceeding 30 feet in height above the lowest level of fire department vehicle access, fire apparatus roads shall have unobstructed width of 26 feet in the immediate vicinity of the building.

#### Building Construction

81. Building Address
  - a. (townhouse units) A minimum 4" self-illuminated address shall be installed on the front of the dwelling in a location so as to be visible from the street.
  - b. (hotel) A minimum 6" address shall be installed on a contrasting background and shall be in a location approved by the Fire Department.
82. Building construction shall be in accordance with the 2013 California Building Code (CBC).

#### Fire Protection

83. Install fire sprinkler systems in accordance with NFPA 13D when buildings are classified to be R3. An automatic sprinkler system installed in accordance with NFPA 13 shall be provided in the R2 building.

84. Per the requirement of the Hayward Public Works Department, a static pressure of 80 PSI should be used in fire sprinkler system design when a water test data indicates a higher pressure. The residual pressure should be adjusted accordingly.
85. Underground fire service line serving NFPA 13D sprinkler system shall be installed in accordance with the Hayward Public Work Department SD-216. Water meter shall be minimum one-inch in diameter.
86. Underground fire service line serving NFPA 13 sprinkler system shall be installed in accordance with the Hayward Public Work Department SD-204. Water meter shall be minimum four-inch in diameter.
87. An audible alarm bell (device) shall be installed on the exterior of the fire sprinkler system riser room.
88. An interior audible alarm device shall be installed within the dwelling in a location so as to be heard throughout the home with bedroom doors close. The device shall activate upon any fire sprinkler system water flow activity.
89. Single Station Smoke Detectors Required – All bedrooms and hallway areas shall be equipped with smoke detectors, hard-wired with battery backup. Installation shall conform to the California Building Code (CBC) and NFPA 72.
90. Single Station CO Detectors required – CO detectors should be placed near the sleeping area on a wall about 5 feet above the floor. The detector may be placed on the ceiling. Each floor needs a separate detector.
91. Manual Fire Alarm System with Waterflow is required - Fire alarm system shall conform to all NFPA 72 Standards as well as local COH Ordinances.

#### Hazardous Materials

92. Submit a phase 1 Environmental assessment and any other records regarding site contamination, investigation, remediation, or clearances from other regulatory agencies. Submit final clearance shall be obtained from either the California Regional Water Quality Control Board or Department of Toxic Substance Control to ensure that the property meets residential development investigation and cleanup standards. Allowance may be granted for some grading activities if necessary to ensure environmental clearances.
93. Grading – 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 hazards posed to development construction workers, the environment, future residents and other persons are mitigated.
94. Discovery of Potentially Hazardous Materials or Vessels/Containers – The Hayward Fire Department’s Hazardous Materials Office shall be notified immediately at (510) 583-4900 if hazardous materials are discovered during demolition or during grading. These shall include, but shall not be limited to, actual/suspected hazardous materials, underground tanks, vessels that contain or may have contained hazardous materials.

95. If hazardous materials storage and/or use are to be a part of the facility's permanent operations then a Chemical Inventory Packet shall be prepared and submittal with building plans to the City of Hayward Fire Department at the time of application for construction permits.
96. Use of Hazardous Materials or Generation of Hazardous Waste – During construction, hazardous materials used and hazardous waste generated shall be properly managed and disposed.

## Building

97. Provide all the governing codes on plans. Applicable codes shall include the 2013 CA Building Code, 2013 CA Electrical Code, 2013 CA Mechanical Code, 2013 CA Plumbing Code, 2013 CA Green Building Standards Code, 2013 CA Energy Efficiency Standards and the City of Hayward Municipal Code and Ordinances.
98. A demolition permit, demo plans and a "J-Number" from the Bay Area Air Quality Management District are required to demo the existing buildings.
99. Provide the type of construction, occupancy groups, number of stories, the scope of work and provide info on the fire sprinkler on plans.
100. Provide building area analysis to show that the project complies within the allowable building heights and areas on plans.
101. Show the required fire-resistance-rated separation between occupancies and dwelling units and provide details.
102. Provide egress/exit plans and specify the exit access travel distance.
103. Shaft enclosures shall comply with the provisions of Section 713. Show details to comply.
104. Elevator shall be constructed in accordance with Section 713 and Chapter 30. Show details to comply.
105. Show details for life and safety issues such as rated corridors, stairway enclosure, fire-rating of walls, smoke and carbon monoxide detectors and etc.
106. Hotels and similar transient lodging facilities shall provide guest rooms in accordance with Sections 11B-224.1 through 11B-224.6.
107. Amenities in the hotel such as the pool, exercise room, buffet room, laundry room, dining area, meeting rooms, etc. are required to be accessible.
108. Provide the minimum plumbing fixtures analysis. Verify and amend as applicable the required number of plumbing fixtures for male and female. CPC 422 and Table 4-1.
109. Provide or show on plans the accessible route to all the common areas such as the storage area/trash enclosure area.
110. Parking garage for the hotel shall comply with the provisions of Sections 406.4.2 through 406.4.8 and shall be classified as either an open parking garage or an enclosed parking garage. Show details to comply.
111. Provide capability to facilitate future installation of electric vehicle charging in the parking spaces. At least one of the spaces must be accessible. Show details to comply.
112. Provide fuel-efficient vehicle parking and bicycle parking and bicycle locker. Verify the required number of fuel-efficient and car/van pool vehicle parking and short-term and long-term bicycle parking. Show details as required.

113. For multi-family homes, exterior accessible routes shall comply with Section 1110A, such as: at least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking and accessible passenger loading and unloading zones, and public streets or sidewalks to the accessible building entrance they serve. Where more than one route of travel is provided, all routes shall be accessible. Show details to comply on plans.
114. Multistory dwelling units in buildings with no elevators shall comply with the accessibility requirements of CBC Section 1102A.3.1 and Division IV of the Chapter 11A. Show details to comply.
115. Accessible parking spaces (at least 1 of every 8 parking spaces is van accessible) shall be provided at a minimum rate of 2% of the covered multifamily dwelling units. Provide calculation to show minimum number of required accessible parking. Please note that at least each type (e.g. if any, covered or not covered parking) of parking facility shall be made accessible even if the total number exceeds the required number of accessible parking spaces. Specify if the parking spaces are assigned or unassigned and visitor parking spaces and show how they comply with their accessibility requirements as stipulated in Section 1109A.4 and 1109A.5. Also, in terms of location of accessible parking spaces, accessible parking spaces shall be located on the shortest possible accessible route to an accessible building entrance. Accessible parking spaces shall be located so that persons with disabilities are not compelled to wheel or walk behind parked cars other than their own. When practical, the accessible route shall not cross lanes for vehicular traffic. When crossing vehicle traffic lanes is necessary, the accessible route shall be designated and marked as a crosswalk. In addition, accessible parking shall comply with other requirements as stipulated in Section 1109A.7.
116. Other building code requirements shall be reviewed along with structural calculations, geotechnical report, disabled access, T24 energy compliance, CALGreen (residential and non-residential) compliance and others at the building permit review process. Additional comments shall apply.
117. The hotel and residential buildings shall include solar photovoltaic systems and comply with the requirements of CA Energy Code Section 110.10(b) through 110.10(d). Show details to comply.
118. Supplemental building construction and improvement tax may be required at the time of issuance of building permit.
119. School fee payment is required prior to issuance of building permit.

## Public Works

### Engineering

120. An encroachment permit shall be obtained from ACFC & WCD prior to commencement of any work within the Flood Control District right-of-way and for the construction, modification or connection to District-maintained facilities. All workmanship, equipment and materials shall conform to District standards and specifications.
121. All inlet rims in the Bioretention Treatment Area (BTA) shall be 6" minimum above the flow line of the BTA. The design of the longitudinal flow line shall be level.

122. Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the City for review and approval of the City Engineer. All reports such as Soil Report, SWPPP, and SWMP are to be submitted in bound form. The Soil Report and SWMP shall be wet-stamped and signed by the engineer. The certification page of the SWPPP shall be signed by a Qualified SWPPP Developer (QSD) person who prepared the report. Documents that are clipped or stapled will not be accepted.
123. Prior to the issuance of a grading permit and/or the beginning of any construction activity on-site, the Applicant/Developer shall execute a Storm Treatment Measures Maintenance Agreement (available at Engineering and Transportation Division); 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.
124. Trash enclosures and/or recycling areas shall have coverings.
125. Remove and replace the existing curb, gutter and sidewalk along the Torrano Avenue property frontage.
126. The entire width of Torrano Avenue along the project frontage shall be milled and overlaid with a minimum 2" hot mix asphalt with dig outs as necessary.
127. Install standard street lights along the property frontages.
128. The existing driveway to be abandoned along Mission Blvd. shall be removed and replaced with standard curb, gutter and sidewalk.
129. The private streets and common driveways shall be designated and dedicated as PUE, PAE, SSE, WLE and EVAE.
130. The proposed street entrance along Berry Avenue shall conform to City Standard Detail SD-110A and be enhanced with at least 10' raised decorative paving and capable of supporting a 75,000 lbs. gross vehicle weight load.
131. The on-site drain system shall be private and shall be maintained by the HOA.
132. A copy of the Notice of Intent (NOI) from the State Water Resources Control Board shall be provided to the City prior to the start of grading.
133. A Homeowners Association (HOA) shall be created and be responsible for maintaining stormwater BMPs. The CC&Rs creating the HOA shall be reviewed and approved by the City Attorney. The CC&Rs shall describe how the stormwater BMPs shall be maintained by the HOA.
134. Mission Boulevard is a street on moratorium, and special attention should be given to repairing utility trench cuts and providing smooth pavement surface as directed by the City Supervising Construction Inspector.
135. Install conduits & junction boxes to allow installation of future fiber optic network within the project/subdivision which will be owned and maintained by the City.

#### Utilities and Environmental Services

136. Please provide design details for each trash enclosure at the time of the building permit. To understand if trash enclosures should be plumbed to the sanitary sewer, please contact Water Pollution Source Control at (510) 881-7900. Design details for enclosures are found in Section 3 of the attached Standard Conditions.
137. Trash enclosure location recommendations (recommendations are not requirements, but are provided as guidance to address a few areas of concern):
  - a. For the trash enclosure located on the Northwest corner of the commercial parking lot, please take into consideration the type of vegetation/trees planted adjacent to

- the parking lot entrance, as the trash collection vehicle will have to temporarily back out through that parking lot entrance to exit the parking lot (due to inability to turn around otherwise) and will need to be able to view oncoming traffic
- b. For the trash enclosure located at the Southeast corner of the commercial parking lot, it is recommended that the enclosure be move south such that the enclosure is not adjacent to the main property frontage.
138. Construction & Demolition Debris - The City requires that construction and demolition debris be recycled when possible. A copy of the form provided for the City can be found at [http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/PUBLIC-WORKS-UES/documents/2014/C-D\\_Recycling\\_Form\\_2014-12-12.pdf](http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/PUBLIC-WORKS-UES/documents/2014/C-D_Recycling_Form_2014-12-12.pdf) and will be required at the time of your building permit.
139. Eliminate all dead-end water mains. All water mains must be looped. Water mains must be connected to other water mains, through easements if necessary.
140. Show the proposed locations of the water service lines, water meter boxes and backflow devices for the hotel.
141. The Applicant/Developer is required to complete a water system and wastewater collection system impact study for the subject development. The Applicant/Developer may hire their own consultant, subject to the prior approval of the Director of Utilities & Environmental Services, or the Applicant/Developer can pay the City to perform the impact study with our consultant. The Applicant/Developer shall be responsible for their share of the cost of any necessary improvements identified in the City's water system and wastewater collection system as a result of the development. The Applicant/Developer's share shall be based on the results of the impact study and determined by the Director of Utilities & Environmental Services.

### Transportation

142. In lieu of traffic circle or mountable curb, which was deemed infeasible due to truck turning radius and driveway locations, applicant shall stripe a centerline and parking lines (4" white stripe) on both sides of Torrano Avenue between Dollar Street and Mission Boulevard. Striping shall result in one 11' travel lane per direction on Torrano Avenue between Dollar Street and Mission Boulevard, including the curved section of roadway. In addition, the Applicant shall stripe "25 MPH" pavement markings on Torrano Avenue (both directions) between the Hotel entrance and "Drive Aisle A" and install two "25 MPH" Speed Limit (R2-1) signs at this location (both directions).
143. The applicant shall stripe a centerline, two "25 MPH" pavement markings (one per direction of travel) and install two "25 MPH" Speed Limit (R2-1) (one per direction of travel) signs on Berry Avenue between Mission Boulevard and the cul-de-sac
144. The Applicant shall designate on plan set a Public Access Easement for the slip lane and sidewalks along the Slip Lane in front of the hotel building and shall be responsible for maintaining the slip lane and sidewalks along the project frontage and adjacent to the slip lane.
145. The Applicant shall stripe "Keep Clear" at Mission Boulevard/Torrano Avenue (south) within the intersection in the northbound direction (both lanes) to adequately accommodate project U-turns.

146. Applicant shall install standard street lights (double-headed) along Mission Blvd. and the proposed Slip Lane.
147. Applicant shall submit a draft signing & striping plan that shall include all items shown on the Conceptual Signing & Striping Plan (March, 2017) and shall include items Nos. 142 thru 145 above to Public Works-Transportation for review and approval.

### Water

148. The development's proposed water main and valves shall be public, owned and maintained by the City. If the water mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10' wide easement shall be granted to the City.
149. All public water mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Water Mains and Fire Hydrants," latest revision at the time of permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>).
150. All connections to existing water mains shall be performed by City Water Distribution Personnel at the Applicant's/Developer's expense. The Applicant/Developer may only construct new services in conjunction with their construction of new water mains.
151. If existing water services on the property cannot be reused for the proposed development, they shall be abandoned by City Water Distribution Personnel at the Applicant's/Developer's expense.
152. Domestic Water and Fire Services
  - a. Domestic
    - i. Each residential dwelling unit shall have an individual domestic water meter. Based on the water fixtures shown on the plans, each unit would require a minimum ¾" water meter. Facilities fees for residential meters are calculated based on the domestic water demand for the home (excluding fire service demand). The current cost for the installation of a 1" domestic meter (required to meet the fire demand) on an existing service line is \$10,240 (\$310 installation fee + \$9,730 facilities fee for ¾" meter + \$200 radio read fee).
    - ii. The hotel must be served by a separate domestic water meter. The proposed utility plan indicates does not show the proposed domestic service for the hotel. It is anticipated that a minimum 3" domestic water meter will be required. The current facilities fee for a 3" domestic meter is \$103,740
  - b. Fire: Each structure shall have its own fire service, sized per the requirements of the Fire Department. Fire services shall have an above ground Double Check Valve Assembly, per City Standards SD-201 and SD-204. The current facilities fee for a fire service is \$6,484.
  - c. Combined Residential Services: The townhouse dwelling units can use combined residential domestic and fire services for each residence. Residential combined domestic and fire services are allowed, per City Standard SD-216. The minimum size for a residential fire service connection is 1" (combined or not) and the maximum size for combined services is 2". If the calculated fire demand exceeds 160 GPM, a separate fire service will be required. Note that, per CBC 2010 R313, flow-through or multipurpose systems may not require a backflow device (SD-216 is attached).

153. It is anticipated that one or more separate irrigation water meters and services shall be installed for development landscaping.
154. The Applicant/Developer shall install an above ground Reduced Pressure Backflow Prevention Assembly (RPBA) on each irrigation and commercial domestic water meter, per SD-202. Backflow preventions 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.
155. Water meter boxes in driveway aisle areas shall have steel H20 rated lids.

#### Sewer

156. The development's sanitary sewer mains and manholes shall be public, owned and maintained by the City. If the sewer mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10' wide easement shall be granted to the City.
157. All 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 permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>). Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet. Manholes shall be installed in the sewer main at any change in direction or grade, at intervals not to exceed 400 feet, and at the upstream end of the pipeline.
158. Each SFR shall have an individual sanitary sewer lateral. Each sanitary sewer lateral shall have at least one cleanout and be constructed per SD-312.
159. The Applicant/Developer shall install a grease control device to control fat, oil and grease discharge generated from the hotel operation.
160. The Applicant/Developer is responsible for payment of sewer connection fees at the current rates at the time and application for water and sewer service is submitted.
  - a. Sewer connection fees for residential connections are charged on a flat fee per number of residential units (currently \$7,700 per townhouse).
  - b. Sewer connection fees for non-residential connections are calculated based on the volume (in gallons per day) and strength of the wastewater discharge (in measures of CBOD and SS).
161. The Developer/Applicant is also responsible for payment of its share of the cost of upgrading the sewer collection system on Harder road to accommodate the proposed development. The Developer/Applicant share is as follows:
  - a. Residential Project: \$3,104 per dwelling unit (to be paid at issuance of building permit for each residential unit);
  - b. Hotel Project: \$140,836 for the 93-room hotel, and \$10,601 for the 7,000 square foot retail space (to be paid at issuance of building permit for the hotel).

This share has been calculated based on a total of known or anticipated potential developments affecting Harder Road sewer improvement project as follows: Five residential developments with a total of 294 dwelling units, three hotel or motel developments with a total of 280 rooms, and two retail spaces with a total floor area of

8,100 square feet. The City agrees that if, between the date of final approval of this development and until December 31, 2021, additional developments above and beyond what is listed above are proposed, the City will recalculate and adjust down the sewer improvement share outlined herein for this development.

162. The 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.

163. This approval is subject to the Mitigation Monitoring and Reporting Program from the Hayward Mission Boulevard Corridor Specific Plan EIR referenced herein and made a part of this approval.

#### Inclusionary Housing

164. **Affordable Housing Ordinance Requirement:** The applicant/developer shall comply with Ordinance 16-189 and Article 17 of the City of Hayward Municipal Code the Affordable Housing Ordinance, the "AHO") pertaining to the required provision of Affordable Housing. Pursuant to the AHO, the applicant shall comply with the affordable housing requirements by either a.) paying the applicable affordable housing impact fees, b.) include on-site for-sale units, c.) construct off-site for-sale affordable units, d.) provide rental affordable units, or e.) propose additional alternatives that would mitigate the affordable housing impact of the project in accordance with Section 10-17.230.

#### Public Parkland Obligations

165. In accordance with Section 10-16.30 – Public Improvements. In Lieu of the provisions of land, the Applicant shall pay in-lieu fees in the amount of \$11,395 per attached dwelling unit. Method of payment shall be in accordance with Section 10-16.30 (c).

#### Project Phasing

166. The hotel/retail building pad shall be rough graded prior to the issuance of a certificate of occupancy for the first residential unit; the hotel/retail building shall be in vertical construction phase before a certificate of occupancy is issued for the 130<sup>th</sup> residential unit, and be completed prior to issuance of certificate of occupancy for the last residential unit.



# CITY OF HAYWARD

Hayward City Hall  
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**File #:** WS 17-017

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**DATE:** May 16, 2017

**TO:** Mayor and City Council

**FROM:** Director of Utilities and Environmental Services

**SUBJECT**

Recommended FY 2018 and FY 2019 Water and Sewer Service Rates and Connection Fees

**RECOMMENDATION**

That the City Council reviews this report and provides comments and direction to staff.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Proposed FY 2018 Water Rate Comparisons
Attachment III	Proposed FY 2018 Sewer Rate Comparisons
Attachment IV	Water Working Capital Balances
Attachment V	Wastewater Fund Working Capital Balances



DATE: May 16, 2017

TO: Mayor and City Council

FROM: Director of Utilities & Environmental Services

SUBJECT: Recommended FY 2018 and FY 2019 Water and Sewer Service Rates and Connection Fees

#### RECOMMENDATION

That the City Council reviews this report and provides comments and direction to staff.

#### SUMMARY

Staff has prepared cost of service analyses for providing water and sewer service to Hayward residents and businesses to calculate appropriate water rates and sewer service charges for FY 2017 and FY 2018. This report provides an overview of cost of service issues, revenue requirements, and recommended FY 2018 and FY 2019 water and sewer service rates. Staff is bringing the proposed rates to Council at this time to obtain Council's comments. After receiving and addressing Council comments, staff will implement appropriate and necessary public noticing procedures in accordance with state law prior to a public hearing, currently scheduled for July 11. The recommended rate adjustments would take effect on October 1, 2018 and October 1, 2019.

The recommended water rate adjustments would include no change to the water usage fee, which pays for the costs associated with water consumption. The fixed bimonthly water service fee, which is currently \$16 per bimonthly billing period for a typical 5/8" meter, is proposed to be increased to \$20 in FY 2018 and \$24 in FY 2019, with similar percentage increases proposed for larger meters. This would result in an increase of \$2 per month, or about 3% for a single-family home with average water consumption.

Regarding sewer service charges, staff is proposing increases of 5% in residential rates in each of the two years, with non-residential increases of up to 7% per year. Commercial customers with very large volume and/or varying degrees of complexity of the discharge to treat, will see increases of up to 7% per year. These rate adjustments will allow the City to keep pace with the cost of sewer service collection, treatment, and disposal.

Staff has also prepared an analysis of water and sewer connection fees. These are fees typically paid at the time a new development requests water or sewer service. Although the

analysis indicates that increases in both fees are warranted, in the interest of maintaining the economic recovery and fostering business development, staff is not recommending any such adjustments in the next two years.

## BACKGROUND

Water rates are established to pay for the costs of purchasing and delivering water to customers and are determined through an assessment of revenue requirements and anticipated water purchase volumes. Bimonthly water bills consist of two parts: 1) the fixed service fee, which pays for services that do not vary with the volume of water purchased, such as meter reading and debt service; and 2) the water usage fee, which pays for costs associated with water consumption, such as the purchase of water from SFPUC and energy related expenses. The City Council approved water rate adjustments in July 2015 for FY 2016 and FY 2017, which resulted in average increases of 15% in FY 2016 and 9% in FY 2017. The second of the two adjustments went into effect on October 1, 2016. The increases were required to pay for a two-year 40% wholesale water rate increase approved by San Francisco Public Utilities Commission (SFPUC). The fixed service fee was last adjusted in October 2016, when the bimonthly fee for a 5/8" meter (the standard size in most single-family residential homes) increased from \$14 to \$16. Similar percent increases were implemented for other meter sizes.

Sewer service charges are established to pay for the cost of collecting, treating and disposing of wastewater. Rate calculations follow the guidelines developed by the State Water Resources Control Board, to ensure that sufficient revenues are collected to operate and maintain the system, cover all obligations of the Sewer Fund, and that the costs of providing service are equitably distributed among customer classes based on their use of the system. Sewer service charges are billed as standard fixed amounts for residential customers and as a cost per hundred cubic feet (ccf) of water consumed for non-residential customers, based on the strength of the discharged wastewater. The City last adjusted sewer service rates two years ago, effective October 1, 2015, which resulted in a 3% increase in residential rates in FY 2016 and FY 2017.

Water and sewer connection fees are fees paid by those wishing to connect a new development to the public water and sewer system to pay for improvement and expansion of the water and sewer systems to accommodate the development and to defray the expenses paid by customers over the recent years for development and improvement of the systems. The fees also cover an incremental cost of future expansion and improvements necessary to accommodate new development. The connection fees are developed using accepted procedures to ensure that costs are allocated fairly to new development. Water connection fees were last adjusted in October 2015, with the assessment methodology modified to distribute the cost of infrastructure improvements more equitably among new customers and commensurate with demand they place on the water system. Sewer connections fees have not been adjusted since October 2011.

## DISCUSSION

### Water Rates

Based on anticipated overall costs of providing service during the next two years, staff is recommending water rate adjustments in FY 2017 and FY 2018 that will result in average increases for most customers of about 3% in each year. The adjustments are comprised of no increase to the water usage charges, which are based on the quantity of water delivered to the customer as measured by a water meter, and a \$2 per month (\$4 per bimonthly billing period) increase to fixed service fee paid by the typical residential and business customers, which is independent of the consumption.

### Factors Considered in Water Rate Analysis

#### Wholesale Water Purchase Cost

Following a 40% increase over the past two years, SFPUC, which is the City's sole water supplier, had projected a moderate wholesale water rate increase in FY 2018. However, after a wet water year and moderately increased system-wide consumption, the projection has been revised to maintain the current wholesale water rate, \$4.10 per hundred cubic feet (ccf) for FY 2018 and FY 2019. In addition to payments to SFPUC, the overall cost of purchasing water also includes a separate annual payment of about \$2.6 million for prepayment of capital debt. This surcharge, which is administered by the Bay Area Water Supply and Conservation Agency (BAWSCA), is payable by wholesale agencies until 2034 and adds over 9% to the wholesale cost.

#### *Water Consumption*

Water consumption is a key component of the City's water usage fee calculation and difficult to forecast with certainty, given the impact of unknown and unknowable factors such as weather conditions, business activity, and the effect of cost increases on customer's water use. For these reasons, staff has been conservative in estimating future water consumption and is projecting consumption in FY 2018 to remain consistent with estimated FY 2017 annual water use. Projected consumption for the planning period in its entirety assumes it will remain relatively flat, with small increases on the order of around 1 percent. Staff believes this is a reasonable assumption even with recent reductions in per-capita consumption. The level of business and residential development projected in the next few years may result in increases in the total volume of water consumed, even though the per-capita consumption will decrease with enhanced conservation.

#### Operating, Maintenance, and Replacement Costs

While some increases in operating, maintenance and replacement costs are normal and unavoidable, staff has implemented efficiencies to keep expenses as low as possible and additional measures are taken to reduce costs whenever the opportunity arises. At the same time, it is important to ensure that the water system remains robust, well maintained, and

capable of delivering water where and when it is needed under normal operating conditions and during emergencies. Overall, the estimates are that operating, maintenance and replacement costs, excluding the cost of water purchases, will remain unchanged in FY 2018 and FY 2019, except for a \$500,000 increase in the capital replacement transfer in each year. The increase is to cover recent cost escalations in water infrastructure replacement and renewal.

## Proposed Water Rates

### *Water Service Fees*

The fixed bimonthly service fee pays for costs that do not vary with water purchases, such as meter reading, customer service, debt service and the like. Water service fees were last adjusted in October 2015. The current fee for a 5/8” meter, typical of most homes, is \$16 per bimonthly billing period, or \$8 per month. To keep pace with increasing costs, staff recommends adjusting the bimonthly fee to \$20 in FY 2018, with a further increase in FY 2019 to \$24. Similar percentage increases are proposed for larger meters. On average, most residential customers will see around a 3% increase in their total water bill. The following table summarizes the current and proposed bimonthly service fees for all meter sizes in use.

Meter Size	Current Fee	Proposed Fee FY 2018	Proposed Fee FY 2019
5/8” Low Income	\$5.60	\$7.00	\$8.40
5/8”	\$16.00	\$20.00	\$24.00
3/4”	\$21.75	\$27.19	\$32.63
1”	\$32.95	\$41.19	\$49.43
1.5”	\$72.15	\$90.19	\$108.23
2”	\$127.00	\$158.75	\$190.50
3”	\$320.50	\$400.63	\$480.75
4”	\$634.90	\$793.63	\$952.35
6”	\$1,120.00	\$1,400.00	\$1,680.00
8”	\$1,550.50	\$1,938.13	\$2,325.75

Hayward has traditionally maintained a low service fee to provide customers with greater control over their water bills. Because the highest portion of the bill is based on water usage, customers can manage their costs through efficient water usage. Even with the proposed adjustments, Hayward’s fixed fee is still very low when compared to nearby water agencies, as illustrated in the following table.

**Comparison of Current and Proposed Bimonthly Water Service Fees**

Agency	Bimonthly Service Fee (5/8" Meter)
Alameda County Water District	\$51.92
East Bay Municipal Utility District	\$45.20
Contra Costa Water District	\$35.40
Dublin San Ramon Services District	\$35.23
Hayward (Proposed FY 2018)	\$20.00
Hayward (Current)	\$16.00

**Comparisons with Other Water Agencies**

Attachment I to this report shows how Hayward’s current and proposed water rates compare to other nearby agencies. While this comparison is provided in keeping with a long-standing practice and the Council’s desire to know how the City’s rates compare with neighboring agencies, some factors should be kept in mind when considering this information. First and foremost, the agencies in “Figure A – Immediate Area Agencies” either use no SFPUC water as part of their water supply (e.g., EBMUD and DSRSD) or SFPUC comprises only a small fraction of their total supply (e.g., ACWD). Therefore, they are unaffected, or affected to a lesser degree, by the significant wholesale water rate increases that have been and will continue to be implemented by SFPUC. “Figure B – 100% SFPUC Wholesale Agencies” compares the City’s water rates to those agencies with the same water supply conditions. System size also plays a role in rate setting since large agencies benefit from economies of scale. Staff is not aware of any of these agencies offering discounts to low income residents, as the City does, which affects the rates. Finally, a water agency’s rate should be considered in light of the system’s performance, its operational robustness, and its flexibility to operate in both normal and emergency situations.

**Sewer Service Charge**

Staff is recommending increases in residential sewer rates in FY 2018 and FY 2019 of 5% in each year. The current monthly charge for a single-family residential property is \$29.80. The proposed increase would bring this charge to \$31.29 in FY 2018 and \$32.85 in FY 2019. The same percent increases are proposed for multi-family and mobile home community customers. Staff is recommending increases of 2.5% in the two lower single-family rates known as economy and lifeline, with some changes proposed to the applicability thresholds.

These two reduced rates, which make single-family sewer charges commensurate with water use, encourage water conservation and reward customers who use low amounts of water. The current rates are automatically applied to single-family bills when water usage during a billing period is 0-5 ccf (lifeline) or 6-10 ccf (economy), and are not dependent on the income level of the customer.

Non-residential customers would see increases over the two-year period ranging from 0% to 7%, depending on the volume and strength of their wastewater discharge. Staff uses actual and anticipated sampling data to measure the impact of large industrial users and calculates appropriate rates based on their contribution to the wastewater system. Appropriate fees for other business customers, such as restaurants, are based on water consumption and standard waste strengths.

Factors Affecting Sewer Rates

Operating, Maintenance and Replacement Costs

The sewer service rate adjustments result primarily from the rising cost of providing wastewater collection, treatment and disposal services. Staff anticipates that the 5% increases in each of the next two years for most residential customers, and increases of between 0-7% each year for non-residential customers will be sufficient to cover the additional expenses based on estimated costs through FY2019.

Changes in Industrial Wastewater Discharge

A critical factor that affects sewer rates are ongoing changes in the industrial wastewater strengths and volume. Some industries are discharging less wastewater due to water conservation, or making changes to their pretreatment processes such that the discharged wastewater has less waste strength. Given that most sewer collection and treatment costs are fixed and not affected by flow volume and strength, these changes have the effect of shifting more of the cost to other customers to achieve the overall revenue target.

Proposed Sewer Service Charges

The following table summarizes current and proposed monthly residential sewer service fees.

Residential Monthly Sewer Service Fees (Per Dwelling Unit)					
Customer	Current	Proposed FY 2018	% Change	Proposed FY 2019	% Change
Single Family	\$29.80	\$31.29	5%	\$32.85	5%
Multi-Family	\$26.52	\$27.85	5%	\$29.24	5%
Mobile Home	\$20.86	\$21.90	5%	\$22.99	5%
Economy	\$17.45	\$17.88	2.5%	\$18.77	2.5%
Lifeline	\$8.72	\$8.94	2.5%	\$9.39	2.5%

Given reduced consumption, staff is proposing to also reduce the water usage requirements for the subject tiers, as follows:

Rate	Current Water Usage	Proposed Water Usage
Economy	6-10 ccf	5-8 ccf
Lifeline	0-5 ccf	0-4 ccf

The economy and lifeline rates are approximately 60% and 30% of the standard rate, respectively. Average single family residential water usage had dropped from 8 ccf per month (16 ccf per bi-monthly billing period) to 7 ccf per month (14 ccf per bi-monthly billing period). Using this information, the recommended rates have been calculated using the ratio of the highest allowed usage under the proposed tiers over average single family residential water usage. This methodology allows for a slightly smaller percentage increase, while accurately representing decreased consumption.

	Current	Proposed	%	No Change to Usage Tiers	%
Economy	\$17.45	\$17.88	2.5%	\$22.35	28%
Lifeline	\$8.72	\$8.94	2.5%	\$11.18	28%

The table below summarizes current and proposed non-residential wastewater component costs, as well as examples of impacts on businesses.

#### Non-Residential Sewer Service Fees

Customer	Current	Proposed FY 2018	% Change	Proposed FY 2019	% Change
Volume (per ccf of water)	\$2.53178	\$2.61182	3.2%	\$2.69187	3.2%
Carbonaceous Biochemical					
Oxygen Demand (per pound)	\$0.61383	\$0.66570	8.5%	\$0.71758	8.5%
Suspended Solids (per pound)	\$0.75254	\$0.79276	5.4%	\$0.83300	5.4%

#### Comparisons with other Wastewater Agencies

As shown in the table below, the proposed FY 2018 rates would continue to place Hayward in the low-range compared to other nearby agencies. It must be noted that unlike the overwhelming majority of other sewer agencies, the City not only provides a lower rate for multi-family and mobile home units, but also in effect offers tiered sewer rates to all single-family customers, based on water usage. While we compare the City's standard rate to the other agencies, the overall average payment by all customers in the City is always less than the top rate.

Comparison of Current and Proposed Single-Family Sewer Service Fees

Agency	Monthly Single-Family Sewer Service Fee
City of Oakland	
Collection (Oakland) – \$22.24	\$51.92
Treatment (EBMUD) – \$22.40	
Castro Valley Sanitary District	\$34.92
City of San Leandro	\$34.03
Union Sanitary District	\$32.78
Dublin San Ramon Services District	\$31.86
<b>City of Hayward (Proposed)</b>	<b>\$31.29</b>
<b>City of Hayward (Current)</b>	<b>\$29.80</b>
Oro Loma Sanitary District*	\$19.83

\*Oro Loma SD also receives a lump sum payment from Castro Valley Sanitary District

ECONOMIC IMPACT

The typical single family resident will see an increase of \$2 per month in water cost and a \$1.49 per month in sewer cost. This is a total of \$3.49 per month on an average bill of \$85.91 or about 4%. Commercial and industrial customers will see modest increases as well. While staff recognizes that any rate increase will affect customers and should be minimized, it is critical that the City maintain reliable and robust utilities systems in the interest of economic viability, quality of life, maintaining public health, and meeting increasingly stringent regulations. Given the significant water conservation that residents and businesses have achieved in Hayward, their water bill may not increase under the new rates.

FISCAL IMPACT

The Water and Wastewater Funds maintain a working capital balance, or fund balance, to manage emergencies, maintain positive cash flows, the Fund’s credit worthiness and, at times, smooth out needed rate adjustments so that the City is not forced to implement a significant increase in a single year, which can result in customer discontent. It must be noted that the fiscal impacts discussed below are based on current projections and as always are subject to change based on a variety of factors such as consumption trends, new regulations, and future changes in wholesale water rates.

Water Fund

While there is no simple formula that can apply to all water agencies, the City has been advised by various financial consultants in the past that reserves equal to 50% of annual expenditures are appropriate targets for the Water Fund. While this percentage is a good

goal, it is not always practical to maintain, particularly when mitigating the long-term effect of significant wholesale water rate increases.

Under current water use projections, the recommended rates are expected to generate about \$45.6 million and \$46.8 million in total revenue in FY 2018 and FY2019 respectively, including interest and miscellaneous fees, and result in a year-end fund balance of \$18.9 million in FY 2018, an increase of about \$700,000 from the projected FY 2017 year-end balance. The Water Fund is recovering from a deficit position in the FY 2016 and FY 2017 due in large part to the implementation of the \$12M Advanced Metering Infrastructure (AMI) system. To pay for anticipated SFPUC wholesale water rate increases over the next several years, rate adjustments of around 6% are anticipated for the planning period, after which it may be possible to reduce the percent increase or hold rates at the same level for a period of time. Attachment III depicts year-end working capital balances in the recent past and projected through FY2020.

#### Wastewater/Sewer Fund

For the Wastewater Fund, given the stringent current and anticipated regulations and the wastewater treatment plant operation, a more appropriate target is 100% of annual expenditures, a challenging target to meet without significant rate adjustments. Although the current and projected working capital balances do not always meet the targets, staff believes that they are sufficient to maintain reliable utilities operations in the next few years.

The proposed rates are expected to generate about \$23.7 million and \$24.7 million, including interest and miscellaneous fees, in FY 2018 and FY 2019 respectively. Staff anticipates a \$600,000 contribution to working capital in FY 2017, with an ending fund balance of \$20 million. Revenues are expected to meet expenditures in FY2017, ending the year with a fund balance of \$19.6 million. As with the Water Fund, the working capital balance was utilized strategically over the past years to minimize the need for sewer rate adjustments at a time when significant water rate adjustments were anticipated. The ten-year Sewer Fund forecasts indicate that a further 3% rate adjustment will be needed in FY 2020 and then every other year afterwards. Based on these projections, the fund would remain in a positive situation. Attachment IV illustrates the working capital balances in the recent past projected through FY2020.

#### SUSTAINABILITY FEATURES

Water conservation programs, such as the high efficiency fixture replacement and lawn replacement rebate programs, are funded through water rate revenue and provide customers with the tools to assist them in efficiently managing water usage. These, and other conservation programs will continue to be funded in FY 2018 and FY 2019 (projected annual budget of \$500,000). Slightly higher water costs as proposed can work as a reminder to all customers of this precious resource and the need to continue to use water wisely.

The proposed sewer rates will allow the City to continue to operate and maintain the sewer collection system and WPCF in a manner to meet all legal and regulatory requirements to protect public health and the environment. It will also enable the City to continue the operation of the existing green and renewable energy generation systems in the sewer utility and their expansion over time.

#### ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA), includes an exemption for revisions to rates and charges that are for 1) meeting operating expenses; 2) purchasing or leasing supplies, equipment, and materials; 3) meeting financial reserve requirements; or 4) obtaining funds for capital projects necessary to maintain services and system reliability within existing service areas. No additional CEQA review is required.

#### PUBLIC CONTACT

With the City Council's concurrence with the proposed rates, staff will implement the legal noticing requirements of Proposition 218, which mandates written notice of the proposed rates to all affected property owners at least 45 days in advance of the public hearing, currently scheduled for July 11. In instances where a party other than the property owner is the account holder of record, notice will also be sent to that party. The notice describes the proposed increases and lists current and proposed rates. The notice will also discuss the property owners' right to protest the rates. Council may not act on the rates if a majority of affected property owners file written protests. Staff will also post the information on the City's website and publish the required notice in the newspaper.

#### NEXT STEPS

Council is scheduled to consider the rate adjustments and hold a public hearing at its July 11 meeting. If adopted, the rate adjustments would be effective on October 1, 2017 and October 1, 2018. Council has traditionally used October 1 as an effective date, rather than July 1 when the wholesale rate adjustment takes effect, in order to avoid increasing rates at during the time that water use is highest.

Prepared by: Corinne Ferreyra, Senior Management Analyst

Recommended by: Alex Ameri, Director of Utilities & Environmental Services

Approved by:



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Kelly McAdoo, City Manager

Figure A1

Immediate Area Water Agencies - Bimonthly Water Bill Comparison

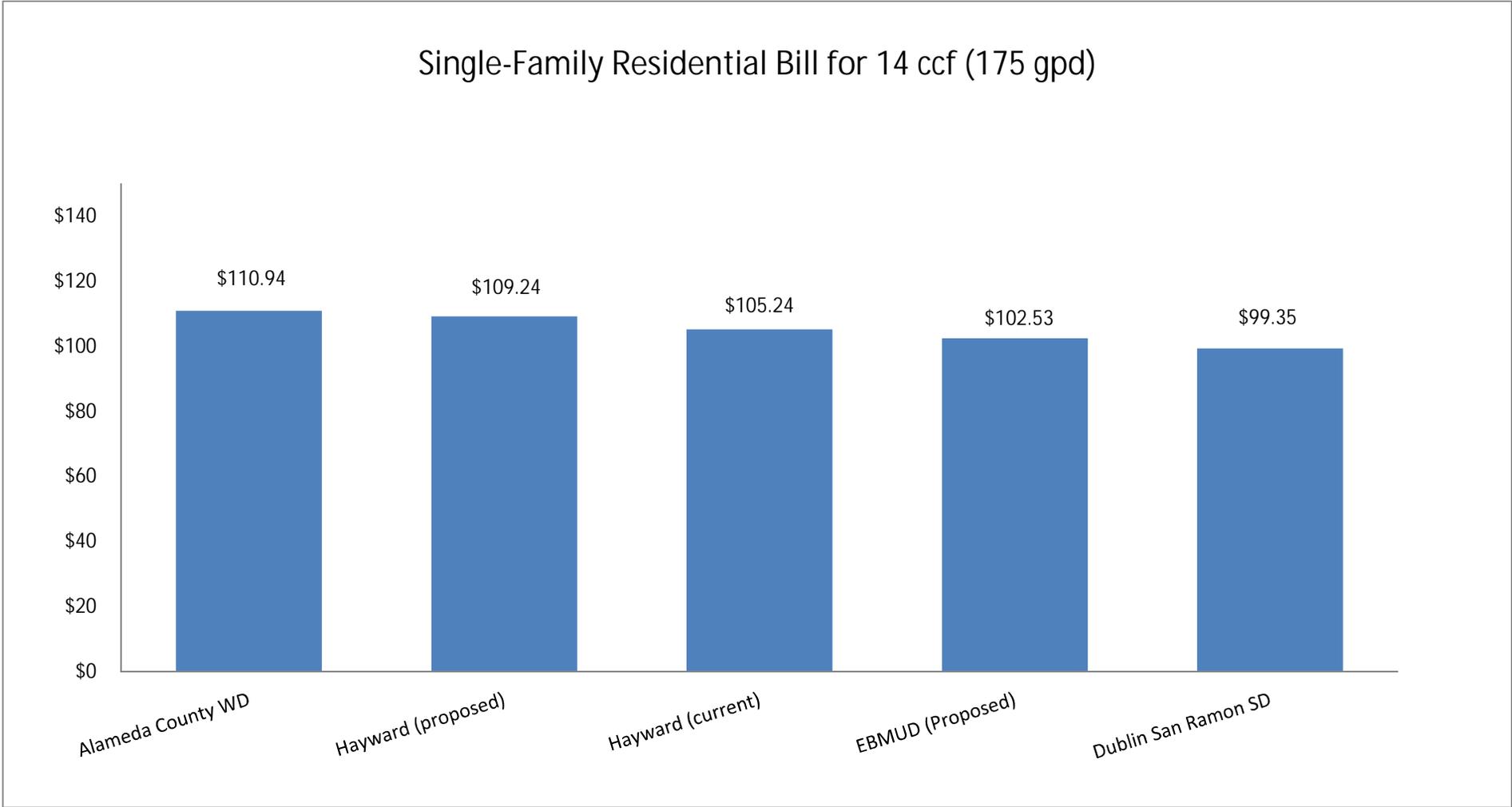


Figure A2  
Immediate Area Water Agencies - Bimonthly Water Bill Comparison

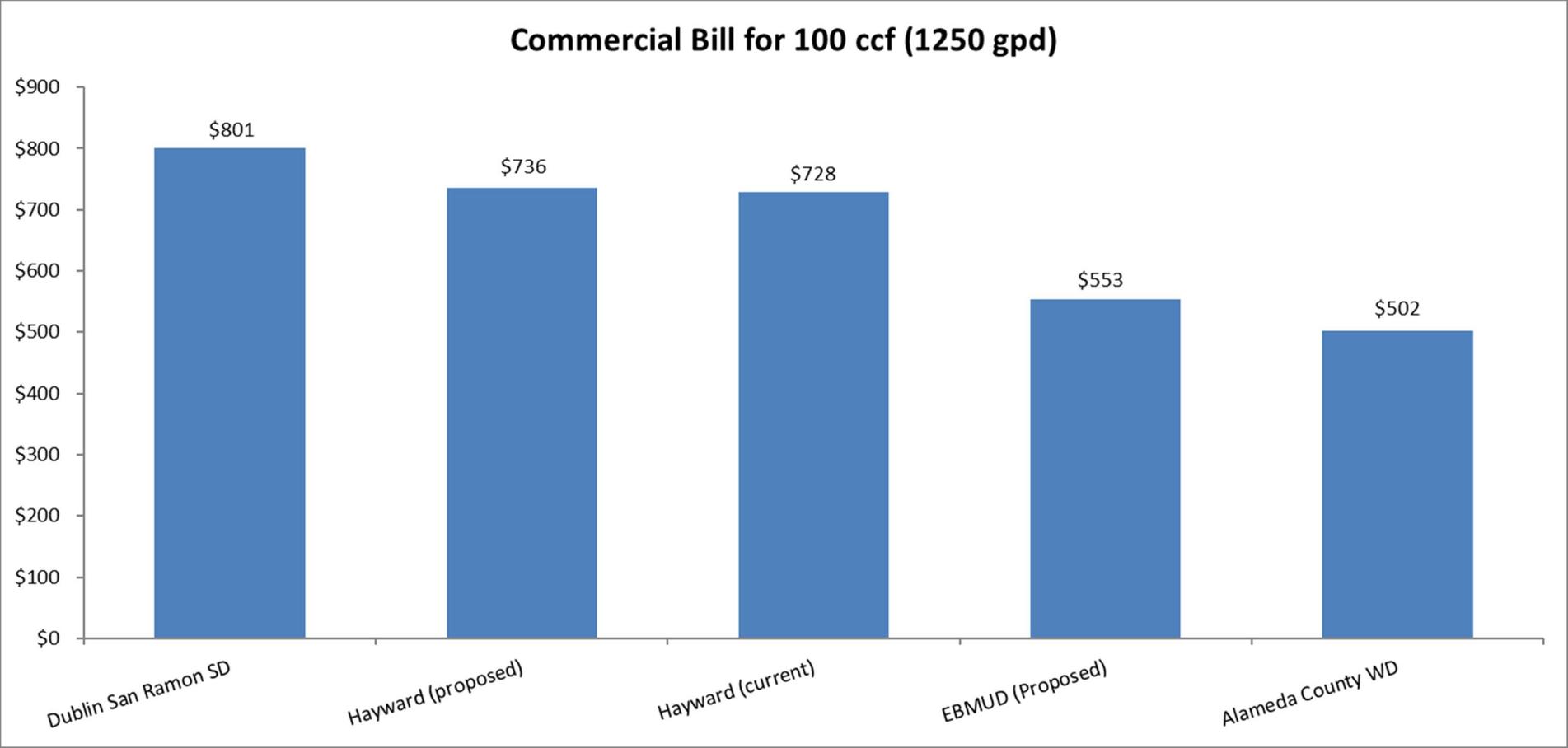


Figure B1  
100% SFPUC Wholesale Agencies - Bimonthly Water Bill Comparison

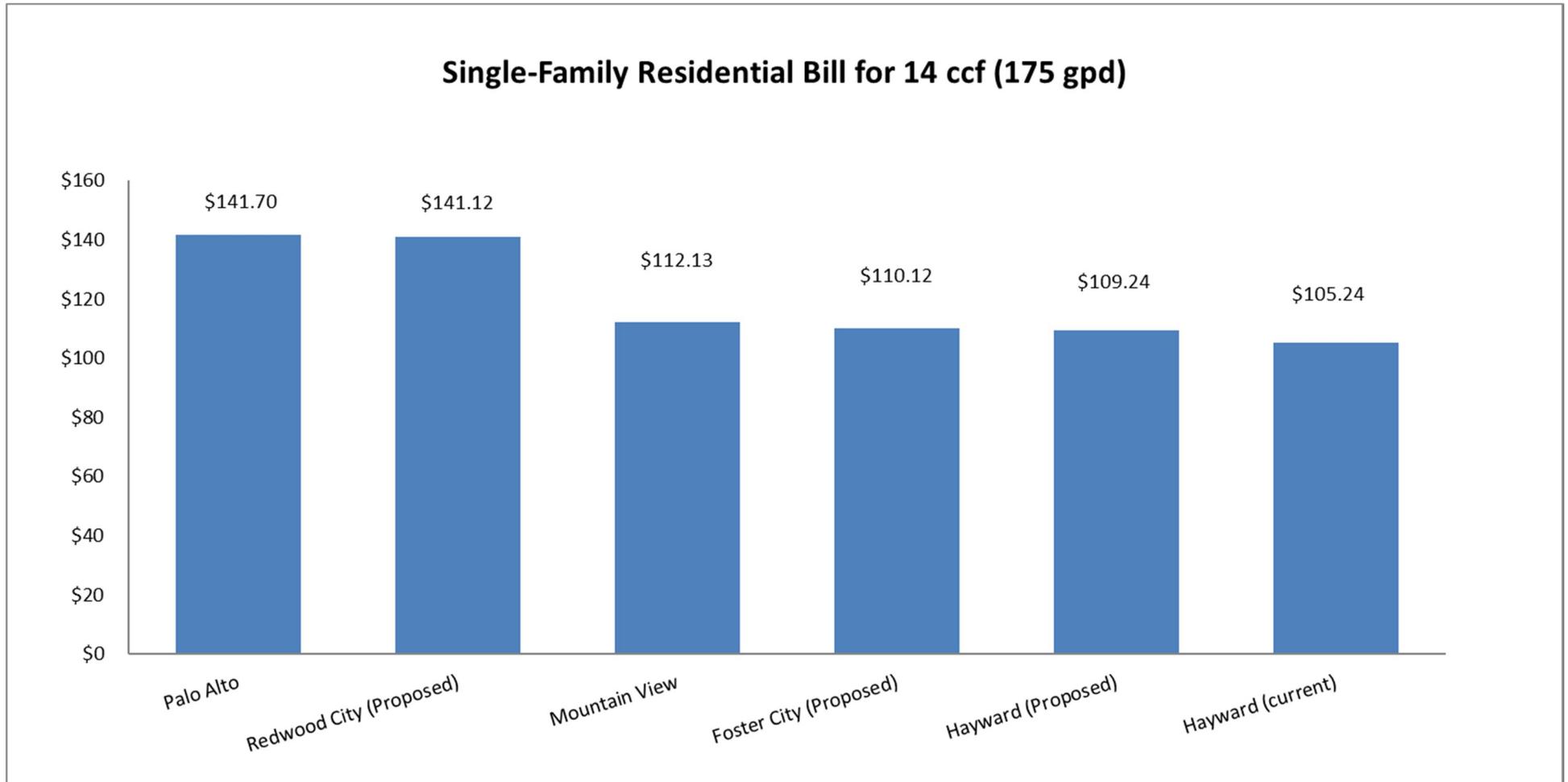
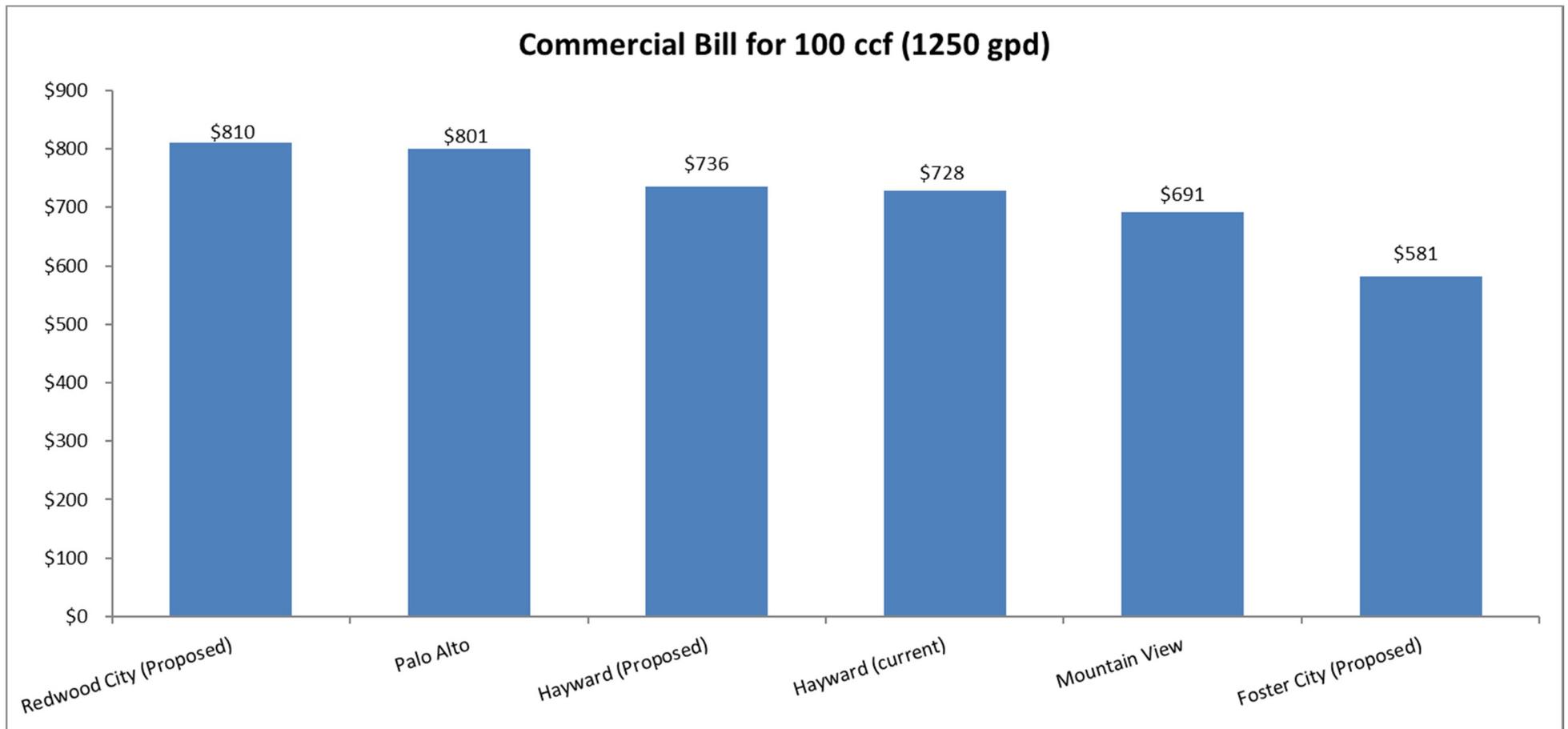
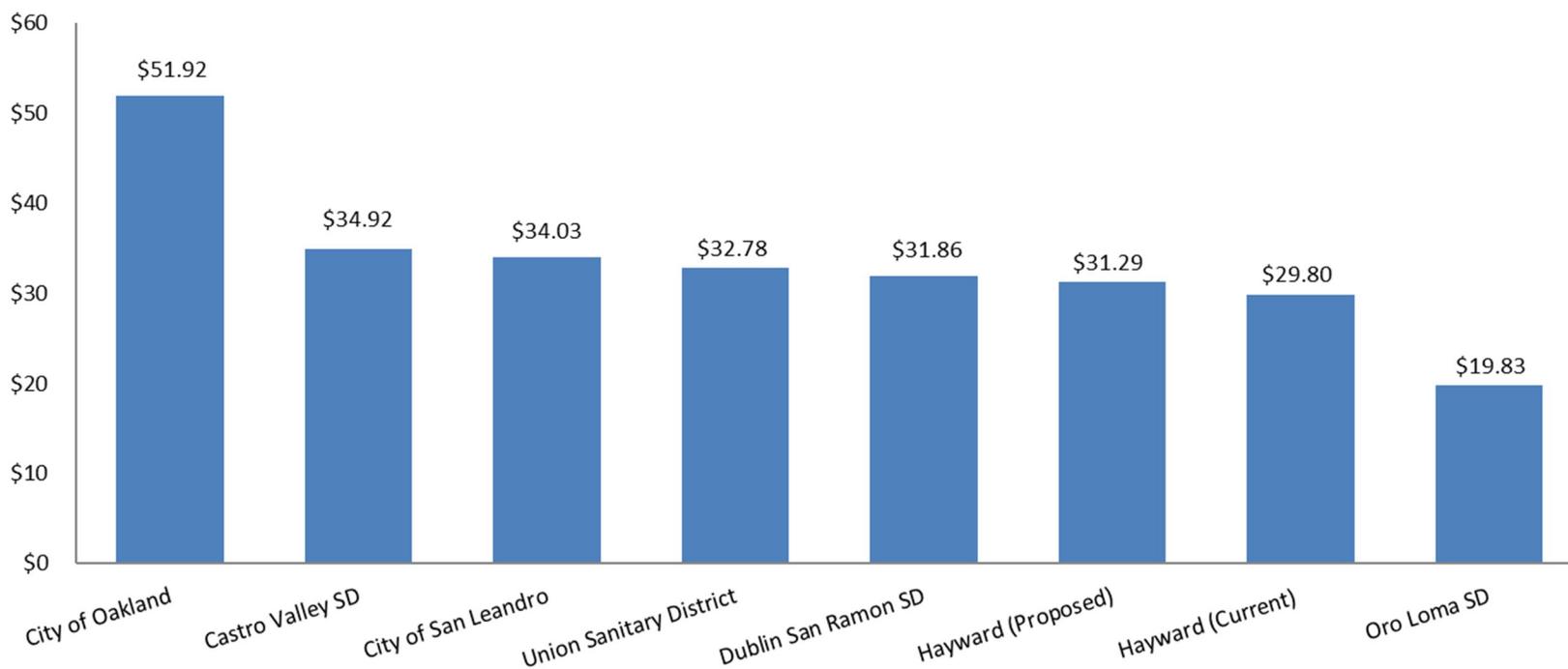


Figure B2  
100% SFPUC Wholesale Agencies - Bimonthly Water Bill Comparison



### Single-Family Residential Sewer Service Bill



## Water Maintenance &amp; Operations Fund 605

	FY 2016 Actual	FY 2017 Revised	FY 2017 Estimated	FY 2018 Proposed	FY 2019 Projected	FY 2020 Projected	FY 2021 Projected	FY 2022 Projected
Beginning Fund Balance	28,355,249	21,221,721	21,221,721	18,178,443	18,587,682	20,380,282	22,048,582	22,108,182
Program Revenues								
Water Sales	34,545,573	39,100,000	38,000,000	39,200,000	39,500,000	41,500,000	43,800,000	46,500,000
Service Charges	4,946,223	4,900,000	4,900,000	5,800,000	6,700,000	6,700,000	6,700,000	6,700,000
Installation Fees	334,225	250,000	250,000	250,000	250,000	250,000	250,000	300,000
Other Revenues	667,077	260,000	260,000	260,000	260,000	260,000	260,000	260,000
Interest	155,361	97,000	97,000	105,000	91,000	104,000	114,000	115,000
Transfers In	288,484	405,593	405,593	395,641	397,300	396,900	398,300	397,500
Total Revenues	40,936,944	45,012,593	43,912,593	46,010,641	47,198,300	49,210,900	51,522,300	54,272,500
Expenditures								
Personnel	6,306,694	7,825,586	7,825,586	8,064,105	8,232,600	8,644,400	9,033,400	9,440,000
Non-Personnel	5,215,829	5,579,744	5,579,744	5,451,333	5,045,300	5,127,400	5,214,300	5,299,100
Water Purchases	24,864,482	28,300,000	27,600,000	27,600,000	27,600,000	28,800,000	32,200,000	35,400,000
Transfers Out	11,683,466	5,950,541	5,950,541	4,485,964	4,527,800	4,970,800	5,015,000	5,060,500
Total Expenditures	48,070,472	47,655,871	46,955,871	45,601,402	45,405,700	47,542,600	51,462,700	55,199,600
Annual Surplus/(Shortfall)	(7,133,528)	(2,643,278)	(3,043,278)	409,239	1,792,600	1,668,300	59,600	(927,100)
Ending Fund Balance	21,221,721	18,578,443	18,178,443	18,587,682	20,380,282	22,048,582	22,108,182	21,181,082

Wastewater Maintenance & Operations Funds 610

	FY 2016 Actual	FY 2017 Revised	FY 2017 Estimated	FY 2018 Proposed	FY 2019 Projected	FY 2020 Projected	FY 2021 Projected	FY 2022 Projected
Beginning Fund Balance	18,105,599	19,606,198	19,606,198	19,581,061	20,183,027	22,015,791	22,731,455	23,122,818
Program Revenues								
Sewer Service Charges	18,995,440	19,600,000	19,600,000	20,500,000	21,500,000	22,300,000	22,500,000	23,000,000
Sewer Connection Fees	13,685,782	4,500,000	4,500,000	3,000,000	3,000,000	3,000,000	3,000,000	3,500,000
Other Revenues	180,676	96,000	96,000	96,000	96,000	96,000	96,000	96,000
Interest	153,560	66,000	66,000	66,000	101,000	110,000	114,000	116,000
Transfers In	1,949,946	1,734,189	1,734,189	1,515,071	1,363,800	1,583,500	1,583,500	1,583,500
<b>Total Revenues</b>	<b>34,965,404</b>	<b>25,996,189</b>	<b>25,996,189</b>	<b>25,177,071</b>	<b>26,060,800</b>	<b>27,089,500</b>	<b>27,293,500</b>	<b>28,295,500</b>
Expenditures								
Personnel	6,910,586	8,227,256	8,227,256	8,361,455	8,659,400	9,099,900	9,516,100	9,951,000
Non-Personnel	8,093,359	8,140,368	8,140,368	7,989,992	7,312,636	8,992,936	9,071,036	9,150,836
Transfers Out	18,460,860	9,653,702	9,653,702	8,223,657	8,256,000	8,281,000	8,315,000	8,842,000
<b>Total Expenditures</b>	<b>33,464,805</b>	<b>26,021,326</b>	<b>26,021,326</b>	<b>24,575,104</b>	<b>24,228,036</b>	<b>26,373,836</b>	<b>26,902,136</b>	<b>27,943,836</b>
<b>Annual Surplus/(Shortfall)</b>	<b>1,500,599</b>	<b>(25,137)</b>	<b>(25,137)</b>	<b>601,967</b>	<b>1,832,764</b>	<b>715,664</b>	<b>391,364</b>	<b>351,664</b>
Ending Fund Balance	19,606,198	19,581,061	19,581,061	20,183,027	22,015,791	22,731,455	23,122,818	23,474,482



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
www.Hayward-CA.gov

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**File #:** PH 17-049

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**DATE:** May 16, 2017

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT**

Approval of a Resolution Approving Government Code Section 52201 Summary Report and Authorizing the City Manager to Negotiate and Execute a Purchase and Sale Agreement with William Lyon Homes, Inc. (the "Developer") for Specified Properties Located in South Hayward near Dixon and Valle Vista Avenues and Making Specified Findings in association therewith.

**RECOMMENDATION**

That the City Council approve the attached resolution (Attachment II) approving the Government Code Section 52201 Report and authorizing the City Manager to negotiate and execute a Purchase and Sale Agreement ("PSA") with the Developer for specified properties located in South Hayward near Dixon and Valle Vista Avenues, in a form on file with the City Clerk and consistent with the terms and conditions identified in this report.

**ATTACHMENTS**

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Section 52201 Summary Report



DATE: May 16, 2017

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Approval of a Resolution Approving Government Code Section 52201 Summary Report and Authorizing the City Manager to Negotiate and Execute a Purchase and Sale Agreement with William Lyon Homes, Inc. (the "Developer") for Specified Properties Located in South Hayward near Dixon and Valle Vista Avenues and Making Specified Findings in association therewith.

## RECOMMENDATION

That the City Council approves the attached resolution (Attachment II) approving the Government Code Section 52201 Report and authorizing the City Manager to negotiate and execute a Purchase and Sale Agreement ("PSA") with the Developer for specified properties located in South Hayward near Dixon and Valle Vista Avenues, in a form on file with the City Clerk and consistent with the terms and conditions identified in this report.

## BACKGROUND

### Developer Background and Experience

The Developer is one of the largest regional homebuilders in the Western United States. Headquartered in Newport Beach, California, the company is primarily engaged in the design, construction, marketing, and sale of single-family detached and attached homes in California, Arizona, Nevada, Colorado, Washington, and Oregon. In October of 2015, the Developer approached the City about entering into an Exclusive Negotiating Rights Agreement ("ENRA") regarding the potential development of several Caltrans 238 Bypass excess properties in the Mission/Dixon/Valle Vista Corridor. In January of 2016, the City Council authorized the City Manager to enter into an ENRA with the Developer and into a Purchase and Sale Agreement with Caltrans to acquire excess property in the 238 Bypass Corridor (the "Caltrans PSA"), including the properties covered by the ENRA.

### Subject Properties

Under the PSA, the City may potentially convey up to 17 properties to the Developer, including fourteen (14) Caltrans properties (the "Caltrans Property"); one (1) City owned parcel (the "City Owned Property"); one (1) parcel owned by Bay Area Rapid Transit (BART) (the "BART Property"); and one (1) parcel owned by Alameda County Flood Control (ACFC)

(the "ACFC Property"). The PSA also involves a land swap between the Hayward Area Recreation and Park District (HARD) and the City for parkland acreage.

Pursuant to Local Alternative Transportation Improvement Program (LATIP) statutes, under Government Code Section 14528.65(a)(2), the sale of the Caltrans Properties are exempt from the priorities and procedures regarding the disposal of residential property under Government Code Section 54235 et. seq.

Under Government Code Section 52201, the City is authorized to sell or lease property to which it holds title for the purpose of creating economic opportunity. Furthermore, under Government Code Section 37350, the City may purchase, lease, receive, hold, and enjoy real and personal property and control and dispose of it for the common benefit.

The City has acquired or will acquire all the properties for the purpose of creating economic opportunity, and for the common benefit described in this report.

### Proposed Concept Project

The "Proposed Project" consists of residential condominiums and a commercial center off of Mission Boulevard which is connected by a park and trail spine from Valle Vista to Industrial Boulevard. Under the initial proposal, the project may contain up to 351 residential units in either the cluster townhome or row townhome variety, including 884 parking spaces for the residential component.

The Proposed Project is also expected to include a retail component of approximately 21,900 square feet of retail containing two 6,700 square foot units (end units) and two 4,250 square foot units (center units), and 76 parking spaces for retail, including parking along Mission and within the plaza to the south of the retail space.

One of the Proposed Project's key recreational amenities is roughly 2.5 acres of parkland surrounding an existing Alameda County Flood Control channel and the installation of a trail system. The park will incorporate several outdoor fitness/PAR courses, along with California native garden and educational elements, two dog parks, and other general open spaces and walkways.

Approval of the PSA is simply one step in the approval process for the Proposed Project. The Proposed Project will still need to go through the entitlement and development review process in accordance with the terms of the PSA; and nothing in the PSA imposes any legally binding obligation to approve the entitlements for the Proposed Project or the Property.

### Timeframes

The Developer is prepared to move forward with a formal development application and would like to commence the entitlement process, but given the significant cost associated with pursuing entitlements, they wish to execute the PSA in place prior to seeking entitlements for the Proposed Project. Under the PSA, no transfer will occur until all environmental review has

been completed and the conveyance of the property will not occur until the Developer has completed all necessary entitlements and is ready to record a final map but not more than eighteen months from the execution of the PSA.

## DISCUSSION

### Terms of Purchase and Sale Agreement

City staff began negotiations with the Developer in January on the terms of the PSA. The salient aspects of the proposed PSA are summarized as follows:

- The City commits to transfer City Owned Property and "Caltrans Property" and to take commercially reasonable efforts to negotiate for the acquisition (and potential transfer) of the "BART Property," the "ACFC Property," and the "HARD Property," all as defined in Recital A of the PSA.
- The City will convey the Property (or such portion thereof as it acquires) to the Developer in fee in its "as-is" condition.
- The Developer will pay the City \$27,382,000 for the Property (consisting only of the City Owned Property, the Caltrans Property and the HARD Property) in the form of cash payment, subject to the following potential adjustments:
  - If specified conditions listed in Section 2.1 (a) of the PSA are not satisfied by a date agreed upon by the parties, and the HARD Property is not deeded to the Developer on the "Closing Date" (defined in the PSA), then the Purchase Price may be reduced by \$1,705,000;
  - If specified conditions listed in Section 2.1 (b) of the PSA are satisfied by a date agreed upon by the parties, and the BART Property and ACFC Property are conveyed as part of the Property on the Closing Date, then the Purchase Price will be increased by \$4,201,075; and
  - The additional sum to be paid as part of the Purchase Price pursuant to Section 2.1 (b) of the PSA may be reduced by the remediation costs (if any) agreed upon by the parties.
- The Developer will provide up to \$300,000 for any relocation costs.
- The Developer proposes to construct, subject to City entitlement and development review approvals and completion of environmental review, the Proposed Project.

- The City is not required to make any form of financial or other assistance to the Developer.
- The Proposed Project will be subject to and must comply with the requirements of the City's Inclusionary Housing Ordinance.

#### Creation of Economic Opportunity/Common Benefit

The Proposed Project, when constructed, will create economic opportunity in the South Hayward area. Section 52200.2 defines "economic opportunity" as any of the following:

- Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that create, retain, or expand new jobs, at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of city investment in the project after full capacity and implementation;
- Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that increase property tax revenues to all property tax collecting entities, by at least 15 percent (15%) of total property tax resulting from the project at full implementation when compared to the year prior to the property being acquired by the government entity;
- Creation of affordable housing;
- Projects that meet the goals set forth in Chapter 728 of the Statutes of 2008 and have been included in an adopted sustainable communities' strategy or alternative planning strategy or a project that specifically implements the goals of those adopted plans; or
- Transit priority projects, as defined in Section 21155 of the Public Resources Code.

Under the PSA, the City is not providing any form of financial assistance to the Developer. The City, however; has identified the following benefits that will be generated through the implementation of the PSA and will create economic opportunity as defined in Government Code Section 52200.2.

#### Increase in Property Tax Revenue

Currently, all the properties subject to the PSA are not generating any property tax revenue to the City or other taxing entities. Under this PSA, these properties would have the potential to begin generating tax revenue for the City and others. Upon transfer to the Developer under the PSA, the assessed value of the Property will change from \$0 to up to \$31,583,075. The exchange will result in estimated property tax payments of approximately \$315,830.75, in its

unimproved state. The change in assessed value will result in an increase in property tax revenue to all taxing entities of more than 15% prior to the full implementation of the Proposed Project. While it is anticipated that the completion of the Proposed Project will further increase the Property's assessed value to more than \$220 million, because the Proposed Project has not been entitled, the City cannot accurately estimate the total property tax revenues resulting from the Proposed Project at full implementation. Nevertheless, based on the change in property tax revenues generated by the transfer in an unimproved state, it can be concluded that after full project implementation, the Proposed Project will increase property tax revenues to all property tax collecting entities, by more than 15 percent (15%) when compared to the year prior to the property being acquired by the government entity and the condition of Section 52200.2(b) will be satisfied.

### Creation of Affordable Housing

The creation of affordable housing to meet demonstrated affordable housing needs identified in the Housing Element of the City's general plan constitutes an economic opportunity. The Proposed Project will be subject to the requirements of the City's Inclusionary Housing Ordinance and will thus increase, improve, or preserve the supply of quality affordable housing in the community.

The total number of units of affordable housing that will be created is dependent on the total number of units approved by the City as part of the entitlement process for the Proposed Project. Section 10-17.205 provides the unit threshold and basic requirements applicable to ownership residential projects, like the one proposed to be constructed.

### Job Creation

Under Section 52200.2(a), economic opportunity is achieved if an agreement results in the creation, retention or expansions of new jobs, at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of city investment in the project. As previously discussed, the City is not providing any financial assistance for the Proposed Project and no part of the development costs for the Proposed Project will be publicly subsidized. Nevertheless, the sale of the Property under the PSA will result in job creation as a result of the anticipated construction of retail/commercial space. During the construction of the Proposed Project, it is anticipated that 420 full-time equivalent (FTE) temporary construction jobs will be created. Upon completion and full implementation, the Proposed Project is also anticipated to generate an estimated 60 permanent jobs (associated with the commercial space) without investment of City funds.

### Public Purpose/Common Benefit

The transfer of the Property and construction of the Proposed Project will create a common benefit and further the public purpose of economic development by creating jobs, market rate and affordable homes, parks, and vibrancy in an area of the City that has suffered from historic underdevelopment as a result of the proposed and now defunct SR 238 freeway project.

## Government Code Summary Report

Government Code Section 52201, authorizes the City, to sell or lease property to which it holds title for the purpose of creating economic opportunity. The City must first secure approval of the proposed sale from the City Council after a public hearing. A copy of the proposed PSA and a summary report that describes and contains specific financing elements of the proposed transaction is required to be available for public inspection prior to the public hearing. Staff prepared the Government Code Section 52201 Summary Report in compliance with the code (the "Section 52201 Summary Report"). The Section 52201 Summary Report is attached to this report as Attachment III, and is incorporated herein by this reference.

The Section 52201 Summary Report contains the following information:

- The cost of the PSA to the City, including land acquisition costs, clearance costs, relocation costs, and the costs of any improvements to be provided by the City, plus the expected interest on any loans or bonds to finance the agreement;
- The estimated value of the interest to be conveyed, determined at the highest and best use permitted under the general plan and zoning;
- The estimated value of the interest to be conveyed in accordance with the uses, conditions and covenants, and development costs required under the proposed PSA, i.e., the fair reuse value of the Property;
- An explanation of why the sale of the property will assist in the creation of economic opportunity;
- If the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the general plan and zoning, then the City must provide as part of the summary an explanation of the reasons for the difference.

The conclusion of the Section 52201 Summary Report reflects that the estimated total cost to the City is projected to be less than the Purchase Price received from the Developer. The City may receive up to \$31,583,075 in compensation for the transfer of the Property, which is the estimated value of the Property at its highest and best use. The City fully expects that the purchase price received from the Developer will not be less than the costs paid by the City for the combined Property and the costs of the PSA as summarized in Section III of the Section 52201 Summary Report.

## ECONOMIC AND FISCAL IMPACT

In addition to the economic impact resulting from the additional jobs and affordable housing fees, the transaction contemplated in the PSA will result in increased property taxes prior to project build-out of approximately \$315,830 per year. While it is anticipated that the completion and build-out of the Proposed Project will further increase the Property's assessed value to more than \$220 million, because the Proposed Project has not been entitled, the City cannot accurately estimate the total property tax revenues resulting from the project at full implementation.

## NEXT STEPS

Following Council approval, the City Manager will execute a PSA in a form approved by the City Attorney consistent with the terms and conditions contemplated in this staff report and its associated attachments.

Prepared and Recommended by:                      John Stefanski, Management Analyst I

Approved by:



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Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 17-\_\_

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

RESOLUTION APPROVING GOVERNMENT CODE SECTION 52201 SUMMARY REPORT AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PURCHASE AND SALE AGREEMENT WITH WILLIAM LYON HOMES, INC FOR SPECIFIED PROPERTIES LOCATED IN SOUTH HAYWARD NEAR DIXON AND VALLE VISTA AVENUES AND MAKING SPECIFIED FINDINGS IN ASSOCIATION THEREWITH.

WHEREAS, the City and William Lyon Homes, Inc. (the "Developer"), entered into an Exclusive Negotiation Rights Agreement, dated as of (the "ENRA") regarding the potential development of several properties in the Mission/Dixon/Valle Vista Corridor in October 2015; and

WHEREAS, the City and the Developer successfully completed both phases of the ENRA in March 2017 and now desire to enter into a Purchase and Sale Agreement (the "PSA") for the transfer of specified properties; and

WHEREAS, the properties subject of the PSA, have been or will be acquired from Caltrans and other public agencies for the purpose of exchange which is not subject to the requirements of California Government Code Section 54220 et seq., and for the creation of economic opportunity pursuant to Government Code Section 52000 et seq., which is an alternative to any other authority granted by law to cities to dispose of city-owned property; and

WHEREAS, under Government Code Section 37350 the City may purchase, lease, receive, hold, and enjoy real and personal property and control and dispose of it for the common benefit; and

WHEREAS, pursuant to the Local Alternative Transportation Improvement Program (LATIP) statutes, under Government Code Section 14528.65(a)(2) the sale of the Caltrans properties are exempt from the priorities and procedures regarding the disposal of residential property under Government Code Section 54235 et. seq.; and

WHEREAS, sale of the identified properties will further the public purpose of economic development creating jobs, homes, parks, and vibrancy in an area that has suffered from historic under development as a result of the proposed and now defunct freeway project, all of which serve the common benefit; and

WHEREAS, the property subject of the PSA will be subject to the Hayward Affordable Housing Ordinance Article 17, Section 10-17.100 et seq., and will result in the construction of housing that contribute to the attainment of the affordable housing goals set forth in the 2015-2023 Housing Element of the General Plan of the City of Hayward; and

WHEREAS, the City has placed on file a copy of the summary report called for in Government Code Section 52201 (the "Section 52201 Summary Report"), and has made the Section 52201 Summary Report available for public inspection and copying pursuant Government Code Section 52201; and

WHEREAS, as further outlined in the Staff Report accompanying this Resolution and incorporated into this Resolution by this reference (the "Staff Report"), the City has determined that the sale of the properties pursuant to the PSA will create economic opportunity and: (1) result in an increase of property tax revenues to all property tax collecting entities, and will result in an increase of at least 15 percent of total property tax resulting from the project at full implementation when compared to the year prior to the property being acquired by the City; and (2) creation of affordable housing, to meet the demonstrated affordable housing need and attainment of the affordable housing goals set forth in the 2015-2023 Housing Element of the General Plan of the City of Hayward; (3) result in the creation of approximately 420 full-time equivalent (FTE) temporary construction jobs and an estimated 60 permanent jobs (associated with the commercial space) without any investment of City funds; and

WHEREAS, as further outlined in the Staff Report and the Section 52201 Summary Report, the City is not providing any form of financial assistance to the Developer; and

WHEREAS, the City Council conducted a duly noticed public hearing on the PSA and the 52201 Summary Report pursuant to Government Code Section 52201, for the purpose of receiving the input and comments of the public on the PSA and the 52201 Summary Report; and

WHEREAS, the transfer contemplated under the PSA is expressly conditioned on the completion of all appropriate environmental documentation under the California Environmental Quality Act.

NOW, THEREFORE, BE IT RESOLVED that the City Council finds that the above recitals are true and correct and have served, together with the Section 52201 Summary Report and the Staff Report, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 52200.2, the City Council hereby finds that the sale of the properties pursuant to the PSA will create economic opportunity and result in: (1) an increase of property tax revenues to all property tax collecting entities, and will result in an increase of at least 15 percent of total property tax resulting from the project at full implementation when compared to the year prior to the property being acquired by the City; (2) progress toward the attainment of the affordable housing goals set forth in the 2015-2023 Housing Element of the General Plan of the City of Hayward; and (3) result in the creation of approximately 420 temporary and 60 permanent jobs (without public investment). This finding is based on the facts and analysis set forth in the Staff Report and the Section 52201 Summary accompanying this Resolution.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 52201, the City Council hereby finds that the consideration to be paid under the PSA is not less than the fair market value at its highest and best use. This finding is based on the facts and analysis set forth in the Staff Report and the Section 52201 Summary accompanying this Resolution.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 52201, the City Council hereby approves the Section 52201 Summary Report, in substantially the form on file with the City Clerk, and approves execution by the the City Manager of the PSA and all ancillary documents in a form to be approved by the City Attorney and consistent with the terms and conditions identified in the accompanying staff report.

BE IT FURTHER RESOLVED, pursuant to Government Code Section 37350, the City Council hereby finds that the disposition of the Property pursuant to the PSA is for the common benefit.

BE IT FURTHER RESOLVED that the City Council designates the City Clerk as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the office of the City Clerk, at 777 B Street, Fourth Floor, Hayward, CA 94541

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

IN COUNCIL, HAYWARD, CALIFORNIA

, 2017

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR :

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

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City Clerk of the City of Hayward

APPROVED AS TO FORM:

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City Attorney of the City of Hayward

**SUMMARY REPORT PURSUANT TO GOVERNMENT CODE SECTION 52201  
ON THE PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE  
CITY OF HAYWARD AND WILLIAM LYON HOMES, INC.**

I. Introduction.

The City of Hayward (the "City"), has prepared a summary report (the "Summary Report") as required by Section 52201 of the Government Code, with regards to the City's proposed execution of a Purchase and Sale Agreement ("PSA") by and between the City and William Lyon Homes, Inc. (the "Developer") for the sale of specified parcels of real property (the "Property") to the Developer.

Government Code Section 52201, authorizes the City, to sell or lease property to which it holds title for the purpose of creating economic opportunity. The City must first secure approval of the proposed sale from the City Council after a public hearing. A copy of the proposed PSA and a summary report that describes and contains specific financing elements of the proposed transaction is required to be available for public inspection prior to the public hearing. As contained in the Code, the following information is included in the summary report:

- The cost of the PSA to the City, including land acquisition costs, clearance costs, relocation costs, and the costs of any improvements to be provided by the City, plus the expected interest on any loans or bonds to finance the agreement;
- The estimated value of the interest to be conveyed, determined at the highest and best use permitted under the general plan and zoning;
- The estimated value of the interest to be conveyed in accordance with the uses, conditions and covenants, and development costs required under the proposed PSA, i.e., the fair reuse value of the Property;
- An explanation of why the sale of the property will assist in the creation of economic opportunity;
- If the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the general plan and zoning, then the City must provide as part of the summary an explanation of the reasons for the difference.

In addition to the authority granted to it under Government Code Section 52201, the City is also acting pursuant to authority granted to it under Government Code Section 37350, which provides that a city may purchase, lease, receive, hold, and enjoy real and personal property and control and *dispose* of it for the common benefit.

## II. Summary of Proposed Agreement.

The proposed Development described in the PSA is a high quality mixed-use retail and residential development, containing approximately 21,900 square feet of retail building space, 351 residential units, associated parking spaces, roughly 2.5 acres of public park space, and related landscaping and amenities (the "Proposed Project"). The Property is currently not entitled for the Proposed Development and the Developer is obligated to obtain the entitlements necessary for the Proposed Project, including any required environmental review, as a condition to transfer of the Property to the Developer.

The salient aspects of the proposed PSA are summarized as follows:

- The City commits to transfer "City Owned Property" and "Caltrans Property" and to take commercially reasonable efforts to negotiate for the acquisition (and potential transfer) of the "BART Property", the "ACFC Property" and the "HARD Property", all as defined in Recital A of the PSA.
- The City will convey the Property (or such portion thereof as it acquires) to the Developer in fee in its "as-is" condition.
- The Developer will pay the City \$27,382,000 for the Property (consisting only of the City Owned Property, the Caltrans Property and the HARD Property) in the form of cash payment, subject to the following potential adjustments:
  - If specified conditions listed in Section 2.1(a) of the PSA are not satisfied by a date agreed upon by the parties, and the HARD Property is not deeded to the Developer on the "Closing Date" (defined in the PSA), then the Purchase Price may be reduced by \$1,705,000;
  - If specified conditions listed in Section 2.1(b) of the PSA are satisfied by a date agreed upon by the parties, and the BART Property and ACFC Property are conveyed as part of the Property on the Closing Date, then the Purchase Price will be increased by \$4,201,075; and
  - The additional sum to be paid as part of the Purchase Price pursuant to Section 2.1(b) of the PSA may be reduced by the remediation costs (if any) agreed upon by the parties.
- The Developer will provide up to \$300,000 for any relocation costs.
- The Developer proposes to construct, subject to City entitlement and development review approvals and completion of environmental review, the Proposed Project.
- The City is not required to make any form of financial or other assistance to the Developer.

- The Proposed Project will be subject to and must comply with the requirements of the City's Inclusionary Housing Ordinance.

### III. Cost of Agreement

This section presents the total estimated cost of the PSA to the City. Pursuant to California Government Code Section 52201 (a)(2)(B)(i), the cost of the PSA to the City includes all land acquisition costs, clearance costs, relocation costs, the cost of any improvements to be provided by the City, plus the interest on any loans or bonds to finance project under the terms of the PSA. The net cost can be either an actual cost, when expenditures exceed receipts, or a net gain, when revenues created by implementation of the Agreement exceed expenditures.

The estimated total cost to the City is projected to be less than the Purchase Price received from the Developer but exact amounts are not known at this time. The Property to be transferred to the Developer will likely consist of up to seventeen (17) parcels of real property. The City currently owns the City Owned Property which consists of one (1) parcel. The City has an agreement with Caltrans related to the acquisition of a various properties including fourteen (14) properties included in the Property to be conveyed to the Developer. The Caltrans agreement requires that the purchase price for the Caltrans Property be negotiated between the City and Caltrans. The purchase price has not been finalized at this time but is not expected to exceed the purchase price being paid by the Developer for the property based on the terms of the City's agreement with Caltrans. The City will be negotiating the potential acquisition of the BART Property and the ACFC Property consisting of two (2) additional properties. The purchase price to be paid by the City the BART Property and the ACFC Property has not been negotiated or established. The PSA also contemplates a land swap between the Hayward Area Recreation and Park District (HARD) and the City for the HARD Property. In no event will the total acquisition costs paid by the City for the combined Property be more than the Purchase Price received from the Developer.

The City's holding costs for the City Owned Property is de minimis. Because of the delayed timing of the potential acquisition closing for the BART Property, ACFC Property and HARD Property, the City expects de minimis holding costs should the City be successful in acquiring those properties.

The City has or expects to incur approximately \$100,000 on internal staff costs and approximately \$900,000 on third party costs, including; broker fees, legal fees, consulting fees, and other fees associated with the negotiation of the PSA and associated land transfer documents.

The City does not expect to incur any relocation costs. If any relocation obligations arise, the Developer has agreed to provide up to \$300,000 to pay for any relocation costs incurred as a result of the implementation of the PSA. The City expects to incur approximately \$200,000 in demolition costs on the Caltrans Property, assuming the demolition of approximately four existing buildings.

IV. Estimated Highest and Best Use Value of the Interest to be Conveyed

Section 52201 requires the City to identify the value of the interest being conveyed at the highest use permitted under the general plan and zoning in place on the Property. The valuation must be based on the assumption that the Property is vacant, and that near-term development is required. The highest and best use of a property, is that use of the Property that generates the highest property value and is physically possible, financially feasible, and legally permitted. The valuation does not take into consideration any extraordinary use, quality, and/or income restrictions being imposed on the development by the City. The value at highest and best use is based solely on the value created and not on whether or not that use carries out the development goals and policies for the City as set forth in the PSA.

This section presents an analysis of the fair market value of the Property at its highest and best use. This section explains the value of the Property to be sold to the Developer and the consideration being provided by the Developer. The section indicates that the consideration being provided is not less than the highest and best use value of the Property.

The City obtained an appraisal for the property in its existing condition with its current land use designations which valued the property at approximately \$31,583,075 (assuming all parcels are included in the transfer to the Developer). The purchase price being paid by the Developer is based on the parties' negotiation of the Property value taking into account the appraised value of the Property as well as the impact on value of the Property resulting from entitlement of the Property for a use consistent with the Proposed Project.

V. Estimated Fair Re-Use Value of the Interest to be Conveyed

In calculating the fair re-use value, re-use value is defined as the highest price in terms of cash or its equivalent which a property or development right is expected to bring for a specified use in a competitive open market, subject to the covenants, conditions, and restrictions imposed by the PSA. The PSA does not contain any covenants, conditions, or restrictions on the use of the Property. Moreover, the PSA requires the Developer to purchase the Property for the fair market value, at its highest and best use.

VI. Explanation of the Difference (if any) between the Compensation to be paid to the City under the PSA and the Fair Market Value of the Property

Under Section 52201, the City is required to explain if the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the general plan and zoning, then the City must provide as part of this Summary Report an explanation of the reasons for the difference. In this instance, there is no difference. The City will receive up to \$31,583,075 in compensation for the transfer of the Property, which is the estimated value of the Property at its highest and best use. The City fully expects that the Purchase Price received from the Developer will not be

less than the costs paid by the City for the combined Property and the costs of the agreement summarized in Section III, above.

#### VII. Creation of Economic Opportunity

The Proposed Project, when constructed, will create economic opportunity in the South Hayward area. Section 52200.2 defines "economic opportunity" as any of the following:

- Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that create, retain, or expand new jobs, at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of city investment in the project after full capacity and implementation;
- Development agreements, loan agreements, sale agreements, lease agreements, or other agreements that increase property tax revenues to all property tax collecting entities, by at least 15 percent (15%) of total property tax resulting from the project at full implementation when compared to the year prior to the property being acquired by the government entity;
- Creation of affordable housing;
- Projects that meet the goals set forth in Chapter 728 of the Statutes of 2008 and have been included in an adopted sustainable communities strategy or alternative planning strategy or a project that specifically implements the goals of those adopted plans; or
- Transit priority projects, as defined in Section 21155 of the Public Resources Code.

The City is not providing any form of financial assistance to the Developer. The City, however, has identified the following benefits that will result from implementation of the PSA and will create economic opportunity as defined in Government Code Section 52200.2.

#### A. Increased Property Taxes

Currently, none of the properties that are subject of the Purchase and Sale generate property tax revenues, and because all the Property is being acquired from other governmental entities, the property tax revenue the year prior to the property being acquired by the City is \$0. Upon transfer to the Developer under the PSA, the assessed value of the Property will change from \$0 to up to \$31,583,075, and will result in estimated property tax payments of approximately \$315,830.75, in its unimproved state.

The sale of the Property to the Developer is estimated to cause the following increase in the property tax revenue:

Assessed Value at Date of Acquisition		\$0.00
Property Tax Rate	1.0%	\$0.00
Estimated Property Tax Revenue		\$0.00
Assessed Value after sale to the Developer (unimproved state)		\$31,583,075.00
Property Tax Rate	1.0%	
Estimated Property Tax Revenue (unimproved state)		\$315,830.75
Increase in Property Tax Revenue to Taxing Entities		\$315,830.75

The change in assessed value will result in an increase of more than 15% prior to the full implementation of the project. While it is anticipated that the completion of the Proposed Project will further increase the Property's assessed value to more than \$220 million, because the Proposed Project has not been entitled, the City cannot accurately estimate the total property tax revenues resulting from the project at full implementation. Nevertheless, based on the change in property tax revenues in an unimproved state, it can be concluded that after full project implementation, the Proposed Project will increase property tax revenues to all property tax collecting entities, by more than 15 percent (15%) when compared to the year prior to the property being acquired by the government entity and the condition of Section 52200.2(b) will be satisfied.

#### B. Creation of Affordable Housing

The creation of affordable housing to meet demonstrated affordable housing needs identified in the Housing Element of the City's general plan constitutes an economic opportunity. The Proposed Project will be subject to the requirements of the City's Inclusionary Housing Ordinance and will thus increase, improve, or preserve the supply of quality affordable housing in the community.

The total number of units of affordable housing that will be created is dependent on the total number of units approved by the City as part of the entitlement process for the Proposed Project. Section 10-17.205 provides the unit threshold and basic requirements applicable to ownership residential projects, like the one proposed to be constructed.

#### C. Job Creation

Under Section 52200.2(a), economic opportunity is achieved if an agreement results in the creation, retention or expansions of new jobs, at least one full-time equivalent, permanent job for every thirty-five thousand dollars (\$35,000) of city investment in the project. As previously discussed, the City is not providing any financial assistance for the Proposed Project and no part of the development costs for the Proposed Project will be publicly subsidized. Nevertheless, the sale of the Property under the PSA will result in job creation as a result of the anticipated construction of retail/commercial space. During the construction of the Proposed Project, it is anticipated that 420 full-time

equivalent (FTE) temporary construction jobs will be created. Upon completion and full implementation, the Proposed Project is also anticipated to generate an estimated 60 permanent jobs without investment of City funds.

D. Public Purpose

The transfer of the Property and construction of the Proposed Project will further the public purpose of economic development by creating jobs, market rate and affordable homes, parks, and vibrancy in an area of the City that has suffered from historic underdevelopment as a result of the proposed and now defunct SR 238 freeway project.