

CITY OF HAYWARD

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



CITY OF
HAYWARD
HEART OF THE BAY

Agenda

Tuesday, November 5, 2019

7:00 PM

Council Chambers

City Council

CITY COUNCIL MEETING**CALL TO ORDER Pledge of Allegiance: Council Member Mendall****ROLL CALL****CLOSED SESSION ANNOUNCEMENT****PUBLIC COMMENTS**

The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or 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 19-725](#) Adoption of Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201806740 to Accommodate Five Single-Family Homes at 24763 Mohr Drive

Attachments: [Attachment I Staff Report](#)
[Attachment II Summary of Published Ordinance](#)
[Attachment III Revised Conditions of Approval](#)

2. [CONS 19-726](#) Adoption of Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change, Vesting Tentative Map and Site Plan Review with Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program Application No. 201706649 to Accommodate 12-Single Family Dwellings and Five Accessory Dwelling Units at 25941 and 28591 Harvey Avenue

Attachments: [Attachment I Staff Report](#)
 [Attachment II Summary of Published Ordinance](#)
 [Attachment III Revised Conditions of Approval](#)

3. [CONS 19-727](#) Adoption of Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201806355 for The True Life Companies Mixed Use Development

Attachments: [Attachment I Staff Report](#)
 [Attachment II Summary of Published Ordinance](#)
 [Attachment III Revised Conditions of Approval](#)

4. [CONS 19-712](#) Authorization for the City Manager to Appropriate Funds and Accept an Agreement with the Alameda County Health Care Services Agency (HCSA) for the Our Kids Our Families Program Services Provided by the Youth and Family Services Bureau (YFSB) of the Hayward Police Department

Attachments: [Attachment I Staff Report](#)
 [Attachment II Resolution](#)

LEGISLATIVE BUSINESS

5. [LB 19-047](#) Response to City Council Referral: Hayward Police Department Use of Deadly Force - Independent Investigations (Report from Police Chief Chaplin)

Attachments: [Attachment I Staff Report](#)

PUBLIC HEARING

6. [PH 19-089](#) Adopt a Resolution of Intention to Introduce an Ordinance Approving an Amendment to the Contract between the City of Hayward and the California Public Employees Retirement System (“CalPERS”) for Local Safety - Police Employees and Authorizing the City Manager to Execute the Contract (Report from Assistant City Manager Hurtado)

Attachments: [Attachment I Staff Report](#)
[Attachment II Resolution](#)
[Attachment III Ordinance](#)
[Attachment IV Contract Amendment](#)

7. [PH 19-091](#) Route 238 Corridor Land Development - Parcel Group 6 Carlos Bee Quarry: Approval of a Resolution Certifying an Addendum to the 2014 General Plan Environmental Impact Report, Approval of Master Development Plan, and Authorization for the City Manager to Issue a Request for Proposals for the Disposition and Development (Report from City Manager McAdoo) (Item continued to November 19, 2019)

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 AND ANNOUNCEMENTS

Council Members can provide oral reports on attendance at intergovernmental agency meetings, conferences, seminars, or other Council events to comply with AB 1234 requirements (reimbursable expenses for official activities).

COUNCIL REFERRALS

Council Members may bring forward a Council Referral Memorandum (Memo) on any topic to be considered by the entire Council. The intent of this Council Referrals section of the agenda is to provide an orderly means through which an individual Council Member can raise an issue for discussion and possible direction by the Council to the appropriate Council Appointed Officers for action by the applicable City staff.

ADJOURNMENT

NEXT MEETING, November 19, 2019, 7:00 PM

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 19-725

DATE: November 5, 2019

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201806740 to Accommodate Five Single-Family Homes at 24763 Mohr Drive

RECOMMENDATION

That the Council adopts the Ordinance introduced on October 29, 2019.

SUMMARY

This item entails adoption of an Ordinance amending the Hayward Municipal Code, Chapter 10, Article 1 (Zoning Ordinance), introduced on October 29, 2019, by Council Member Mendall.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Summary of Published Ordinance
Attachment III	Revised Conditions of Approval



DATE: November 5, 2019

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Adoption of Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201806740 to Accommodate Five Single-Family Homes at 24763 Mohr Drive

RECOMMENDATION

That the Council adopts the Ordinance introduced on October 29, 2019.

SUMMARY

This item entails adoption of an Ordinance amending the Hayward Municipal Code, Chapter 10, Article 1 (Zoning Ordinance), introduced on October 29, 2019, by Council Member Mendall.

BACKGROUND

The Ordinance was introduced by Council Member Mendall at the October 29, 2019 special meeting of the City Council with the following vote:

AYES:	COUNCIL MEMBERS: Zermeño, Márquez, Mendall, Lamnin, Wahab, Salinas MAYOR Halliday
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

Introduction of the Ordinance carried with modifications to specified conditions of approval to ensure consistency with other development projects. Listed below are five additional conditions of approval. Attachment III (Exhibit to Resolution) was revised to include the additional conditions of approval shown in underlined text.

11. The property owner shall demolish any vacant structures within 60 days of their being made vacant.

12. The property owner shall be responsible for securing and clearing any vacant structure(s) prior to demolition and commencement of construction activities.

53.h The garage for each unit shall be maintained for off-street parking for 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.

73. 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.

96. All water meters shall be radio-read type.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC CONTACT

The summary of the Ordinance was published in the Hayward Daily Review on Friday, November 1, 2019. Adoption at this time is therefore appropriate.

NEXT STEPS

The Hayward Municipal Code and other related documents will be updated accordingly.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager

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

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE) OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY TO PLANNED DEVELOPMENT DISTRICT IN CONNECTION WITH ZONE CHANGE AND VESTING TENTATIVE MAP APPLICATION NO. 201806740 TO ACCOMMODATE 5 SINGLE-FAMILY HOMES AT 24763 MOHR DRIVE

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

Section 1. Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property located at 24763 Mohr Drive (APN 441-0077-003-04) from RSB4 (Single Family Residential and Combining District) to PD (Planned Development District) to allow for the subdivision of a 0.50-acre site to accommodate the construction of 5 new single-family homes with common open space and related improvements, subject to the findings and conditions of approval set forth in the companion Resolution to this Ordinance.

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 a special meeting of the City Council of the City of Hayward, held the 29th day of October 2019, by Council Member Mendall.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on November 5, 2019, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance, including the Resolution, is available for examination by the public in the Office of the City Clerk.

Dated: November 1, 2019
Miriam Lens, City Clerk
City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-_____

Introduced by Councilmember _____

RESOLUTION ADOPTING THE ENVIRONMENTAL CONSISTENCY CHECKLIST AND APPROVING THE PLANNED DEVELOPMENT REZONE WITH A VESTING TENTATIVE TRACT MAP PERTAINING TO CONSTRUCTION OF 5 NEW SINGLE-FAMILY RESIDENCES AT A SITE LOCATED AT 24763 MOHR DRIVE

WHEREAS, On December 19, 2018, Jeffrey Lawrence of Nuvera Homes (Applicant) on behalf of Ben Hsiao-Pang Liu (Owner) submitted a Planned Development Rezone Application No. 201806740 and Vesting Tentative Tract Map No. 8482, to subdivide an existing parcel totaling 0.50 acres into 7 parcels to allow the construction of 5 single-family residences with common open space area and related site improvements on a site located at 24763 Mohr Drive (APN 441-0077-003-04); and

WHEREAS, An Environmental Consistency Checklist was prepared to assess the potential environmental impacts of the Project; and

WHEREAS, The Planning Commission considered the Project at a public hearing held on September 26, 2019 and recommended that the City Council adopt the Environmental Consistency Checklist and approve Planned Development Rezone No. 201806740 with Vesting Tentative Tract Map No. 8482; and

WHEREAS, Notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on October 29, 2019.

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

TENTATIVE TRACT MAP FINDINGS

Pursuant to Section 10-3.150 of the Hayward Municipal Code (HMC), the City Council may conditionally approve a Vesting Tentative Tract Map application when all the following findings are met:

- A. **The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;**
 The site is designated Limited Medium Density Residential (LMDR) in the Hayward 2040 General Plan. Density under this land use designation is 8.7 to 12.0 dwelling units per net acre. Project plans show the project density within this range at 11.4 dwelling units per net acre. The LMDR designation allows for a mix of housing types, including detached single-

family homes. The project is also consistent with applicable General Plan policies in that it will increase the housing inventory for the City of Hayward and is considered an infill development that will result in a more complete neighborhood. The project is also consistent with the following General Plan policies:

- 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.*

The project will subdivide an existing parcel into 7 lots and allow for 5 new single-family homes, which provides additional housing opportunities in the city.

- 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.*

The project site is located in an established neighborhood in Hayward within a half mile of shopping, employment centers, schools, and recreation facilities, including Southland Mall, Chabot College, Anthony W. Ochoa Middle School, and Greenwood Park.

- LU-1.3 Growth and Infill Development. *The City shall direct local population and employment growth toward infill development sites within the city, especially the catalyst and opportunity sites identified in the Economic Development Strategic Plan.*

The project is surrounded by development on all sides, including the approved Eden Village I subdivision and other single-family homes. Within the project vicinity are various commercial, religious, educational, and recreational uses. As such, the project is considered an infill project, which is appropriate for new housing development.

In addition, the project is not located within any specific plan area, but it is located within the Mt. Eden Neighborhood Plan area and is consistent with those relevant policies. Therefore, the proposed subdivision is not in conflict with the General Plan or applicable specific plans and neighborhood plans.

- B. **The proposed subdivision meets the requirements of the City Zoning Ordinance; and** The project requires a Planned Development (PD) Rezone to allow for exceptions to certain development standards related to lot standards, setbacks, and driveway length. Further, these exceptions will allow the Eden Village II project to maintain consistency with the abutting, previously approved Eden Village I project. With the PD Rezone, the proposed subdivision will provide modified development standards of the new PD District related to minimum lot size, maximum lot coverage, minimum lot dimensions, minimum setbacks, and minimum driveway length. PD Districts are also subject to the development standards of the

zoning district most similar to the proposed use, which is the Single Family Residential (RS) District in this case. As proposed, the project meets the development standards of the RS district related to building height, off-street parking, and landscaping. The subdivision will also allow for the construction of 5 single family homes, which is a permitted land use in the RS District.

C. No approval of variances or other exceptions are required for the approval of the subdivision.

As proposed, the new Planned Development district would establish the zoning development standards for this project. In addition, the project will also meet the requirements of the Subdivision Ordinance. Therefore, the project will not require a variance or any other exceptions from the requirements of the HMC.

PLANNED DEVELOPMENT REZONE FINDINGS

Pursuant to Section 10-1.2535 of the HMC, the City Council may conditionally approve a Planned Development Rezone application when all the following findings are met:

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

The project is considered an infill development and will complement the existing neighborhood, which primarily consists of other single-family residential developments in the vicinity of the site. The project is compatible with the surrounding residential neighborhood in that the proposed two-story homes are similar in scale and architectural design to other recently built and recently approved two-story homes in the area. Additionally, the project is consistent with the Limited Medium Density Residential (LMDR) land use designation and policies in the *Hayward 2040 General Plan*. The proposed density is within the density range allowed by the LMDR land use designation and compatible with the overall density of the surrounding residential neighborhood.

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

The existing utilities that serve the project site, including sanitary sewer, water, and storm drain systems, have sufficient capacity to adequately serve the proposed development. On-site sewer and water utilities will be installed within the project site and will connect to the existing utilities on Eden Avenue and Mohr Drive. The project will be served by a new private street that will be shared with the Eden Village I development. While the existing roadways are sufficient to accommodate the additional traffic generated from the project, frontage improvements will be required, including the undergrounding of utilities along Mohr Drive.

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

The project is considered an infill development that will replace an underutilized site with five new single-family homes. The scale and design of the proposed homes are compatible with the existing neighborhood. The units will be served by both private and public open space within the development. Each unit will have usable private front porches and outdoor

rear yards, and the project provides a 1,936 square-foot common open space area. The development will also be well-integrated into the existing neighborhood since it will be served by a new private street and sidewalks, shared with the approved Eden Village I development, providing vehicular and pedestrian access to and from Eden Avenue and Mohr Drive.

- E. **In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development;**

The project does not include any nonresidential uses and as such, this finding is not applicable to this project.

- F. **In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule; and**

While informally considered to be the second and final phase of the Eden Village development, the Eden Village II project will be completed in one phase, ensuring that the infrastructure, facilities, and services will be available to all future residents in a timely manner.

- G. **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 requires a PD Rezone to allow for exceptions to certain development standards related to lot size, coverage, and dimensions; setbacks; and driveway length. Further, these exceptions will allow the Eden Village II project to maintain consistency with the abutting, previously approved Eden Village I project. To offset these requested exceptions, the project proposes the following amenities:

- GreenPoint Rated certification for each home
- Photovoltaic solar systems owned by the individual homeowners
- Entry pilaster along Mohr Drive to coordinate with Eden Village I development
- Electric vehicle charging station in each home
- Permeable pavers on all five driveways and along the parking lane of the private street
- Decorative LED street lights
- Front yard landscaping maintained by the HOA
- Ground floor bedroom suite in each home
- Common open space area featuring a game table, benches, and mosaic art

The proposed project amenities and offsets will contribute toward making the development a desirable place to live for many years to come. The Green Point Rate

certification, rooftop solar panels, electric vehicle charging stations, permeable pavers, and LED streetlights result in a more environmentally-sensitive development. The multigenerational-friendly floor plan allows the homes to accommodate a more diverse population. The 1,936 square-foot common open space area, which will be maintained by a homeowner's association, provides the future residents with a usable outdoor area for recreation and public interaction. Each home will also feature front yard landscaping maintained by the HOA, a private porch, and a private backyard, which will provide additional outdoor space. The new entry pilaster on the south side of the private street will complement the pilaster on the north side of the street, approved as part of the Eden Village I development, creating a cohesive and attractive entry to the subdivision.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15183.3, an Infill Checklist was prepared for this project with the finding that no additional environmental review is required. The purpose of an Infill Checklist is to streamline the environmental review process for eligible infill projects by limiting the topics subject to review at the project level where the effects of infill development have been previously addressed in a planning-level decision or would be addressed by uniformly applicable development policies. The Infill Checklist for this project tiers off the Environmental Impact Report (EIR) for the *Hayward 2040 General Plan* and confirms that the project would not have any significant effects on the environment that either have not already been analyzed in the *Hayward 2040 General Plan* EIR, are more significant than previously analyzed, or would not be substantially mitigated by uniformly applicable development policies.
- B. The proposed Infill Checklist was independently reviewed, considered, and analyzed by the Planning Commission and reflects the independent judgement of the Planning Commission; 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 administrative record as a whole); the Planning Commission recommends the City Council adopt the proposed Infill Checklist and its findings and conclusions as its source of environmental information; and the proposed Infill Checklist is legally adequate and was completed in compliance with CEQA.
- C. The proposed Infill Checklist identified all potential adverse impacts and based on the Infill Checklist and the whole record before the Planning Commission, there is no substantial evidence that the Project will have a significant effect on the environment.
- D. The project complies with CEQA, and the proposed Infill Checklist was presented to the Planning Commission, which reviewed and considered the information contained therein prior to recommending approval of the Project. The custodian of the record of proceedings upon which this decision is based is the Development Services Department of the City of Hayward, located at 777 B Street, Hayward, California 94544.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Environmental Consistency Checklist and approves Planned Development Rezone Application No. 201806740 with Vesting Tentative Tract Map No. 8482, subject to the adoption of the companion ordinance (Ordinance No. 19-___) rezoning the property located on a site at 24763 Mohr Drive, Accessor Parcel Number (APN) 441-0077-003-04, subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

**CITY OF HAYWARD PLANNING DIVISION
APPLICATION NO. 201806740
TENTATIVE TRACT MAP 8482, PD REZONE, AND CALIFORNIA ENVIRONMENTAL
QUALITY ACT INFILL CHECKLIST
EDEN VILLAGE II – 24763 MOHR DRIVE
DRAFT CONDITIONS OF APPROVAL**

GENERAL

1. All outstanding fees and permit charges accrued in the processing of Vesting Tentative Tract Map (VTTM) 8482 and the Planned Development (PD) Rezoning Review application shall be paid in full prior to consideration of a request for approval extensions and/or submittal of building permits for the development.
2. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission.
3. VTTM 8482 and PD Rezoning Review application are approved subject to the tentative tract map and project plans date stamped March 6, 2019 (Architectural and Civil Plans) and April 29, 2019 (Landscape Plans), except as modified by the conditions listed below.
4. The approval of Subdivision Application No. 201806740 – Vesting Tentative Parcel Map 8482 shall be to allow the subdivision of a parcel into 7 parcels to construct 5 single-family homes located at 24763 Mohr Drive, Assessor Parcel No. 441-0077-003-04 within the Planned Development (PD) zoning district. The proposed subdivision shall be in accordance with the Vesting Tentative Parcel Map and Conditions of Approval on file with the Planning Division identified as “Exhibit A”.
5. The permittee 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.
6. Any proposal for alterations or expansions to the proposed subdivision must be approved by the Planning Director or Planning Commission prior to implementation. Modifications to the approved Vesting Tentative Tract Map or Planned Development Rezoning Review application, scope of work, or use may require an additional submittal and public noticing.

7. All public improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, Caltrans Standard Specifications and Hayward Standard Details.
8. Any new structures or improvements shall be subject to the California Building Code and Uniform Fire Code as adopted by the City of Hayward.
9. Prior to final inspection, all pertinent conditions of approval and all other improvements shall be completed to the satisfaction of the Planning Director.
10. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City, may result in failure to obtain a building final and/or a Certificate of Occupancy until full compliance is reached. The City's requirement for full compliance may require minor corrections and/ or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were pulled to construct the project.
11. The property owner shall demolish any vacant structures within 60 days of their being made vacant.
- ~~10.~~12. The property owner shall be responsible for securing and clearing any vacant structure(s) prior to demolition and commencement of construction activities.
- ~~11.~~13. Prior to, during and following demolition of structures, the property owner shall be responsible for securing and maintaining the site in accordance with HMC Chapter 4, Article 1, Public Nuisances; HMC Chapter 5, Article 7, Community Preservation and Improvement Ordinance; and the California Building Code, among other applicable regulations.
- ~~12.~~14. Affordable housing in-lieu fees shall be paid either prior to issuance of a building permit or prior to approval of a final inspection or issuance of an occupancy permit. Regardless of the option chosen, no final inspection will be approved and no occupancy permit will be issued for any dwelling unit unless all required affordable housing impact fees have been paid in full. The applicant shall pay the affordable housing in-lieu fees in effect at that time the application was deemed complete. That date was May 23, 2019.
- ~~13.~~15. **Nesting Bird Survey.** If project construction activities occur between February 15 and August 31, a qualified biologist shall conduct a pre-construction survey for nesting birds no more than 14 days prior to construction. The survey shall include the entire project site and a 300-foot buffer to account for nesting raptors. If nests are found, the qualified biologist shall establish an appropriate species-specific avoidance buffer of sufficient size to prevent disturbance to the nest by project activity (up to 300 feet for raptors, up to 150 feet for all other birds). The qualified biologist shall perform at least two hours of pre-construction monitoring of the nest to characterize "typical" bird

behavior. During construction, if active nests are present, the qualified biologist shall monitor the nesting birds to determine if construction activities are causing disturbance to the bird and shall increase the buffer if it is determined the birds are showing signs of unusual or distressed behavior associated with project activities. Atypical nesting behaviors that may cause reproductive harm include, but are not limited to, defensive flights, vocalizations directed towards project personnel/activities, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority, through the resident engineer, to order the cessation of all project activities if the nesting birds exhibit atypical behavior that may cause reproductive failure (nest abandonment and loss of eggs and/or young) until a refined appropriate buffer is established. To prevent encroachment, the established buffer(s) should be marked clearly by high visibility material. The established buffer(s) should remain in effect until the young have fledged or the nest has been abandoned, as confirmed by the qualified biologist. Any sign of nest abandonment should be reported to the City and CDFW within 48 hours. The monitoring biologist, in consultation with the resident engineer and project manager shall determine the appropriate protection for active nests on a case-by-case basis using the criteria described above.

14.16. Tree Preservation. Trees shall be preserved in accordance with the Tree Preservation Ordinance. Prior to the commencement of clearing and grading operations, tree protection measures in compliance with the project arborist's recommendation and the City codes shall be installed.

15.17. Tree Removal. A tree removal permit shall be obtained prior to the removal of any tree in addition to grading and/or demolition permits.

16.18. Unanticipated Discovery. If human remains, archaeological resources, prehistoric or historic artifacts are discovered during construction or 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.

17.19. Geologic Hazards. The following control measures for geologic hazards shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:

- a. Per standard City project approval procedures, the City and Silicon Valley Soil Engineering must review final project design plans conformity with building code requirements prior to project construction. All earthwork, including site grading, wall foundation excavations, placement and compaction of engineered fill, and final surface drainage installation, would be performed in accordance with the recommendations contained in the geotechnical report.

18.20. Noise. 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. In conformance with Section 4-1.03-4 of the City's Municipal Code, construction activities between 7:00 a.m. and 7:00 p.m. Monday through Saturday or between 10:00 a.m. and 6:00 p.m. on Sundays or holidays, unless other construction hours are permitted by the City Engineer or Chief Building Official, shall not include any individual equipment that produces a noise level exceeding 83 dB measured at 25 feet, nor shall activities produce a noise level outside the project property lines in excess of 86 dB. During all other hours, noise shall not exceed the limits defined in Municipal Code Section 4-1.03.1 (70 dB daytime or 60 dB nighttime, measured at residential property lines).
- 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.
- f. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information.
- g. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction.

19.21. Cultural Resources. In the event that cultural resources of Native American origin are identified during construction, all earth disturbing work within the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.

EXPIRATION

~~20.22.~~ In accordance with Hayward Municipal Code (HMC) Section 10-3.246, approval of VTTM 8482 and the Planned Development (PD) Rezoning Review application shall expire 36 months after the effective date of approval subject to statutory and discretionary extensions as allowed by the HMC and Subdivision Map Act.

PRECISE PLAN SUBMITTAL

~~21.23.~~ In accordance with Section 10-1.2550 of the Hayward Municipal Code (HMC) and prior to submitting a building permit application, a Precise Development Plan shall be submitted for review and approval.

~~22.24.~~ The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and incorporate conditions herein, and shall be submitted in advance of or in conjunction with the subdivision improvement plans and Final Map.

~~23.25.~~ The project approval includes the following project amenities to support the finding required to be made that “any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards”.

- a. Each home shall receive Green Point Certification.
- b. Photovoltaic systems shall be installed on the rooftops of all units.
- c. An entry pilaster shall be installed on the south side of Mohr Drive.
- d. Each unit shall include an electric vehicle charging station.
- e. Permeable pavers shall be installed on all five driveways and along the parking lane of the private street.
- f. Decorative LED streetlights shall be installed along the private street.
- g. Front yard landscaping of all units shall be maintained by the HOA.
- h. All units shall provide a bedroom suite on the first floor.
- i. The project shall provide a 1,936 square-foot pocket park along Mohr Drive that shall include a game table, circular tree bench, mosaic tile bench, and landscaping maintained by the HOA.

The applicant shall submit all details and specifications related to the approved project amenities during the Precise Plan phase of the project and prior to the submission of any building permit for the project.

~~24.26.~~ The driveway depth of Lot 18 shall be increased from 18 feet to 20 feet in the Precise Development Plan.

~~25.27.~~ The Precise Development Plan shall include the following information and/or details:

- a. A copy of these conditions of approval shall be included on a full-sized sheet(s).
- b. Final architectural details related to all 5 single-family homes.
- c. Final details related to all open space areas.
- d. Proposed location for construction staging, designated areas for construction Attachment III Page 6 of 18 employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for vanpooling construction workers or having them use transit to access the site, provisions for noise and dust control, and common area landscaping.
- e. Details of address numbers shall be provided. Address numbers shall be decorative and comply with the size requirements of the Fire Department.
- f. Proposed locations, heights, materials and colors of all walls and fences.
- g. A minimum of one exterior hose bib shall be provided for each residential unit.
- h. Proposed pavement materials for all drive aisles, parking areas, and pedestrian paths. All surfaces should be enhanced with decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials.
- i. Proposed mailbox design and locations, subject to Post Office approval. All mailboxes shall be locking mailboxes.
- j. A final lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. The final lighting plan shall incorporate pedestrian scale lighting along the sidewalk. All lighting shall be erected and maintained so that adequate lighting is provided along the private driveway. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project.
- k. All air conditioners and utility connections for air conditioners shall be located behind solid board fences or walls and shall not exceed the height of the fence or wall, unless otherwise approved. Infrastructure for air conditioning systems is required to be installed as a standard feature.
- l. Proposed color and materials board for all buildings, fences and walls. No changes to colors shall be made after construction unless approved by the Planning Director.

- m. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen.
- n. No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building code. Roof apparatus, such as vents, shall be painted to match the roof color.
- o. Large expanses of blank wall shall not be allowed. Articulate or otherwise treat such expanses to avoid bulkiness.
- p. An area within each garage for individual garbage and recycling receptacles shall be provided and shall be clear of the required area for two cars.
- q. All parking stall dimensions shall conform to the City's Off-street Parking Ordinance. The dimensions shall be shown on plans. No doors, stairs, landings, laundry facilities, trash/recycle containers or HVAC shall project within the required interior parking areas.

~~26.28.~~ The Precise Development Plan shall clearly show all proposed fences and walls. All proposed fences and walls shall comply with the City's maximum fence height requirements in the HMC.

~~27.29.~~ The Precise Development Plan shall provide a project data table that accurately indicates the total lot, building pad, living, private open space, common open space, and total open space areas.

~~28.30.~~ Any proposal for alterations to the proposed site plan and/or design which does not require a variance to any zoning ordinance standard must be approved by the Development Services Director or his/her designee, prior to implementation.

~~29.31.~~ Details of all project amenities shall be submitted for review and approval by the Planning Director during the Precise Plan phase of the project.

~~30.32.~~ The project shall comply with the provisions of the 2016 California Energy Code section 110.10.

LANDSCAPING

~~31.33.~~ Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of issuance of the building permit.

~~32.34.~~ No building permit shall be issued prior to approval of landscape and irrigation improvement plans.

- ~~33.~~35. Prior to submitting the first building permit, detailed landscape and irrigation improvement plans shall be approved by the City. Once approved, Mylar of the approved improvement plans shall be submitted to the City for approval signature. Copies of the signed improvement plans shall be submitted as a part of the building permit submittal.
- ~~34.~~36. The improvement plans shall be prepared by a licensed landscape architect on an accurately surveyed base plan. The plans shall comply with the City's water efficient landscape ordinance (California Building Code Title 23) and all relevant Municipal Codes.
- ~~35.~~37. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. Mylar shall be wet-signed and shall be provided with a bar scale. The size of Mylar shall be twenty-four (24) inches by thirty-six (36) 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 two signature lines and two date lines for City of Hayward, Landscape Architect and City Engineer. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer.
- ~~36.~~38. For existing trees for preservation, a tree preservation bond equaling the total appraised value of the trees for preservation in the approved arborist report shall be submitted to City Landscape Architect prior to issuance of grading permit. The bond shall remain 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.
- ~~37.~~39. Trees shall be preserved in accordance with the Tree Preservation Ordinance. Prior to the commencement of clearing and grading operations, tree protection measures in compliance with the project arborist's recommendation and the City codes shall be installed.
- ~~38.~~40. A separate tree removal permit will be required for all trees that are to be removed in addition to demolition and grading permits from City Landscape Architect prior to removal of trees.
- ~~39.~~41. 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.
- ~~40.~~42. Root barrier shall be provided for all trees that are located within seven feet of paved edges or structure. There should never be a case where a lot does not have at least one street tree.
- ~~41.~~43. Trees shall be planted according to the City Standard Detail SD-122.

- ~~42.44.~~ Above ground utilities (e.g. gas or electric meters, backflow devices) shall be screened from public view with shrubs.
- ~~43.45.~~ A hose bib shall be provided within each private yard.
- ~~44.46.~~ Revise the water budget calculations for the Irrigation Efficiency Rate used to and ET Adjustment Factor to 0.45.
- ~~45.47.~~ Revise the plant legend to identify plant spacing no closer the minimum spread (provided in the reference books in the Ordinance).
- ~~46.48.~~ Revise the Street Tree Staking Detail B to specify 3 inch diameter tree stakes and galvanized screws for attachment hardware to conform with the City Standard Detail SD-122.
- ~~47.49.~~ 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. Re-inspection fees shall be applied for each subsequent inspection.
- ~~48.50.~~ All common area landscaping, irrigation and other required improvements shall be installed in accordance with the approved improvement plans prior to acceptance of tract improvements, or occupancy of eighty-percent (80%) of the dwelling units, whichever first occurs. Certificate of Completion, as-built Mylar and an Irrigation Schedule shall be submitted upon acceptance of the landscape improvements for the Tract to the Department of Public Works Engineering by the developer.
- ~~49.51.~~ Landscaping shall be maintained by HOA and shall be in a healthy, weed-free condition at all times and shall maintain irrigation system to function as designed to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which contribute pollution to the Bay. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Three inches deep mulch should be maintained in all planting areas. Mulch shall be organic recycled chipped wood in the shades of Dark Brown Color, and the depth shall be maintained at three inches deep. All nursery stakes shall be removed during tree installation and staking poles shall be removed when the tree is established or when the trunk diameter of the tree is equal or larger to the diameter of the staking pole. All trees planted as a part of the development as shown on the approved landscape plans shall be "Protected" and shall be subjected to Tree Preservation Ordinance. Tree removal and pruning shall require a tree pruning or removal permit prior to removal by

City Landscape Architect. Any damaged or removed trees without a permit shall be replaced in accordance with Tree Preservation Ordinance or as determined by City Landscape Architect within the timeframe established by the City and pursuant to the Municipal Code. Irrigation system shall be tested periodically to maintain uniform distribution of irrigation water; irrigation controller shall be programmed seasonally; irrigation system should be shut-off during winter season; and the whole irrigation system should be flushed and cleaned when the system gets turn on in the spring.

ENGINEERING

General:

50.52. Utility Services. All new utility service connections to the project shall be installed underground.

51.53. Homeowners Association. Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever occurs first, a declaration of annexation must be recorded that formally incorporates the Eden Village II development into the Eden Village I development and homeowner's association (HOA) so that Eden Village II property owners shall have the same rights and powers of the association as Eden Village I property owners. The Conditions, Covenants and Restrictions (CC&R's) shall be submitted to the City for review and approval. The CC&Rs shall include the following provisions:

- a. The HOA shall be managed and maintained by a professional property management company.
- b. The HOA shall own and maintain the private access roads and on-site storm drain systems in the development, excluding those located within the public right-of-way.
- c. The CC&R's shall describe how the stormwater treatment and site-design measures associated with privately owned improvements and landscaping shall be maintained by the association.
- d. The HOA shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition.
- e. On-site streetlights and pedestrian lighting shall be owned and maintained by the HOA and shall have a decorative design approved by the Planning Director and the City Engineer.
- f. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.

g. The CC&R's shall require and the HOA shall enforce that sidewalks are kept wholly clear of vehicles or other obstructions that could hinder pedestrian accessibility.

g.h. The garage for each unit shall be maintained for off-street parking for 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.

Prior to Issuance of Building Permit:

52.54. Subdivision Improvement Agreement. The public improvements conditioned as part of this approval require the execution of a Subdivision Improvement Agreement prior to Final Map Approval that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes surety (i.e. bonds), insurance, and additional deposit for City staff time and City resources to be expended on the project.

53.55. Required Improvements. Privately engineered studies and design documents shall be submitted to the Director of Public Works for review and approval prior to final map approval. The engineered plans shall include, but not be limited to, the following design requirements:

- a. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
- b. Remove unused existing driveway and replace with new curb, gutter and sidewalk along project frontage along Mohr Drive.
- c. Grind and overlay 2" asphalt the entire frontage along Mohr Drive.
- d. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
- e. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.

54.56. Grading & Drainage. A fine grading and drainage plan is required and shall be submitted with the Final Map and Improvement Plans for review and approval by the Director of Public Works prior to the issuance of building permits. Developer has the option to apply for a grading permit to rough grade the project site. The grading and drainage plan shall include, but not be limited to, the following design & submittal requirements:

- a. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or less (top of wall to bottom of footing) shall be

reviewed and approved by Public Works. Earth retaining structures greater than 4-feet in height shall be reviewed and approved by the Building Division of the Development Services Department. The plans should include all proposed underground pipes, building drains, area drains and inlets. The on-site storm drainage system (if applicable) shall be designed to convey a 10-year storm event.

- b. If Final Map 8482 (Eden Village II) improvements are built concurrently with the approved Final Map 8151 (Eden Village I) improvements, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the Director of Public Works prior to issuance of a grading permit.
- c. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
- d. The project's Stormwater Control Plan and updated Stormwater Requirements Checklist shall be submitted which will show, at a minimum, drainage management areas, location and details of all treatment control measures and site design measures, and numeric sizing calculations in conformance with Alameda County Clean Water Program C3 design guidelines.
- e. The On-site storm conveyance and treatment systems shall be owned and maintained by the property owner/HOA.

55.57. Street Lighting. Public street lighting along the development frontage and on-site lighting shall comply with current City lighting standards and the City's Security Ordinance. Lighting shall be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast a direct light or glare upon adjacent properties or rights-of-way. Photometric analysis/studies shall be submitted for review and approval by the City Engineer.

56.58. Undergrounding. Developer shall complete the underground conversion of the utility facilities fronting the project along Mohr Drive. Developer shall submit joint trench plans showing the underground conversion to the Director of Public Works for review and approval prior to the issuance of Building Permits.

During Construction:

57.59. Construction Stormwater Management. Developer shall be responsible for the preventing the discharge of pollutants (sediments) into the street and/or the public storm drain system from the project site.

58.60. Construction Damage. The Developer shall be responsible to remove and replace curb, gutter, sidewalks, driveways, signs, pavement, thermoplastic pavement markings, etc. damaged during construction of the proposed project prior to issuance of the Final Construction Report by the City Engineer. Developer is responsible for documenting the existing conditions prior to the start of construction to serve as a baseline for this requirement.

Prior to Issuance of Certificate of Occupancy:

59.61. Post Construction Stormwater Maintenance. The property owner(s) shall enter into the City's standard "Stormwater Treatment Measures Maintenance Agreement" as prepared by the City. The Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance responsibility for private treatment control and site design measures is bound to the property in perpetuity.

60.62. Construction of Improvements. All public and private improvements, including punch list items, must be complete prior to the occupancy of 80% of the proposed dwelling units.

FIRE DEPARTMENT

Fire District:

61.63. Parking of vehicles is allowed one-side parking on 30-foot-wide road. No parking is allowed on 24-foot-wide road. Where there is no on-street parking, fire lane signage shall be installed in locations required by the Hayward Fire Department. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.

62.64. All public streets, private streets and private courts 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.

63.65. Spacing and locations of fire hydrants shall be subject to review and approval by the Hayward Fire Department. The type of fire hydrant 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, capable of flowing 1,500 gallons per minute. The design and layout of the hydrants shall be reviewed and approved by the Fire Department.

64.66. Blue reflective pavement markers shall be installed at fire hydrant locations. If fire hydrants are located to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s)

65.67. Where a fire hydrant is located on a fire apparatus road, the minimum road width shall be 26ft. exclusive of shoulders.

- ~~66.68.~~ Buildings are required to install fire sprinkler systems in accordance with NFPA 13D. **(Deferred submittal by a licensed C-16 Contractor Required)**
- ~~67.69.~~ Maximum 80 PSI water pressure should be used when water data indicates a higher static pressure. Residual pressure should be adjusted accordingly.
- ~~68.70.~~ Underground fire service line serving NFPA 13D sprinkler system shall be installed in accordance with NFPA 24 and the Hayward Public Work Department SD-216. Water meter shall be minimum one-inch in diameter.
- ~~69.71.~~ An audible alarm bell (device) shall be installed to sound on the exterior of each individual building. The device shall activate upon any fire sprinkler system waterflow activity.
- ~~72.~~ 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).
- ~~70.73.~~ 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.
- ~~71.74.~~ When a flow switch is not installed on the riser of a flow thru sprinkler system, smoke alarms shall be interconnected to sound an audible alarm in all sleeping areas within the dwelling unit.
- ~~72.75.~~ A minimum 4" self-illuminated address shall be installed on the front of the dwelling in a location to be visible from the street. Otherwise, a minimum 6" address shall be installed on a contrasting background and shall be in a location approved by the Fire Department.

Hazardous Materials:

- ~~73.76.~~ Environmental and Health Based Site Clearance – Per correspondence with the developer and their consultant, Ramboll, the City of Hayward Fire Department is requiring an environmental screening clearance from the Alameda County Department of Environmental Health to indicate that the site meets residential development standards for human health and the environment. Depending on the results of the clearance, if further work is required, the developer and their environmental consultant shall work with the Alameda County or through the Regional Water Quality Control Board/Department of Toxic Substances Control to obtain the final clearance. The clearance documentation shall be submitted to the Hayward Fire Department and Planning Division prior to grading and construction. Note, some grading may be allowed prior to final clearance as part of remediation activities.
- ~~74.77.~~ Electronic Submittal of Environmental Documentation – Environmental Documentation associated with the evaluation, investigation and/or clearance of this

site shall be provided in an electronic format to the City of Hayward Fire Department prior to the issuance of the Building or Grading Permit.

~~75.78.~~ 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.

~~76.79.~~ Wells, Septic Tank Systems or Subsurface Structures – Any wells, septic tank systems and other subsurface structures shall be removed properly in order not to pose a threat to the development construction workers, future residents or the environment. These structures shall be documented and removed under permit from appropriate regulatory agency when required.

~~77.80.~~ Hazardous Materials/Waste and their vessels discovered during Grading/Construction – If hazardous materials/waste or their containers are discovered during grading/construction the Hayward Fire Department shall be immediately notified at (510) 583-4910.

~~78.81.~~ Underground Storage Tanks, Oil Water Separators, Hydraulics Lifts – If found on the property, the underground vessels/structures shall be removed under a plan filed with Hayward Fire Department and appropriate samples shall be taken under the direction of a qualified consultant to ensure that contamination has not occurred to the soil or groundwater. A follow up report shall be required to be submitted that documents the activities and any conclusions. Below are specific requirements on each:

- a. Underground storage tank and associate piping (plan, sampling and Hayward Fire Department permit and follow up report is required)
- b. Oil Water Separators (plan, sampling required and follow up report is required)
- c. Hydraulic Lifts (plan, sampling and follow up report is required)

~~79.82.~~ Hazardous Materials/Waste during Construction – During grading and construction hazardous materials and hazardous waste shall be properly stored, managed, and disposed.

TRANSPORTATION

~~80.83.~~ Applicant shall submit on-site and off-site Signing and Striping plans.

~~81.84.~~ Applicant shall submit on-site and off-site outdoor lighting and photometric analysis plan.

~~82.85.~~ The requirements specified in the City Council Resolution and Conditions of Approval for Eden Village I for Public Streets (Mohr Dr and Eden Ave) and Private Street "A" shall also be incorporated in the plans for Eden Village II.

~~83.86.~~ Modify the driveway on Mohr Drive to accommodate the new sidewalk on "Wonderland Way".

UTILITIES

Water:

~~84.87.~~ 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.

~~85.88.~~ 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.

~~86.89.~~ All connections to existing water mains shall be performed by City Water Distribution Personnel at the applicant's/developer's expense.

~~87.90.~~ All water services from existing water mains shall be installed by City Water Distribution Personnel at the applicant's/developer's expense. The developer may only construct new services in conjunction with their construction of new water mains.

~~88.91.~~ If existing water services cannot be reused, it shall be abandoned by City Water Distribution Personnel at the owner's/applicant's expense.

~~89.92.~~ Domestic & Fire Services

- a. *Domestic:* Each single-family residence (SFR) shall have an individual domestic water meter. Facilities fees for residential connections are based on the domestic demand for the home. A larger water meter may be installed if the service is combined with a private fire service. The developer is required to pay water facilities fees and installation charges for connections to water mains and work performed by City forces.
- 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.
- c. *Combined Residential Services:* The development could use combined residential domestic and fire services for each residence. Residential

combined domestic and fire services are allowed, per City Standard SD-216. Fire services shall be sized by the Fire Department; however, the minimum size for a residential fire service connection is 1”.

90.93. Irrigation: It is anticipated that one or more separate irrigation water meters and services shall be installed for the development’s landscaping. The gallon-per-minute demand of the irrigation system must be provided to determine appropriate meter size. The applicant/developer shall install an above ground Reduced Pressure Backflow Prevention Assembly (RPBA) on each irrigation 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.

91.94. Water meters and services are to be located a minimum of two feet from top of driveway flare as per SD-213 thru SD-218. Water meter boxes in driveway aisle areas shall have steel H20 rated lids. Water meter lids shall be Nicor, Inc.

95. 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 (i.e., pressure) piping materials.

92.96. All water meters shall be radio-read type.

Sewer:

93.97. The development’s sanitary sewer mains and manholes shall be public, owned and maintained by the City. If sewer mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10-foot wide easement shall be granted to the City.

94.98. 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.

95.99. 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. Sewer 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.

96.100. 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.

97.101._____ The developer is responsible for payment of sewer connection fees at the current rates at the time the application for building permits are submitted.

SOLID WASTE & RECYCLING

98.102._____ Construction & Demolition Debris: The City requires that construction and demolition debris be recycled per certain ordinance requirements. Submittal of the Debris Recycling Statement is required at the time of your building permit. The form can also be found at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>. You may also visit Hayward's [Green Halo webpage](#) and create a waste management plan instead of filling in the Debris Recycling Statement.



CITY OF HAYWARD

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

File #: CONS 19-726

DATE: November 5, 2019

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change, Vesting Tentative Map and Site Plan Review with Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program Application No. 201706649 to Accommodate 12-Single Family Dwellings and Five Accessory Dwelling Units at 25941 and 28591 Harvey Avenue

RECOMMENDATION

That the Council adopts the Ordinance introduced on October 29, 2019.

SUMMARY

This item entails adoption of an Ordinance amending the Hayward Municipal Code, Chapter 10, Article 1 (Zoning Ordinance), introduced on October 29, 2019, by Council Member Salinas.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Summary of Published Ordinance
Attachment III	Revised Conditions of Approval



DATE: November 5, 2019

TO: Mayor and City Council

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SUBJECT: Adoption of Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change, Vesting Tentative Map and Site Plan Review with Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program Application No. 201706649 to Accommodate 12-Single Family Dwellings and Five Accessory Dwelling Units at 25941 and 28591 Harvey Avenue

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SUMMARY

This item entails adoption of an Ordinance amending the Hayward Municipal Code, Chapter 10, Article 1 (Zoning Ordinance), introduced on October 29, 2019, by Council Member Salinas.

BACKGROUND

The Ordinance was introduced by Council Member Salinas at the October 29, 2019 special meeting of the City Council with the following vote:

AYES:	COUNCIL MEMBERS: Zermeño, Márquez, Mendall, Lamnin, Wahab, Salinas
	MAYOR Halliday
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

The introduction of Ordinance carried with an amendment to a condition of approval and three additional conditions of approval to ensure consistency with other development projects. Listed below are the additional conditions of approval and one modified condition of approval. Attachment III (Exhibit to Resolution) contains the revised Conditions of Approval with additional conditions/text shown in underlined text.

21. The property owner shall demolish any vacant structure within 60 days of their being made vacant.

22. The property owner shall be responsible for securing and clearing any vacant structure(s) prior to demolition and commencement of construction activities.

23. Prior to, during the following demolition of vacant structures, the property owner shall be responsible for securing and maintaining the site in accordance with HMC Chapter 4, Article 1, Public Nuisances; HMC Chapter 5, Article 7, Community Preservation and Improvement; and the California Building Code, among other applicable regulations.

80. Root barriers shall be installed linearly against the paving edge in all instances where a tree is planted within seven feet of pavement or buildings, and as directed by the landscape architect. The length of root barrier shall be as recommended by the manufacturer.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC CONTACT

The summary of the Ordinance was published in the Hayward Daily Review on Friday, November 1, 2019. Adoption at this time is therefore appropriate.

NEXT STEPS

The Hayward Municipal Code and other related documents will be updated accordingly.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager

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

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE) OF THE HAYWARD MUNICIPAL CODE BY REZONING CERTAIN PROPERTY TO PLANNED DEVELOPMENT DISTRICT IN CONNECTION WITH ZONE CHANGE, VESTING TENTATIVE MAP AND SITE PLAN REVIEW WITH MITIGATED NEGATIVE DECLARATION WITH MITIGATION MONITORING AND REPORTING PROGRAM APPLICATION NO. 201706649 TO ACCOMMODATE 12-SINGLE FAMILY DWELLINGS AND FIVE ACCESSORY DWELLING UNITS AT 25941 & 29591 HARVEY AVENUE

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

Section 1. Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property located at 25941 & 29591 Harvey Avenue (Assessor's Parcel Numbers 464-0060- 005-02 and 464-0060-006-00) from Single Family Residential and Planned Development District to a new Planned Development District to allow for the subdivision of a 1.83-acre site to accommodate the construction of 12 new single-family homes and five Accessory Dwelling Units with common open space and bioretention areas, as well as related site and frontage improvements, subject to the findings and conditions of approval set forth in the companion Resolution to this Ordinance.

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 a special meeting of the City Council of the City of Hayward, held the 29th day of October 2019, by Council Member Salinas.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on November 5, 2019, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance, including the Resolution, is available for examination by the public in the Office of the City Clerk.

Dated: November 1, 2019
Miriam Lens, City Clerk
City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-

Introduced by Councilmember _____

RESOLUTION APPROVING THE PLANNED DEVELOPMENT REZONING WITH VESTING TENTATIVE TRACT MAP AND SITE PLAN REVIEW, AND THE ADOPTION OF A MITIGATED NEGATIVE DECLARATION WITH MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) PERTAINING TO CONSTRUCTION OF 12 NEW DETACHED SINGLE-FAMILY DWELLINGS AND 5 ACCESSARY DWELLING UNITS AT 28571 & **289591** HARVEY AVENUE

WHEREAS, on November 16, 2017, Nuvera Homes (Applicant) submitted a Planned Development Rezone, Vesting Tentative Tract Map No. 8442, and Site Plan Review Application No. 201706649 to construct 12 detached single-family dwellings and 5 accessory dwelling units with common open space areas and related site improvements at 28571 & **289591** Harvey Avenue (APNs 464-0060-005-02 & 464-0060-006-00); and

WHEREAS, an Initial Study and Mitigated Negative Declaration with Mitigation Monitoring and Reporting Program was prepared to assess the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on September 12, 2019, and recommended that the City Council approve the Planned Development Rezone with Tentative Tract Map No. 8442 and Site Plan Review Application No. 201706649 and adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and

WHEREAS, notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on October 29, 2019.

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

VESTING TENTATIVE TRACT MAP FINDINGS

Pursuant to Section 10-3.150 of the Hayward Municipal Code (HMC), the City Council may conditionally approve a Vesting Tentative Tract Map application when all the following findings are met:

- A. **The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;**

The project is proposing a density of approximately 8.7 dwelling units per net acre, which is consistent with the *Hayward 2040 General Plan* land use designation of Low Density Residential (LDR), which allows for a density range of 4.3 to 8.7 dwelling units per net acre. The LDR land use designation allows detached, single-family homes and Accessory Dwelling Units. Anticipated future changes include additional residential development, building and landscaping improvements, and neighborhood enhancements that create more complete, walkable, and sustainable neighborhoods. The project is considered an in-fill development, which will increase the housing inventory for the City of Hayward and result in a more complete neighborhood. The project is also consistent with the following General Plan policies:

- 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.*

The project will subdivide an existing parcel into 17 lots and allow for 12 new single-family homes, five of which will include an attached Accessory Dwelling Unit. This development helps to diversify the housing stock and provides a new single-family housing model in the City.

- 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.*

The project is located in an established neighborhood near the West Tennyson commercial corridors. Furthermore, recreational facilities such as the Tennyson Park Ruus Park and Eden Youth and Family Center and educational facilities such as Ruus School.

- Land Use Policy LU-1.3 Growth and Infill Development: *The City shall direct local population and employment growth toward infill development sites within the city, especially the catalyst and opportunity sites identified in the Economic Development Strategic Plan.*

The project is surrounded by other single-family homes developments, and is considered an in-fill project, which is appropriate for new housing development.

In addition, the project is not located within any specific plan area but is located within the Tennyson Alquire Neighborhood Plan area and is consistent with those relevant policies. Therefore, the proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans.

B. The proposed subdivision meets the requirements of the City Zoning Ordinance; and

The project requires a Planned Development (PD) Rezone to provide flexibility in the site layout and allow for exceptions to certain development standards related to lot size, lot coverage, and setbacks. With the PD Rezone, the proposed subdivision

will provide modified development standards of the new PD District related to lot size, lot coverage, and setbacks. PD Districts are also subject to the development standards of the zoning district most similar to the proposed use, which is the RS (Single-Family Residential) District in this case. As proposed, the project meets the development standards of the RS District related to building height, off-street parking, and landscaping. The subdivision will also allow for the construction of twelve new detached single-family homes, 5 of which will include an attached Accessory Dwelling Unit, which is a permitted land use in the RS District.

C. No approval of variances or other exceptions are required for the approval of the subdivision.

As proposed, the new Planned Development district would establish the zoning development standards for this project. In addition, the project will also meet the requirements of the Subdivision Ordinance. Therefore, the project will not require a variance or any other exceptions from the requirements of the HMC.

PLANNED DEVELOPMENT REZONE FINDINGS

Pursuant to Section 10-1.2535 of the HMC, the City Council may conditionally approve a Planned Development Rezone application when all the following findings are met:

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

The project is considered an in-fill development and will complete the neighborhood, which primarily consists of detached single-family homes developments. The project proposes detached single-family homes, which is compatible with the surrounding neighborhood. Additionally, the project is consistent with the LDR land use designation and policies in the *Hayward 2040 General Plan*. The proposed density is within the density range allowed by the LDR land use designation and compatible with the overall density of the surrounding residential neighborhood.

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

The existing utilities that serve the project site, including sanitary sewer, water, and storm drain systems, have sufficient capacity to adequately serve the proposed development. On-site sewer and water utilities will be installed within the new public utility easement within the project site and connect to the existing utilities on Harvey Avenue. The project will be served by a new private street. While the existing roadway is sufficient to accommodate the additional traffic generated from the project, frontage improvements will be required, including the reconstruction and repair of the existing road and sidewalks along Harvey Avenue to meet the City's current roadway standards.

C. In the case of a residential development, that the development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities

having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development;

The project is considered an in-fill development and will replace two single family dwelling with attractive single-family homes to complete the neighborhood. The scale and design of the homes are compatible with the existing neighborhood. The homes will also be served by both private and public open space within the development. Each home will have usable private outdoor yards and the project provides a 2,790-square-foot group open space area. The development will also be well-integrated into the existing neighborhood since it will be served by a new private street with street parking and a sidewalk providing vehicular and pedestrian access to and from Harvey Avenue.

- D. **In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development;**

The project does not include any nonresidential uses and as such, this finding is not applicable to this project.

- E. **In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule; and**

The project will be developed in one phase, ensuring that the infrastructure, facilities, and services will be available to all future residents in the development in a timely manner.

- F. **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 requires a PD Rezone to provide flexibility in the site layout and allow for exceptions to certain development standards related to lot size, lot coverage, and setbacks. To offset these requested exceptions, the project proposes the following amenities:

- Rooftop solar panels on each home;
- A bedroom suite on the first floor to allow for aging in place and multigenerational lifestyles;
- Five of the single-family homes will have an attached Accessory Dwelling Unit
- Accent permeable pavers at the entry; and
- 2,790 square feet of common open space.

The rooftop solar panels result in a more environmentally sensitive development and the multigenerational-friendly floor plan and attached Accessory Dwelling Unit allows the homes to accommodate a more diverse population. The common open

space, which will be maintained by a homeowner's association, provides the future residents a usable, outdoor space for recreation and public interaction.

SITE PLAN REVIEW FINDINGS

Pursuant to Section 10-1.3025 of the HMC, the City Council may conditionally approve a Site Plan Review application when all the following findings are met:

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

The proposed 12 single-family residences would be compatible with on-site and surrounding structures and uses and would be an attractive addition to the City in that it would be consistent with the developmental pattern of the existing neighborhood, which consists of both small and minimum size single-family residential lots. The homes would also be similar in scale to other homes nearby. In addition, the building facades are articulated to provide visual interest from all sides of the homes, especially the front elevations, which incorporate recesses and projections through windows treatments, front entry porches, and stone veneer. The design, materials, and color palette of the new homes are also compatible with the character of other homes in the neighborhood. The new homes will have composition shingle roofs and a stucco exterior with stone veneer accents, which provide additional architectural detailing. Overall, the homes are attractively designed and compatible with the existing neighborhood character.

B. **The development takes into consideration physical and environmental constraints.**

The project takes into consideration physical and environmental constraints in that the scale and character of the new homes are harmonious with the surrounding neighborhood, which consists of a mix of housing types including detached single-family homes. The new lots range between 2,971 to 6,747 square feet in size and the new homes will be two stories in height. The architectural design of the new homes is compatible with the design of the existing homes nearby and as such, the new development will blend into the existing neighborhood. In addition, the project is an in-fill development with minimal impact on the existing development. Furthermore, a private street will provide access to the new homes, which will allow for safe and efficient vehicular circulation.

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

As previously discussed, the project is consistent with the LDR land use designation in the *Hayward 2040 General Plan*. The LDR land use designation is intended for a mix of housing types including single-family residences and the proposed density is within the allowable density range. The project is also consistent with the goals and policies of the *Hayward 2040 General Plan*, which encourage a diverse housing inventory and in-fill development. Furthermore, with the PD Rezone, the project meets all the applicable regulations of the Zoning Ordinance, including the development standards of the new PD District and applicable standards of the RS

District. Therefore, the project complies with the intent of City development policies and regulations.

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

The project will operate in a manner determined to be acceptable and compatible with surrounding development in that the project will comply with all applicable zoning regulations, building codes, and other regulations in the HMC. The proposed site improvements will also have to meet all City standards and details to the satisfaction of the Director of Public Works as shown on the final map and improvement plans. The project will also be subject to various conditions of approval intended to protect the surrounding neighborhood from any potentially harmful impacts. In addition, the project includes guest parking spaces and a private street, which will minimize potential parking and traffic impacts on Harvey Avenue after construction of the homes.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15220, an Initial Study was prepared for this project with the finding that a Mitigated Negative Declaration was appropriate because all potential impacts could be mitigated to a level of less than significant with the implementation of mitigation measures.
- B. The proposed MND was prepared by Rincon Consultants on behalf of the City of Hayward, Lead Agency, and the MND was circulated to the State, all interested parties, and posted in the newspaper with a minimum 20-day public review period between July 19, 2019 and August 9, 2019.
- C. The proposed MND was independently reviewed, considered and analyzed by the Planning Commission and reflects the independent judgement of the Planning Commission; 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 MND and the administrative record as a whole); the Planning Commission recommends the City Council adopt the proposed MND and its findings and conclusions as its source of environmental information; and the proposed MND is legally adequate and was completed in compliance with CEQA.
- D. The proposed MND identified all potential adverse impacts and based on the MND and the whole record before the Planning Commission, there is no substantial evidence that the Project, with mitigation measures incorporated, will have a significant effect on the environment.
- E. The project complies with CEQA, and the proposed MND was presented to the Planning Commission, which reviewed and considered the information contained therein prior to recommending approval of the Project. The custodian of the record of proceedings upon which this decision is based is the Development Services Department of the City of Hayward located at 777 B Street, Hayward, CA 94544.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the CEQA Initial Study and Mitigated Negative Declaration and approves the Planned Development Rezone with Tentative Tract Map No. 8442 and Site Plan Review Application No. 201706649, subject to the adoption of the companion ordinance (Ordinance No. 19-__) rezoning the property identified by Assessor Parcel Numbers (APNs) 464-0060-005-02 & 464-0060-006-00 to Planned Development District, subject to the attached conditions of approval including the mitigation monitoring and reporting program(MMRP).

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

**EXHIBIT
CITY OF HAYWARD PLANNING DIVISION
APPLICATION NO. 201706649
PD REZONE, VESTING TENTATIVE TRACT MAP 8442, SITE PLAN REVIEW AND
CALIFORNIA ENVIRONMENTAL QUALITY ACT INITIAL STUDY AND MITIGATED
NEGATIVE DECLARATION
CONDITIONS OF APPROVAL**

General

1. The permittee 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.
2. Vesting Tentative Tract Map (VTTM) 8442, Preliminary Development Plan, and Site Plan Review application are approved subject to the vesting tentative tract map and project plans date stamped August 16, 2019, except as modified by the conditions listed below.
3. Approval of VTTM 8442 and the Preliminary Development Plan and Site Plan Review application shall expire 36 months after the effective date of approval subject to statutory and discretionary extensions as allowed by the HMC and Subdivision Map Act.
4. All outstanding fees owed to the City, including permit charges and staff time spent processing or associated with the development review of this application shall be paid in full prior to any consideration of a request for approval extensions and/or the issuance of a building permit.
5. Applicant shall apply for all necessary building permits and/or all other related permits from the Building Division. All structures shall be constructed and installed in accordance with the California Building Code, Uniform Mechanical and Plumbing Code, National Electrical Code, and the California Fire Code as adopted by the City of Hayward.
6. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission.
7. The permittee, property owner or designated representative shall allow the City's staff to access the property for site inspection(s) to confirm all approved conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws.
8. Prior to final inspection, all pertinent conditions of approval and all other improvements shall be completed to the satisfaction of the Planning Director.
9. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City, may result in failure to obtain a

- building final and/or a Certificate of Occupancy until full compliance is reached. The City's requirement for full compliance may require minor corrections and/ or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were pulled to construct the project.
10. Affordable housing in-lieu fees shall be paid either prior to issuance of a building permit or prior to approval of a final inspection or issuance of an occupancy permit. Regardless of the option chosen, no final inspection will be approved, and no occupancy permit will be issued for any Dwelling Unit unless all required affordable housing impact fees have been paid in full.
 11. Prior to the issuance of building permit for the accessory dwelling unit, the applicant shall file with Alameda County Recorder a deed restriction approved by the City stating compliance with provisions of Section 10-1.2740 – Accessory Dwelling Units (ADU's) and the Hayward Municipal Code and such deed is binding upon any successor in ownership of the property, and lack of compliance shall be grounds for Code Enforcement action and removal of the accessory dwelling unit.
 12. The applicant shall be responsible for adhering to the Mitigation Monitoring and Reporting Program (MMRP) for the adopted Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA) Guidelines. The applicant shall provide a copy of the adopted MMRP with the building permit submittal.
 13. A copy of these conditions of approval shall be scanned and included on a separate, full-sized sheet(s) in the building permit plan check set.
 14. Within 60 days of following the issuance of a building permit and prior to construction, the applicant shall install one non-illuminated "Coming Soon" sign on the project site that includes a project rendering, a project summary, and developer contact information. The sign shall be constructed of wood or recyclable composite material, be placed in a location at least ten (10) feet back from the property line, and shall not impede pedestrian, bicycle, and vehicular visibility or circulation. The sign shall be maintained in accordance with Section 10-7-709 of the Hayward Municipal Code and may be up to thirty-two (32) square feet of sign area and shall not exceed ten (10) feet in height. Sign design, size and location shall be reviewed and approved by the Planning Division prior to placement.
 15. Mailboxes shall be installed in accordance with Post Office policy and include locking mechanisms to minimize opportunities for theft. Approved address numbers shall be at least four inches in height on a contrasting background. Font strokes shall be of sufficient width such that they are legible to the public from the street fronting the property.
 16. Property addresses will be assigned by the Development Services Department prior to issuance of a building permit.
 17. Lighting within the parking area(s) shall be provided and be maintained at a minimum of one foot-candle. Exterior lighting and parking lot lighting shall be provided in accordance with the Security Standards Ordinance (No. 90-26 C.S.) and be designed by a qualified lighting designer and erected and

- maintained so that light is confined to the property and will not cast direct light or glare upon adjacent properties or public rights-of-way. Such lighting shall also be designed such that it is decorative and in keeping with the design of the development.
18. Plans submitted for building permit shall include a photometric site lighting plan that includes fixtures, mounting heights, light wattage and that demonstrates adequate site lighting without excessive glare, off-site impacts or "hot spots." All lighting shall be reviewed and approved by the City Engineer, Planning Division and Hayward Police Department prior to Building Permit issuance.
 19. All lighting fixtures shall incorporate a shield to allow for downward illumination. No spillover lighting to adjacent properties is permitted and all exterior lighting on walls, patios or balconies shall be recessed/shielded to minimize visual impacts.
 20. All vents gutters, downspouts, flashings, electrical conduits, etc. shall be painted to match the color of the adjacent material unless specifically designed as an architectural element.
 21. The property owner shall demolish any vacant structure within 60 days of their being made vacant.
 22. The property owner shall be responsible for securing and clearing any vacant structure(s) prior to demolition and commencement of construction activities.
 - 20-23. Prior to, during the following demolition of vacant structures, the property owner shall be responsible for securing and maintaining the site in accordance with HMC Chapter 4, Article 1, Public Nuisances; HMC Chapter 5, Article 7, Community Preservation and Improvement; and the California Building Code, among other applicable regulations.

Mitigation Measures

21-24. Mitigation Measure BIO-1: Nesting Bird Avoidance and Minimization Efforts

If project construction activities occur between February 15 and August 31, a qualified biologist shall conduct a pre-construction survey for nesting birds no more than 14 days prior to construction. The survey shall include the entire project site and a 300-foot buffer to account for nesting raptors. If nests are found the qualified biologist shall establish an appropriate species-specific avoidance buffer of sufficient size to prevent disturbance by project activity to the nest (up to 300 feet for raptors, up to 150 feet for all other birds). The qualified biologist shall perform at least two hours of pre-construction monitoring of the nest to characterize "typical" bird behavior.

During construction, if active nests are present, the qualified biologist shall monitor the nesting birds to determine if construction activities are causing

any disturbance to the bird and shall increase the buffer if it is determined the birds are showing signs of unusual or distressed behavior associated with project activities. Atypical nesting behaviors that may cause reproductive harm include, but are not limited to, defensive flights, vocalizations directed towards project personnel/activities, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority, through the resident engineer, to order the cessation of all project activities if the nesting birds exhibit atypical behavior that may cause reproductive failure (nest abandonment and loss of eggs and/or young) until a refined appropriate buffer is established. To prevent encroachment, the established buffer(s) should be clearly marked by high visibility material. The established buffer(s) should remain in effect until the young have fledged or the nest has been abandoned as confirmed by the qualified biologist. Any sign of nest abandonment should be reported to the City and CDFW within 48 hours. The monitoring biologist, in consultation with the resident engineer and project manager shall determine the appropriate protection for active nests on a case by case basis using the criteria described above.

22.25. Mitigation Measure BIO-2: Special-status Bat Species Avoidance and Minimization

Focused surveys to determine the presence/absence of roosting bats shall be conducted prior to the initiation of demolition of buildings and removal of mature trees large enough to contain crevices and hollows that could support bat roosting. If active maternity roosts are identified, a qualified biologist shall establish avoidance buffers applicable to the species, the roost location and exposure, and the proposed construction activity in the area. If active non-maternity day or night roosts are found on the project site, measures shall be implemented to passively relocate bats from the roosts prior to the onset of construction activities. Such measures may include removal of roosting site during the time of day the is unoccupied or the installation of one-way doors, allowing the bats to leave the roost but not re-enter.

23.26. Mitigation Measure BIO-3: Tree Preservation Measures

As outlined in the arborist report (HortScience Inc. 2017), Tree Preservation measures are required to protect trees that will be preserved in place and replacement trees that will be planted as required under measures BIO-2.

Design Measures

- a. Include trunk locations and tag numbers on all plans.
- b. Use only herbicides safe for use around trees and labeled for that use, even below pavement.
- c. Design irrigation systems so that no trenching will occur within the Tree Protection Zone.

Pre-construction and Demolition Measures

- a. Prepare a site work plan which identifies access and haul routes, construction trailer and storage areas, etc.
- b. Establish a Tree Protection Zone around each tree to be preserved. For design purposes, the Tree Protection Zone shall be the dripline or property line for trees 11, 86, and 87. No grading, excavation, construction or storage of materials shall occur within that zone.
- c. Install protection around all trees to be preserved. Use 6-foot chain link fence attached posts sunk into the ground. No entry is permitted into a Tree Protection Zone without permission of the Project Arborist.
- d. Trees to be removed shall be felled so as to fall away from Tree Protection Zone and avoid pulling and breaking of roots of trees to remain. If roots are entwined, the consultant may require first severing the major woody root mass before extracting the trees or grinding the stump below ground.
- e. Trees to be retained may require pruning to provide clearance and/or correct defects in structure. All pruning is to be performed by an ISA Certified Arborist or Certified Tree Worker and shall adhere to the latest editions of the ANSI Z133 and A300 standards as well as the ISA Best Management Practices for Tree Pruning. The pruning contractor shall have the C25/D61 license specification.
- f. All tree work shall comply with the Migratory Bird Treaty Act as well as California Fish and Wildlife code 3503-3513 to not disturb nesting birds. To the extent feasible tree pruning and removal should be scheduled outside of the breeding season. Breeding bird surveys should be conducted prior to tree work. Qualified biologists should be involved in establishing work buffers for active nests.

Tree Protection During Construction

- a. Prior to beginning work, the contractors working in the vicinity of trees to be preserved are required to meet with the Project Arborist at the site to review all work procedures, access routes, storage areas and tree protection measures.
- b. Any grading, construction, demolition or other work that is expected to encounter tree roots should be monitored by the Project Arborist.
- c. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Project Arborist so that appropriate treatments can be applied.
- d. Fences will be erected to protect trees to be preserved. Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the Project Arborist.
- e. Any additional tree pruning needed for clearance during construction must be performed by a qualified arborist and not by construction personnel.
- f. Trees shall be irrigated, except oaks, on a schedule to be determined by the Project Arborist. Each irrigation session shall wet the soil within the Tree Protection Zone to a depth of 30 inch.

24.27. Mitigation Measure BIO-4: Tree Replacement and Maintenance

Replacement trees shall be planted with sufficient space to accommodate the mature size of the species and maintained sufficiently to ensure establishment. Preserved trees shall also be maintained to ensure the continued long-term health of the tree. Trees on-site will require monitoring and routine maintenance by a landscape specialist such as occasional pruning, fertilization, mulch, pest management, replanting, and irrigation.

25.28. Mitigation Measure CR-1: Unanticipated Discovery of Cultural Resources

If cultural resources are encountered during ground disturbing activities, work in the immediate area shall be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archaeology (NPS 1983) shall be contacted immediately to evaluate the find. If necessary, the evaluation may require preparation of a treatment plan and testing for the California Register of Historical Resources (CRHR) eligibility. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work, such as data recovery excavation, may be required to mitigate potentially significant impacts to historical resources.

26.29. Mitigation Measure GEO-1: Geotechnical Considerations

The project applicant shall implement all measures and recommendations set forth in the Preliminary Geotechnical Exploration prepared by Silicon Valley Soil Engineering in October 2017 (Appendix D). Recommendations include but are not limited to the following topic areas:

- Grading (demolition and stripping, existing fill removal, selection of materials, differential fill thickness, fill placement)
- Excavation
- Foundation design criteria (including concrete slab-on-grade or mat slab options)
- Building code seismic design
- Retaining walls
- Drainage
- On-site utility trenching
- Pavement design

27.30. Mitigation Measure N-1 Construction-Related Noise Reduction Measures

The applicant shall implement the following measures during construction of the project:

- Construction Hours. Construction activity shall not occur between 7:00 p.m. and 7:00 a.m. Monday through Saturday and 6:00 p.m. through 10:00 a.m. on Sundays and holidays.

- Mufflers. Construction equipment shall be properly maintained and all internal combustion engine driven machinery with intake and exhaust mufflers and engines shrouds, as applicable, shall be in good condition and appropriate for the equipment. During construction, all equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating and maintained mufflers, consistent with manufacturer's standards.
- Electrical Power. Electrical power, rather than diesel equipment, shall be used to run compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.
- Equipment Staging. All stationary equipment shall be staged as far away from the adjacent multi-family residential development as feasible.
- Equipment idling. Construction vehicles and equipment shall not be left idling for longer than five minutes when not in use.
- Workers' Radios. All noise from workers' radios shall be controlled to a point that they are not audible at sensitive receptors near construction activity.
- Smart Back-up Alarms. Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternately, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction.
- Disturbance Coordinator. The applicant shall designate a disturbance coordinator who shall be responsible for responding to any local complaints about construction noise. The noise disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

28.31. **Mitigation Measure TCR-1: Unanticipated Discovery of Tribal Cultural Resources**

In the event that cultural resources of Native American origin are identified during construction, all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment

of the resource in coordination with the archeologist and the appropriate Native American tribal representative.

Precise Plan Submittal

~~29.32.~~ In accordance with Section 10-1.2550 of the Hayward Municipal Code (HMC) and prior to submitting a building permit application, a Precise Development Plan shall be submitted for review and approval.

~~30.33.~~ The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and incorporate conditions herein and shall be submitted in advance of or in conjunction with the subdivision improvement plans and Final Map.

~~31.34.~~ The project approval includes the following project amenities to support the finding required to be made that “any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards”.

- A. Photovoltaic systems shall be installed on the rooftops of all units.
- B. The Plan 3 units shall provide a bedroom suite on the first floor.
- C. The project shall provide a 2,970-square-foot group open space area with landscaping and an outdoor seating area.
- D. Five of the units shall have an attached Accessory Dwelling Unit.

~~32.35.~~ The Precise Development Plan shall include the following information and/or details:

- A. A copy of these conditions of approval shall be included on a full-sized sheet(s).
- B. Proposed location for construction staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for vanpooling construction workers or having them use transit to access the site, provisions for noise and dust control, and common area landscaping.
- C. Details of address numbers shall be provided. Address numbers shall be decorative and comply with the size requirements of the Fire Department.
- D. Proposed locations, heights, materials and colors of all walls and fences.
- E. A minimum of one exterior hose bib shall be provided for each residential unit.
- F. Proposed pavement materials for all drive aisles, parking areas, and pedestrian paths. All surfaces should be enhanced with decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials.
- G. Proposed mailbox design and locations, subject to Post Office approval. All mailboxes shall be locking mailboxes.
- H. A final lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. The final lighting plan shall incorporate pedestrian scale lighting along the sidewalk within and adjacent to the development (Harvey Avenue). All lighting shall be

erected and maintained so that adequate lighting is provided along the private street. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project.

- I. All air conditioners and utility connections for air conditioners shall be located behind solid board fences or walls and shall not exceed the height of the fence or wall, unless otherwise approved. Infrastructure for air conditioning systems is required to be installed as a standard feature.
 - J. Proposed color and materials board for all buildings, fences and walls. No changes to colors shall be made after construction unless approved by the Planning Director.
 - K. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen.
 - L. No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building code. Roof apparatus, such as vents, shall be painted to match the roof color.
 - M. Large expanses of blank wall shall not be allowed. Articulate or otherwise treat such expanses to avoid bulkiness.
 - N. An area within each garage for individual garbage and recycling receptacles shall be provided and shall be clear of the required area for two cars. As an alternative, an area within the fenced side yard may be used for the garbage and recycling containers but shall be shown.
 - O. All parking stall dimensions shall conform to the City's Off-street Parking Ordinance. All two car garages shall have minimum interior dimensions of 20-foot width by 19-foot depth. The dimensions shall be shown on plans. No doors, stairs, landings, laundry facilities, trash/recycle containers or HVAC shall project within the required interior parking areas.
- 33.36. Any proposal for alterations to the proposed site plan and/or design which does not require a variance to any zoning ordinance standard must be approved by the Development Services Director or his/her designee, prior to implementation.
- 34.37. Details of all project amenities shall be submitted for review and approval by the Planning Director during the Precise Plan phase of the project.
- 35.38. The project shall comply with the provisions of the 2016 California Energy Code section 110.10.

Engineering

- 36.39. **Subdivision Improvement Agreement:** Prior to the issuance of building permits, the public improvements conditioned as part of this approval require the execution of a Subdivision Improvement Agreement that guarantees the completion of the public improvements to the satisfaction of

the Director of Public Works. This agreement includes surety (i.e. bonds), insurance, and additional deposit for City staff time and City resources to be expended on the project.

37.40. Public Utility Easements: Applicant shall continue during the review of the final map, utility, and improvement plans to minimize the Public Utility Easement shown on the Tentative Map. Utility Boxes along the southside of the project shall be located within the private sidewalk. Prior to the issuance of building permits,

Plans shall be revised to provide acceptable clearances from proposed Public Utility Easement(s). Suggest adjusting the PUE or to be removed where not needed. The proposed water and sewer service laterals shall be relocated closer to driveways to provide clearances required from the proposed trees. Coordinate with Landscape Architect Review comments.

38.41. Required Improvements: Privately engineered studies and design documents shall be submitted to the Director of Public Works for review and approval prior to final map approval by City Council.

39.42. Grading & Drainage: A grading and drainage plan is required and shall be submitted with the Final Map and Improvement Plans for review and approval by the Director of Public Works prior to the issuance of building permits. Developer has the option to apply for a rough grading permit. The grading and drainage plan shall include, but not be limited to, the following design & submittal requirements:

- A. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or less (top of wall to bottom of footing) shall be reviewed and approved by Public Works. Earth retaining structures greater than 4-feet in height shall be reviewed and approved by the Building Division of the Development Services Department. The plans should include all proposed underground pipes, building drains, area drains and inlets. The on-site storm drainage system (if applicable) shall be designed to convey a 10-year storm event.
- B. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the Director of Public Works prior to issuance of a grading permit.
- C. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
- D. The project's Stormwater Control Plan shall be submitted which will show, at a minimum, drainage management areas, location and details of all treatment control measures and site design measures, and numeric sizing calculations in conformance with Alameda County Clean Water Program C3 design guidelines.
- E. Prior to subdivision map approval, the property owner shall enter into the City's standard "Stormwater Treatment Measures Maintenance Agreement" as prepared by the City. The Maintenance Agreement shall

be recorded with the Alameda County Recorder's Office to ensure that the maintenance responsibility for private treatment control and site design measures is bound to the property in perpetuity.

40.43. **Construction Damages:** The Developer shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project prior to issuance of the Final Construction Report by the City Engineer.

Site Improvements

41.44. All lots shall be served with underground public utility services for electricity, gas, tele-communication, sewer collection; water supply and drainage collection.

42.45. Harvey Avenue, across the property frontage, shall be improved with:

- a. New city standard concrete curb, gutter and sidewalk.
- b. Accessibility compliant driveway for the proposed private street.
- c. A minimum 2-inch thick hot-mix asphalt-concrete overlay on street pavement to mitigate the project construction impacts. The new pavement shall have thermoplastic striping and markings.
- d. City standard LED streetlight(s).
- e. Underground placement of existing above-ground public utility facilities. This includes electrical, telecommunication and cable TV lines, transformers and signal booster equipment.

43.46. Developer shall offer to the City, for its maintenance, the new curb, gutter, sidewalk along Harvey Avenue and on-site sewer collection mains, water mains and meter boxes, water service laterals from water main and meter box and fire hydrant assemblies. Such improvements shall comply with the City standards.

44.47. The private street (Drive Aisle A) shall have:

- a. configuration substantially as shown on the City approved tentative Map for Tract 8442,
- b. pavement Traffic Index not less than 5.5,
- c. concrete sidewalk not less than 5-ft. wide. This sidewalk shall be accessibility compliant with ramps to accessibility compliant parking space in private street and to public sidewalk in Harvey Avenue.
- d. turn-around as per the City of Hayward Standard Details SD-103 Sheet 1 of 2. Alternately and with approval of the City's Fire Department, the turn-around may be as per the City of Hayward Standard Details SD-103 Sheet 2 of 2.
- e. non-exclusive easements for the City's water and sewer systems, public utilities and emergency vehicle access.

Grading and Land Disturbance

45.48. Effective measures for adjacent property protection, storm water pollution prevention and dust control must be in-place before construction starts. Such measures must be maintained during and after construction until ground cover is established.

- ~~46.49.~~ Each lot shall drain towards the private street. Drainage shall not be allowed across back and side property lines of the proposed lots or over the street sidewalk.
- ~~47.50.~~ Cut, fill or land disturbance on one acre or larger area shall require A *Notice of Intent* (NOI) and *Storm Water Pollution Prevention Plan* (SWPPP). The SWPPP must be submitted to the City and the State for review/approval.
- ~~48.51.~~ The SWPPP and its required improvements shall be completed as per the plans prepared by a Qualified SWPPP Developer (QSD) and approved by a Qualified SWPPP Practitioner (QSP) in compliance with the Regional Water Quality Control Board regulations.

Storm Drain System

- ~~49.52.~~ The project shall not block runoff from or augment to adjacent properties. Stormwater discharge rate shall not exceed the pre-development rate.
- ~~50.53.~~ The drainage improvements shall be designed as per the latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria. The drainage plan with supporting calculations shall be approved by the City Engineer.
- ~~51.54.~~ New storm drain inlets must be labeled "No Dumping - Drains to Bay" using the City approved specifications.
- ~~52.55.~~ On-site collector storm drains shall be not less than 12-inch in diameter to minimize potential for blockages.
- ~~53.56.~~ The on-site storm drains and storm water treatment systems shall be owned and maintained by the property owners' association.

Storm Water Pollution Prevention

- ~~54.57.~~ The site improvements shall include storm water pollution prevention measures required by the Municipal Regional Permit (MRP), including the Best Management Practices (BMP's). BMP's shall be maintained until disturbed ground is protected with ground cover.
- ~~55.58.~~ Stormwater shall be treated for trash, oil and other pollutant removal before it is discharged to public drainage system. Stormwater treatment measures included in the project may include trash capture devices in drain inlets, bio-treatment/detention basins, Hydromodification Management (HM), infiltration etc. Stormwater treatment measures shall be designed as per the Alameda County Clean Water Program (ACCWP) C.3 Technical Guidance Manual, available at: <https://www.cleanwaterprogram.org/c3-guidance-table.html>
- ~~56.59.~~ Stormwater treatment facilities included in the project design shall be maintained and kept operational. The City's standard "Stormwater Treatment Measures Maintenance Agreement" shall be executed by the property owner and filed with the Alameda County Recorder.
- Final Map*
- ~~57.60.~~ Subdivider shall provide for the City's review and approval the Final Map prepared substantially in compliance with the Conditionally Approved and unexpired Tentative map, Hayward Municipal Code and the State Subdivision Map Act.

- ~~58.61.~~ Final Map shall show exterior boundaries and dimensions of each proposed lot, street rights-of-way, public utilities easements to be dedicated or vacated and other details required by the State Subdivision Map Act and Hayward Municipal Code Section 10-3.
- ~~59.62.~~ Provide all map calculations, copies of grant deeds, property ownership records, title report(s) and geo-technical study report(s).
- ~~60.63.~~ Homeowners Association documents, defining ownership, responsibilities and financial arrangements for needed repairs, maintenance, construction and reconstruction of common use areas and improvements shall be submitted for the City's review and approval concurrently with the Final Map submittal.
- ~~61.64.~~ The common use area improvements shall include but are not limited to streets, parking areas, accessibility compliant walkways; lighting and landscape improvements; sanitary sewer mains; water distribution mains and their laterals up to and including water meters; fire hydrants; storm drains and storm water pollution prevention measures etc.
- ~~62.65.~~ Before requesting the City Council approval of the Final Map, all improvements required by the condition of the Tentative Map approval shall be complete or the subdivider must execute an improvement agreement with the City and post improvement securities in the amounts and forms approved by the City Engineer.
- ~~63.66.~~ Final Map shall be filed in the County's public records immediately after the City's approval.

Plans and Permits

Plans, studies and design documents for the project related ground disturbing, grading, drainage, water and sewer service connections, and activities in the street right-of-way, shall be approved by the City Engineer before starting any construction. Such plans shall be prepared by the State licensed and qualified professionals and shall comply with the 2017 City Standard Details, available online: https://www.hayward-ca.gov/sites/default/files/documents/ET_STANDARD%20DETAILS_V042117.pdf

- ~~64.67.~~ City shall receive photo-mylar copies (photographic reproduction on a polyester based film of not less than 4 mm thickness) of its approved improvement and grading plans along with digital files of the same in AutoCAD and .pdf format.
- ~~65.68.~~ A grading permit shall be secured before starting cuts and fills exceeding five feet in height or 300 cubic yards or land disturbance exceeding limits stated in Section 10-8.10 of the Hayward Municipal Code, available on-line at: <https://www.hayward-ca.gov/your-government/codes-regulations>
- ~~66.69.~~ An encroachment permit shall be secured before starting any construction or traffic disrupting activity within the City street right-of-way.
- ~~67.70.~~ Permits required from affected regional, regulatory and utility agencies shall be secured before starting construction. Any work beyond property or connection to any facility not owned by the property owner shall require prior written permit and shall be per plans approved by the permitting entity.

- ~~68.71.~~ Air pollution mitigation plan, approved by the Bay Area Air Quality Management District (BAAQMD), shall be secured before the start of any construction, grading or material hauling to or from the project site. Requirements of the approved plan shall be implemented throughout the duration of construction or grading activity. The dust mitigation plan must specify practices which would ensure that no equipment or operation emits dust and air pollutants exceeding the permitted limits.
- ~~69.72.~~ Public infrastructure improvements intended for the City's maintenance shall be constructed within existing public street rights-of-way or new easements acceptable to the City shall be offered for the City's acceptance on the Final Map.

Transportation

- ~~70.73.~~ Applicant shall submit a Photometric Plan to Public Works for review and approval as part of Improvement Plans
- ~~71.74.~~ Applicant shall install one standard streetlight on project frontage along Harvey Avenue. Streetlight plan and location shall be included in Improvement Plans.
- ~~72.75.~~ Applicant shall install one "STOP" sign (CA MUTCD R1-1) on private roadway where the private roadway intersects with Harvey Avenue. "STOP" sign location shall be indicated on Improvement Plans.

Landscape

- ~~73.76.~~ Landscape and irrigation plans and details for the Precise Plan submittal shall be in full compliant with the City's Bay-Friendly Water Efficient Landscape Ordinance and other relevant ordinances and regulations.
- ~~74.77.~~ Utility easements and individual water meter and sewer cleanouts in the front yard shall be modified to accommodate the required tree planting per the City's Engineering comments. Individual water meter and sewer cleanouts locations shall be coordinated to avoid conflict with providing the required trees.
- A. One 24"-box tree is required to be planted at every 20 to 40 feet on center, depending upon tree species, within the front yard setback areas.
 - B. Base information shall include individual water meter and sewer cleanouts locations in addition to all proposed above and underground utilities.
- ~~75.78.~~ Minimum one fifty (50) gallon covered rain catchment device per residence shall be shown on the plan as required by the Bay-Friendly Water Efficient Landscape Ordinance, Section 10-12.15. The location and specification for the catchment device shall also be provided on the plan. The device shall be located where it would be easily accessible.
- ~~76.79.~~ All trees shall be planted 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. Trees shall be planted according to the City Standard Detail SD-122 which shall be included on the landscape plans.

- ~~77.80.~~ Root barriers shall be installed linearly against the paving edge in all instances where a tree is planted within seven **feet** of pavement or buildings, and as directed by the landscape architect. The length of root barrier shall be as recommended by the manufacturer.
- ~~78.81.~~ Plant spacing shown on the plant palette shall not be closer the minimum spread provided in the reference books in the landscape ordinance.
- ~~79.82.~~ Bio-treatment area shall be irrigated with matched precipitation rotator type, or as efficient overhead spray irrigation system when the area is wider than ten feet on a separate valve.
- ~~80.83.~~ Minimum twelve inches wide band of large size Noiya Cobblestone shall be provided around overflow catch basin or bubble up basin.
- ~~81.84.~~ Three inches deep organic recycled chipped wood mulch in dark brown color shall be installed in bio-treatment areas.
- ~~82.85.~~ Backflow prevention device shall conform to the City Standard Detail SD-202 which shall be included on the landscape plans.

Fire Department

- ~~83.86.~~ Parking of vehicles is allowed one-side parking on 30-foot-wide road. No parking is allowed on 24-foot-wide road. Where there is no on-street parking, fire lane signage shall be installed in locations required by the Hayward Fire Department. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
- ~~84.87.~~ All public streets, private streets and private courts 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.
- ~~85.88.~~ Spacing and locations of fire hydrants shall be subject to review and approval by the Hayward Fire Department. The type of fire hydrant 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, capable of flowing 1,500 gallons per minute. The design and layout of the hydrants shall be reviewed and approved by the Fire Department.
- ~~86.89.~~ Blue reflective pavement markers shall be installed at fire hydrant locations. If fire hydrants are located so as to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s).
- ~~87.90.~~ Submit for proper building permits for the construction of the building to the Building Department.
- ~~88.91.~~ Buildings are required to install fire sprinkler systems in accordance with NFPA 13D. (Deferred submittal by a licensed C-16 Contractor Required)
- ~~89.92.~~ Maximum 80 PSI water pressure should be used when water data indicates a higher static pressure. Residual pressure should be adjusted accordingly.
- ~~90.93.~~ Underground fire service line serving NFPA 13D sprinkler system shall be installed in accordance with NFPA 24 and the Hayward Public Work Department SD-216. Water meter shall be minimum one-inch in diameter.

- ~~91.94.~~ An audible alarm bell (device) shall be installed to sound on the exterior of each individual building. The device shall activate upon any fire sprinkler system waterflow activity.
- ~~92.95.~~ An interior audible alarm device shall be installed within the dwelling in a location to be heard throughout the home. The device shall activate upon any fire sprinkler system waterflow activity.
- ~~93.96.~~ 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).
- ~~94.97.~~ When a flow switch is not installed on the riser of a flow thru sprinkler system, smoke alarms shall be interconnected to sound an audible alarm in all sleeping areas within the dwelling unit.
- ~~95.98.~~ 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.
- ~~96.99.~~ An approved type spark arrestor shall be installed on any chimney cap.
- ~~97.100.~~ A minimum 4" self-illuminated address shall be installed on the front of the dwelling in a location to be visible from the street. Otherwise, a minimum 6" address shall be installed on a contrasting background and shall be in a location approved by the Fire Department.

Hazardous Materials

Conditions Prior to Grading Activities and During Construction:

- ~~98.101.~~ Prior to issuance of Building or Grading Permits a final clearance shall be obtained from either the California Regional Water Quality Control Board or Department of Toxic Substance Control and submitted to the Hayward Fire Department 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.
- ~~99.102.~~ 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.
- ~~100.103.~~ All wells, septic tank systems and others subsurface structures shall be removed properly in order not to pose a threat to the development construction workers, future residents or the environment. These structures shall be documented and removed under permit when required.
- ~~101.104.~~ The Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4910 if hazardous materials or associated structures are discovered during demolition or during grading. These shall include, but not be limited to: actual/suspected hazardous materials, underground tanks, or other vessels that may have contained hazardous materials.
- ~~102.105.~~ During construction, hazardous materials used, and hazardous waste generated shall be properly managed and disposed.

~~103.106.~~ 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 submitted with building plans to the City of Hayward Fire Department at the time of application for construction permits.

Solid Waste

~~104.107.~~ Construction & Demolition Debris: The City requires that construction and demolition debris be recycled per certain ordinance requirements. Submittal of the Debris Recycling Statement will be required at the time of your building permit. The form can also be found at <http://www.hayward-ca.gov/services/city-services/construction-and-demolitiondebris-disposal>. You may also visit Hayward's Green Halo webpage and create a waste management plan instead of filling in the Debris Recycling Statement.

~~105.108.~~ For units designed to store the trash, recycling, and organics carts on the back side of the property, please ensure residents can roll carts to the street either through the garage without having to move vehicles, or by way of the side yard.

Utilities

~~106.109.~~ On all utility plans:

- a. The size and location of the domestic water meters, service line, and backflow device for each dwelling unit shall be shown on the plans.
- b. The slope of sanitary sewer mains shall meet the standard minimum slope of 0.0050 ft/ft.
- c. Long water service piping after the water meter is not acceptable. The water service piping shall be run in a straight line perpendicular (90 degrees) to the curb from the water main for units 8 & 9.

Water

~~107.110.~~ The development's water mains 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.

~~108.111.~~ 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

~~109.112.~~ 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.

~~110.113.~~ All water services from existing water mains shall be installed by City Water Distribution Personnel at the applicant's/developer's expense. This includes relocating existing services and water main tie-ins. The developer may only construct new services in conjunction with their construction of new water mains.

~~111.114.~~ Existing water services, if any, that cannot be reused for the proposed development shall be abandoned by City Water Distribution Personnel at the applicant's/-developer's expense.

~~112.115.~~ Each dwelling unit shall have an individual domestic water meter. Facilities fees for residential connections are based on the domestic demand for the home. A larger water meter may be installed if the service is combined with a private fire service. The developer is required to pay water facilities fees and installation charges for connections to water mains and work performed by City forces.

~~113.116.~~ 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.

~~114.117.~~ Residential combined domestic and fire services are allowed, per City Standard SD-216. The minimum size for a residential fire service connection is 1".

~~115.118.~~ Separate irrigation water meter(s) shall be installed for landscaping purposes. The size will be based on the gallon per minute demand of the irrigation system.

- ~~116.119.~~ The applicant/developer shall install a Reduced Pressure Backflow Prevention Assembly on each irrigation water meter, per City Standard 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.
- ~~117.120.~~ All water meters shall be radio-read type.
- ~~118.121.~~ Water meters shall be located a minimum of two feet from top of driveway flare as per City Standard Details SD-213 thru SD-218. Water meters in developments must be located along a thru street (road, court, etc.) to facilitate meter reading. Water meters located on narrow dead-end roadways will not be allowed.
- ~~119.122.~~ Only Water Distribution Personnel shall perform operation of valves on the Hayward Water System.
- ~~120.123.~~ Water service available and subject to standard conditions and fees in effect at time of application and payment.
- ~~121.124.~~ 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.

Sewer

- ~~122.125.~~ 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.
- ~~123.126.~~ 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.
- ~~124.127.~~ Each single-family residential dwelling unit shall have an individual sanitary sewer lateral. The sanitary sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.
- ~~125.128.~~ The 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. Sewer connection fees for residential connections are charged on a flat fee per number of residential units.



CITY OF HAYWARD

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

File #: CONS 19-727

DATE: November 5, 2019

TO: Mayor and City Council

FROM: City Clerk

SUBJECT

Adoption of Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201806355 for The True Life Companies Mixed Use Development

RECOMMENDATION

That the Council adopts the Ordinance introduced on October 29, 2019.

SUMMARY

This item entails adoption of an Ordinance amending the Hayward Municipal Code, Chapter 10, Article 1 (Zoning Ordinance), introduced on October 29, 2019, by Council Member Mendall.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Summary of Published Ordinance
Attachment III	Revised Conditions of Approval



DATE: November 5, 2019

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Adoption of Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201806355 for The True Life Companies Mixed Use Development

RECOMMENDATION

That the Council adopts the Ordinance introduced on October 29, 2019.

SUMMARY

This item entails adoption of an Ordinance amending the Hayward Municipal Code, Chapter 10, Article 1 (Zoning Ordinance), introduced on October 29, 2019, by Council Member Mendall.

BACKGROUND

The Ordinance was introduced by Council Member Mendall at the October 29, 2019 special meeting of the City Council with the following vote:

AYES:	COUNCIL MEMBERS: Zermeño, Márquez, Mendall, Lamnin, Wahab, Salinas MAYOR Halliday
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

The introduction of Ordinance carried with added language to Condition of Approval 25.i as listed below. Attachment III (Exhibit to Resolution) was amended to reflect the revised Conditions of Approval.

25.i The dog park shall have the following supporting amenities: double gate at the entry, decorative fencing, benches and tables, shade trees and/or structure, trash and recycling receptacles and, if possible, a drinking fountain. Amenities shall be shown on Precise Plan and Improvement Plans.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC CONTACT

The summary of the Ordinance was published in the Hayward Daily Review on Friday, November 1, 2019. Adoption at this time is therefore appropriate.

NEXT STEPS

The Hayward Municipal Code and other related documents will be updated accordingly.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager

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

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 (ZONING ORDINANCE) OF THE HAYWARD MUNICIPAL CODE REZONING CERTAIN PROPERTY TO PLANNED DEVELOPMENT DISTRICT IN CONNECTION WITH ZONE CHANGE AND VESTING TENTATIVE MAP APPLICATION NO. 201806355 FOR THE TRUE LIFE COMPANIES MIXED USE DEVELOPMENT

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

Section 1. Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the parcel located at 29212 Mission Boulevard (Assessor Parcel No. (APN) 078C-0445-001-04), and the adjacent 7.6-acre City-owned parcel located just north of the privately-owned project site which include portions of APNs 078C-0461-10, -11, -12, -13, and -14 to Planned Development District, subject to the findings and conditions of approval set forth in the companion Resolution to this Ordinance.

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 a special meeting of the City Council of the City of Hayward, held the 29th day of October 2019, by Council Member Mendall.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on November 5, 2019, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance, including the Resolution, is available for examination by the public in the Office of the City Clerk.

Dated: November 1, 2019
Miriam Lens, City Clerk
City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-__

Introduced by Council Member _____

RESOLUTION APPROVING ZONE CHANGE AND VESTING TENTATIVE MAP (TRACT 8502)V FOR THE TRUE LIFE COMPANIES MIXED USE DEVELOPMENT; AND APPROVING THE RELATED INFILL CHECKLIST; THE TRUE LIFE COMPANIES/TTLC MIRZA LLC AND CITY OF HAYWARD (APPLICANT/OWNERS)

WHEREAS, on December 2, 2018, Leah Beniston, on behalf of The True Life Companies, submitted Zone Change and Vesting Tentative Map (8502) Application No. 201806355, to develop 189 condominium and townhome units; approximately 10,800 square feet of ground floor commercial space; and a variety of common and private open spaces including a multi-use trail on an approximately 12.2 acre site which would require approval of a Purchase and Sale Agreement for City-owned land. The project site is composed of the privately-owned parcel located at 29212 Mission Boulevard (Assessor Parcel No. (APN) 078C-0445-001-04), and the adjacent 7.6-acre City-owned parcels located just north of the privately-owned project site which include portions of APNs 078C-0461-10, -11, -12, -13, and -14 that are the subject of the Purchase and Sale Agreement; and

WHEREAS, on January 12, 2016, the City Council adopted Resolution No. 16-004, authorizing the City Manager to negotiate and execute an agreement with Caltrans to acquire 17 properties along the 238 Bypass Corridor to remediate blight; support transit-oriented, mixed use development; and ensure redevelopment of the properties under a coherent development plan that meets the City's land use goals and other public purposes; and

WHEREAS, on April 17, 2018, the City Council adopted Resolution No. 18-063, authorizing the City Manager to enter into an Exclusive Negotiating Rights Agreement (ENRA), with The True Life Companies, the applicant, to develop a conceptual land use plan for Parcel Group 2 of the Route 238 Corridor Lands Development Project. The goal of the land sale was to promote economic development opportunities and create transit-oriented development with public open spaces near the Mission Boulevard/South Hayward BART Station area; and

WHEREAS, an Infill Checklist tiering off the General Plan EIR and the South Hayward BART/Mission Boulevard Form-Based Code SEIR was prepared in accordance with Public Resources Code Section 21000 et seq. and the CEQA Guidelines, California Code of Regulations Section 15000 et seq. and concluded that the proposed development would not have any significant effects on the environment that either: 1) have not already been

analyzed in prior EIRs, or 2) that are more significant than previously analyzed, or 3) that uniformly applicable development policies would not substantially mitigate (referred to in the Infill Checklist and Conditions of Approval as Standard Conditions of Approval or SCAs); and

WHEREAS, on October 10, 2019, the Planning Commission held a duly noticed public hearing on the proposed project and voted 6:0:0 to recommend City Council approval of the project provided that conditions be added that the applicant incorporate public art into the development and that all retaining walls be treated in a decorative manner to complement the architecture and landscaping of the proposed development; and

WHEREAS, on October 18, 2019, notice of the City Council public hearing related to the proposed project was mailed to all property owners and residents within 300 feet of the project site as well as those who requested such notice; and was published in The Daily Review; and

WHEREAS, on October 29, 2019, the City Council held a public hearing and accepted public testimony on the proposed project.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby adopts the following findings:

CALIFORNIA ENVIRONMENTAL QUALITY ACT

- A. On September 13, 2011, the Hayward City Council certified the South Hayward BART/Mission Boulevard Form-Based Code Supplemental EIR (SEIR). The project's environmental impact analysis is tiered from the 2006 South Hayward BART/Mission Boulevard Concept Design Plan Program EIR and the 2009 Route 238 Bypass Land Use Study Program EIR.
- B. On July 1, 2014, the Hayward City Council certified the Hayward 2040 General Plan EIR. The 2040 General Plan represents the community's view of its future and expresses the community's conservation and development goals for the next 26 years (2014-2040). The General Plan EIR included all assumptions included in the South Hayward BART/Mission Boulevard Form Based Code.
- C. In accordance with CEQA Guidelines Section 15183.3, if the infill project would result in new specific effects or more significant effects, and uniformly applicable development policies or standards would not substantially mitigate such effects, those effects are subject to CEQA. With respect to the effects that are subject to CEQA, the lead agency is to prepare an infill EIR if the written checklist shows that the effects of the infill project would be potentially significant.
- D. This project's environmental assessment was completed using an Infill Checklist and concludes that the True Life Mixed Use Development project would *not* have any significant effects on the environment that either have not already been analyzed in a prior EIR or that are more significant than previously analyzed, or that uniformly

applicable development policies would not substantially mitigate. Pursuant to Public Resources Code Section 21094.5, the California Environmental Quality Act (CEQA) does not apply to such effects.

- E. The proposed Infill Checklist identified all potential significant adverse impacts and feasible mitigation measures that would reduce these impacts to less-than-significant levels, and that the applicable mitigation measures identified in the General Plan 2040 EIR and/or the South Hayward BART/Mission Boulevard Form-Based Code SEIR will be adopted and implemented. There is no substantial evidence that the project will have a significant effect on the environment.
- F. The Infill Checklist has been prepared in accordance with Public Resources Code Section 21000 et seq. and the CEQA Guidelines, California Code of Regulations Section 15000 et seq.
- G. That the proposed Infill Checklist was independently reviewed, considered and analyzed by the City Council and reflects the independent judgement of the City Council; that the City Council adopts its findings and conclusions as its source of environmental information; and that it is legally adequate and was completed in compliance with CEQA.
- H. That the project complies with CEQA, and that the proposed Infill Checklist 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

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

The proposed development is consistent with the overall vision for development along Mission Boulevard, the South Hayward BART/Mission Boulevard Form Based Code, and the applicable *Sustainable Mixed Use, Regional and Office Commercial and Medium Density Residential* General Plan land use designations in that it will place the highest density and intensity mixed use development along Mission Boulevard near the commercial arterial and high frequency transit while reducing density as the development moves further east into the higher elevation areas at the rear of the site. In addition, the project as a whole adheres closely with the S-T4 (South Hayward Form Based Code, T4) District development standards related to building form, height, open space design, limited parking, building orientation on the lot and design of building interface with public spaces in order to create a cohesive and consistent site plan and development program across the site. To manage parking

demand, the project would include a robust set of trails, paseos and open spaces as well as Transportation and Parking Demand Management measures to reduce single occupancy vehicle use which are consistent with the Mobility Element of the General Plan and Climate Action Plan.

With regard to consistency with the applicable Affordable Housing Ordinance, modified development standards are acceptable where the proposed project would lead to an increase in density pursuant to Hayward Municipal Code Section 10-17.700(b)(1). The proposed development would include 20 single-story condominium units within the mixed use buildings rather than integrate the affordable housing units throughout the mixed use and townhome portions of development because the project was expanded to include the City-owned Parcel 2, increasing the density of the project overall by expanding the project frontage along Mission Boulevard where ground floor commercial uses with residential uses above is required. Further, the proposed development would include 20 deed restricted units where 19 are required therefore the proposed project.

The proposed development is consistent with multiple General Plan goals and policies to:

- Support development of compact, mixed use and walkable neighborhoods within the City's Priority Development Areas; near regional transit; within the South Hayward neighborhood; and that integrates a mix of land uses into new and established neighborhoods (General Plan Land Use Goal 2 and Policies LU-1.5, LU-1.6, and LU-2.8).
- Create complete neighborhoods with a mix of densities and uses and that provide convenient access to parks and other community amenities and foster commercial and social activity for nearby residents and businesses (LU Goals 3 and 4 and Policies LU-3.5, LU-4.1, LU-4.3 and Housing Element Policies H-3.4).
- Design mixed use neighborhoods to place retail frontages and outdoor gathering spaces along the public right-of-way while locating parking at the rear of the building; and enhance development with landscaping, lighting, planters and other amenities. Develop highly connected block and street networks; provide alley loaded garages for townhome development; locate parking for multifamily development below apartment buildings; and ensure that windows front streets and public right-of-way (Policies LU-3.4 and LU-3.5).
- Develop a comprehensive, integrated and connected network of transportation facilities to serve all modes of travel (Mobility Goal 1 and Policy M-8.4).
- Encourage active lifestyles and the development of urban infill parks where traditional, large-scale neighborhood and community parks are not appropriate; and construct infrastructure improvements in existing neighborhoods to

enable people to drive less and walk, bike or take public transit more (Health and Quality of Life Goal 2 and Policies HQL-10.4 and HQL-11.2)

- To allow for flexible development standards and mixed-density development projects within a single development project on multiple parcels in order to facilitate the development of housing available to all income levels (Policies H-3.1, H-3.4, LU-3.6 and H-4.1).

This proposed development plan is also consistent with the surrounding development in that it will place the highest density and highest intensity mixed use development along Mission Boulevard near commercial and mixed-use development, and place the lower density townhomes at the rear of the site nearest the lower density residential neighborhoods and future La Vista Park.

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

The proposed infill project site is surrounded by existing streets and has access to utilities with adequate capacity to serve the proposed development. In addition, the project will be required to install frontage improvements along all property frontages and to fund transportation-related improvements and signal timing adjustments for identified intersections. An Infill Checklist was prepared for the proposed development and found that all impacts related to streets, public facilities, utilities and agencies were analyzed and disclosed in Environmental Impact Reports (EIRs) prepared for the General Plan and South Hayward BART/Mission Boulevard Specific Plan and Form Based Code and can be mitigated with the application of specific and Standard Conditions of Approval applicable to all development projects.

C. 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 or neighborhoods.

The proposed development will create a residential environment of sustained desirability and stability because it will contain a mix of land uses and housing types within the development. Specifically, the mixed-use buildings would contain approximately 10,800 square feet of ground floor commercial uses, a portion of which is planned as a daycare facility, and 66 condominium units, twenty of which would be deed restricted for moderate-income households. The rear portion of the site would be developed with 123 townhomes within 23 building ranging from four-plexes to seven-plexes connected by paseos, a multi-use bicycle and pedestrian path that would traverse the project site, and a mix of small and large open spaces including a plaza/park between the mixed use buildings, a large-scale dog park and

small pocket parks. Consistent landscaping, street furniture and decorative paving will further provide a cohesive identity for the project.

Overall, the proposed architecture will lend to the sustained desirability of the neighborhoods. The project has a contemporary architectural style with flat roofs and horizontal and vertical building elements differentiated by off-set planes and a variety of colors and materials. The ground floor commercial storefronts stretching along Mission Boulevard would have substantial glazing, a projecting canopy, steel tube columns and decorative streetscape elements such as concrete planters and bollards, and the ground floor garages would have large openings screened with perforated metal screens to allow in light and to break up the ground floor massing.

The project site would create an environment of sustained desirability and stability in that it would be connected through a multi-use bicycle and pedestrian trail that would run north-south through the project site connecting the project and developments south of the project site to the future La Vista Park at Tennyson Road, as well as a series of paseos, sidewalks, and a variety of small and large open spaces for residents and visitors to the site. The open spaces would be privately maintained by the Homeowners Association.

- D. In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule.**

The development is not intended to be phased. The project applicant is required to enter into a Subdivision Agreement prior to the approval of the final map that would guarantee completion of all improvements including planned common open spaces and facilities. The Agreement includes surety and insurance to ensure that the planned improvements are conducted in a timely manner and occur prior to occupation of the residential units.

- E. 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, which, in the judgment of the Planning staff provides for a high quality and attractive development.**

As described in Zone Change Finding A above, the proposed development is consistent with the overall vision for development along Mission Boulevard, the South Hayward BART/Mission Boulevard Form Based Code, and the applicable General Plan land use designations in that it will place the highest density and intensity mixed use development along Mission Boulevard nearest the commercial arterial and high frequency transit while reducing density as the development moves further east into the higher elevation areas at the rear of the site. A Zone

Change to PD District is necessary to ensure flexibility in laying out and organizing the site with varying development densities and intensities across the site which falls under varying Zoning Districts and slopes significantly from Mission Boulevard east into the hills. The proposed development would meet the purpose and intent of the PD District zoning in that it would result in efficient and attractive space utilization that places mixed use development on the flattest areas of the site nearest the commercial arterial and high frequency transit while locating less intense townhome development at the steeper areas of the site near lower density residential neighborhoods and the planned La Vista Park.

The proposed development is seeking an exception related to the parking required for the development on Parcel 2. The proposed exception would be off-set by the inclusion of a robust set of Transportation and Parking Demand Management Strategies included as conditions of approval as well as placement of solar photovoltaic panels on all of the residential and mixed-use buildings, and installation of a variety of common and private open spaces connected by a multi-use trail through the site. The trail and interconnected open spaces will facilitate walking and bicycling throughout the development and to BART.

VESTING TENTATIVE MAP

A. That the proposed map is consistent with applicable general and specific plans as specified in Section 65451. [Subdivision Map Act §66474(a)]

The proposed development is consistent with the overall vision for development along Mission Boulevard, the South Hayward BART/Mission Boulevard Specific Plan and related Form Based Code, and the applicable *Sustainable Mixed Use, Regional and Office Commercial* and *Medium Density Residential* General Plan land use designations as detail in Zone Change Finding A above. The proposed project requires a Zone Change to Planned Development District to allow for a consistent and coherent development pattern across the site.

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

The proposed subdivision is consistent with the residential densities for projects in the *Sustainable Mixed Use, Regional and Office Commercial* and *Medium Density Residential* land use designations, as well as specific goals and policies outlined in Zone Change Finding A, above.

The existing and proposed internal roadways are designed to accommodate the anticipated traffic. Utilities, including water, sewer, and storm drain facilities, will be provided to accommodate the proposed development. Further, the Infill Checklist

prepared for the project found that all impacts related to streets, public facilities, utilities and agencies were analyzed and disclosed in the EIRs prepared for the General Plan and South Hayward BART/Mission Boulevard Specific Plan and Form Based Code and can be mitigated with the application of specific and standard Conditions of Approval applicable to all development projects.

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

Earth Systems prepared two site specific Geotechnical Hazards Evaluation and Geotechnical Feasibility studies (2017 and 2018), an Addendum to the 2017 Study, and a Geologic Peer Review in 2019. All of the documentation was reviewed and referenced in the Infill Checklist prepared for the proposed project and concluded that if the proposed development followed recommendations related to placement of structures, foundation and fill type, installation of pins to stabilize slopes, and standards for retaining walls, then the site would be physically suitable for the type of development proposed. Per conditions of approval, the recommendations and standards will be incorporated into the Improvement Plans for the proposed project.

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

As noted above, the proposed development placed the high density, mixed use development on the relatively flat areas of the site near Mission Boulevard and place the relatively lower density townhome development toward the steeply sloped, rear portion of the site. Further, as described in Vesting Tentative Tract Map Finding C above, several studies and reports were prepared to determine if and how the site would be physically suitable for the proposed density of development and those specific recommendations would be incorporated into the Improvement Plans for the proposed project.

E. That the design of the subdivision or 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)]

According to the Infill Checklist prepared for the project, the 12.2-acre infill site is bounded by existing commercial uses and residential uses that are currently under construction. Most of the site was previously developed or cultivated and portions of the site are paved, have access roads, walls and swales. According to the General Plan EIR and the SH BART/Mission Boulevard SEIR, there is no potential for special-status plant species on the site. However, two special status species have potential

to occur on the site and an area on the northern part of the site has experienced ponding to support cattails, which is a wetland plant.

The proposed development would include Standard Conditions of Approval, included as mitigation measures in previous environmental documents, to reduce potential impacts to a level of less than significant by conducting pre-construction surveys and a wetland delineation map prior to the issuance of permits for the project. Thus, the standard conditions would ensure that the design of the subdivision and proposed improvements will not cause substantial environmental damage or to injure wildlife, fish or their habitat.

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

The development is an infill site surrounded by infrastructure with adequate capacity to serve the future development. The Infill Checklist concluded that the project, like all large-scale development projects, could result in short term degradation of air quality related to construction activities and included standard conditions of approval to minimize fugitive dust and specifying construction equipment standards. Further, to minimize any impacts related to indoor air quality the project would be required to either install high efficiency filters within the mixed use buildings, or prepare a site specific Health Risk Assessment to evaluate risks and determine appropriate measures to manage those specific risks in accordance with the South Hayward BART/Mission Boulevard Supplemental Environmental Impact Report. Incorporation of these standard measures as conditions of approval would ensure that the proposed project will not result in serious public health problems.

G. That the design of the subdivision or the 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 proposed project will not conflict with existing easements for access through or use of the property in that there are no such easements affiliated with these parcels. The proposed private roadways and pedestrian facilities will be open and accessible to the public, as conditioned.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby approves the Zone Change and Vesting Tentative Tract Map (8502) Application 201806355, subject to the adoption of the companion ordinance (Ordinance No. 19-__) rezoning six properties located at 29212 Mission Boulevard (APN 078C-0445-001-04) and adjacent City owned properties at APNs 078C-0461-10, -11, -

12, -13, and -14 to Planned Development District, subject to the attached conditions of approval (Exhibit I.a); and,

NOW THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Hayward hereby authorizes the City Manager or her designee to execute any and all documents related to the disposition of City-owned properties as detailed in of the companion resolution (Resolution No. 19-__) to TTLC Mirza LLC, or its affiliate.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

Exhibit I.a

ZONE CHANGE & VESTING TENTATIVE MAP (TRACT 8502) APPLICATION NO. 201806355 – Applicant: TTLC Mirza, LLC and TTLC Mirza 2, LLC/Owners: TTLC Mirza, LLC and City of Hayward – Proposed Zone Change, Vesting Tentative Map (Tract 8428), Purchase and Sale Agreement and improvement plans, grading and building permits related to development of 189 residential units and approximately 10,820 square feet of ground floor commercial development and site improvements. The ground floor commercial uses and 66 for-sale condominium units would be located within two mixed-use buildings fronting Mission Boulevard and 123 townhome units would be located behind the mixed-use buildings within 23 townhome buildings ranging from four to seven units each. The 12.2-acre vacant site is composed of two parcels: one 4.7 acre privately owned property at 29212 Mission Boulevard (Assessor Parcel Number 078C-0455-001-04), and an approximately 7.5 site north of 29212 Mission Blvd that was a former Caltrans property and is currently owned by the City and the subject of a Purchase and Sale Agreement with the applicant (composed of portions of APNs 078C-0461-10, -11, -12, -13, and -14).

GENERAL

1. The developer 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.
2. Zone Change and Vesting Tentative Map Application No. 201806355, is approved subject to the Architectural Plans and Vesting Tentative Map plans date stamped July 22, 2019, and updated with Open Space Exhibits submitted August 28, 2019, except as modified by the conditions listed below.
3. All uses within the commercial portion of the proposed Planned Development District shall follow the Use Table for the S-T4 District in the South Hayward Form Based Code, as amended.
4. The Vesting Tentative Map approval shall align with the timeframes set forth in the Subdivision Map Act, and all related automatic and Applicant-initiated extensions.
5. Any proposal for alterations to the conditionally approved site plan and/or design that does not require a variance to any zoning ordinance standard shall be subject to approval by the Development Services Director or his/her designee, prior to implementation. Alterations requiring a variance or exception shall be subject to review and approval by the Planning Commission.
6. The permittee, property owner or designated representative shall allow City planning and code enforcement staff access to the property for site inspection(s) to confirm all approved conditions have been completed and are being maintained in compliance with all adopted city, state and federal laws.

Exhibit I.a

7. All outstanding fees owed to the City, including permit charges and staff time spent processing or associated with the development review of this application shall be paid in full prior to any consideration of a request for approval extensions and/or the issuance of a building permit.
8. All permit charges accrued in the processing of Zone Change and Vesting Tentative Map Application No. 201806355 shall be paid in full prior to consideration of a request for approval extensions and/or submittal of building permits for the development.
9. Building permits for the mixed-use buildings shall be obtained prior to or concurrently with the first building permit for the townhomes. See also COA No 37 related to Affordable Housing Ordinance obligations.

STANDARD CONDITIONS OF APPROVAL

10. SCA AIR-1: Consistent with General Plan Policies NR-2.2 and NR-2.7, in order to meet the BAAQMD fugitive dust threshold, the following BAAQMD Basic Construction Mitigation Measures shall be implemented:
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
 - f. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - g. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - h. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - i. A publicly visible sign shall be posted with the telephone number and person to contact at the City of Hayward regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD phone number shall also be visible to ensure compliance with applicable regulations.

Exhibit I.a

11. SCA AIR-2: In compliance with the SH BART/Mission Blvd SEIR Mitigation Measure Air-2 and General Plan Policy NR-2.2 and NR-2.15, the project applicant shall implement the following design features to ensure that operational air quality impacts would not occur.

Indoor Air Quality.

In accordance with the recommendations of the California Air Resources Board (CARB) and the Bay Area Air Quality Management District, appropriate measures shall be incorporated into the project design in order to reduce the potential health risk due to exposure to diesel particulate matter to achieve an acceptable interior air quality level for sensitive receptors. The appropriate measures shall include one of the following methods:

- a. The project applicant shall implement all of the following features that have been found to reduce the air quality risk to sensitive receptors and these measures shall be included in the project construction plans. These features shall be submitted to the City's Planning Division for review and approval prior to the issuance of a demolition, grading, or building permit and shall be maintained on an ongoing basis during operation of the project.
 1. For sensitive uses (residences, day care centers, and playgrounds) sited within the overlay zone from Mission Boulevard, the applicant shall install, operate and maintain in good working order a central heating and ventilation (HV) system or other air take system in the building, or in each individual unit, that meets or exceeds an efficiency standard of MERV 13. The HV system shall include the following features: Installation of a high efficiency filter and/or carbon filter to filter particulates and other chemical matter from entering the building. Either HEPA filters or ASHRAE 85 percent supply filters shall be used.

The project applicant shall maintain, repair and/or replace HV system on an ongoing and as needed basis or shall prepare an operation and maintenance manual for the HV system and the filter. The manual shall include the operating instructions and the maintenance and replacement schedule. This manual shall be included in the project CC&Rs and/or distributed to the building maintenance staff. In addition, the applicant shall prepare a separate homeowners manual. The manual shall contain the operating instructions and the maintenance and replacement schedule for the HV system and the filters.

- b. Alternative to (a) above, the project applicant shall retain a qualified air quality consultant to prepare a health risk assessment (HRA) in accordance with the CARB and the Office of Environmental Health and Hazard Assessment requirements to determine the exposure of project residents/occupants/users to air pollutants prior to issuance of a demolition, grading, or building permit. The HRA shall be submitted to the Development Services Department for review and approval. The applicant shall implement the approved HRA recommendations, if any. If the HRA concludes that the air quality risks from nearby sources are at or below acceptable levels, then additional measures are not required.

Exhibit I.a

Exterior Air Quality.

- c. To the maximum extent practicable, individual and common exterior open space, including playgrounds, patios, and decks, shall either be shielded from the source of air pollution by buildings or otherwise buffered to further reduce air pollution for project occupants.
 - d. Alternative to (c) above, an HRA could be prepared and implemented to take into account the risk specifics of the site, as more fully described in item (b) above.
12. SCA AIR-3: Consistent with General Plan Policy NR-2.2 and NR-2.12, the project contractor shall ensure all off-road diesel-powered construction equipment of 50 horsepower or more used for the project meet the California Air Resources Board (CARB) Tier 4 emissions standards or equivalent.
 13. SCA BIO-1: Consistent with General Plan Policies NR-1.2 and NR-1.3, a qualified biologist shall identify, map, and make recommendations for avoiding White-tailed kite during construction activities on the project site, if present. Specifically, to the extent feasible, vegetation removal activities shall occur during the non-nesting season (September 1 to January 31). For any construction activities conducted during the nesting season, a qualified biologist shall conduct a preconstruction nest survey of all trees or other suitable nesting habitat in and within 250 feet of the limits of work. The survey shall be conducted no more than 15 days prior to the start of work. If the survey indicates the presence of nesting birds, the biologist shall determine an appropriately sized buffer around the nest in which no work shall be allowed until the young have successfully fledged. The size of the nest buffer shall be determined by the biologist and shall be based on the nesting species and its sensitivity to disturbance. In general, buffer sizes of up to 250 feet for raptors and 50 feet for other birds should suffice to prevent substantial disturbance to nesting birds, but these buffers may be increased or decreased, as appropriate, depending on the bird species and the level of disturbance anticipated near the nest.
 14. SCA BIO-2: Consistent with General Plan Policies NR-1.2 and NR-1.3, a qualified biologist shall identify, map, and make recommendations for avoiding burrowing owls during construction activities on the project site, if present. Specifically, no more than 14 days prior to any ground disturbing activities, a qualified biologist shall conduct a preconstruction/take avoidance survey for burrowing owls using methods described in Appendix D of the CDFW Staff Report on Burrowing Owl Mitigation (Staff Report). If no burrowing owls are detected during the initial take avoidance survey, a final survey shall be conducted within 24 hours prior to ground disturbance to confirm that owls are still absent.

If take avoidance surveys conducted during the non-breeding season (September 1 to January 31) identify any burrowing owls within the construction footprint, individuals may be excluded from burrows using one-way doors provided that a Burrowing Owl Exclusion Plan is developed and approved by CDFW prior to implementation.

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If burrowing owls are found within the construction footprint during the breeding season, occupied burrows shall be avoided by establishing buffers around the burrows in which no work shall be allowed until a qualified biologist has determined that the nest attempt has failed or that young have fledged and can forage independently of the adults. A minimum buffer of at least 250 feet shall be maintained during the breeding season around active burrows. Burrowing owls present on site after February 1 shall be assumed to be nesting on or adjacent to the site unless focused monitoring by a qualified biologist familiar with burrowing owl reproductive behavior indicates that the observed individual is unpaired or that egg-laying has not yet begun. A Burrowing Owl Exclusion Plan will be developed and approved by CDFW prior to implementation.

15. SCA BIO-3: Consistent with General Plan Policy NR-1.3 and SH BART/Mission Blvd SEIR Mitigation Bio-1, the following steps shall be taken to protect wetlands and other waters of the US.
 - a. In order to ensure that all jurisdictional wetlands and other waters are identified, a formal jurisdictional delineation of wetlands and other waters shall be conducted on the project site. The jurisdictional delineation should follow the methodology set forth in the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and should be submitted to the Planning Division and the Corps for verification prior to issuance of a grading permit.
 - b. The proposed project shall avoid development on, and impacts to, identified wetlands and other waters.
 - c. If avoidance of wetlands or other waters is not possible, then impacts should be minimized to the maximum extent that is practicable and these measures should be incorporated into the project design. If impacts to wetlands or other waters cannot be minimized and are unavoidable, these impacts shall be compensated for by developing and implementing a comprehensive mitigation plan, acceptable to the Corps, CDFG, and RWQCB to offset these losses. It is recommended that mitigation be conducted within the project site. If this is not possible, then an off-site mitigation area should be selected that is as close to the project site as possible and acceptable to the resource agencies. Necessary State and federal permits shall be obtained prior to any work within or in close proximity to wetlands or other waters of the U.S and submitted to Planning Division prior to issuance of a grading permit.

16. SCA CUL-1: Should an archaeological deposit or human remains be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology shall be contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. If

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human remains are encountered, the County Coroner shall also be contacted to complete an assessment. All excavation, analysis, and reburial of Native American human remains shall be done in consultation with the Native American Most Likely Descendent, as identified by the California Native American Heritage Commission.

17. SCA GEO-1: Consistent with General Plan Policy NR-7.2, should paleontological resources be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource
18. SCA HAZ-1: Consistent with General Plan Policy HAZ-6.2, prior to approval of building or demolition permits, a Phase I environmental site analysis shall be conducted for the Parcel 2 property and, if warranted by such analysis as determined by the Hazardous Materials Office of the Hayward Fire Department or other regulatory agency, a Phase II environmental site analysis shall also be conducted. Recommendations included in the Phase II analysis for remediation of hazardous conditions shall be followed, including contact with appropriate regulatory agencies to obtain necessary permits and clearances. No construction (including grading) shall be allowed until written clearances are obtained from appropriate regulatory agencies.
19. SCA HAZ-2: Consistent with General Plan Policy HAZ-6.2, and to ensure the protection of construction workers from exposure to potential hazardous materials releases in soils and groundwater during excavation of both parcels, a Construction Risk Management Plan (CRMP) shall be prepared by a qualified environmental professional for all phases of construction, implementation of which would protect construction workers, the public, and the environment from hazardous materials, including potential unknown contamination in the subsurface of the site. The CRMP shall be submitted to the Planning Division for review and approval prior to the start of site grading and construction activities, and shall include the following: 1) procedures for evaluating, handling, storing, testing and disposing of soil and groundwater generated during project excavation, grading, and dewatering activities and 2) a contingency plan that shall be implemented if previously unidentified potentially contaminated material or regulated features (e.g., USTs, asbestos containing material) are encountered during construction activities.

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If such material is identified that meets actionable levels from applicable regulatory agencies, remediation plans shall be prepared and implemented to remediate any hazards to acceptable levels and shall identify methods for removal and disposal of hazardous materials. Worker safety plans shall also be prepared and implemented. All required approvals and clearances shall be obtained from appropriate regulatory agencies, including but not limited to the Hayward Fire Department, California Department of Toxic and Substances Control and Bay Area Air Quality Management District.

20. SCA NOI-1: Should Building B house a use such as a daycare and the outdoor area would be utilized as a playground, noise barriers would be required around the exterior of the playground area in order to reduce noise levels generated by traffic noise on Mission Boulevard by a minimum of 3 dBA to reduce levels to below 70 dBA L_{dn}. This design measure shall be evaluated by a qualified acoustical engineer and shall be reflected on application for tenant improvements for the commercial space and installed prior to the issuance of a certificate of occupancy for a daycare and/or preschool use
21. SCA NOI-2: In compliance with SH BART/Mission Blvd SEIR Mitigation Measure Noise-2, and in order to comply with the City's exterior and interior noise compatibility standards, the following measures shall be implemented:
 - a. The proposed project shall include the installation of mechanical ventilation such as air conditioning for all dwelling units so that windows and doors can remain closed for a prolonged period of time.
 - b. Standard building construction requirements consisting of windows and doors higher than STC-28 are incorporated for frontline dwelling units of Buildings A and B along Mission Boulevard.
 - c. A final acoustical report shall be prepared once final architectural plans are available to confirm that the interior living spaces of residential dwelling units will meet the City's interior noise standard of 45 dBA L_{dn}.
22. SCA TRA-1: Consistent with Policy M-4.4 of the City's General Plan, the project applicant shall fund signal timing adjustments to allow more green time for the impacted approaches at the intersection of Ruus Road/Industrial Parkway West.

PRECISE PLAN

23. In accordance with Zoning Ordinance Section 10-1.2550, and prior to approval of building permits, the applicant shall submit a Precise Development Plan to the Planning Division for review and approval prior to the issuance of building permits.

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24. The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan except as modified by Condition No. ~~25~~ 24 below and shall be submitted either in advance of or in conjunction with the subdivision improvement plans and Final Map.
25. The Precise Development Plan shall include the following information and/or details:
 - a. A copy of these conditions of approval shall be included on a full-sized sheet(s).
 - b. Proposed location for construction staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for vanpooling construction workers or having them use transit to access the site, provisions for noise and dust control, and common area landscaping.
 - c. Details of address numbers shall be provided. Address numbers shall be decorative. Building addresses shall be minimum four-inch self-illuminated or six-inch on contrasting background to ensure visibility from the street.
 - d. Large expanses of blank wall shall be prohibited and shall be articulated or otherwise treated with design or architectural features. To the greatest extent possible, any blank walls at street level shall be treated with public art.
 - e. Mailboxes shall be installed in accordance with Post Office policy and include locking mechanisms to minimize opportunities for theft. Approved address numbers shall be at least four inches in height on a contrasting background. Font strokes shall be of sufficient width such that they are legible to the public from the street fronting the property.
 - f. Proposed color and materials board for all buildings, fences and walls. All retaining walls shall be designed to complement the proposed architecture and landscaping through use of color, texture and materials
 - g. Townhome Garage Doors. The townhome garage doors shall be painted an accent color to add complexity along the ground floor elevations.
 - h. Townhome Style B, Right Elevation. Ground floor elevation shall be painted a different color to match the left elevation in order to break up building massing.
 - i. The dog park shall have the following supporting amenities: double gate at the entry, decorative fencing, benches and tables, shade trees and/or structure, trash and recycling receptacles and, if possible, a drinking fountain. Amenities shall be shown on Precise Plan and Improvement Plans.

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General Planning Conditions:

26. The project approval includes the following project amenities to support the finding required to be made that “any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.” Amenities shall include:
 - a. Photovoltaic solar systems shall be installed on all townhome and condominium buildings to service all residential units within each building. Photovoltaic solar systems shall be implemented for use on the common areas, commercial and residential portions of the mixed-use buildings. To the greatest extent possible, the project architect shall consult with an energy consultant regarding the design and orientation of roof surfaces and reorient rooflines to maximize solar orientation;
 - b. The park/plazas, multi-use trail and dog park that provide continuous multi-modal access and common open spaces through and across the site shall be recorded as part of the final map for the related area and shall include public easements to ensure ongoing public access. All improvements and amenities shall be installed in accordance with the approved plans and ongoing maintenance of the trail and open spaces shall be provided by the Homeowner’s Association.
27. All final exterior building finishes, paint colors, parking lot mesh design and other architectural details shall be reviewed and approved by the Planning Division prior to issuance of a building permit for the project.
28. Pavement around the retail buildings and entrances to residential neighborhoods shall be enhanced with integral colors, texture, pattern and decorative banding with different material, color and texture. The final enhanced pavement design, including color and materials shall be reviewed and approved by the Planning Division prior to the issuance of building permits.
29. Any proposal for alterations to the proposed site plan and/or design which does not require a variance to any zoning ordinance standard must be approved by the Development Services Director or his/her designee, prior to implementation.
30. All air conditioners and utility connections for air conditioners shall be located behind solid board fences or walls and shall not exceed the height of the fence or wall.
31. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen from all perspectives, unless other noise mitigation is required.

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32. All rooftop mechanical equipment, other than solar panels, shall be fully and completely screened from view by the proposed roof structure or appropriate screening that is reviewed and approved by the Planning Division. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building code. Roof apparatus and utilitarian equipment such as vents shall be painted to match surface to which it is adhered.
33. The Applicant shall submit an application for a Master Sign Program in accordance with Hayward Municipal Code (HMC) Section 10-7.210, prior to the installation of any signage for the commercial development.
34. The sign program shall include a provision to install artistic renderings or signage in windows of vacant commercial tenant spaces and "Coming Soon" signs for future commercial tenants when the tenant space is under construction.
35. Signage associated with the various publicly accessible uses (plaza, dog park) including wayfinding and interpretive signage along the public pathways shall be reviewed and approved with the park improvement plans.
36. The applicant shall install construction related signage with renderings of the proposed development along Mission Boulevard. The applicant shall provide the location, size and method of installation of the signs on the Precise Plan submittal.

Affordable Housing:

37. This development is subject to the requirements of the Affordable Housing Ordinance (AHO) set forth in Hayward Municipal Code (HMC) Chapter 10, Article 17. As a condition of approval, the Applicant shall comply with the affordable housing requirements as reflected in the attached Affordable Housing Plan, included as Attachment VI to the staff report, and detailed per Section 10-17.510 Affordable Housing Plan. No building permit(s) will be issued for any market-rate units in the Project until permits for all affordable units have been obtained or are obtained simultaneously. No Certificate(s) of Occupancy will be issued for any market-rate units in the Project until Certificate(s) of Occupancy for all affordable units have been obtained or are obtained simultaneously.
38. In addition to the Affordable Housing Plan and pursuant to HMC Section 10-17.515 and Section 10-17.525, the developer shall also enter into and record against the property an Affordable Housing Agreement (AHA) that shall include all elements set forth in the ordinance and the Affordable Housing Plan, included as Attachment VI to the staff report, prior to the approval of a final map or issuance of the first building permit, whichever occurs first. Additional rental or resale restrictions, deeds of trust, option agreements and/or other documents acceptable to the City Manager or designee shall be recorded.

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39. Parking & Affordable Housing Units. A maximum of two deed restricted affordable units within Mixed Use Building A may have no specific parking spaces assigned to the unit. Otherwise, all deed restricted affordable unit shall have at least one parking space assigned to the unit.

Park Dedication Fees and Credits:

40. This development is subject to the requirements of the Property Developers – Obligations for Parks and Recreation set forth in HMC Chapter 10, Article 16.
- a. Per HMC Section 10-16.10, the applicant shall dedicate land, pay a fee in lieu thereof, or do a combination of both for park and recreation purposes. The land dedication and in lieu fee amount shall be the requirement and fee in effect at the time of building permit issuance for the development.
 - b. Pursuant to HMC Section 10-16.47, Developer Provided Park and Recreation Improvements, a land dedication credit may be provided publicly accessible park and open spaces. Per the proposed project, the applicant is seeking a credit for the acreage related to the proposed dog park (17,165 square feet). If recommended for approval by the Hayward Area Recreation and Park District (HARD) Board and approved by the City Council, a credit may be permitted for the acreage associated with the dog park. However, the developer shall not receive a credit for any acreage set aside for Stormwater Control purposes pursuant to Provision C3.
 - c. The dog park shall have supporting amenities including benches, tables, shade (trees or structure), fencing including a double gate at the entry. The final design and list of amenities shall be included in the improvement plan and shall be review and approved by the Planning Division and the Hayward Area Recreation District prior to the approval of Improvement Plans.

Transportation and Parking Demand Management:

41. The Applicant or designee shall implement Transportation and Parking Demand Management (TDM) measures as detailed below:
- a. The Applicant or designee shall compile and distribute information regarding the following TDM Measures to all first-time residents and commercial tenants through provision of a TDM Contact Person and Resident Welcome Packet.
 - b. The Applicant or designee shall provide resources for real time transportation information in the Resident Welcome Packet.
 - c. All long- and short-term bicycle storage shall remain in place and shall not be utilized for other uses such as storage.

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- d. The Applicant or designee shall provide information regarding commuter tax benefit programs for employees of the commercial tenants in the Tenant Welcome Packet.
 - e. The Applicant or designee shall advertise and promote the following programs in the Welcome Packet:
 - 511 Ride Matching Assistance
 - Carpool/Vanpool Incentives for New Users
 - “Guaranteed Ride Home”
 - AC Transit “Easy Pass”
 - f. The Applicant or designee shall provide coupons for bicycle maintenance service at a local bicycle shop for all residents in the Resident Welcome Packet.
 - g. The Applicant or designee shall maintain three dedicated Car Share parking spaces on-site.
 - h. The Applicant or designee shall provide EV Charging Stations with dedicated public EV parking spaces for use by retail patrons, park patrons and residential area visitors/guests. The number of designated public EV parking spaces shall be determined by CalGreen Parking Requirements (per Building Division). Each designated EV parking space shall include an EV Charging Station. EV Charging Stations shall be installed in public spaces prior to the issuance of occupancy permits in buildings adjacent to the spaces.
 - i. The Homeowner’s Association shall collect \$400 per unit annually to be used towards improving transit options for the homeowners. Options could include but are not limited to funding Clipper Cards, future car lifts for the garages in Buildings A and B, fair share component of a potential community shuttle bus or any other quality of life, transit supportive measure specifically encouraging the use of public transit options. Plans for these funds will be reported to the City of Hayward during the yearly TDM monitoring outlined in Condition Nos 42-44 below.
42. In addition to implementation of TDM measures, Applicant or designee shall monitor the TDM Program through a TDM Coordinator and submit to the City, on an annual basis, a survey of commute characteristics of project residents and employees and a report on the results of the survey. The surveys shall not coincide with a special event or promotion geared toward increasing alternative modes of transportation (e.g. Bike to Work Day, Walk to School Day) and the applicant or designee shall provide incentives or other means to achieve a minimum of 65 percent of residents must respond to the survey each year. The annual report shall include the status of the overall TDM Program. The first report shall be submitted to the City within one year of issuance of first occupancy permit for the first building constructed on-site.

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43. The Applicant shall acknowledge that the City reserves the right to inspect the project for TDM Program effectiveness and automobile trip reduction and may impose additional measures or penalties if the project does not meet a total of 9% automobile trip reduction as outlined in the Project's TDM Plan.
44. The TDM Coordinator's contact information shall be provided to all employees and residents of the development, and the TDM Coordinator shall be responsible for monitoring parking and resolving parking complaints/disputes throughout the mixed-use and townhome development.

General Conditions – Building

45. Plans for building permit applications shall incorporate/comply with the following:
 - a. Compliance with applicable Building and Fire Codes.
 - b. The project shall comply with disabled access provisions of 2016 CBC Chapter 11A. All required accessible and/or adaptable units shall be called out on the plans and unit counts shall comply with the counts required in the code.
 - c. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.

General Conditions – Engineering

46. Homeowners Association: Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever occurs first, Conditions, Covenants and Restrictions (CC&R's), creating a homeowner's association (HOA) for the property, shall be submitted to the City for review and approval. The CC&Rs shall include the following provisions:
 - a. The HOA shall be managed and maintained by a professional property management company.
 - b. The HOA shall own and maintain the private access roads and on-site storm drain systems within the development.
 - c. The CC&R's shall describe how the stormwater conveyance, treatment and site-design measures associated with privately owned improvements and landscaping shall be maintained by the association.
 - d. The HOA shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition.
 - e. On-site streetlights and pedestrian lighting shall be owned and maintained by the HOA.
 - f. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.

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- g. The garage for each unit shall be maintained for off-street parking for one or two vehicles, as designed, and shall not be converted to living or storage areas. An automatic garage door opening mechanism shall be provided for all garage doors.
 - h. 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.
 - i. The association shall ensure that no less than 75 percent of the units shall be owner-occupied. The CC&Rs shall further provide that the leasing of units as a regular practice for business, speculative investment or other similar purpose is not permitted. However, to address special situations and avoid unusual hardship or special circumstances, such as a loss of job, job transfer, military transfer, change of school or illness or injury that, according to a doctor, prevents the owner from being employed, the CC&Rs may authorize the governing body to grant its consent, which consent shall not be unreasonably withheld, to a unit owner who wishes to lease or otherwise assign occupancy rights to a specified lessee for a specified period.
47. Utility Services: All new utility service connections to the project shall be installed underground.
48. Geologic Hazard Abatement District (GHAD): The project shall annex into the Hayward GHAD for the management, maintenance, and replacement of improvements to mitigate hazards caused by geologic events.
49. Public Trail, Parks and Open Space Maintenance: The proposed public trail, parks, plazas, paseos and open spaces shall be maintained by the future HOA. The applicant or HOA and the City shall enter into a maintenance agreement ensuring that the HOA is responsible for the maintenance and operation of the public trail and its appurtenances in perpetuity prior to Tract Acceptance.
50. Public Trail & Dog Park Easement: A Public Access Easement shall be dedicated over the proposed public trail, pedestrian connection to the proposed dog park, and over the proposed dog park. Easements shall be shown on the Final Map prior to its approval.
51. Street Lighting: Public street lighting along the development frontage and on-site lighting shall comply with current City lighting standards and the City's Security Ordinance. Lighting shall be designed by a qualified lighting designer and erected and maintained so that light is confined to the property and will not cast a direct light or glare upon adjacent properties or rights-of-way.
52. Utilities, meters, and mechanical equipment when not enclosed in a cabinet, shall be screened by either plant materials or decorative screen so that they are not visible

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from the street. Sufficient access for meter-reading by utility staff must be provided to all meters.

53. Any transformer shall be located underground or screened from view by landscaping and shall be located outside any front or side street yard.

General Conditions – Utilities

Water:

54. 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-foot wide easement shall be granted to the City.
55. Existing water services, if any, that cannot be reused for the proposed development shall be abandoned by City Water Distribution Personnel at the Applicant/Developer expense.
56. Domestic & Fire Services.
 - a. Domestic: Each residential unit, including the units in the mixed-use Building A and B, shall have an individual, publicly read domestic water meter installed by the City of Hayward. Private submetering shall not be permitted. Facilities fees for residential connections are based on the domestic demand for the home. A larger water meter may be installed if the service is combined with a private fire service. The Developer is required to pay water facilities fees and installation charges for connections to water mains and work performed by City forces
 - 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.
 - c. Combined Residential Services: The development could 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 inch (combined or not) and the maximum size for combined services is 2 inches. 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). Also note that combined services must connect directly to the water main (manifold layouts are not allowed).
57. Irrigation: It is anticipated that one or more separate irrigation water meters and services shall be installed for development landscaping. The Applicant/Developer shall install an above ground Reduced Pressure Backflow Prevention Assembly

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(RPBA) on each irrigation water meter, per 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.

58. Each non-residential commercial tenant space shall be served by separate water meters with approved backflow prevention device.
59. All water meters shall be radio-read type.

Sewer:

60. 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-foot wide easement shall be granted to the City.
61. The Applicant/Developer is responsible for applicable sewer connection/capacity fees, at the rates in effect at the time of application for water and sewer service, prior to building permit issuance.
62. The Applicant/Developer shall install a grease control device to control fat, oil, and grease discharge from any food service establishment.
63. Grease interceptors must be cleaned on a regular basis, at a frequency such that the combined grease and solid accumulation does not exceed 25% of the total liquid depth of the interceptor, but no less frequently than once every three months while the establishment is in operation. Cleaning shall consist of removal by a licensed commercial waste hauler of the entire contents of the device.
64. Applicant/Developer shall be responsible for payment of its share of the cost of upgrading the sewer collection system in the Industrial sewer sub-basin to accommodate the proposed development. The Applicant/Developer share is as follows:
 - a. Townhomes Residential Project: \$101.82 per dwelling unit (to be paid at issuance of building permit for each townhome residential unit);
 - b. Mixed-use Building A Project: \$4,980.77 for the 8,048 square feet commercial space and 45 residential units (to be paid at issuance of building permit for Building A).
 - c. Mixed-use Building B Project: \$2,275.65 for the 2,773 square feet commercial space and 21 residential units (to be paid at issuance of building permit for Building B).

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CONDITIONS DUE PRIOR TO THE ISSUANCE OF GRADINGS AND/OR BUILDING PERMITS

65. Subdivision Improvement Agreement: A Subdivision Improvement Agreement shall be executed prior to Final Map Approval that guarantees the completion of the improvements to the satisfaction of the Director of Public Works. This agreement includes surety (i.e. bonds), insurance, and additional deposit for City staff time and City resources to be expended on the project.
66. Required Improvements: Privately engineered studies and design documents shall be submitted to the Director of Public Works for review and approval prior to final map approval. The engineered plans shall include, but not be limited to, the following design requirements:

Transportation Engineering:

- a. Applicant shall submit plans to modify the existing Valle Vista and Mission Boulevard signalized intersection to accommodate a four-way intersection with pedestrian refuge medians on Mission Blvd. Design shall include, but not limited to the replacement of traffic signal equipment compliant to the latest Caltrans Standard Plans and CA MUTCD.
- b. Per the project Traffic Impact Analysis for the intersection of Mission Boulevard and Valle Vista Avenue, the applicant shall pay the City a fee for future modifications to the intersection signal timing as the mitigation for the addition of the eastern leg to the signalized intersection. The applicant contribution for this intersection will be \$15,000 and shall be paid to the City prior to issuance of grading permit.
- c. Per the project Traffic Impact Analysis for the intersection of Russ Road and Industrial Parkway West, the applicant shall pay the City a fee for future modifications to the intersection signal timing as the mitigation to the project impact in the cumulative plus project conditions scenario. The applicant contribution for this intersection will be \$15,000 and shall be paid to the City prior to issuance of grading permit.
- d. Provide directional ramps and sidewalks across Mission and proposed driveway.
- e. The curb radius on the southeast corner of Mission and Villa Vista shall be no more than 20 feet. The applicant shall submit a vehicle turning analysis for standard design vehicles turning right from northbound Mission.
- f. The applicant shall coordinate with AC Transit with regards to upgrading the existing bus stop along the Mission Blvd project frontage.
- g. Designs submitted shall also reflect any identified traffic mitigations as described elsewhere in this document.
- h. The proposed public trail shall have a minimum pavement width of eight feet with a minimum two-foot wide paved or unpaved level shoulders on both sides. This trail shall connect with a similar trail in the Mission Seniors project to the south of the development site and Tennyson Road as shown on the Tentative Map.

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- i. Photometric analysis/studies and signing/striping plans for Public Street frontages, Private Streets, and the public trail shall be submitted for review and approval by the City Engineer.

Utilities – Water:

- a. The Utility Plan shown as part of the Tentative Map is conceptual. A Water Impact Study shall be funded by the developer and used to finalize the on-site water system design prior to the submittal of improvement plans. In addition, the water and wastewater system design are subject to the following design requirements:
 - i. The development's water system shall connect to neighboring developments, specifically Tract 8439 (Ersted Property) and Tract 8394 (Mission Seniors). The water impact study may provide updated and detailed recommendations for water connection points.
 - ii. The development's water system shall connect to the existing water main in East Tennyson Road based on recommendations by the water impact study and determined by the Director of Public Works.
 - iii. The Applicant/Developer shall comply to any necessary water improvements identified in the water impact study and as determined by the Director of Public Works.
 - iv. If the alternative water mains adjacent to Building B or any water pipeline alignments as determined by the study is determined to be necessary, a 10-foot wide waterline easement over the water mains shall be granted to the City by separate instrument prior to Tract Acceptance.
- b. 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 <https://www.hayward-ca.gov/your-government/departments/engineering-division>).
- c. 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.
- d. All water mains must be looped. Dead end water mains will not be allowed. Water mains must be connected to other water mains.
- e. Water meters and services are to be located a minimum of two feet from top of driveway flare as per SD-213 thru SD-218.
- f. Water mains and services, including the meters, must be located at least ten (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 (i.e., pressure) piping materials.

Exhibit I.a

Utilities – Sewer:

- a. All sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12-inch Diameter or Less)," latest revision at the time of permit approval.
- b. Each residential dwelling unit shall have an individual sanitary sewer lateral. Each sanitary sewer lateral shall have at least one cleanout and be constructed per Standard Detail (SD)-312.

General:

- a. Excavation in the street pavement(s) resurfaced within the last five years shall require pavement restoration as per the DWG. No. SD-126.
67. Grading & Drainage: A fine grading and drainage plan is required and shall be submitted with the Final Map and Improvement Plans for review and approval by the Director of Public Works prior to the issuance of building permits. Developer has the option to apply for a grading permit to perform rough grading. The grading and drainage plan shall include, but not be limited to, the following design & submittal requirements:
- a. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or less (top of wall to bottom of footing) shall be reviewed and approved by Public Works. Earth retaining structures greater than 4-feet in height shall be reviewed and approved by the Building Division of the Development Services Department. The plans should include all proposed underground pipes, building drains, area drains and inlets. The on-site storm drainage system shall be designed to convey a 10-year storm event.
 - b. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the Director of Public Works prior to issuance of a grading permit.
 - c. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
 - d. A Geological Report prepared by a registered Engineering Geologist must be submitted to and accepted by the City prior to the issuance of a grading permit.
 - e. The project's Stormwater Control Plan and updated Stormwater Requirements Checklist shall be submitted which will show, at a minimum, drainage management areas, location and details of all treatment control measures and site design measures, and numeric sizing calculations in conformance with Alameda County Clean Water Program C3 design guidelines.
 - f. The Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to design the storm drain system.
 - g. On-site collector storm drains shall be not less than 12-inch in diameter to minimize potential for blockages. Storm drains shall be designed to prevent standing water.

Exhibit I.a

68. 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. Prior to or concurrent with applicable final map recordation, developer shall record a reciprocal easement, ingress/egress easement and maintenance agreement(s) to address all common utilities, crossing utilities and all common access ways.

Utilities – Solid Waste

69. All trash enclosures must adhere to all the basic design guidelines provided in Section 3 of the City's Standard Design Requirements for Collection & Storage of Trash, Recyclables and Organics for Commercial (Business) and Multi-Family Projects. The building permit submittal shall include a detailed set of plans that show the design details of the enclosures, including the location of all bins and label each bin with the capacity (ex: three cubic yards, four cubic yards, etc.) as well as the type of waste (trash, recyclables, organics).

Landscaping:

70. Precise plan shall be prepared at the level equal to sixty percent (60%) completion of construction documents. Precise plan doesn't need to include photographic or illustrative images. All plans and legends shall not rely on color to be legible. All provided information on the plan shall be legible in black and white.
71. The landscape plans shall be prepared on an accurately surveyed topographic plan that matches the architecture site and civil plans.
72. Existing tree locations in the City right-of-way on Tennyson Road shall be accurately shown on the landscape site, planting and irrigation plans as shown on the La Vista Tennyson Road Improvement Plans. Existing trees within the visibility triangle at the Tennyson Road entrance shall be transplanted or removed depending upon tree health and removed trees shall be replaced with like-kind and like-size where would provide similar benefit to the streetscape. The visibility triangle shall be measured thirty feet from face of curb.
73. Signage, walls or plants shall not exceed three feet in height within the visibility triangle. Tree shall not be planted within the visibility triangle. The same requirement shall apply to the Mission Boulevard entrance way.
74. Existing Eucalyptus trees in poor health could become fire hazard and should be considered for removal and replacement. The replacement planting may not be at the same location and shall not be with the same species.

Exhibit I.a

75. All landscape plans shall provide building numbers, underground and above ground utilities, all existing trees shown on the survey plan, and designation of existing trees whether to be preserved or removed.
76. Tree shall be located minimum of five feet from utility service lines and driveways. Locate tree a minimum of 15 feet from a light pole, and a minimum of 30 feet from the face of a traffic signal, or as otherwise specified by the City.
77. Storm drain lateral lines shall be located close to the edge of sidewalk to allow maximum flexibility for tree planting.
78. Erosion control fabric, compost blanket or a combination of compost sock and erosion fabric shall be installed shall be installed for slopes equal or steeper than three-to-one (3:1) but less than two-to-one (2:1). Geotechnical engineer shall provide erosion control measures for slopes exceeds two to one (2:1).
79. Masonry walls, trash enclosures or fences facing a street or driveway shall be continuously buffered with shrubs and vines.
80. Both water meter and sewer cleanout shall be located in the driveway.
81. A dedicated irrigation water meter shall be provided.
82. Landscape and irrigation plans in full compliance with the City's Bay-Friendly Water Efficient Landscape Ordinance shall be submitted for approval. Minimum one set of plans shall be wet-stamped and wet-signed. Landscape and Irrigation Plans shall include:
 - a. Conceptual Landscape and Irrigation Plans shall include landscape statement: "I have complied with the criteria of City of Hayward Bay-Friendly Water Efficient Landscape Ordinance and applied them for the efficient use of water in the landscape and irrigation design plan."
 - b. Details and specifications shall be provided for all hardscape material including manufacturers, color, texture and finishes.
 - c. Planting palette shall provide mature size (width x height). Plant spacing shall not be closer the minimum spread provided in the reference books in the ordinance.
 - d. All plants in bioretention basin shall conform to the plant list in the latest C.3 Stormwater Technical Guidance Appendix B.
 - e. Hydrozone Map shall be provided.
 - f. Irrigation plans shall provide proposed design, proposed irrigation water meter location and size, static water pressure (psi) at point of connection, performance standards, and backflow prevention device locations.
 - g. Manual shut off valve such as a gate valve, ball valve or butterfly valve shall be installed after the backflow prevention device.

Exhibit I.a

- h. Backflow prevention device shall conform to the City Standard Detail SD-202 and the detail shall be included in the irrigation detail.
 - i. Municipal Code Article 12, Appendix B Water Efficient Landscape Worksheet for water budget calculation for Maximum Applied Water Allowance and Estimated Total Water Allowance. The water budget calculation shall use Eto of 44.2 for City of Hayward and shall provide the calculation methodology used. For residential developments with more than five or more units shall be considered providing “non-residential landscape” and shall use ET adjustment factor of 0.45.
 - j. Bio-treatment area, when wider than ten feet, shall be irrigated with matched precipitation rotator type, or as efficient overhead spray irrigation system that allows “cycle and soaking” program function. When the treatment area width is less than ten feet, efficient irrigation system that meets the current ordinance requirements shall be provided. The irrigation for bio-retention area shall be provided on a separate valve.
83. Landscaping shall be maintained in a healthy, weed-free condition at all times and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution. The owner’s representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% dieback) shall be replaced within ten days of the inspection. Three-inch deep mulch should be maintained in all planting areas. Mulch shall be organic recycled chipped wood in the shades of Dark Brown Color, and the depth shall be maintained at three inches deep.
84. All trees planted as a part of the development and as shown on the approved landscape plans shall be “Protected” and shall be subject to the City’s Tree Preservation Ordinance. Tree removal and pruning shall require a tree pruning or removal permit prior to removal by City Landscape Architect. Any damaged or removed trees without a permit shall be replaced in accordance with the City’s Tree Preservation Ordinance within the timeframe established by the City and pursuant to the Municipal Code.

Hayward Fire Department:

85. Where the grade plan and highest roof surface exceeds 30 feet in height, fire apparatus roads shall have unobstructed width of 26 feet in the immediate vicinity of buildings (highest roof surface shall be determined by measurement to the eve of a pitched roof). At least one of the required access routes shall be located within a minimum of 15 feet and a maximum of 30 feet from the building and shall be positioned parallel to one entire side of the building. “A” Street having been designed at or greater than 26 ft. (in portions of the roadway) in width, is positioned on the shortest portion of the building, however this condition is adequate for Fire Department access.

Exhibit I.a

86. Fire apparatus access roads shall be designed and maintained to support 75,000 pounds, the imposed load of fire apparatus, and shall be surfaced to provide all-weather driving capability. An unobstructed vertical clearance of not less than 13 feet 6 inches shall be provided for all fire apparatus accesses.
87. Fire apparatus access road 20 feet to 26 feet wide shall be posted on both sides as a fire lane; fire apparatus access road 26 feet to 32 feet wide shall be posted on one side of the road as a fire lane. "No Parking" signs shall meet the City of Hayward Fire Department fire lane requirements.
88. Address and premise identification approved numbers shall be placed on all buildings in such a position as to be plainly visible and legible from the road or street fronting the property. Dimensions of address numbers or letters on the front of the buildings shall be approved by the fire department.
89. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26ft. exclusive of shoulders.
90. Entry road exhibit demonstrates access to the property that is within the standards of the Hayward Fire Department. Entry/exit roads into the property must have a minimum inside radius of 17ft. and a minimum outside radius of 45ft. per Appendix D.
91. Hammerhead turnaround(s) shall meet the minimum specifications as noted in Appendix D of the California Fire Code (CFC).

Hayward Fire Department – Water Supply:

92. A fire flow shall be provided in accordance with the 2016 California Fire Code Table B105.1 based on the construction type and building area when building exceeding 3,600 square feet. A fire flow reduction of up to 50 percent is allowed when the building is provided with automatic sprinkler system in accordance with NFPA 13. The resulting fire flow shall not be less than 1,500 gpm. Site Improvements will be required to meet this demand in the WUI area.
93. The minimum number of fire hydrants shall be provided in accordance with the Hayward Fire Code Ordinance and the California Fire Code (CFC). The average spacing between hydrants is 300 feet. Any portion of the building or facility shall be within 400 feet of a fire hydrant. Spacing and locations of fire hydrants shall be subject to review and approval by the Hayward Fire Department.
94. All buildings on site are required to install an overhead fire sprinkler system(s). An underground fire line will service each fire sprinkler system. An underground fire service line shall be installed in accordance with NFPA Standards. (A separate fire department permit, and approval is required prior to installation).

Exhibit I.a

95. Fire alarm system with occupant notification shall be provided in accordance with 2016 CFC Section 907 and NFPA 72 Standards for all proposed R2 buildings. (Deferred Submittal by licensed C10 Contractor)
96. An audible alarm bell (device) shall be installed on the exterior of the fire sprinkler system riser. The device shall activate upon any fire sprinkler system water flow activity.
97. An interior audible alarm device shall be installed within the dwelling in a location to be heard throughout the home. The device shall activate upon any fire sprinkler system water flow activity. (R2 occupancy)
98. An interior audible alarm device shall be installed within the dwelling in a location to be heard throughout the residence. The device shall activate upon any fire sprinkler system water flow activity. (R2 Occupancy)
99. 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 Standards. (R2 Occupancy)
100. 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. (R2 Occupancy)
101. All buildings are required to install an automatic fire sprinkler system in accordance with NFPA 13. A separate fire permit is required for the fire sprinkler system installation. A State Licensed C-1 Fire Sprinkler Contractor shall be responsible for the fire sprinkler system installation. Maximum static pressure of 80 PSI should be used when the test data indicates higher pressures. (Deferred submittal)
102. A maximum static pressure of 80 PSI should be used when test data indicates higher pressures. Residual pressures used in the calculation should also be adjusted accordingly.
103. Underground fire service lines that serve NFPA 13 systems shall be connected to the city water main per Hayward Public Works Dept. SD-204/216.
104. A standpipe system is required for buildings 3 stories or more in height. Standpipe system shall conform to NFPA 14 Standards. (Deferred submittal)
105. The building is located within the City of Hayward Wildland/Urban Interface Area, and shall meet the construction requirements (as reflected on the approved plans) as stated in the City of Hayward Hillside Design and Urban/Wildland Interface Guidelines, which includes Class A roofing materials and exterior non-combustible siding materials (stucco), double-pane windows. Do not use wood shake or treated

Exhibit I.a

wood shake roofs. The building construction shall comply with the requirements contained in the California Residential Code Section R327.

106. Deck shall comply with requirements of the Hayward Fire Department Urban Wildland Interface Deck Construction.
107. Within ten feet of a structure, construct fences with an open wire mesh or noncombustible material to prevent fire from spreading to the structure.

Hazardous Materials:

108. Environmental and Health Based Site Clearance – A “Uniform Closure Letter and Case Closure Summary” letter was issued on August 15, 2019 by the San Francisco Bay Regional Water Quality Control Board which indicates no further action for the underground storage tank case and that no volatile organic compounds, including chlorinated solvents, were detected on June 2019 vapor samples above their applicable residential Environmental Screening Levels. Details in the letter indicate that additional contamination may be present in soil and groundwater and that further work will need to be done to protect human health or the environment. Further documentation and/or work shall be conducted by West Environmental, or other firm approved by the Hayward Fire Department, related to screening and clearance on Parcels 1 and 2 and shall be compiled into an overall document and submitted to the Hayward Fire Department in electronic format prior to the issuance of grading permits.
109. Prior to the issuance of grading permits, the applicant shall also obtain an “Environmental Screening Clearance” from the Alameda County Department of Environmental Health Local Oversight Program that the project meets residential development standards and submit documentation to that effect to the Hayward Fire Department. If additional work is needed or otherwise indicated in the Environmental Screen Clearance document, then an approved agency, such as the Alameda County Department of Environmental Health Local Oversight Program, shall provide regulatory oversight including for investigations, remediation, soil management plans or mitigations. If applicable, a final residential clearance document shall be provided to the Hayward Fire Department and Hayward Planning Division prior to issuance of grading permits. Any “Environmental Screening Clearance” document or “Final Clearance Document” shall include a site map of the area cleared, indicating the full boundaries of the project with an overlay of the actual development.
110. Grading. Currently there are no know structures on site. However, as a condition of approval, 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.

Exhibit I.a

111. Wells, Septic Tank Systems or Subsurface Structures. Currently there are no know structures on site; however, as a condition of approval any wells, septic tank systems and others subsurface structures shall be removed properly in order not to pose a threat to the development construction workers, future residents or the environment. These structures shall be documented and removed under permit from appropriate regulatory agency when required.
112. Underground Storage Tanks, Oil Water Separators, Hydraulics Lifts – If found on the property, the underground vessels/structures shall be removed under a plan filed with Hayward Fire Department and appropriate samples shall be taken under the direction of a qualified consultant to ensure that contamination has not occurred to the soil or groundwater. A follow up report shall be required to be submitted that documents the activities and any conclusions. Below are specific requirements on each:
 - a. Underground storage tank and associate piping (plan, sampling and Hayward Fire Department permit and follow up report is required)
 - b. Oil Water Separators (plan, sampling required and follow up report is required)
 - c. Hydraulic Lifts (plan, sampling and follow up report is required)

CONDITIONS APPLICABLE DURING CONSTRUCTION

Hazardous Materials:

113. Hazardous Materials/Waste and their vessels discovered during Grading/Construction – If hazardous materials/waste or their containers are discovered during grading/construction the Hayward Fire Department shall be immediately notified at (510) 583-4910.
114. Hazardous Materials/Waste during Construction - During grading and construction hazardous materials and hazardous waste shall be properly stored, managed and disposed.

Engineering:

115. Construction Stormwater Management: Developer shall be responsible for the preventing the discharge of pollutants (sediments) into the street and/or the public storm drain system from the project site. Qualified SWPPP Practitioner (QSP) shall regularly inspect and submit monthly and final reports to the Public Works Inspector in addition to the submittals to the State Water Quality Control Board.

Exhibit I.a

116. Grading Activity:
- a. The project geologic team shall observe excavations and exposures and verify that the locations of specific building sites are in conformance with their recommendations.
 - b. A permanent record of the surveyed locations of the sheared contact shall be submitted to the State Geologist and the city Engineer. Those locations shall be shown on the final grading and development plans for the project.
 - c. The project geotechnical engineer shall submit a written report acceptable to the City's Building Official confirming that buildings intended for human occupancy are built outside the ground deformation and damage zone of the earthquake fault zone.
117. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the City Engineer:
- a. Construction activities on the project site shall be in conformance with Section 4-1.03-4 of the City's Municipal Code unless otherwise permitted by the City Engineer or Chief Building Official and shall not include any individual equipment that produces a noise level exceeding 83 dB measured at 25 feet, nor shall activities produce a noise level outside the project property lines in excess of 86 dB. During all other hours, noise shall not exceed the limits defined in Municipal Code Section 4-1.03.1 (70 dB daytime or 60 dB nighttime, measured at residential property lines).
 - b. The developer shall post the property with signs that shall indicate the names and phone number of individuals who may be contacted, including those of staff at the Bay Area Air Quality Management District, when occupants of adjacent residences find that construction is creating excessive dust or odors, or is otherwise objectionable. Letters shall also be mailed to surrounding property owners and residents with this information prior to commencement of construction.
 - c. 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.
 - d. 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;
 - e. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
 - f. Sweep public streets daily if visible soil material is carried onto adjacent public streets;

Exhibit I.a

- g. 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;
 - h. The developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.
118. Construction Damage: The Developer shall be responsible to remove and replace curb, gutter, sidewalks, driveways, signs, pavement, thermoplastic pavement markings, etc. damaged during construction of the proposed project prior to issuance of the Final Construction Report by the City Engineer. Developer is responsible for documenting the existing conditions prior to the start of construction to serve as a baseline for this requirement.
119. Large Tract Development, Releases: All required improvement leading and adjacent to units to be occupied shall be installed according to the approved plan, including completion of punch list items. The public shall not be allowed to pass through areas of activity to reach occupied units.
120. Conceptual Multi-Phased Exhibit (Unit Release Plan): Prior to issuance of certificates of occupancy for any unit within the project, an exhibit showing the proposed phased closures/openings during construction. The exhibit shall detail the number and locations of units to be released and portion of public street and sidewalk to be opened/closed to the public at each phase. Exhibits shall also show access routes and include traffic control plans.

Proper measures such as fencing, gates, and signs must be in place to separate adjacent construction activities from occupied units. These measures shall be reviewed and approved by the City Inspector prior to installation and occupancy of units.

Utilities – Water and Sewer:

121. All connections to existing water mains shall be performed by City Water Distribution Personnel at the Applicant/Developer expense.
122. All water services from existing water mains shall be installed by City Water Distribution Personnel at the Applicant/Developer expense. The Developer may only construct new services in conjunction with their construction of new water mains.

Exhibit I.a

Utilities – Solid Waste:

123. A Construction and Demolition Debris Recycling Statement shall be submitted with building permit applications. The minimum debris recycling requirements are 100% for asphalt, concrete, and similar materials, and 65% of remaining debris.

Utilities – Other:

124. 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 City approval as part of the Improvement Plans prior to installation. (DS/PW-ET)

CONDITIONS DUE PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY AND POST-CONSTRUCTION:

125. Post Construction Stormwater Maintenance: The property owner(s)/HOA shall enter into the City's standard "Stormwater Treatment Measures Maintenance Agreement" as prepared by the City. The Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance responsibility for private treatment control and site design measures is bound to the property in perpetuity.
126. Record Drawings: Developer shall submit record drawings or "as-builts" in both a hard copy and electronic format deemed acceptable to the City Engineer prior to Tract Acceptance and release of any surety/bonds.

Utilities – Solid Waste:

127. Mixed Used Buildings: Residential solid waste from the mixed used buildings will be handled via a trash chute system into trash rooms in each mixed used building. The maintenance crew for the property will put the bins in the denoted staging areas on pick up day(s).
128. Townhomes along Loop B and Street A shall store their solid waste carts inside their individual garages. Each townhome shall be responsible for setting out carts on their driveway apron on pick up day.
- Residents shall not place carts at the curb any earlier than 6:00 a.m. the day before scheduled collection and are required to retrieve them no later than midnight the days the carts are emptied per HMC Section 5-1.15.
 - Trees planted in the bulb outs along Street A and Loop B may impede the trash, recycling, and organics trucks' pathway to the drive aisles as the trees grow a larger canopy. The HOA may need to prune the trees when they reach maturity so the waste collection vehicles have clear access to all waste collection points.

Exhibit I.a

129. County and state regulations will require commercial properties to sign up for recycling, and also organics services depending on the amount of waste generated.
130. The owner or property manager shall be responsible for litter-free maintenance of the property and shall remove any litter on or within 50 feet of the property daily to ensure that the property and its street frontage remain clear of any abandoned debris or trash per HMC Section 11-5.22.

Landscaping:

131. Prior to the issuance of Certificate of Occupancy for a specific building, all landscape and irrigation adjacent to the specific building shall be completed in accordance to the approved plan and accepted by the City Landscape Architect. Before requesting an inspection from the City Landscape Architect, the project landscape architect shall inspect and accept landscape improvements and shall complete Appendix C. Certificate of Completion in the City's Bay-Friendly Water Efficient Landscape Ordinance. The completed Certificate of Completion Part 1 through Part 7 or applicable parts shall be faxed/e-mailed/turn in prior to requesting an inspection from the City Landscape Architect.
132. Irrigation systems shall be tested periodically to maintain uniform distribution of irrigation water; irrigation controller shall be programmed seasonally; irrigation system should be shut-off during winter season; and the whole irrigation system should be flushed and cleaned when the system gets turn on in the spring.
133. Prior to issuance of certificate of occupancy or final inspection, the developer shall pay the following additional fees/taxes, in accordance with existing regulations. The amounts of the fees/taxes shall be in accordance with the fee schedule or codes in effect at the time of building permit application submittal, unless otherwise indicated herein:
 - a. Supplemental Building Construction and Improvement Tax;
 - b. School Impact Fee; and
 - c. Park In-Lieu Fee, as applicable.



CITY OF HAYWARD

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

File #: CONS 19-712

DATE: November 5, 2019

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT

Authorization for the City Manager to Appropriate Funds and Accept an Agreement with the Alameda County Health Care Services Agency (HCSA) for the Our Kids Our Families Program Services Provided by the Youth and Family Services Bureau (YFSB) of the Hayward Police Department

RECOMMENDATION

That Council authorizes the City Manager to execute the FY2019-20 Our Kids Our Families agreement with the Alameda County Health Care Services Agency and accept \$220,000 in payment for school-based services.

SUMMARY

For more than a decade, the Youth and Family Services Bureau (YFSB) of the Hayward Police Department has had an annual contract with the Alameda County Health Care Services Agency to provide school-based support services that include direct support to children, youth, and their families as well as system enhancements to promote healthy social-emotional growth, prevent problems, and address behavioral health challenges. The County provides funding in the amount of \$220,000 annually for three full time equivalent (FTEs) YFSB Family Counselors to provide services in six Hayward schools. Council approval is requested to authorize the City Manager to negotiate and execute the annual contract with the County.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution



DATE: November 5, 2020

TO: Mayor and City Council

FROM: Chief of Police

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SUMMARY

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BACKGROUND

For more than a decade, the Youth and Family Services Bureau (YFSB) of the Hayward Police Department has had an annual contract with the Alameda County Health Care Services Agency to provide school-based mental health consultation and services at six school sites in the Hayward Unified School District (HUSD).

DISCUSSION

YFSB counselors assigned to HUSD school sites provide and coordinate direct support for students, including behavioral health and wellness services, positive youth development activities, family support, and case management. Case management involves ensuring that children and youth in need of early and intensive intervention services are receiving and

benefitting from appropriate care, as well as removing or minimizing environmental contributors to problems.

Additionally, YFSB counselors participate in efforts driven by school leadership to create optimal conditions for learning and development. This includes the creation of positive, culturally inclusive school environments, enhancing collaboration and coordination among service providers, conducting community outreach and mobilization where appropriate, and enhancing the capacity of adults to better meet the social-emotional needs of children, youth, and their networks.

These services are part of the Youth and Family Services Bureau's overarching strategy to reduce and prevent juvenile involvement in the justice system by providing services that encourage success and increase access to positive opportunities and supports. Keeping youth out of the juvenile justice system contributes to the overall safety and wellbeing of Hayward families.

ECONOMIC IMPACT

Improving children and youth's school experience and supporting them to lead productive and healthy lives will only strengthen our local economy and will improve every aspect of it.

FISCAL IMPACT

The City will receive \$220,000 in revenue from this agreement. The three FTE Family Counselor positions discussed above are included in the City's FY 2020 Operating Budget; accepting and appropriating these funds will help to offset the cost of these positions.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities initiative is to create and support structures, services and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work and play for all. This item supports the following goal and objectives:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 1: Increase neighborhood safety and cohesion

Objective 4: Create resilient and sustainable neighborhoods

NEXT STEPS

If the Council authorizes this action, staff will work to execute the agreement with the HCSA to provide Our Kids Our Families services for FY19-20.

Prepared by: Emily Young, Youth and Family Services Bureau Administrator

Recommended by: Toney Chaplin, Chief of Police

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-

Introduced by Council Member _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROPRIATE FUNDS AND ACCEPT AN AGREEMENT WITH THE ALAMEDA COUNTY HEALTH CARE SERVICES AGENCY FOR THE OUR KIDS OUR FAMILIES PROGRAM SERVICES PROVIDED BY THE YOUTH AND FAMILY SERVICES BUREAU OF THE HAYWARD POLICE DEPARTMENT

WHEREAS, the Hayward Police Department’s Youth and Family Services Bureau has a long-standing history of providing behavioral health services in schools that combine direct supports to children, youth and their families with system enhancements, to promote healthy social-emotional growth, prevent problems, and address behavioral health challenges; and

WHEREAS, executing an agreement with the Alameda County Health Care Services Agency is necessary to continue to provide these services and generate the associated revenue;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute contracts, and any supporting documents, with the Alameda County Health Care Services Agency for services provided by the Hayward Police Department’s Youth and Family Services Bureau. This authorization is for the acceptance and appropriation in the amount of \$220,000.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward



File #: LB 19-047

DATE: November 5, 2019

TO: Mayor and City Council

FROM: Chief of Police

SUBJECT

Response to City Council Referral: Hayward Police Department Use of Deadly Force - Independent Investigations

RECOMMENDATION

That Council considers adopting a policy where the City Manager requests an independent investigation from the California Department of Justice, Office of the Attorney General (DOJ/AG), if a death results from the use of force during an Officer Involved Shooting (OIS) incident involving Hayward Police Department (HPD) officers.

SUMMARY

On June 4, 2019, the City Council approved a referral memorandum regarding the use of deadly force by the Hayward Police Department (HPD) and directed City staff to evaluate and report back regarding independent investigative options. The referral included a recommendation that if an external investigative option were to be adopted, the HPD officer-involved shooting (OIS) death of Agustin Gonzalez, which occurred on November 15, 2018, would be included within the scope of such request.

As required by state law, HPD currently conducts internal investigations whenever an OIS results in a death. There are several components to an internal HPD investigation, including an administrative investigation into compliance with policies, procedures, and tactics, an internal criminal investigation to determine if any crimes were committed by any of the actors involved in the OIS, including possible criminal actions of the officers or anyone injured or killed as a result of the incident, and, as required by State law and consistent with Alameda County protocols, the District Attorney conducts an independent criminal investigation to determine if the actions of the officers' warrant pursuing criminal charges.

In response to the June 4 referral, staff evaluated five independent investigation models, two of which are currently being practiced, that include:

1. Independent criminal investigations conducted by the Alameda County District Attorney's Office

(current practice)

2. Independent investigations conducted by a plaintiff's attorney(s) during the civil lawsuit process
(current practice)
3. Independent investigations conducted by the State of California Department of Justice, Office of the Attorney General *(DOJ/AG)*
4. Independent investigations conducted by an independent auditor *(appointed by police chief/sheriff or governing board of city/county)*
5. Independent investigations conducted by a civilian review board or police commission *(appointed by governing board of city/county)*

After careful review and evaluation, staff recommends Council consider adopting a policy where the City Manager would submit a request to the DOJ/AG to conduct an investigation if a death results from the use of force during an OIS incident involving HPD officers. This DOJ/AG investigation would be in addition to the internal HPD and Alameda County District Attorney investigations currently in place.

ATTACHMENTS

Attachment I Staff Report



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In response to the June 4 referral, staff evaluated five independent investigation models, two of which are currently being practiced, that include:

1. Independent criminal investigations conducted by the Alameda County District Attorney's Office (current practice)
2. Independent investigations conducted by a plaintiff's attorney(s) during the civil lawsuit process (current practice)

3. Independent investigations conducted by the State of California Department of Justice, Office of the Attorney General (DOJ/AG)
4. Independent investigations conducted by an independent auditor (appointed by police chief/sheriff or governing board of city/county)
5. Independent investigations conducted by a civilian review board or police commission (appointed by governing board of city/county)

After careful review and evaluation, staff recommends Council consider adopting a policy where the City Manager would submit a request to the DOJ/AG to conduct an investigation if a death results from the use of force during an OIS incident involving HPD officers. This DOJ/AG investigation would be in addition to the internal HPD and Alameda County District Attorney investigations currently in place.

BACKGROUND

Police officers are tasked with maintaining order and protecting the communities they serve and often face situations where there is an imminent threat of serious injury or death to community members and circumstances that may require use deadly force to protect members of the community and themselves. These low frequency, high impact incidents are felt throughout communities and often serve as catalysts for discussions regarding policing, reviews of policies or practices, and they have led to increased calls for transparency and accountability across the nation.

In California, this is evidenced by the implementation of new legislation addressing transparency, specifically in the aftermath of an OIS. SB 1421, effective January 1, 2019 and codified as part of the State Public Records Act (PRA), requires disclosure of records and information regarding reports, investigations or findings any time a police officer discharges a firearm at a person. AB 748, effective July 1, 2019 and incorporated in the PRA, requires disclosure of video and audio recordings any time a police officer discharges a firearm at a person. Regardless of the investigative processes in place following an OIS, the media and members of the community now have access to information law enforcement agencies were previously required to keep confidential under personnel rules outlined in State law. Even without PRA requests, many agencies are proactively releasing body-worn camera video and audio of critical incidents involving use of force and OIS while investigations are pending. Transparency and accountability are now understood to be critically important in maintaining trust and confidence in the relationship between law enforcement agencies and the communities they serve.

In the 1980s, HPD became the first police organization to achieve accreditation through the Commission on Accreditation for Law Enforcement Agencies (CALEA)¹ west of the Mississippi River and since 2011, CALEA Accreditation has been achieved annually. Each year, HPD's policies, procedures, and practices are evaluated by certified CALEA assessors from other parts of the country and compliance with over 400 CALEA standards must be demonstrated prior to receiving CALEA accreditation. Most recently, the HPD achieved CALEA accreditation

¹ CALEA website: <https://www.calea.org/>

with “Excellence,” which is a designation awarded to the highest tier of accredited law enforcement agencies in the nation.

Included in CALEA’s annual evaluation is HPD’s use of force policy. ‘Deadly force,’ a subset of the use of force policy, is defined as ‘force reasonably anticipated and likely to cause serious injury or death.’ Consistent with this definition, HPD officers can use deadly force under the following circumstances:

1. An officer may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury.
2. An officer may use deadly force to stop a fleeing subject when the officer has probable cause to believe that the person has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the officer reasonably believes that there is an imminent risk of serious bodily injury or death to any other person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Effective January 1, 2020, pursuant to AB 392, police officers will be limited to using deadly force only when it is necessary. Current law allows the use of deadly force when it is reasonable. However, HPD’s policies and procedures already reflect AB 392 standards. SB 230 will require law enforcement agencies to adopt training requirements no later than January 1, 2021 regarding the use of deadly force. The training requirements must include de-escalation techniques, crisis intervention tactics, and other alternatives to the use of deadly force when feasible. Given the CALEA certification discussed above, and HPD’s implementation of other legislative mandates for transparency and accountability, the community can be assured that every effort is being made to give Hayward police officers the tools to only use deadly force as necessary and within the constraints required by law.

In addition to the legislative changes described above and the annual CALEA accreditation process, HPD has taken an important step towards increased transparency and continued commitment to community policing. The recent appointment of community members to the police chief’s Community Advisory Panel (CAP) will serve to strengthen the relationship between HPD and the Hayward community. It will create a structured and intentional vehicle for community dialogue, with the opportunity to provide direct input to the chief of police. The CAP will allow for dialogue to take place surrounding key community issues regarding policing, including OIS and critical incidents, perceived issues of bias or inconsistent application of policies, the formation of strategies and concepts around community policing, improving community awareness, and the productive and inclusive exchange of ideas to be considered in HPD’s decision making processes.

The men and women of HPD value the sanctity of life. When a fatality results from police engagement, it is a terrible tragedy for the families of the deceased, the community, and the involved officers. HPD is committed to the continual evaluation of policies and practices in an effort to meet nationally recognized best practices in law enforcement. On average, HPD has three (3) OIS incidents per year. In the past five (5) years, there have been a total of fifteen

(15) OIS incidents, with four (4) fatalities. In 2019, there have been two (2) OIS incidents, neither of them fatal. In the discussion below, several different independent investigation models are described, including those currently in place in Alameda County.

DISCUSSION

The following discussion outlines several different independent investigation models, including those currently in place in Alameda County.

1. CONCURRENT INVESTIGATIONS BY HPD AND THE ALAMEDA COUNTY DISTRICT ATTORNEY (current practice)

If HPD uses deadly force resulting in a fatality, investigative processes are initiated in accordance with a protocol that all law enforcement agencies in Alameda County follow. Based on this protocol, three (3) separate investigations are initiated:

- A. A criminal investigation into the actions of the involved subject(s) (conducted by HPD homicide investigators or homicide investigators from the jurisdiction where the fatality occurred). This investigation evaluates conduct of the decedent(s).
- B. An administrative investigation into the actions of the involved HPD officer(s) (conducted by HPD internal affairs to determine policy compliance).
- C. An independent criminal investigation into the actions of the involved HPD officer(s) (conducted by the Alameda County District Attorney's Office (ACDA) to determine whether the conduct of the involved HPD officer(s) was criminal).

When an OIS occurs, a team from the ACDA responds immediately. The ACDA OIS team consists of experienced senior, assistant, and/or deputy district attorneys as well as experienced district attorney inspectors who are themselves sworn law enforcement officers. During their independent investigation, they conduct inspections of the scene of the OIS, they review all evidence collected, and they participate in interviews of the involved HPD officer(s). Their findings are compiled into a final report, which is delivered to the chief of police. Members of HPD are not involved in authoring the ACDA's final report, nor are they involved in decisions regarding potential criminal prosecution of the involved HPD officer(s). If the District Attorney has any concerns regarding conflicts of interest, that office can also ask another DA's office from a different county to conduct the investigation.

Pros:

- Clearly established county protocol and framework in place
- County protocol followed by all law enforcement agencies in Alameda County
- County protocol that is nationally recognized as a best practice by CALEA
- Investigations are conducted by law enforcement professionals who are well-trained and possess experience with OIS incidents
- No additional cost to the City
- Provides for accountability

Cons:

- Some public perception that these investigations are not independent or are biased (because a relationship exists between law enforcement agencies and the ACDA within the criminal justice system), accentuated by the fact the DA is elected and seeks political endorsements and campaign contributions from labor groups and special interests

2. INVESTIGATION BY PLAINTIFF'S ATTORNEY(S) DURING CIVIL LAWSUIT PROCESS (current practice)

The civil lawsuit process allows a plaintiff's attorney to conduct his/her own independent investigation into an OIS. Federal and state law allow civil litigation against police officers, supervisors, the law enforcement agency itself, and the municipal entity, when they believe police officers acted outside of the scope of their authority. Plaintiffs may seek compensatory and punitive damages as well as the recovery of attorney's fees. During the discovery phase of the civil lawsuit process, a plaintiff's attorney is provided with all evidence collected and all documents prepared during the OIS investigative process including, but not limited to, physical evidence, statements, audio/video recordings, photographs, and written reports. Additionally, a plaintiff's attorney can take depositions, or statements/testimony given under oath, from police officers and/or witnesses.

Because of the discovery phase and the deposition process, the civil lawsuit process constitutes the truest form of an independent investigation of all the independent investigation models in existence. At trial, plaintiffs offer their own narrative and theories about the OIS, and a jury or judge can make decisions that differ significantly from the internal investigative conclusions reached by law enforcement agencies. In the Bay Area, it is unusual for an OIS not to be litigated.

Pros:

- Clearly established protocol and framework in place
- Established process and protocols allow for plaintiff's access to evidence, documents related to OIS investigations
- Process and protocols allow for plaintiff's attorney to depose (interview) police officers, including those directly involved, and witnesses
- Plaintiff's attorneys can present their own experts, narrative, or context regarding an OIS incident to a jury or judge
- Civil lawsuit process is the truest form of an independent investigation
- Provides for accountability

Cons:

- Lengthy process, which takes time (sometimes years) to complete

3. INVESTIGATION BY STATE OF CALIFORNIA DOJ, OFFICE OF THE ATTORNEY GENERAL

The State of California Department of Justice (DOJ) is an organization under the direction of the Attorney General (AG), who is the top lawyer and law enforcement official in California. The DOJ/AG serves the people of California through a broad range of responsibilities, including overseeing the enforcement of civil rights laws and investigations into police practices or police misconduct allegations. Additionally, the DOJ/AG can oversee investigations into law enforcement agencies when there is evidence to suggest systemic police misconduct. In recent years, the DOJ/AG have conducted independent investigations into several high profile OIS incidents at the request of local government officials. However, it is not necessary for local law enforcement to request DOJ/AG intervention. The DOJ/AG can initiate on its own an independent investigation of an OIS incident or misconduct allegation at any time. Similarly, the family of someone injured or killed by an OIS, or the family's legal counsel, can ask the DOJ/AG to intervene and conduct an investigation.

Pros:

- Clearly established statewide protocol and framework in place
- Investigations are conducted by law enforcement professionals who are well-trained and possess experience with OIS incidents
- No direct relationship between HPD and DOJ/AG within the criminal justice system
- Could improve trust between HPD and the community regarding OIS incidents
- Provides an additional layer of accountability

Cons:

- Financial impact to the City (cost of independent investigations would vary based upon level of complexity)
- Does not supplant or supersede ACDA political or legal authority
- DOJ/AG could decline the request

4. INVESTIGATION BY AN INDEPENDENT AUDITOR

An independent auditor is a law enforcement agency employee whose typical role is to investigate the process by which a law enforcement agency accepts and investigates complaints and reports on the thoroughness and fairness of the process to the community. Some independent auditors also review uses of force, OIS incidents, pursuits, conduct police performance audits, and make recommendations to the chief of police (or sheriff) regarding policies or procedures. They sometimes oversee administrative investigations into complaints or allegations of misconduct but are most frequently used to review and assess the dispositions of administrative investigations. This independent investigation model would require the creation and funding of a new position as well as the recruitment and hiring of a qualified individual who would report directly to the chief of police. In some models, the report is made directly to the appointing governing board.

Pros:

- Clearly established models in place (Richmond, San Jose, etc.)
- Position would serve as a liaison between the HPD and the community regarding OIS incidents

- Position would serve as a liaison between the HPD and City Council regarding OIS incidents
- Could improve trust between the HPD and the community regarding OIS incidents
- Provides an additional layer of accountability

Cons:

- Significant financial impact to the City (creating and funding a new position)
- Average number of OIS incidents involving HPD would not justify this independent investigation model
- Some perceive this position would not be independent as the position would be within HPD
- Could raise City Charter conflict regarding independence and reporting authority

5. INVESTIGATION BY A CIVILIAN REVIEW BOARD OR POLICE COMMISSION

A civilian review board (CRB) or police commission (commission) is a governing body made up of members who are either elected or appointed and whose responsibilities include the oversight of a law enforcement agency's operations, policies, and procedures. Some CRBs or commissions can investigate allegations of police misconduct and recommend findings to the chief of police. Others review administrative investigations, make recommendations to the chief of police, serve as a body where community members can appeal findings of an administrative investigation, and some have the authority to impose discipline and terminate employees. There are a variety of CRB and commission models in existence. Each is different and based upon an assessment of the needs of the community and the cost-benefit of the oversight model that is adopted. CRBs and commissions are typically born out of a community's specific needs related to policing issues, such as a law enforcement agency's history of systemic police misconduct, a history of civil rights violations, or a failure to adopt nationally recognized best practices in law enforcement.

Pros:

- Clearly established models in place (Oakland, San Francisco, etc.)
- Would serve as a liaison between the HPD and the community regarding OIS incidents
- Would serve as a liaison between the HPD and the City Council regarding OIS incidents
- Could improve trust between the HPD and the community regarding OIS incidents
- Provides an additional layer of accountability

Cons:

- Significant financial impact to City (depending on the model, members of a CRB or commission might need to be compensated, trained, etc.)
- Legal challenges from labor groups and inconsistent results and recommendations from civilian oversight bodies have minimized their value
- Average number of OIS incidents involving HPD would not justify this independent investigation model
- Depending on the model, investigations and/or recommendations could be made by CRB or commission members with no investigative experience

- Underlying agendas or pre-conceived notions about HPD could influence outcomes

After careful review and evaluation of the five options listed above, staff recommends Council consider adopting Option 3, a policy where the City Manager submits a request to the DOJ/AG to conduct an independent investigation, if a death results from the use of force during an OIS incident involving HPD officers. In addition, Option 1 (review by DA's office and internal HPD investigations) will still be utilized in all OIS incidents, consistent with current practice and Option 2 (civil litigation) will likely be utilized in most OIS incidents resulting in a death.

Before implementing any policy change at Council direction, the City will meet and confer with the Hayward Police Officers Association per the requirements of the Meyers-Milias-Brown Act, which governs collective bargaining in the State of California.

FISCAL IMPACT

The adoption of this policy recommendation alone has no fiscal impact. However, there would be a cost for the DOJ/AG to conduct an independent investigation if the request were accepted.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. This item supports the following goal and objective:

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 1: Increase neighborhood safety and cohesion.

SUSTAINABILITY FEATURES

This policy would remain in effect unless rescinded by a future City Council.

NEXT STEPS

If the City Council directs the City Manager to implement the recommendation, HPD would work with DOJ/AG to establish a framework for OIS referrals, consistent with similar referrals made by other law enforcement agencies in the state. The November 15, 2018 OIS resulting in the death of Agustin Gonzalez would be included within the scope of such framework.

Prepared by: Bryan Matthews, Police Captain

Recommended by: Toney Chaplin, Chief of Police

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager



CITY OF HAYWARD

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

File #: PH 19-089

DATE: November 5, 2019

TO: Mayor and City Council

FROM: Assistant City Manager/Interim HR Director

SUBJECT

Adopt a Resolution of Intention to Introduce an Ordinance Approving an Amendment to the Contract between the City of Hayward and the California Public Employees Retirement System (CalPERS) for Local Safety - Police Employees and Authorizing the City Manager to Execute the Contract

RECOMMENDATION

That the City Council adopts a Resolution of Intention (Attachment II) to introduce an Ordinance (Attachment III) approving an amendment to the City of Hayward's contract with CalPERS (Attachment IV) for Local Safety - Police Employees and authorizing the City Manager to execute the contract.

SUMMARY

The City contracts with CalPERS for employee retirement benefits. The proposed contract amendment with CalPERS was negotiated with the Hayward Police Officers Association ("HPOA") in 2018; it adds the Pre-Retirement Option 2W Death Benefit for Local Safety - Police Employees in accordance with California Government Code Section 21548. Local - Safety Police Employees include those in the HPOA and the Hayward Police Management Unit ("HPMU"). The additional pre-retirement death benefit is a monthly allowance to an eligible surviving spouse or eligible registered domestic partner and is calculated using the applicable retirement formula, and number of service years an officer had at the time of his or her death in the line of duty.

To implement any changes to the retirement program, it is necessary to amend the City's existing contract with CalPERS. The Resolution authorizes staff to work with CalPERS to amend the Safety-Police contract to add the Pre-Retirement Option 2W Death Benefit. The proposed Ordinance approves the amendment and authorizes staff to execute the contract amendment effective January 6, 2020.

ATTACHMENTS

Attachment I	Staff Report
Attachment II	Resolution
Attachment III	Ordinance

File #: PH 19-089

Attachment IV Contract Amendment



DATE: November 5, 2019

TO: Mayor and City Council

FROM: Assistant City Manager/Interim HR Director

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To implement any changes to the retirement program, it is necessary to amend the City's existing contract with CalPERS. The Resolution authorizes staff to work with CalPERS to amend the Safety-Police contract to add the Pre-Retirement Option 2W Death Benefit. The proposed Ordinance approves the amendment and authorizes staff to execute the contract amendment effective January 6, 2020.

BACKGROUND AND DISCUSSION

On July 17, 2018, City Council adopted Resolution 18-163 approving the extension and amendment of the Memorandum of Understanding (MOU) between the City of Hayward and HPOA for the period of July 1, 2018 to June 30, 2024. One of the terms in the amended MOU added an enhanced Pre-Retirement Option 2W Benefit for Safety Police Employees in HPOA.

Prior to negotiation of this Pre-Retirement Option 2W Death Benefit, the existing CalPERS contract included only two options. The first was a Special Death Benefit for eligible beneficiaries; it is limited to 50% of the employee's final compensation and may be increased to 75% depending on the cause of death. This benefit is payable to an eligible surviving spouse or eligible registered domestic partner until death, or to unmarried children until age 22. The second option is the Basic Death Benefit, which is paid if no one is eligible for either of the monthly allowances in the first option, or if the eligible beneficiary chooses instead to receive the Basic Death Benefit. The Basic Death Benefit is either a lump-sum payment of a refund of the employee's contributions, or up to six months of pay (one month's salary rate for each year of current service, up to six months).

Under the terms of the successor MOU agreement, the addition of the Pre-Retirement Option 2W Death Benefit provides officers' eligible beneficiaries with a monthly allowance equivalent to the amount the employee would have received had he or she retired under a service retirement and elected Option 2W. Option 2W is one of the alternatives employees may elect upon retirement that reduces their highest payable benefit, also referred to as the Unmodified Allowance, but provides a lifetime of monthly benefits to their designated beneficiary. The additional option is advantageous for both employees and their eligible beneficiaries in that it grants a greater benefit in the case of a job-related death. Rather than a limited monthly allowance of 50-75% of final compensation, the Pre-Retirement Option 2W Death Benefit provides a monthly allowance comparable to what an employee would receive under a service retirement.

The contract amendment for Local Safety – Police Employees includes members in both HPOA and HPMU; as a result of the contract amendment, HPMU members will also benefit from the additional pre-retirement option.

FISCAL IMPACT

The cost of amending the CalPERS contract to add the Pre-Retirement Option 2W Death Benefit is an increase of 0.081% to the Employer's Normal Cost Rate, which is currently approximately \$143,533 annually. The cost was considered and recognized when negotiating the extension and amendment of the MOU between the City of Hayward and HPOA (July 1, 2018 through June 30, 2024).

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

NEXT STEPS

Staff will work with CalPERS and the Finance Department staff to complete the contract amendment process. The final reading and adoption of the Ordinance will be presented during a Public Hearing on December 3, 2019. If approved, the Ordinance will take effect on January 2, 2020. The contract amendment will be effective January 6, 2020.

Prepared by: Vanessa Lopez, Senior Human Resources Analyst

Recommended by: Maria A. Hurtado, Assistant City Manager/Interim HR Director

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 19-

Introduced by Council Member _____

RESOLUTION AUTHORIZING INTENTION TO APPROVE AN AMENDMENT TO CONTRACT BETWEEN THE BOARD OF ADMINISTRATION, CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM, AND THE CITY OF HAYWARD

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change: To provide Section 21548 (Pre-Retirement Option 2W Death Benefit) for Local Safety-Police Members.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2019

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

ORDINANCE NO. 19-

AN ORDINANCE AUTHORIZING THE AMENDMENT OF THE CONTRACT BETWEEN THE CITY OF HAYWARD AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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

Section 1. Provisions.

1. That an amendment between the City Council of the City of Hayward and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though herein set out in full.
2. The City Manager of the City of Hayward is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Hayward.

Section 2. Severance. Should any part of this ordinance be declared by a final decision of a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of the City, such decision shall not affect the validity of the remainder of this ordinance, which shall continue in full force and effect, provided that the remainder of the ordinance, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the City Council.

Section 3. Effective Date. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective 30 days from and after the date of its adoption.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2019, by Council Member _____.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the ____ day of ____, 2019, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: _____
Mayor of the City of Hayward

DATE: _____

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

**EXHIBIT**

California
Public Employees' Retirement System

**AMENDMENT TO CONTRACT**

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Hayward



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective October 1, 1950, and witnessed August 7, 1950, and as amended effective January 16, 1952, January 1, 1956, April 1, 1959, January 1, 1960, November 1, 1962, April 1, 1965, December 1, 1969, July 1, 1973, July 16, 1973, June 1, 1978, April 23, 1979, January 12, 1981, March 9, 1981, July 11, 1986, October 10, 1988, June 21, 1991, June 19, 1992, March 8, 1996, January 1, 2001, April 1, 2001, July 1, 2001, August 26, 2002, May 23, 2008, July 4, 2011, February 24, 2014, July 27, 2015, June 27, 2016, February 20, 2017, June 26, 2017, December 11, 2017 and April 1, 2019 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective April 1, 2019, and hereby replaced by the following paragraphs numbered 1 through 16 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for classic local miscellaneous members, age 62 for new local miscellaneous members, age 50 for classic local safety members and age 57 for new local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after October 1, 1950 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorney fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Any dispute, disagreement, claim, or proceeding (including without limitation arbitration, administrative hearing, or litigation) between Public Agency and its employees (or their representatives) which relates to Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than such employees' existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
 - a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).

5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
 - a. **PERSONS EMPLOYED AFTER JANUARY 16, 1952 AS CROSSING GUARDS; AND**
 - b. **PERSONS EMPLOYED AFTER JANUARY 30, 1959 AS PART-TIME LIFEGUARDS AND PART-TIME LIBRARY AIDES.**
6. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment before and not on or after August 26, 2002 shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 5, 1956, the effective date of Social Security coverage, and prior to December 30, 1980, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
7. The percentage of final compensation to be provided for each year of credited prior and current service for classic local miscellaneous members in employment on or after August 26, 2002 shall be determined in accordance with Section 21354.4 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to December 30, 1980, termination of Social Security, for members whose service has been included in Federal Social Security (2.5% at age 55 Full and Modified).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a new local miscellaneous member shall be determined in accordance with Section 7522.20 of said Retirement Law (2% at age 62 Full).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a classic local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a new local safety member shall be determined in accordance with Section 7522.25(d) of said Retirement Law (2.7% at age 57 Full).
11. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 21573 (Third Level of 1959 Survivor Benefits) for local safety members only.

- b. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local safety members only.
- c. Section 20042 (One-Year Final Compensation) for classic members only.
- d. Section 21635 (Post-Retirement Survivor Allowance to Continue After Remarriage) for local safety members only.
- e. Section 21024 (Military Service Credit as Public Service).
- f. Section 21027 (Military Service Credit for Retired Persons).
- g. Section 21551 (Continuation of Pre-Retirement Death Benefits After Remarriage of Survivor).
- h. Section 21022 (Public Service Credit for Periods of Lay-Off) for local miscellaneous members only.
- i. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local miscellaneous members only.
- j. Section 20903 (Two Years Additional Service Credit).
- k. Section 20965 (Credit for Unused Sick Leave) for local fire members only.
- l. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).
- m. Section 20516 (Employees Sharing Cost of Additional Benefits):

Section 21362.2 (3% @ 50) effective January 1, 2001 and Section 20042 (One-Year Final Compensation) effective January 12, 1981 for classic local fire members. The employee cost sharing contribution is not to exceed 15.607%. The maximum employee cost sharing contribution is the normal cost plus the increase in the accrued liability due to the benefit improvement amortized over 20 years. In no event shall the employee cost sharing contribution attributable to the unfunded liability remain in effect beyond June 30 preceding the 20th anniversary of the effective date of the additional benefits. Therefore, after June 30, 2020, in any given contribution year, the maximum employee cost sharing contribution cannot exceed 5.986%.

Section 21362.2 (3% @ 50) effective July 1, 2001 and Section 20042 (One-Year Final Compensation) effective April 23, 1979 for classic local police members. The employee cost sharing contribution is not to exceed 13.882%. The maximum employee cost sharing contribution is the normal cost plus the increase in the accrued liability due to the benefit improvement amortized over 20 years. In no event shall the employee cost sharing contribution attributable to the unfunded liability remain in effect beyond June 30 preceding the 20th anniversary of the effective date of the additional benefits. Therefore, after June 30, 2021, in any given contribution year, the maximum employee cost sharing contribution cannot exceed 5.505%.

n. Section 20516 (Employees Sharing Additional Cost):

From and after February 24, 2014, 3.75% for new local fire members.

From and after July 27, 2015, 2.25% for new local police members.

From and after February 20, 2017, 5.25% for new local fire members in the International Association of Firefighters Local 1909.

From and after February 20, 2017, 3% for new local police members in the Hayward Police Officers' Association.

From and after June 26, 2017, 3% for local miscellaneous members in the Hayward Association of Management Employees Group, International Federation of Professional and Technical Engineers Local 21, Unrepresented Group, Management, Human Resources, and City Attorneys and City Managers Group.

From June 26, 2017 and until December 12, 2017, 3% for local miscellaneous members in the Unrepresented Executive Group and Council Appointed Employees Group.

From and after December 12, 2017, 5% for local miscellaneous members in the Unrepresented Executive Group and Council Appointed Employees Group.

From and after April 1, 2019, 4.5% for local miscellaneous members in the Service Employees International Union Local 1021, Clerical and Related Unit and the Service Employees International Union Local 1021, Maintenance and Operations Unit.

- 15. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
- 16. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF KAYWARD

BY _____
ARNITA PAIGE, CHIEF
PENSION CONTRACTS AND REFUNDING
PROGRAMS DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"