



DATE: May 22, 2018

TO: City Council

FROM: City Manager

SUBJECT: Approval of Route 238 Tenant Transfer Assistance Program, Approval of Agreement with Overland, Pacific & Cutler for Tenant Assistance, and Appropriation of Program Funding.

RECOMMENDATION

That the City Council adopts the attached resolution: 1) Establishing the rental agreement termination date for Route 238 Parcel Group 5, 7 and 9 tenancies; 2) Approving revised financial terms for the Tenant Transfer Assistance Program (TTAP); 3) Authorizing the City Manager to enter into an agreement with Overland, Pacific & Cutler (OPC); and, 4) Appropriating program funding.

SUMMARY

The purpose of this item is to consider a new date for the termination of the tenant rental agreements, and a revised financial assistance program. Staff recommends proceeding with the program as a number of tenants have indicated an interest in securing the program funds and proceeding to move. By initiating the program now, the team from OPC can begin interviews with the tenants to better understand individual circumstances. After completing the interviews, staff will then have the ability to review these circumstances and make recommendations to Council for additional support or accommodations that may be necessary for certain households. In addition, staff recommends that the Council consider amending the tenant lease agreements to allow those tenants who choose to do so an opportunity to remain in the properties rent-free until they move out.

BACKGROUND

2009 Settlement Agreement and Rental Agreements

In 2009 the City executed a Settlement Agreement with Caltrans and a number of other parties regarding the Route 238 Freeway Bypass project. Pursuant to that agreement, existing tenants in Parcel Groups 5 and 9 were provided stipends for relocation benefits ranging from approximately \$2,000 to \$27,000. All tenants were also offered an opportunity to purchase the home they were currently residing in or another property in the corridor (if they were

able to financially qualify to do so). The Settlement Agreement explicitly states, "If after the payment of the Lump Sum Stipend, an Eligible Tenant Household vacates the Corridor Unit in which they reside, the Department, the City, and the County shall have no further obligations to the Corridor Tenant or their members for relocation, moving, or other similar actions..."

The tenants were not required to move when they received their payments and most are still living in their units at below market rents. For the few that moved, Caltrans re-rented the units with clauses in the rental agreements that the tenants would not be eligible for relocation benefits. The total stipends distributed to tenants in parcel groups 5 and 9 were approximately \$314,500.

In addition to the stipends paid by the City, tenants were required to execute rental agreements with clauses regarding their ineligibility for relocation advisory or financial assistance.

In addition, State legislation was passed during this time frame (Government Code Section 14528.6), which limits relocation obligations for Route 238 tenants. With respect to tenants who commenced their occupancy after the 2009 Settlement Agreement, the law states they "shall not be eligible for any additional relocation assistance under any provision of state law."

Notwithstanding the facts that there is no obligation on the City's part to provide assistance with tenant moves, the Council has been willing to consider some form of assistance to help with the transition for the tenants.

2018 Proposed Tenant Transfer Assistance Program

On April 2, a tenant meeting was conducted to explain the City's plans to resell the parcels acquired from Caltrans, a proposed rental agreement termination date, and a proposed Tenant Transfer Assistance Program (TTAP) to be recommended for City Council consideration. Approximately 35 tenants attended and expressed their concerns with the program. Concerns included not wanting to leave at all, requesting additional time to move, and requesting additional compensation for the move.

On April 17, the City Council considered a proposed Tenant Transfer Assistance Program (TTAP) including: 1) A termination date of May 1st for tenants in Parcel Group 5 (Bunker Hill), Parcel Group 7 (Carlos Bee/Mission – no residential) and Parcel Group 9 (Foothill/Oak); 2) financial assistance payments on a sliding scale ranging from \$2,000 to \$4,500 depending on how quickly the unit was vacated; and, 3) Engagement of a consultant to assist tenants with their individual moves (See attached April 17th staff report for additional background information).

At that Council meeting, several tenants spoke to the hardships of having to move. After deliberating on various aspects of the TTAP, the Council decided to hold the matter over for 30 days to consider modifications to the program and additional discussions with tenants. Staff developed program modifications to address tenant concerns, which were reviewed with

tenants in a second meeting on May 16. The purpose of this item is to provide Council with a revised program that addresses tenant concerns with the original proposed program.

DISCUSSION

The following discussion of options is divided into three parts: 1) Rental agreements termination timing; 2) Transfer assistance compensation; and, 3) Tenant Assistance Agent.

Rental Agreement Termination

Proceed with Noticing of Rental Termination on June 1st – The revised termination date of the rental agreements reflects the 30-day continuance of the consideration of the program for revisions. The new recommended termination date will have an effective date of June 1st.

Provide 180 Days Move Period – Under the leases, the City must only provide 30 days’ notice to vacate. The original proposal extended this period to 90 days. This new recommendation will double the amount of time to move from the 90 days originally proposed to 180 days. The graduated payments would remain but stretched out over the longer period. There would be an additional six months for tenants to save personal funds for their moving expenses. With a June 1st termination date, the deadline for moving will be November 30th. Asbestos and lead removal activities will occur in December and demolition of the houses will occur in the first quarter of 2019 when Request For Proposals (RFP’s) are distributed to developers.

Tenant Compensation

Original Recommended Financial Assistance

Table 1 sets forth the original recommendation for tenant assistance:

Table 1 – Original Financial Assistance Recommendation

INCENTIVE MOVE TIMING	AMOUNT
Move Within 30 Days of Termination Notice	\$4,500
Move Within 60 Days of Termination Notice	\$3,000
Move Within 90 Days of Termination Notice	\$2,000
After Move Deadline	\$0

A reminder that this compensation is not required and is in addition to the relocation stipends previously paid.

Enhanced Compensation Recommendations

The following recommended enhanced financial assistance responds to comments made by tenants at the meetings:

1. Provide additional assistance for low-income tenants - This enhancement would consist of an additional payment of \$5,000 for tenants with household incomes below

80% of area median income (AMI), which is the State definition of lower income for affordable housing. This payment would be in addition to the base payments in Table 3. Attachment IV contains a table, which outlines low-income levels by household size. We will not know how many low-income tenants there are until the Tenant Assistance Agent consultant is engaged and interviews the tenants.

2. Extend the \$4,500 first tier payments to apply to 90 days instead of 30 days – This creates a new graduated incentive structure for a 180-day move out period, starting with \$4,500 for moving within the first 90 days and declining periodically thereafter (See Table 3).

Recommended Revised Program Timing and Financial Assistance

Staff recommends the following revised schedule in Table 2, and the revised financial assistance in Table 3:

Table 2 – Revised Rental Termination and Move Out Schedule

ACTIVITY	TIMING
Council Approves Tenant Assistance Program	Tuesday May 22nd
Staff and Consultant Sign Assistance Agent Consulting Agreement	Thursday May 23rd
180 Day Notices to Vacate Mailed to Tenants	Friday May 25th
180 Day Notices to Vacate - Effective Date	Friday June 1st
Consultant Contacts Tenants to Start Assistance	Monday June 4th
180 Day Deadline to Move	November 30th

Table 3 – Revised Financial Assistance

MOVE TIMING	INCENTIVE BASE PAYMENT	LOW INCOME ASSISTANCE*	TOTAL POSSIBLE PAYMENTS
Within 90 Days Termination Notice	\$4,500	\$5,000	\$9,500
Within 120 Days	\$3,000	\$5,000	\$8,000
Within 180 Days	\$2,000	\$5,000	\$7,000
After Deadline Expires (11-30-18)	\$0	\$0	\$0

* For tenants with household incomes of 80% or less of area median income

The program revisions recommended above start the rental termination process on June 1, but provide 180 days for move out. The base financial assistance remains the same but provides 90 days to find a replacement dwelling and still qualify for the maximum payment. Additional help is provided for low-income households. The recommended revisions keep the schedule for vacation and demolition of the properties within the time frame for soliciting proposals for this parcel group at the end of the calendar year, yet provides additional time to find new housing. These program revisions address most of the concerns expressed by the tenants.

Tenant Transfer Agent

The City has received proposals from all three firms solicited that specialize in this type of consulting with Bay Area offices. The firm of Overland, Pacific and Cutler is recommended for selection. Staff recommends the proposed scope of the work be revised to add the following two elements:

1. Survey of households to determine income to implement the low-income assistance payments (if approved); and
2. Survey of market rate and affordable housing including negotiation of preference agreements with affordable housing projects currently under development within the City.

These additions to the scope of services set forth in the Request for Proposals increased the cost of this program element, requiring Council approval of the contract.

Future Use of Parcels 5, 7 and 9.

The current housing on Parcels 5, 7 and 9 was neglected by Caltrans for decades and is generally in disrepair, presenting general maintenance issues as well as more substantive concerns, including a potential need for septic system replacements. All of the property management companies contacted by the City to manage these parcels declined to respond due to the low rents paid by existing tenants, as well as the difficulty in managing scattered sites that have not been historically well maintained.

The sale and development of these parcels once they are vacated will, in contrast, generate new, well maintained, and environmentally friendly housing opportunities well in excess of the existing units. An increase in the number of housing units at these sites will help to address the current housing crisis and give current and future residents opportunities to continue to rent or own homes within the City. It will also bring needed infrastructure improvements to the area, including but not limited to improved sanitation, roadways, and maintained open space areas. The City's inclusionary ordinance will also work to ensure that there are additional affordable housing opportunities and units for low and moderate-income households at the parcels within the City.

Unfortunately, if the City does not sell these parcels for development, they will have to be returned to Caltrans and Caltrans is likely to proceed with its previously planned auction of the parcels either leaving the current residents subject to new third party landlords who may require immediate eviction and are unlikely to provide the assistance being considered by the City at this meeting or subjecting the current residents to eviction by Caltrans, again without any of the assistance being offered by the City.

At the May 16 meeting, some tenants indicated that they are ready to move and the continued delay in implementing this program is creating uncertainty with respect to their transition. Staff recommends proceeding with the program as a number of tenants have indicated an interest in securing the program funds and proceeding to move. By initiating the program now, the team from OPC can begin interviews with all the tenants to better understand

individual circumstances. After completing the interviews, staff will then have the ability to review these circumstances and make recommendations to Council for additional support or accommodations that may be necessary for certain households.

ECONOMIC IMPACT

This program is one further step towards returning underutilized properties to the tax roles with the development of additional new housing, consistent with the policies of the City’s Housing Element of the General Plan.

FISCAL IMPACT

Table 4 sets forth the estimated cost of the revised program as recommended:

*Table 4 – Total Program Cost**

PAYMENT TYPE	AMOUNT
Base Incentive Payments (all 26 move by 90 days @ \$4500 ea.)	\$117,000
Low Income Payments (assume all 26 as low income @ \$5,000 ea.)	\$130,000
Tenant Assistance Agent	\$82,000
Total Tenant Transfer Assistance Program Cost	\$329,000

* For 26 tenants in parcel groups 5 & 9 only, does not include parcel group 8

Of this amount, \$190,000 would be sourced from the General Fund. These funds are not currently included in the Proposed FY 2018 Operating Budget and this would require an additional appropriation and use of reserves.

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 goals:

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

Goal 2: Provide a mix of housing stock for all Hayward residents and community members, including the expansion of affordable housing opportunities and resources.

Implementing the program will improve the quality of life for residents that remain in, or are living near these parcel groups, through the elimination of security problems and visual deterioration in the area caused by the existing vacant and dilapidated homes. Reselling the parcels for new development will create new housing to expand the existing housing stock.

PUBLIC CONTACT

Public information has and will consist of the following items:

- Letter from Caltrans sent in November 2017 regarding ownership transfer to City.
- December information letter from City regarding ownership transfer, FAQs on what happens next, and housing resources available.
- Inspection of units by City Building Division.
- Installation of smoke and carbon dioxide detectors for some units by Building Division.
- Information meeting on April 2nd to explain proposed Tenant Transfer Assistance Program.
- Notification of tenants of the April 17th City Council meeting to consider Tenant Transfer Assistance Program, and opportunity to speak at the Council meeting.
- Information meeting #2 on May 16th to discuss recommended program revisions.
- May 22nd City Council meeting to consider revised program and opportunity to speak at the Council meeting.
- Individual meetings between tenants and Tenant Transfer Assistance Agent (if program is approved).

At the second information meeting on May 16th, the revised program was presented and comments were received from tenants. Many of the criticisms of the first version of the program were reiterated. Most do not want to move at all as they are paying below market rent and may have to leave Hayward to find an affordable unit. Some felt the new compensation is still not sufficient. Many do not want to move until a developer is ready to start building.

Some commented that the taxable nature of the incentive payments reduces their effectiveness and requested that the City allow them to stay rent-free from now until they move, to offset the tax loss and to build up savings for a new location. No information was provided at the meeting regarding the tenants' income levels and tax liabilities. It is unclear if the incentive payment would create any significant tax liability for tenants who qualify as low income. Moreover, rent forgiveness may still be taxable income and the City would issue a Form 1099 to ensure compliance with tax law, if Council opted to provide this benefit.

The suspension of rent payments would require either a written waiver issued by the City or an amendment to each of the rental agreements. If the City Council supports adding this element to the TTAP, staff would ask that the Tenant Transfer Assistance Agent would obtain rental agreement amendments, if needed, at the time they make initial contact to determine household income for the low-income payment.

The tenants are paying approximately \$36,000 per month in total rents to the City. These funds were planned to offset the costs of the incentives program. The rent concessions will make the net costs of the program higher and would require a General Fund subsidy until the eventual sale of the property. Proceeds from the future sale of the Parcels could be used to repay the City for the General Fund Expenditures. If the Council supports this amendment to the program, the motion to adopt the resolution should include adding a clause to the

resolution providing for suspension of rent during the 180-day move-out period. The resolution would also need to be revised to appropriate approximately \$190,000 from the General Fund to cover the added cost associated with a rent concession and for maintenance costs which may arise during the six-month period, as the Property Management Fund would be insufficient to cover these costs. Staff recommends the Council include this additional program element.

NEXT STEPS

Next steps will consist of:

1. Council approval of revised TTAP program on May 22nd
2. Tenant Transfer Assistance Agent to begin contacting tenants
3. Rental Agreement termination notices to be sent to tenants.

Prepared and Recommended by:

Patrick O'Keeffe, Management Partners
John Stefanski, Management Analyst

Approved by:



Kelly McAdoo, City Manager