



DATE: April 17, 2018

TO: Mayor and City Council

FROM: City Manager

SUBJECT Approval of Route 238 Tenant Transfer Assistance Program and Appropriation of Program Funding.

RECOMMENDATION

That the Council adopts the attached resolution (Attachment II) establishing the rental agreement termination date, and Tenant Transfer Assistance Program for the tenants occupying Route 238 parcel groups 5, 7 and 9.

SUMMARY

This item will: 1) Establish a date for the termination of the rental agreements and a move-out date for the parcel groups 5, 7 and 9 tenants in the properties the City acquired from Caltrans; and, 2) approve the creation of a Tenant Transfer Assistance Program to provide financial incentives to assist tenants as they vacate the properties.

BACKGROUND

After abandoning the Route 238 Bypass Project, Caltrans started selling previously acquired parcels. To ensure that future development of these parcels supports the City's land use policies and overall vision, the City negotiated a Purchase and Sale Agreement (PSA) with Caltrans to assume responsibility for the sale of the properties to private developers.

Pursuant to the PSA, the City has acquired Parcel Groups 5, 7 and 9 from Caltrans, containing 37 residential and eight commercial tenants. The locations of the parcel groups are:

- Parcel Group 5 – Bunker Hill Area including Bunker Hill Blvd. Bunker Hill Court, Maitland Drive and Central Blvd. (residential tenants only).
- Parcel Group 7 – Sloped hillside parcel bounded by Mission Blvd. and Carlos Bee Blvd. (Commercial tenants only on Mission Blvd.).
- Parcel Group 9 – Primarily vacant parcel; near Highway 238 bounded by 238 on-ramp and Oak Street (residential and commercial tenants).

Upon transfer, the tenants received notification from Caltrans and the City of the property ownership change. The City's notification in December 2017 informed tenants that a schedule would be developed for their rental termination, and the soonest they would need to move is Spring 2018. Information was included concerning available housing resources.

On April 2, the City hosted a tenant information meeting at City Hall. Tenants were notified of the meeting by certified mail. Approximately 35 residents attended and heard a presentation concerning the proposed move schedule and assistance program recommended by this agenda item. The information about housing resources that was sent in December was handed out again at the meeting. Tenant comments and questions included the following:

- Objection to having to move at all
- Request to have an additional two years to stay until development starts
- The housing market is expensive and the proposed financial assistance is inadequate
- The City provided inadequate notice of the meeting
- Crime is increasing in the area due to homeless occupying vacant City-owned houses
- Why are tenants being asked to move before the City knows if the area is developable?
- When will security deposits be refunded?
- Will incentive payments be taxed?
- Why can't we purchase our homes?
- Are there legal resources to stop the City's termination of rental agreements?

The following information was either provided at the meeting in response to the questions, or provided in this report as additional background for the recommended Council actions:

Purpose of the property acquisition – The City acquired the properties to ensure an orderly transition to new private ownership and development. Neither Caltrans nor the City has plans for continued public ownership of these parcels. The properties are not on the tax roles, are in poor condition, and can be better utilized with different and potentially higher density uses.

Timing of parcel group disposition and development – The schedule set forth in Table 1 was shared with tenants. The parcel groups are being studied for re-use options, which should be complete in fall. Proposals for developers will be distributed shortly thereafter. The parcel groups will be more marketable with the preplanning and demolition of existing structures completed first. Sufficient time must be made available for tenants to move and for buildings to be demolished. Demolition requires asbestos and lead surveys to be conducted prior to bid documents being circulated. These surveys should be conducted when the units are vacated to avoid contamination of occupied spaces. The normal demolition bid process takes 60-90 days after the asbestos surveys are complete. Starting the move out process now to allow the parcel groups to be ready for marketing at the end of the year when the preplanning tasks are completed. In addition, many of the properties are in extremely poor condition, which may necessitate significant maintenance expenditures in the short term. Since the City's ultimate objective is to clear these parcel groups for future development, it is more cost effective to begin this process now.

Development Potential of Parcel Group 5 - The consulting team of Design Workshop is analyzing the development potential of Parcel Group 5. Although this work will not be completed until fall, the City has already undertaken soils studies to determine the feasibility of development in the area given the presence of some landslide activity and fault traces. These studies indicate that the land can be suitable for development. The first study, which involved surface observations but no trenching, was cited in the second study with the following statement: *"The previous study concluded that proposed residential development of the property is feasible provided that the project is appropriately designed for the geologic and geotechnical hazards identified in the report."* The second study, which involved trenching the area also concluded the area can be developed with appropriate design mitigations: *"Based on the exploration results, from a geotechnical standpoint the site is feasible for potential development."* Based on these studies, it is not necessary to delay the move out of tenants until further studies by Design Workshop or future developers are completed.

Home Purchase Option - One of the tenants at the April 2nd meeting asked why tenants could not acquire their existing houses in Parcel Group 5. This was an option available after the 2009 Settlement Agreement was signed and the City established a two-year first-time homebuyer program to assist with resident acquisition of a portion of the Caltrans acquired homes. A few of the houses in Parcel Group 5 were acquired under this program and the City invested in acquiring the remaining property from Caltrans and planning for its development. Selling additional existing houses in a piecemeal fashion will only further fragment the area and make the redevelopment of the parcel group more difficult and less attractive to potential developers. In addition to an inefficient site area, establishing needed infrastructure improvements such as roads and sewer mains will be more difficult. Further fragmentation will delay and possibly prevent the City from accomplishing its Complete Communities Strategic Initiative and economic development goals including but not limited to job creation, strong public infrastructure, and a mix of housing stock for all residents and community members including affordable housing.

DISCUSSION

Rental Termination Date

All the units will need to be vacated and demolished prior to their conveyance to developers. The City's Building Division has inspected the units for habitability. Although all the units are habitable, they are in poor condition because of years of Caltrans ownership with minimal maintenance. Units that have already been vacated are being broken into by the homeless, and require constant attention to remove the trespassers and re-secure the units. To stay on schedule with marketing, to reduce security problems, and to reduce resources spent on property maintenance, the schedule in Table 1 is recommended for Council approval:

Table 1 Rental Termination and Tenant Assistance Schedule

ACTIVITY	TIMING
Council Approves Tenant Assistance Program	Tuesday April 17th
Staff and Consultant Sign Program Consulting Agreement*	Thursday April 19th
90 Day Notices to Vacate Mailed to Tenants	Monday April 23rd
90 Day Notices to Vacate - Effective Date	Tuesday May 1st
Consultant Contacts Tenants to Start Assistance*	Wednesday May 2nd
90 Day Deadline to Move	July 31st

*See Tenant Transfer Assistance Agent discussion below

Tenant Transfer Assistance Program

No Relocation Obligation

There is no obligation for the City to pay any further relocation payments to any tenant. The prior payments made by the City pursuant to the Settlement Agreement and special LATIP legislation comply with State Relocation Law and satisfy this requirement. In addition, all tenants, whether they received stipends or moved into their unit after the settlement agreement was approved, signed rental agreements with a clause stating they are not eligible for relocation benefits. With respect to tenants who commenced their tenancy after the settlement agreement, state law specifically states that they “shall not be eligible for any additional relocation assistance under any provision of state law.”¹

Proposed Transfer Assistance Program Elements

The following are recommended elements of an assistance program for residential tenants:

- 1. Security Deposits** – All tenants have security deposits due to be returned to them (less any damage or debris removal costs the City may incur). A total of approximately \$55,000 will be refunded to tenants.
- 2. 2010 City Relocation Payments** – Pursuant to the 2009 Settlement Agreement, the City made relocation payments (stipends) to most of the current tenants totaling approximately \$419,000. These stipends included moving costs and rent differential payments combined. Most of the residential tenants received payments. The remaining tenants allowed to occupy the units after the Settlement Agreement was executed were not eligible for stipends. Tenants that have retained all or a portion of their stipend have a resource for offsetting the higher cost of new housing.
- 3. Early Move Incentives Payments** – To assist with a timely vacation of the premises, staff recommends an incentive payment to be made available for all residential tenants. The graduated incentive utilizes a sliding scale of higher payments for immediate moves that decrease the longer the tenant stays. The recommended program would range from \$2,000 to \$4,500 as set forth in Table 2:

¹ Cal. Gov't Code § 14528.6

Table 2 Incentive Payments

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

- 4. Tenant Transfer Assistance Agent** - This program element consists of hiring a consultant to provide assistance to tenants for: 1) Filing the appropriate forms for incentive payments; 2) Obtaining the refund of security deposits including performing walk thru inspections; 3) Researching affordable and market rate housing; and, 4) Obtaining information on moving resources. An RFP has been distributed to consulting firms specializing in tenant moves, so that a Tenant Assistance Agent can be in place to start advising and supporting tenants when the rental agreement termination notices are distributed.

There are eight commercial tenants in parcel groups 7 and 9 that the above program would not apply to as they have greater financial resources and the move does not affect their place of residence.

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.

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.

FISCAL IMPACT

Assuming all tenants move within 30 days, the total maximum incentives payment cost is \$166,500. The tenant assistance agent element would be accomplished for a not to exceed cost under \$75,000. The total maximum program cost is \$241,500. The total amount of resources that have, and will be made available to the tenants is set forth in Table 3:

Table 3 – Total Tenant Resources

PAYMENT TYPE	AMOUNT
Security Deposits	\$55,000
Relocation Payments per Settlement Agreement	\$419,000
Incentives Payments	\$166,500
Tenant Assistance Agent	\$75,000
Total Tenant Resources and Support	\$715,500

These expenses will be paid using rental income previously collected for these properties. There is no impact to the General Fund.

PUBLIC CONTACT

Public contact has and will consist of the following items:

- Information letter from Caltrans sent in November 2017 regarding ownership transfer.
- 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.
- Individual meetings between tenants and Tenant Assistance Agent (if program is approved).

NEXT STEPS

If the City Council approves the program by adopting the attached resolution, the next steps will consist of engaging a tenant assistance consultant and issuing rental termination notices pursuant to the steps set forth in Table 1.

Prepared by: Patrick O’Keeffe, Management Partners

Approved by:

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

Kelly McAdoo, City Manager