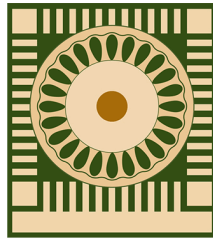


# **CITY OF HAYWARD**

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



CITY OF  
**HAYWARD**  
HEART OF THE BAY

## **Agenda**

**Tuesday, January 19, 2016**

**7:00 PM**

**Council Chambers**

## **City Council**

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

**CITY COUNCIL MEETING****CALL TO ORDER Pledge of Allegiance: Council Member Peixoto****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 Work Session 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 16-002](#) Approval of an Agreement Authorizing Bilingual Pay between the City of Hayward and the International Association of Firefighters Local 1909

**Attachments:** [Attachment I Resolution Authorizing Bilingual Pay](#)  
[Attachment II Sideletter Local 1909](#)  
[Attachment III Local 1909 HFOA](#)

2. [CONS 16-009](#) Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201501012 Relating to a Six Unit Residential Development at 1151 Overlook Avenue

**Attachments:** [Attachment I Summary of Ordinance Published on 01/16/16](#)  
[Attachment II Revised Conditions of Approval](#)

3.     [CONS 16-010](#)     Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.215: Single-Family Residential, to Revise the Permitted Use Table with Respect to Household Pets and Apiaries
- Attachments:**     [Attachment I Summary of Ordinance Published on 01/16/16](#)
4.     [CONS 16-011](#)     Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.315: Residential-Natural Preservation District, to Revise the Permitted Use Table with Respect to Household Pets and Apiaries
- Attachments:**     [Attachment I Summary of Ordinance Published on 01/16/16](#)
5.     [CONS 16-013](#)     Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.2735.e: General Regulations, to Revise the Standards for the Keeping of Livestock and Household Pets, and to Include Additional Regulations for the Operation of Apiaries
- Attachments:**     [Attachment I Summary of Ordinance Published on 01/16/16](#)
6.     [CONS 16-014](#)     Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.3500: Definitions, to Revise Definitions Relating to Household Pets, Livestock, and Apiaries
- Attachments:**     [Attachment I Summary of Ordinance Published on 01/16/16](#)
7.     [CONS 16-015](#)     Resolution Appropriating Additional Funds to Increase the Contract/Consulting Services budget for Outside Building Plan Check and Inspection Services for the Current Fiscal Year
- Attachments:**     [Attachment I Resolution](#)
8.     [CONS 16-017](#)     Authorization to Enter into an Exclusive Right to Negotiate Agreement with William Lyon Homes, Inc. for a Proposed Development Located in South Hayward Near Dixon and Valle Vista Avenues
- Attachments:**     [Attachment I Resolution](#)  
                          [Attachment II Existing Conditions Map](#)  
                          [Attachment III Conceptual Land Plan](#)  
                          [Attachment IV Properties Subject to ENRA](#)  
                          [Attachment V Work Plan Tasks for Phases One and Two of ENRA](#)

9.        [CONS 16-018](#)      Approval of Final Map Tract 8120 - Hill Avenue Homes Development - associated with the previously approved Vesting Tentative Map and proposed development of a twenty-four (24) lot subdivision on a 2.26 acre site at 1818 Hill Avenue; Westlake Development Group LLC (Applicant/Owner)

**Attachments:**    [Attachment I Resolution for Tract 8120](#)  
[Attachment II Location Map Tract 8120](#)  
[Attachment III Site Plan Tract 8120](#)

#### LEGISLATIVE BUSINESS

10.       [LB 16-001](#)        Transmittal of the Comprehensive Annual Financial Report for the Year Ended June 30, 2015; and of the Memorandum on Internal Control and Required Communications (Report from Finance Director Vesely)

**Attachments:**    [Attachment I Resolution CAFR 2015](#)  
[Attachment II 2015 Hayward MOIC](#)

#### PUBLIC HEARING

11.       [PH 16-006](#)        Adoption of an Ordinance to Approve An Amendment to the City of Hayward Contract with the California Public Employees Retirement System (PERS) Contract for Miscellaneous Members in HAME, Local 21 and Unrepresented Employees (Report from Human Resources Director Collins)

**Attachments:**    [Attachment I Ordinance Authorizing an Amendment](#)  
[Attachment II Summary of Ordinance Published on 01/16/16](#)  
[Attachment III Sample Contract Amendment](#)

#### INFORMATION ITEMS

*Information items are presented as general information for Council and the public, and are not presented for discussion. Should Council wish to discuss or take action on any of the "information" items, they will direct the City Manager to bring them back at the next Council agenda as an Action Item.*

12.       [RPT 16-012](#)        Memorandum of Understanding for the AC Transit Line 97 Project on Hesperian Blvd

#### CITY MANAGER'S COMMENTS



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

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

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

### **ADJOURNMENT**

### **NEXT REGULAR MEETING, JANUARY 26, 2016, 7:00 PM**

### **PUBLIC COMMENT RULES**

*The Mayor may, at the beginning of the hearing, limit testimony to three (3) minutes per individual and five (5) minutes per an individual representing a group of citizens or organization. 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 has 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.*



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** CONS 16-002

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** Director of Human Resources

### **SUBJECT**

Approval of an Agreement Authorizing Bilingual Pay between the City of Hayward and the International Association of Firefighters Local 1909

### **RECOMMENDATION**

That the City Council adopts the attached resolution approving an agreement between the City of Hayward and the International Association of Firefighters Local 1909, including Fire Officers ("Local 1909") authorizing Bilingual Pay.

### **BACKGROUND/DISCUSSION**

The City of Hayward and Local 1909 have tentatively agreed to a bilingual examination process for those employees who are required in the performance of their duties to converse with the public and communicate orally or in writing and/or translate official written documents in a language other than English.

The Fire Chief or designee identifies those employees who are required in the performance of their duties to converse and/or communicate in writing with the public in a language other than English. Participation in the examination process is at the discretion of the employee. If he or she does not wish to be called upon for translating as needed throughout the City while on duty, it is not a requirement to participate. However, the ability to provide these additional services when interacting with the public is beneficial for the organization, the department, and members of the public.

Those employees who demonstrate their competency in a second language by way of a fluency test administered through the Human Resources Department will be eligible to receive bilingual pay in the amount of thirty dollars (\$30) for oral communication or one hundred dollars (\$100) for written communication per pay period.

The City of Hayward contracts with Alta Language Services to provide oral examinations for employees to ensure competency in a second language. Employees successfully completing the oral examination process are eligible for additional pay and are subsequently listed on the City's website as bilingual employees; this allows for their services to be utilized as needed throughout the organization while on duty.

**FISCAL IMPACT**

The examination process is a one-time fee of \$62 for those employees who partake in the examination. However, the cost of bilingual pay is an ongoing expense. Currently, there are approximately five employees in Local 1909 that may qualify for bilingual pay in oral communication, with approximately two more employees that may qualify for bilingual pay in both oral and written communication; if each of these employees were to successfully complete the examination process, the fiscal impact would be a one-time cost of \$434 for administration of the exam plus an additional ongoing expense of \$9,100 per year.

In the future, the cost for employees who opt to take the bilingual examination and successfully complete the examination process will be a one-time testing fee of \$62, plus additional \$780 compensation per employee per year for oral communication, and \$2,600 per employee per year for oral and written communication.

*Prepared by:* Ali Adams, Human Resources Analyst II

*Recommended by:* Nina S. Collins, Director of Human Resources

Approved by:



Fran David, City Manager

Attachments:

- |                |  |
|----------------|--|
| Attachment I   | Resolution to Approve a Side Letter<br>Authorizing Bilingual Pay         |
| Attachment II  | Side Letter between the City of Hayward<br>and Local 1909                |
| Attachment III | Side Letter between the City of Hayward<br>and the Hayward Fire Officers |

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION TO APPROVE A SIDE LETTER BETWEEN THE CITY OF HAYWARD AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL 1909 AUTHORIZING BILINGUAL PAY

WHEREAS, the City of Hayward is uniquely diverse and there is a need for bilingual services to effectively communicate with members of the community

WHEREAS, the City of Hayward will make available to the International Association of Firefighters Local 1909 and its members including Fire Officers (collectively, “Local 1909”) an examination process in the form of a verbal or written test for those employees who are required to communicate in writing in a language other than English; and

WHEREAS, the City has contracted with Alta Language Services, Inc. since 2010 to provide both oral and written examinations to City employees allowing them to demonstrate competency in a second language; and

WHEREAS, the City and Local 1909 have reached a tentative agreement which details the terms of participation in the bilingual testing process for members of Local 1909; and

WHEREAS, the tentative agreement provides that upon recommendation of the Fire Chief and approval by the City Manager or designee, members of Local 1909 who successfully complete the bilingual testing process and are required to use a language other than English during the performance of their duties shall be compensated thirty dollars (\$30) per pay period for providing oral bilingual services or one hundred dollars (\$100) per pay period for providing both oral and written bilingual services; and

WHEREAS, the membership of Local 1909 ratified the terms of the side letter of agreement as of December 20, 2015.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the side letter of agreement between the City of Hayward and Local 1909 providing bilingual pay effective January 25, 2016, a copy of which is available on the City’s web site or through the Human Resources Department.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

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



# Hayward Firefighters • Local 1909

22734 Main Street • Hayward, California 94541-5007  
Business Line: (510) 885-1909 • Office/Fax (510) 885-0385

## **SIDE LETTER AGREEMENT BETWEEN THE CITY OF HAYWARD AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO, LOCAL 1909**

This Side Letter of Agreement is made between the City of Hayward (City) and the International Association of Firefighters (IAFF) Local 1909 (Local 1909) to amend the current Memorandum of Understanding effective January 1, 2008 and extended through December 31, 2018 (hereinafter referred to as "2008-2018 MOU") between parties to add bilingual pay.

The City and the Local 1909 agree that the terms of this Side Letter of Agreement shall become effective with the pay period that includes January 25, 2016 and shall remain in effect for the remainder of the term of the 2008-2018 MOU and until the parties have completed the meet and confer process for a successor MOU.

### **BILINGUAL PAY**

The Fire Chief or designee shall identify those employees who are required in the performance of their duties to converse and/or communicate in writing with the public in a language other than English. Employees so designated who have demonstrated their competency in a second language by successfully completing a fluency test administered through the Human Resources Department, by a third party vendor, shall receive bilingual pay as provided below

1. Employees who are required in the performance of their duties to converse with the public in a language other than English, and who have demonstrated their competency in a second language by successfully completing a fluency test administered through the Human Resources Department, shall receive bi-lingual pay in the amount of thirty dollars (\$30) per pay period.
2. Employees who are required in the performance of their duties to converse with the public and communicate in writing and/or translate official written documents in a language other than English and who have demonstrated their competency in a second language by successfully completing a fluency test administered through the Human Resources Department, shall receive bilingual pay in the amount of one hundred dollars (\$100) per pay period.

In no event shall an employee receive more than one hundred dollars (\$100) per pay period for bilingual pay pursuant to this section. The City may test an employee to confirm their bilingual

competency at any time if the City has a reasonable cause to question the employee's skills. The parties mutually agree that the competency testing shall be administered by a third party vendor and that the testing process is not subject to grievance. Employees who do not demonstrate continued competency will cease receiving bilingual pay until such time competency is again demonstrated.

If an employee is deemed ineligible for bilingual pay due to competency testing, he or she can request in writing to the Director of Human Resources Director or a designated representative to retest. An employee may retest after thirty (30) days of the previous competency test.

The Fire Chief shall regularly review the Department's need for bilingual services and retains the discretion to recommend to the City Manager whether it is necessary increase or decrease the number of personnel required to converse and/or write in a language other than English in the performance of their duties.

---

Executed on this \_\_\_\_ day of \_\_\_\_\_, 2016 at Hayward, California.

For the City of Hayward:

---

Fran David  
City Manager



---

Andrew Ghali, President  
IAFF, Local 1909, AFL-CIO

---

Nina S. Collins  
Director of Human Resources





# Hayward Firefighters • Local 1909

22734 Main Street • Hayward, California 94541-5007  
 Business Line: (510) 885-1909 • Office/Fax (510) 885-0385

## **SIDE LETTER AGREEMENT BETWEEN THE CITY OF HAYWARD AND THE HAYWARD FIRE OFFICERS, IAFF, LOCAL 1909**

This Side Letter of Agreement is made between the City of Hayward (City) and the management employees represented by International Association of Firefighters (IAFF) Local 1909 (Local 1909) to amend the current Memorandum of Understanding effective January 1, 2008 and extended through December 31, 2018 (hereinafter referred to as “2008-2018 MOU”) between parties to add bilingual pay.

The City and the management employees represented by Local 1909 agree that the terms of this Side Letter of Agreement shall become effective with the pay period that includes January 25, 2016 and shall remain in effect for the remainder of the term of the 2008-2018 MOU and until the parties have completed the meet and confer process for a successor MOU.

### **BILINGUAL PAY**

The Fire Chief or designee shall identify those employees who are required in the performance of their duties to converse and/or communicate in writing with the public in a language other than English. Employees so designated who have demonstrated their competency in a second language by successfully completing a fluency test administered through the Human Resources Department, by a third party vendor, shall receive bilingual pay as provided below

1. Employees who are required in the performance of their duties to converse with the public in a language other than English, and who have demonstrated their competency in a second language by successfully completing a fluency test administered through the Human Resources Department, shall receive bi-lingual pay in the amount of thirty dollars (\$30) per pay period.
2. Employees who are required in the performance of their duties to converse with the public and communicate in writing and/or translate official written documents in a language other than English and who have demonstrated their competency in a second language by successfully completing a fluency test administered through the Human Resources Department, shall receive bilingual pay in the amount of one hundred dollars (\$100) per pay period.

In no event shall an employee receive more than one hundred dollars (\$100) per pay period for bilingual pay pursuant to this section. The City may test an employee to confirm their bilingual





competency at any time if the City has a reasonable cause to question the employee's skills. The parties mutually agree that the competency testing shall be administered by a third party vendor and that the testing process is not subject to grievance. Employees who do not demonstrate continued competency will cease receiving bilingual pay until such time competency is again demonstrated.

If an employee is deemed ineligible for bilingual pay due to competency testing, he or she can request in writing to the Director of Human Resources Director or a designated representative to retest. An employee may retest after thirty (30) days of the previous competency test.

The Fire Chief shall regularly review the Department's need for bilingual services and retains the discretion to recommend to the City Manager whether it is necessary increase or decrease the number of personnel required to converse and/or write in a language other than English in the performance of their duties.

---

Executed on this \_\_\_\_ day of \_\_\_\_\_, 2016 at Hayward, California.

For the City of Hayward:

---

Fran David  
City Manager



---

Andrew Ghali, President  
IAFF, Local 1909, AFL-CIO

---

Nina S. Collins  
Director of Human Resources



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** CONS 16-009

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

### SUBJECT

Adoption of Ordinance Amending Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Property in Connection with Zone Change Application No. 201501012 Relating to a Six Unit Residential Development at 1151 Overlook Avenue

### RECOMMENDATION

That the City Council adopts the Ordinance introduced on January 12, 2016.

### BACKGROUND

The Ordinance was introduced by Council Member Zermeño at the January 12, 2016, meeting of the City Council with the following vote:

**AYES:** Council Members: Zermeño, Jones, Peixoto, Lamnin, Márquez  
Mayor Pro Tempore Mendall  
**NOES:** Council Members: None  
**ABSENT:** Council Members: Halliday  
**ABSTAIN:** Council Members: None

The staff report was approved with amendments to two Conditions of Approval.

Condition of Approval No. 59 was revised to read as follows:

59. One twenty-four-inch box tree shall be planted at every twenty to forty feet on center along ~~Austin~~ Overlook Avenue and ~~Huntwood Avenue~~ Palisade Street.

Condition of Approval No. 120.g was renumbered to No. 100.g and was revised to read as follows:

120 g. Daily clean-up of trash and debris shall occur on ~~Austin Avenue, Hunwood Avenue,~~ Overlook Avenue, Palisade Street, and other neighborhood streets utilized by construction equipment or vehicles making deliveries.

Additional Conditions of Approval were renumbered for consistency with no change in content and are

---

**File #:** CONS 16-009

---

included as Attachment II.

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 16, 2016. Adoption at this time is therefore appropriate.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:



Fran David, City Manager

Attachments:

Attachment I Summary of Ordinance Published on 1/16/16  
Attachment II Revised Conditions of Approval

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

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE 1 OF THE HAYWARD  
MUNICIPAL CODE BY REZONING CERTAIN PROPERTY IN CONNECTION WITH  
ZONE CHANGE APPLICATION NO. 201501012 RELATING TO A SIX UNIT  
RESIDENTIAL DEVELOPMENT AT 1151 OVERLOOK AVENUE

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

Section 1. Rezoning.

Article 1 of Chapter 10 of the Hayward Municipal Code is hereby amended to rezone the property located at 1151 Overlook Avenue (APNs: 445-0170-038-06, 445-0170-038-07, 445-0170-038-08 and 445-0170-038-09) from Sustainable Mixed Use (SMU) to Planned Development (PD) District.

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

Section 3. Effective Date.

This ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held January 12, 2016, the above-entitled Ordinance was introduced by Council Member Zermeño.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 19, 2016, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 16, 2016  
Miriam Lens, City Clerk  
City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION ADOPTING THE NEGATIVE DECLARATION AND APPROVING VESTING TENTATIVE TRACT MAP APPLICATION AND ZONE CHANGE APPLICATION 201501012 PERTAINING TO THE DEVELOPMENT OF SIX DETACHED SINGLE-FAMILY HOMES AT 1151 OVERLOOK AVENUE

WHEREAS, on March 3, 2015, Sandeep Aujla, Overlook Terrace, LLC (Applicant/Owner) submitted Zone Change and Vesting Tentative Tract Map Application No. 201501012 for the property located at 1151 Overlook Avenue, requesting a zone change from Sustainable Mixed Use to Planned Development District and a property subdivision to facilitate construction of six detached single-family homes (the "Project"); and

WHEREAS, an Initial Study and Negative Declaration have been prepared to assess the potential environmental impacts of the Project; and

WHEREAS, the Planning Commission considered the Project at a public hearing held on November 17<sup>th</sup> and forwarded the project to the City Council without providing a recommendation; 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 January 12, 2016.

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

1. Pursuant to CEQA Guidelines Section 15220, an Initial Study ("IS") was prepared for this project with the finding that a Negative Declaration ("ND") was appropriate because all potential impacts are below a level of significance.

2. That the proposed ND was prepared by the City of Hayward as the Lead Agency and was circulated with at least a twenty (20) day public review period, beginning on October 2, 2015 and continuing through Monday, November 23, 2015.
3. That the proposed ND was independently reviewed, considered and analyzed by the City Council and reflects the independent judgment of the City Council; that such independent judgment 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 ND and the administrative record as a whole); that the City Council adopts the proposed ND and its findings and conclusions as its source of environmental information; and that the proposed ND is legally adequate and was completed in compliance with CEQA.
4. That the proposed ND identified all potential adverse impacts, and based on the ND and the whole record before the City Council, there is no substantial evidence that the project will have a significant effect on the environment.
5. That the project complies with CEQA, and that the proposed ND 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 94544.

### ZONE CHANGE

6. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies, including the following General Plan Policies:

#### Land Use Policies

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

- Orienting homes, townhomes, and apartment and condominium buildings toward streets or public spaces.
- Locating garages for homes and townhomes along rear alleys (if available) or behind or to the side of the front facade of the home.
- Enhancing the front facade of homes, townhomes, and apartment and condominium buildings with porches, stoops, balconies, and/or front patios.
- Ensuring that windows are provided on facades that front streets or public spaces.

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

### Housing Policies

Goal H-2.1 Homeownership Housing: The City shall encourage the development of ownership housing and assist tenants to become homeowners to reach a 60 percent owner occupancy rate, within the parameters of federal and state housing laws.

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

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

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

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

H-4.1 Flexible Development Standards: The City shall review and adjust as appropriate residential development standards, regulations, ordinances, departmental processing procedures, and residential fees that are determined to be a constraint on the development of housing, particularly housing for lower- and moderate-income households and for persons with special needs.

7. Streets and utilities, existing or proposed, are adequate to serve the development, in that the proposed development is located on an in-fill site surrounded by existing streets and there are utilities available with adequate capacity to serve the proposed development. In addition, the project is required to underground any overhead utilities in front of the site and fronting any public street.
8. Through the inclusion of amenities such as solar energy systems, electric vehicle chargers, and a central area for group gathering, the development creates a

residential environment of sustained desirability and stability. The development will have no substantial adverse effect upon surrounding development, as evidenced in the Negative Declaration.

9. Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards. Proposed exceptions are offset by the incorporation of a large group open space area and installation of both solar photovoltaic systems and electric vehicle charging stations on all units. In addition, the majority of the site is proposed to be protected from future development.

VESTING TENTATIVE TRACT MAP 8266

10. The proposed map is consistent with applicable general and specific plans as specified in Section 64541 of the Subdivision Map Act. [Subdivision Map Act §66474(a)]
11. The design and improvement of the proposed subdivision are consistent with applicable general plan and specific plans. [Subdivision Map Act §66474(b)]
12. The site is physically suitable for the type of development, as demonstrated through the findings of the Initial Study and Negative Declaration. Subdivision Map Act §66474(c)]
13. The site is physically suitable for the proposed density of development, as it is consistent with the General Plan designation for the site and the traffic infrastructure in the area is sufficient to support the density of the project. [Subdivision Map Act §66474(d)]
14. That the design of this infill project and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. A Negative Declaration prepared pursuant to the guidelines of the California Environmental Quality Act (CEQA) for the development of this site demonstrates that substantial adverse environmental damage, including to fish or wildlife and their habitat, would not result from the proposed project. [Subdivision Map Act §66474(e)]
15. That the design of the subdivision or type of improvements are not likely to cause serious public health problems as adequate capacity exists to provide sanitary sewer service to the Project site. There are no other aspects of the Project with the potential to cause serious public health problems. [Subdivision Map Act §66474(f)]
16. That the design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property



within the proposed subdivision. There are no existing public easements within the boundary of the proposed subdivision, nor are any easements necessary. Upon completion of the proposed improvements, the streets and utilities would be adequate to serve the project. New public easements are to be offered for dedication as necessary. [Subdivision Map Act §66474(g)]

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Negative Declaration and approves Zone Change and Vesting Tentative Tract Map Application 201501012, subject to the adoption of the companion ordinance (Ordinance No. 16-XXX) rezoning the property located at 1151 Overlook from Sustainable Mixed Use to Planned Development District, subject to the attached conditions of approval (Exhibit "A").

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

CONDITIONS OF APPROVAL

January 19, 2016

Overlook Terrace, LLC (Applicant/Owner),

Zone Change and Tentative Tract Map Application No. 201501012 (Tract 8244)

Zone Change from Sustainable Mixed Use (SMU) to Planned Development (PD), and  
Tentative Tract Map 8244 for the subdivision and construction of six single-family  
homes on a 0.88-acre site at 1151 Overlook Avenue

GENERAL

1. In accordance with Zoning Ordinance §10-1.2500 (Planned Development District), this approval is for the Preliminary Development Plan, subject to all conditions listed below, included herein as:  
  
Exhibit A –Planned Development and Tentative Tract Map 8244 submitted by Overlook Terrace, LLC, September 23, 2015, respectively.
2. The project approval shall coincide with the approval period for the Tentative Tract Map. If a building permit is issued for construction of improvements authorized by the Zone Change approval, said approval shall be void two years after issuance of the building permits, or three years after approval of Precise Plan application, whichever is later, unless the construction authorized by the building permits has been substantially completed or substantial sums have been expended in reliance upon the Precise Plan approval.
3. This approval is tied to Tentative Tract Map 8244 and all conditions of approval of that map shall also apply to this approval.
4. The subdivider shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.

PRECISE PLAN SUBMITTAL

5. In accordance with Zoning Ordinance §10-1.2550 and prior to submitting a building permit application, a Precise Development Plan shall be submitted for review and approval.
6. The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and incorporate conditions herein, and shall be submitted in conjunction with the subdivision improvement plans and Final

Map.

7. 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”. These three amenities include:
  - a. Installation of photovoltaic solar systems on all units;
  - b. Install electric vehicle charging equipment within the garages of all units; and
  - c. Inclusion of a group open space area in a central area of the development
8. The applicant shall submit revised project plans for review and approval by the Planning Director that clearly shows the details of each project amenity. Such project amenity details shall be included in the Precise Plan submittal for final approval.
9. 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 number shall be decorative. Building addresses shall be minimum 4-inch self-illuminated or 6-inch on contrasting background. Address numbers shall be installed so as to be visible from the street.
  - 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.
  - 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. Exterior 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. All decorative window treatments shall be extended to all elevations.
  - o. All rear and side entries visible from the street shall be protected by roofs with rooflines to match the pitch of the roof.
  - 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. As an alternative, an area within the fenced side yard may be used for the garbage and recycling containers but shall be shown.
  - q. 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.
10. 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.
11. Details of all project amenities shall be submitted for review and approval by the Planning Director during the Precise Plan phase of the project.
12. All final exterior building finishes, paint colors and other architectural details shall be reviewed and approved by the Planning Division in accordance with the City of Hayward's Design Guidelines prior to issuance of a building permit for the project.
13. The project shall comply with the 2013 California Energy Code Section 110.10 for Solar Ready Homes, involving coordination between the project architect and energy consultant regarding the design and orientation of roof surfaces.

PRIOR TO SUBMITTAL OF SUBDIVISION IMPROVEMENT PLANS AND FINAL MAP

14. Subdivision improvement plans shall implement all items noted on “Exhibit T”.
15. In conjunction with the Precise Plan, the applicant/developer shall submit subdivision improvement plans including Landscape and irrigation plans and a final map application for the entire project. Said improvement plans and final map shall meet all City standards and submittal requirements except as expressly approved for this Planned Development.
16. 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.
17. Unless indicated otherwise, the design for development shall comply with the following:
  - a) All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Articles 1 and 3, and Standard Specifications and Details.
  - b) All construction shall meet the California Building Codes (CBC) and all applicable City of Hayward Building Codes and amendments.
  - c) Design and construction of all pertinent life safety and fire protection systems shall meet the California Fire Code and all applicable City of Hayward Fire Codes and amendments.
18. A Registered Civil Engineer shall prepare all Civil Engineering improvement plans; a Licensed Architect shall prepare all architectural plans; and a Licensed Landscape Architect shall prepare all landscape unless otherwise indicated herein.

Subdivision Improvement Plans

19. Subdivision Improvement Plans shall be approved in concurrence with the Precise Development Plan. Submit the following proposed improvement plans with supporting documents, reports and studies:
  - a) A detailed drainage plan, to be approved by the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City Engineer, designing all on-site drainage facilities to accommodate the runoff associated with a ten (10) year storm and incorporating onsite storm water detention measures sufficient to reduce the peak runoff to a level that will not cause capacity of downstream channels to be exceeded. Existing offsite drainage patterns, i.e., tributary areas, drainage amount and velocity shall not be altered by the development. The detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be approved by the City Engineer and by the ACFC&WCD prior to issuance of any construction or grading permit.

- b) A detailed Stormwater Treatment Plan and supporting documents, following City ordinances and conforming to Regional Water Quality Control Board's Staff recommendations for new development and redevelopment controls for storm water programs.

#### Storm Water Quality Requirements

20. The following materials related to the Storm water quality treatment facility requirements shall be submitted with improvement plans and/or grading permit application:
  - a) The owner/developer shall enter into a City's standard "Storm Treatment Measures Maintenance Agreement" (as prepared by the City and is available in the Engineering and Transportation Division); the Maintenance Agreement shall be recorded with the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
  - b) Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the City for review and approval by the City Engineer. All reports such as Soil Report, SWPPP, and SWMP are to be submitted in bound form. The Soil Report and SWMP shall be wet-stamped and signed by the engineer. The certification page of the SWPPP shall be signed by a Qualified SWPPP Developer (QSD) person who prepared the report. Documents that are clipped or stapled will not be accepted.
  - c) Before commencing any grading or construction activities at the project site, the developer shall obtain a National Pollutant Discharge Elimination System (NPDES) permit and provide evidence of filing of a Notice of Intent (NOI) with the State Water Resources Control Board.
  - d) The project plans shall include the storm drain design in compliance with post-construction stormwater requirements to provide treatment of the stormwater according to the National Pollutant Discharge Elimination System (NPDES) permit's numeric criteria. The design shall comply with the C.3 established thresholds and shall incorporate measures to minimize pollutants to the maximum extent practicable (MEP).
  - e) The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit the entry of pollutants into storm water runoff to the maximum extent practicable.
  - f) The proposed BMPs shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP) NPDES permit (page 30). In addition, the California Stormwater Quality Association's Stormwater best Management Practice Handbook New Development and Redevelopment, Subsection 5.5 on pages 5-12 has a section

titled “BMP Design Criteria for Flow and Volume”. These materials are available on the internet at [www.cabmphandbooks.com](http://www.cabmphandbooks.com)

- g) The project shall be designed with a Bioretention Treatment Area and shall use a Bioretention Soil Mix (BSM) per Attachment L of the C.3 Stormwater Technical Guidance dated May 14, 2013, with a minimum infiltration rate of 5 inches per hour.
  - h) All inlet rims in the Bioretention Treatment Area (BTA) shall be 6” minimum above the flow line of the BTA. The design of the longitudinal flow line shall be level.
  - i) The following documents shall be completed and submitted with the improvement and/or grading plans:
    - i. Hydromodification Management Worksheet;
    - ii. Infiltration/Rainwater Harvesting and Use Feasibility Screening Worksheet;
    - iii. Development and Building Application Information Impervious Surface Form;
    - iv. Project Applicant Checklist of Stormwater Requirements for Development Projects;
    - v. C.3 and C.6 Data Collection Form; and,
    - vi. Numeric Sizing Criteria used for stormwater treatment (Calculations).
21. The developer shall be responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.
- Private Streets and Court (Common Driveway)
22. Any damaged and/or broken curb, gutter and sidewalks along the property frontages shall be removed and replaced as determined by the City.
23. The on-site streetlights and pedestrian lighting shall be LED lights and have a decorative design approved by the Planning Director. The locations of the lights shall be shown on the improvement plans and shall be approved by the City Engineer. Submit photometric plans with the improvement plans. Such fixtures

shall have shields to minimize “spill-over” lighting on adjacent properties that are not part of the tract.

24. Proposed private courts (common driveways) improvements shall be designed, generally reflective of the alignment and width shown on the submitted Tentative tract map, and as approved by the City Engineer.
25. Entrances to Private Court shall conform to the City Standard SD-108A with detectable warning surface on both sides.
26. No parking shall be allowed within the private court. Curbs shall be painted red along BOTH sides of the private courts.
27. The private court shall not extend more than 5 feet beyond the garage door entries of the end units served by such court, unless needed for designated parking spaces.
28. The private court pavement sections shall be designed to public street standards. The private court shall be designed with a TI of five and minimum AC thickness of four inches.

#### Public Streets

29. All existing driveways to be abandoned shall be removed and replaced with standard curb, gutter and sidewalk.

#### Storm Drainage

30. The project streets, driveways, and parking areas shall be designed to facilitate street sweeping, including the layout of tree and handicap ramp bulb outs. The HOA shall be responsible for street sweeping on a regular basis.
31. The project shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion and Sediment Control Handbook.
32. Storm water inlets shall be installed at the curb face per the City of Hayward Standard Details. The design and location shall be approved by the City Engineer.
33. Improvements for storm drain system shall incorporate the following:
  - a) The locations and design of storm drains shall meet the City’s standard design and be approved by the City Engineer and if necessary, the Alameda County Flood Control and Water Conservation District (ACFC&WCD). Any alternative design shall be approved by the City Engineer prior to installation.
  - b) Storm drain pipes in streets and courts shall be a minimum of twelve inches in diameter with a minimum cover of three feet over the pipe.



- c) The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Criteria Summary shall be used to determine storm drainage runoff. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be submitted, which shall meet the approval of the Alameda County Flood Control and Water Conservation District (ACFC&WCD) and the City. Development of this site shall not augment runoff to the ACFC&WCD's downstream flood control facilities. The hydrology calculations shall substantiate that there will be no net increases in the quantity of runoff from the site versus the flow rate derived from the original design of downstream facilities.
- d) The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the project hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate unavoidable augmented runoffs with offsite and/or on-site improvements.
- e) No surface runoff is allowed to flow over the sidewalks and/or driveways. Area drains shall be installed behind the sidewalks to collect all runoff from the project site.
- f) All storm drain inlets must be labeled "No Dumping - Drains to Bay," using City-approved methods.
- g) Post-development flows should not exceed the existing flows. If the proposed development warrants a higher runoff coefficient or will generate greater flow, mitigation measures shall be implemented.

#### Sanitary Sewer System

- 34. 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.
- 35. There is an existing 8" sanitary sewer main in Overlook Avenue and an 8" sanitary sewer main in Palisade Street. Lots 3-6 will be served by an 8" building court sewer main that connects to the sewer main in Overlook Avenue, per SD-301. Lots 1-2 will have individual sanitary sewer laterals that connect to the sewer main in Palisade Street.
- 36. Each single family dwelling unit shall have an individual sanitary sewer lateral. The sewer laterals shall have cleanouts and be constructed per City Standard Detail SD-312.

37. The current sewer connection fees for single-family residential is \$7,700 per unit. Sewer connection fees shall be paid prior to final inspection.

#### Water System

38. All public water mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Water Mains and Fire Hydrants," latest revision at the time of permit approval (available on the City's website at <http://user.govoutreach.com/hayward/faq.php?cid=11188>).
39. There is an existing 8" water main in Overlook Avenue and a 6" water main in Palisade Street. The proposed development will have water service for Lots 3-6 off of the water main in Overlook Avenue and Lots 1-2 off of the water main in Palisade Street.
40. The new public water main shall include all valves and appurtenances required by the City and shall be constructed at the applicant's/developers expense.
41. All water services from existing water mains, if any, 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 the construction of new water mains.
42. Domestic & Fire Services:
- a. Domestic: Each single-family residence (SFR) shall have an individual domestic water meter. Currently, the cost for a new residential water meter for a SFR (any size up to 1") and service line is \$11806, each (\$3500 installation fee + \$8106 facilities fee + \$200 radio read fee). If the new services are constructed by the applicant/developer in conjunction with their construction of the new water main, the installation fee is reduced to \$310, for a total of \$8616 each service.
  - 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).

43. Irrigation: It is anticipated that one or more separate irrigation water meters and services shall be installed for development landscaping. Currently, the cost for an irrigation service and meter is \$19,910 for 1", \$37,200 for 1.5" and \$56,940 for 2". 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.
44. All domestic and irrigation water meters shall be radio-read type.
45. 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.
46. 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.
47. Water service is available from the City of Hayward and is subject to standard conditions and fees in effect at the time of application.

#### Solid Waste

48. Applicants must comply with applicable City standards to obtain building permits, as follows:
  - a. Residential Collection of Garbage and Recyclables: Residents are required to place their garbage, recycling, and organics carts at the curb for weekly collection service by contracted service providers:
    - i. The standard type of garbage, recycling, and organics containers are (1) 32-gallon cart for Garbage, (1) 64-gallon cart for Recycling, and (1) 64-gallon cart for Organics.
    - ii. The total space required for the standard service is approximately 3 feet by 9 feet. Sufficient space should be allocated in the garage to allow residents to keep the containers inside. Alternatively, the containers may be kept in a side yard behind a fence. Trash and recycle containers shall be stored out of public view on non-pickup days.
    - iii. 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. (Hayward Municipal Code Section 5-1.15).

- b. Requirements for Recycling Construction & Demolition Debris: City regulations require that applicants for all construction, demolition, and/or renovation projects, in excess of \$75,000 (or combination of projects at the same address with a cumulative value in excess of \$75,000) must recycle all asphalt and concrete and all other materials generated from the project. Applicants must complete the Construction & Demolition Debris Recycling Statement, a Construction and Demolition Debris Recycling Summary Report, and weigh tags for all materials disposed during the entire term of the project, and obtain signature approval from the City's Solid Waste Manager prior to any off haul of construction and demolition debris from the project site.

49. Each unit shall have sufficient space allocated to trash, recycle, and organics carts.

#### Other Utilities

50. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, AT&T (phone) Company and Comcast cable company regulations. Transformers and switch gear cabinets shall be placed underground unless otherwise approved by the Planning Director and the City Engineer. Underground utility plans must be submitted for City approval prior to installation.
51. All proposed surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the proposed Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Fire Chief.
52. The developer shall provide and install conduits and junction boxes to allow for the installation of future fiber optic network within the subdivision, which will be owned and maintained by the City.
53. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.

#### Landscape and Irrigation Plans

54. 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.
55. All proposed shrubs shall be spaced according to their natural mature sizes without routine maintenance for cutbacks or shear in compliance with Bay-Friendly Water Efficient Landscape Ordinance. Proposed plant spacing shall in compliance with either Sunset Western Garden Book and East Bay Plants or Landscapes for Summer-Dry Climates.

56. Prior to issuance of the first building permit, detailed landscaping and irrigation improvement plans shall be approved by the City's Landscape Architect. Copies of approved landscape and irrigation improvement plans shall be submitted with building permit submittal package. Planting and irrigation shall comply with the City's Hayward Environmentally Friendly Landscape Guidelines and Checklist for professional, Bay-Friendly Water Efficient Landscape Ordinance, and Municipal Codes.
57. Mylar of the approved landscape and irrigation improvement plans shall be submitted to the Engineering Department. The size of Mylar shall be twenty-two (22) inches by thirty-four (34) inches without an exception. A signing block shall be provided in the low right side on each sheet of Mylar. The signing block shall contain a signature line and date for City of Hayward, Landscape Architect. Upon completion of installation, As-built/Record Mylar shall be submitted to the Engineering Department by the developer.
58. Individual water meter and sewer cleanout shall be located in the driveway with traffic bearing lids.
59. One twenty-four-inch box tree shall be planted at every twenty to forty feet on center along Overlook Avenue and Palisade Street.
60. Root barrier shall be provided for all trees that are located within seven feet of paved edges or structure.
61. Trees shall be planted according to the City Standard Detail SD-122.
62. Group open spaces shall be connected well planned and safe pedestrian network attractive and appropriate design to promote maximum interaction with neighbors. The walkway connecting paseo to the group open space shall be generous and wide. The open space shall be connected with safe pedestrian networks with enhanced paving and crossings throughout the development and through the private street.
63. Minimum twelve inches wide leveled landscape area shall be provided where bio-treatment area is located adjacent to hardscape such as curbs, sidewalks, walkways and structure before starting side slope.
64. Tree can be located in the C.3 treatment area on the side slope when all other tree planting setback requirements are met. Required tree planting shall not be compromised due to compliance with C.3 treatment requirements.

## Fire Protection

65. 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. Design of the public streets and private streets and courts shall meet City of Hayward Fire Department Standards.
66. The minimum width of fire lane is 20 feet. The minimum width of fire lane with fire hydrants is 26 feet. An unobstructed vertical clearance of not less than 13 feet 6 inches shall be maintained at all time.
67. Fire lane of 20 to 26 feet wide shall be posted on both sides as a fire lane; 26 feet to 32 feet shall be posted on one side of the road as a fire lane. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.
68. Addressing of the buildings shall be in compliance with the Hayward Fire Department requirements. All buildings shall have a minimum 4 inch self-illuminated address installed on the front of the building so as to be visible from the street. A decorative address monument sign shall be installed at each court entrance, indicating the building addresses for the units served by such court. Minimum size numbers shall be 6 inches in height on a contrasting background.
69. 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).
70. Spacing and locations of fire hydrants shall be subject to review and approval by the Hayward Fire Department.
71. All new fire hydrants shall be Modified Steamer Hydrant (Clow Valve Co. Model LB 614 with one 2-1/2" outlet and one 4-1/2" outlet). The capacity of each individual hydrant shall be a minimum 1,500 GPM. Vehicular protection may be required for the fire hydrants. Blue reflective fire hydrant blue dot markers shall be installed on the roadways indicating the location of the fire hydrants.
72. A health-based and water quality clearance shall be obtained from either the State Department of Toxic Substances Control or the California Regional Water Quality Control Board – San Francisco Bay Region. If it is determined that remediation of soil and/or groundwater is necessary, oversight of one of these two agencies would be required.
73. Submit for proper building permits for the construction of the building to the Building Department. All building construction shall meet the requirements of the 2013 California Residential Code.
74. Buildings are required to install fire sprinkler systems in accordance with NFPA 13D.
75. Per the requirement of Hayward Public Works Department, a static pressure of 80 PSI should be used when a water test data indicates a higher pressure. The residual pressure should be adjusted accordingly.
76. Underground fire service line serving NFPA 13D sprinkler systems shall be installed in accordance with the Hayward Public Work Department SD-216. Water meters shall be minimum one-inch in diameter.

77. An interior audible alarm device shall be installed within the dwelling in a location so as to be heard throughout the home. The device shall activate upon any fire sprinkler system water flow activity.
78. 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).
79. 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.
80. An approved type spark arrestor shall be installed on any chimney cap.

#### Prior to Certificate of Occupancy

81. Final fire department/hazardous materials inspection is required to verify that requirements for fire protection facilities have been met, and actual construction of all fire protection equipment has been completed in accordance with the approved plan. Please contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.
82. Prior to issuance of Building or Grading Permits, a final clearance shall be obtained from either the California Regional Water Quality Control Board or the Department of Toxic Substance Control and submitted to the Hayward Fire Department. The clearance certificate will ensure that the property meets investigation and cleanup standards for residential development. Allowance may be granted for some grading activities, if necessary, to ensure environmental clearances.
83. 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 that hazards posed to development construction workers, neighbors, the environment, future residents and other persons are mitigated. All hazardous materials and hazardous waste must be properly managed and disposed of in accordance with state, federal and local regulations.
84. Any wells, septic tank systems and other subsurface structures - including hydraulic lifts for elevators - shall be removed properly in order not to pose a threat to the development, construction workers, future residents or the environment. Notification shall be made to the Hayward Fire Department at least 24 hours prior to removal. Removal of these structures shall be documented and done under permit, as required by law.
85. The Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4910 if hazardous materials are discovered during demolition or during grading. These shall include, but shall not be limited to, actual/suspected hazardous materials, underground tanks, vessels that contain or may have contained hazardous materials.
86. During construction, hazardous materials used and hazardous waste generated shall be properly managed and disposed.

## Final Tract Map

87. Prior to recordation, a proposed Final Tract Map shall be submitted for review by the City. The Final Tract Map shall be presented to the City Council for review and action. The City Council meeting will be scheduled approximately sixty (60) days after the Improvement Plans with supporting documents and Final Map are deemed technically correct, and Subdivision Agreement and Bonds are approved by the City. The executed Final Map shall be returned to the City Public Works Department if Final Map has not been filed in the County Recorder's Office within ninety (90) days from the date of the City Council's approval.
88. Prior to the recordation of the Final Tract Map, all documents that need to be recorded with the final map shall be approved by the City Engineer and any unpaid invoices or other outstanding charges accrued to the City for the processing of the subdivision application shall be paid.
89. The final map shall reflect all easements needed to accommodate the project development. The private street and driveways shall be dedicated as a Public Utility Easement (PUE), Public Access Easement (PAE), Water Line Easement (WLE), Sanitary Sewer Easement (SSE), and Emergency Vehicle Access Easement (EVAE).
90. Prior to the approval of the Final Map, the developer shall pay the costs of providing public safety services to the project should the project generate the need for additional public safety services. The developer may pay either the net present value of such costs prior to issuance of building permits, or the developer may elect to annex into a special tax district formed by the City and pay such costs in the form of an annual special tax. The developer shall post an initial deposit of \$20,000 with the City prior to submittal of improvement plans to offset the City's cost of analyzing the cost of public safety services to the property and district formation.

### PRIOR TO ISSUANCE OF BUILDING OR GRADING PERMITS AND CONSTRUCTION WITH COMBUSTIBLE MATERIALS

91. Pursuant to the Municipal Code §10-3.332, the developer shall execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements. Insurance shall be provided per the terms of the subdivision agreement.
92. Prior to issuance of building permits, a final map that reflects and is in substantial compliance with the approved Tentative tract map, shall be approved by the City Engineer and is in the process for filing with the office of the Alameda County Clerk Recorder.
93. Submit the following documents for review and approval, or for City project records/files:
  - a. Copy of the Notice of Intent filed with State Water Resources Control Board;



- b. Engineer's estimate of costs, including landscape improvements;
  - c. Signed Final Map;
  - d. Signed Subdivision Agreement; and
  - e. Subdivision bonds.
94. Plans for building permit applications shall incorporate the following:
- a. A copy of these conditions of approval shall be included on a full-sized sheet(s) in the plan set.
  - b. A lighting plan prepared by a qualified illumination engineer shall be included to show exterior lighting design. All exterior 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 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. Exterior lighting shall be erected and maintained so that adequate lighting is provided in all common areas. The Planning Director or his/her designee shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the buildings. Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of proposed buildings.
  - c. Plans shall show that all utilities will be installed underground.
95. Required water system improvements shall be completed and operational prior to the start of combustible construction.
96. The developer/subdivider shall be responsible to adhere to all aspects of the approved Storm Water Pollution Prevention Plan (SWPPP) per the aforementioned condition of approval.
97. A representative of the project soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe all grading operations and provide any recommended corrective measures to the contractor and the City Engineer.
98. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.

#### PRIOR TO ISSUANCE OF CERTIFICATES OF OCCUPANCY

##### During Construction

99. The developer shall ensure that unpaved construction areas are sprinkled with water as necessary to reduce dust generation. Construction equipment shall be maintained and operated in such a way as to minimize exhaust emissions. If

construction activity is postponed, graded or vacant land shall immediately be revegetated.

100. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Planning Director or City Engineer:
- a. Grading and site construction activities shall be limited to the hours 7:00 AM to 7:00 PM Monday through Saturday and 10:00 AM to 6:00 PM Sunday and Holidays. Grading hours are subject to the City Engineer's approval. Building construction hours are subject to Building Official's approval;
  - b. Grading and construction equipment shall be properly muffled;
  - c. Unnecessary idling of grading and construction equipment is prohibited;
  - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied residential housing units;
  - e. Applicant/developer shall designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. Letters shall be mailed to surrounding property owners and residents within 300 feet of the project boundary with this information and a copy provided to the Planning Division.
  - f. 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 and a copy provided to the Planning Division.
  - g. Daily clean-up of trash and debris shall occur on Overlook Avenue, Palisade Street, and other neighborhood streets utilized by construction equipment or vehicles making deliveries.
  - h. Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
  - i. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
  - j. The site shall be watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
  - k. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;

- l. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
  - m. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
  - n. Sweep public streets daily if visible soil material is carried onto adjacent public streets;
  - o. Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas (previously graded areas inactive for 10-days or more);
  - p. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
  - q. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
  - r. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
  - s. Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
  - t. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
  - u. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See "Building Maintenance/Remodeling" flyer for more information;
  - v. Ensure that concrete/gunite supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
  - w. 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.
101. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the Caltrans Construction Manual. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.
102. In the event that human remains', archaeological resources, prehistoric or historic artifacts are discovered during construction of excavation, the following procedures

shall be followed: Construction and/or excavation activities shall cease immediately and the Planning Division shall be notified. A qualified archaeologist shall be retained to determine whether any such materials are significant prior to resuming groundbreaking construction activities. Standardized procedure for evaluation accidental finds and discovery of human remains shall be followed as prescribed in Sections 15064.f and 151236.4 of the California Environmental Quality Act.

103. The applicant shall comply with standards identified in General Plan Appendix N – Noise Guidelines for the Review of New Development. Measures to ensure compliance with such standards shall be developed by a state licensed acoustical engineer and incorporated into building permit plans, to be confirmed by the Planning and Building Divisions. Also, confirmation by a state licensed acoustical engineer that such standards are met shall be submitted after construction and prior to issuance of certificates of occupancy.
104. Prior to final inspections, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the Planning Director.
105. Prior to the issuance of Certificate of Occupancy, all landscape and irrigation shall be completed and installed in accordance with the approved plan and accepted by the project landscape architect prior to submitting a Certificate of Completion. The final acceptance form must be submitted prior to requesting an inspection with the City Landscape Architect. An Irrigation Schedule shall be submitted prior to the final inspection and acceptance of landscape improvements.
106. Landscape and tree improvements shall be installed according to the approved plans prior to the occupancy of each building. All common area landscaping, irrigation, and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of eighty percent of the dwelling units, whichever first occurs, and a Certificate of Completion, as-built Mylar and an Irrigation Schedule shall be submitted prior to the Final Approval of the landscaping for the Tract to the Public Works – Engineering and Transportation Department by the developer.

#### Homeowners Association

107. 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 homeowners association (HOA) for the property, shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:
  - a. The CC&R's shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or

corporation fails to do so, and to assess the cost to the association, corporation or individual unit owners. In order to accomplish this, the CC&Rs shall contain the following typical statements:

- i) In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.
- ii) It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the regulations and ordinances and other laws.
- iii) It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
- iv) It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.

- v) The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within 10 days of receipt of a copy of the resolution.
- b. The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.
- c. Each owner shall automatically become a member of the association(s) and shall be subject to a proportionate share of maintenance expenses.
- d. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association(s).
- e. The HOA shall be managed and maintained by a professional property management company.
- f. 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.
- g. A provision that the building exteriors and fences shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.
- h. The HOA shall maintain the common area irrigation system and maintain the common area landscaping in a healthy, weed-free condition at all times. The HOA representative(s) shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within fifteen days of notification to the homeowner. Plants in the common areas shall be replaced within two weeks of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.
- i. A tree removal permit is required prior to the removal of any protected tree, in accordance with the City's Tree Preservation Ordinance.
- j. The garage of each unit shall be maintained for off-street parking of two vehicles and shall not be converted to living or storage areas. The HOA shall conduct at least semi-annual inspections to confirm that all residents are using their garages for parking their cars and not for storage. Residents shall make garages available for such inspections, as appropriate. An automatic garage door opening mechanism shall be provided for all garage doors.

- k. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
- l. The HOA shall maintain all fencing, parking surfaces, common landscaping, lighting, drainage facilities, project signs, exterior building elevations, etc. The CC&Rs shall include provisions as to a reasonable time period that the building shall be repainted, the limitations of work (modifications) allowed on the exterior of the buildings, and its power to review changes proposed on a building exterior and its color scheme, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean.
- m. Any future major modification to the approved site plan shall require review and approval by the Planning Commission.
- n. 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.
- o. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.
- p. 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.

Prior to the Issuance of Certificate of Occupancy or Final Report

- 108. All buildings shall be designed using the California Building Codes in effective at the time of submitting building permit applications.
- 109. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.

110. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
111. Park Dedication In-Lieu Fees are required for all new dwelling units. Fees shall be those in effect at the time of the Tentative Tract Map is approved. All Park dedication in-lieu fees shall be paid prior to issuance of a Certificate of Occupancy for a residential unit.
112. 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 inches deep mulch should be maintained in all planting areas. Mulch should be organic recycled chipped wood in the shades of Dark Brown Color. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the 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.
113. The developer/subdivider shall be obligated for the following additional fees. The amount of the fee shall be in accordance with the fee schedule in effect at the time Tentative Tract Map was accepted as complete, unless otherwise indicated herein:
- a) Supplemental Building Construction and Improvement Tax,
  - b) School Impact Fee
114. Final Hayward Fire Department inspection is required to verify that requirements for fire protection facilities have been met and actual construction of all fire protection equipment have been completed in accordance with the approved plan. Contact the Fire Marshal's Office at (510) 583-4910 at least 24 hours before the desired final inspection appointment.
115. The improvements associated with the Pacific Gas and Electric Company, AT&T (phone) company and local cable company shall be installed to the satisfaction of the respective companies.



116. The Stormwater Treatment Measures Maintenance Agreement for the project, prepared by Public Works Engineering and Transportation Division staff, shall be signed and recorded in concurrence with the Final Map at the Alameda County Recorder's Office to ensure that the maintenance is bound to the property in perpetuity.
117. The applicant/subdivider shall submit an AutoCAD file format (release 2010 or later) in a CD of approved final map and 'as-built' improvement plans showing lot and utility layouts that can be used to update the City's Base Maps.
118. The applicant/subdivider shall submit an "as built" plans indicating the following:
  - a) Approved landscape and irrigation improvements;
  - b) All underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, AT&T (phone) facilities, local cable company, etc.;
  - c) All the site improvements, except landscaping species, buildings and appurtenant structures; and
  - d) Final Geotechnical Report.



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** CONS 16-010

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.215: Single-Family Residential, to Revise the Permitted Use Table with Respect to Household Pets and Apiaries

**RECOMMENDATION**

That the City Council adopts the Ordinance introduced on January 12, 2016.

**BACKGROUND**

The Ordinance was introduced by Council Member Mendall at the January 12, 2016, meeting of the City Council with the following vote:

**AYES:** Council Members: Zermeño, Jones, Mendall, Peixoto, Lamnin, Márquez  
Mayor Halliday  
**NOES:** Council Members: None  
**ABSENT:** Council Members: None  
**ABSTAIN:** Council Members: None

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 16, 2016. Adoption at this time is therefore appropriate.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:

Fran David, City Manager

---

**File #:** CONS 16-010

---

Attachments:

Attachment I Summary of Ordinance Published on 1/16/16

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

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE SECTION 10-1.215:  
SINGLE-FAMILY RESIDENTIAL, TO REVISE THE PERMITTED USE TABLE  
WITH RESPECT TO HOUSEHOLD PETS AND APIARIES

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN  
AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution No. 16-002 approving the text changes requested in Text Amendment Application 201505957.

Section 2. Zoning Ordinance Section 10-1.215, which establishes the permitted uses for the Single-Family Residential District, is hereby amended to add certain text as indicated by underline red text in attached Exhibit A, related to implementing revisions to the City's Livestock Regulations.

Section 3. 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 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 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held January 12, 2016, the above-entitled Ordinance was introduced by Council Member Mendall.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 19, 2016, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 16, 2016  
Miriam Lens, City Clerk  
City of Hayward



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** CONS 16-011

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.315: Residential-Natural Preservation District, to Revise the Permitted Use Table with Respect to Household Pets and Apiaries

**RECOMMENDATION**

That the City Council adopts the Ordinance introduced on January 12, 2016.

**BACKGROUND**

The Ordinance was introduced by Council Member Mendall at the January 12, 2016, meeting of the City Council with the following vote:

**AYES:** Council Members: Zermeño, Jones, Mendall, Peixoto, Lamnin, Márquez  
Mayor Halliday  
**NOES:** Council Members: None  
**ABSENT:** Council Members: None  
**ABSTAIN:** Council Members: None

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 16, 2016. Adoption at this time is therefore appropriate.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:

Fran David, City Manager

---

**File #:** CONS 16-011

---

Attachments:

Attachment I Summary of Ordinance Published on 1/16/16

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

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE SECTION 10-1.315:  
RESIDENTIAL-NATURAL PRESERVATION DISTRICT, TO REVISE THE PERMITTED  
USE TABLE WITH RESPECT TO HOUSEHOLD PETS AND APIARIES

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN  
AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution No. 16-002 approving the text changes requested in Text Amendment Application 201505957.

Section 2. Zoning Ordinance Section 10-1.315, which establishes the permitted uses for the Single-Family Residential District, is hereby amended to add certain text as indicated by underline red text in attached Exhibit A, related to implementing revisions to the City's Livestock Regulations.

Section 3. 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 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 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held January 12, 2016, the above-entitled Ordinance was introduced by Council Member Mendall.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 19, 2016, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 16, 2016  
Miriam Lens, City Clerk  
City of Hayward



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** CONS 16-013

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.2735.e: General Regulations, to Revise the Standards for the Keeping of Livestock and Household Pets, and to Include Additional Regulations for the Operation of Apiaries

**RECOMMENDATION**

That the City Council adopts the Ordinance introduced on January 12, 2016.

**BACKGROUND**

The Ordinance was introduced by Council Member Mendall at the January 12, 2016, meeting of the City Council with the following vote:

**AYES:** Council Members: Zermeño, Jones, Mendall, Peixoto, Lamnin, Márquez  
Mayor Halliday  
**NOES:** Council Members: None  
**ABSENT:** Council Members: None  
**ABSTAIN:** Council Members: None

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 16, 2016. Adoption at this time is therefore appropriate.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:

Fran David, City Manager



---

**File #:** CONS 16-013

---

Attachments:

Attachment I Summary of Ordinance Published on 1/16/16

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

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE SECTION 10-1.2735.e:  
GENERAL REGULATIONS, TO REVISE THE STANDARDS FOR THE KEEPING OF  
LIVESTOCK AND HOUSEHOLD PETS, AND TO INCLUDE ADDITIONAL  
REGULATIONS FOR THE OPERATION OF APIARIES

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN  
AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution No. 16- 002 approving the text changes requested in Text Amendment Application 201505957.

Section 2. Zoning Ordinance Section 10-1.2735.e, which establishes regulations which are applicable in all zoning districts for certain uses, is hereby amended to add certain text as indicated by underlined red text in attached Exhibit A, and remove certain text as indicated by strikethrough text in attached Exhibit A, related to revisions to the City's Livestock Regulations.

Section 3. 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 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 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held January 12, 2016, the above-entitled Ordinance was introduced by Council Member Mendall.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 19, 2016, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 16, 2016  
Miriam Lens, City Clerk  
City of Hayward



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** CONS 16-014

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** City Clerk

**SUBJECT**

Adoption of Ordinance Amending Hayward Municipal Code Section 10-1.3500: Definitions, to Revise Definitions Relating to Household Pets, Livestock, and Apiaries

**RECOMMENDATION**

That the City Council adopts the Ordinance introduced on January 12, 2016.

**BACKGROUND**

The Ordinance was introduced by Council Member Mendall at the January 12, 2016, meeting of the City Council with the following vote:

**AYES:** Council Members: Zermeño, Jones, Mendall, Peixoto, Lamnin, Márquez  
Mayor Halliday  
**NOES:** Council Members: None  
**ABSENT:** Council Members: None  
**ABSTAIN:** Council Members: None

The summary of the Ordinance was published in the Hayward Daily Review on Saturday, January 16, 2016. Adoption at this time is therefore appropriate.

*Prepared and Recommended by:* Miriam Lens, City Clerk

Approved by:

Fran David, City Manager

---

**File #:** CONS 16-014

---

Attachments:

Attachment I Summary of Ordinance Published on 1/16/16

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

ORDINANCE AMENDING HAYWARD MUNICIPAL CODE  
SECTION 10-1.3500: DEFINITIONS, TO REVISE DEFINITIONS  
RELATING TO HOUSEHOLD PETS, LIVESTOCK, AND APIARIES

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN  
AS FOLLOWS:

Section 1. The City Council incorporates by reference the findings contained in Resolution No. 16- 002 approving the text changes requested in Text Amendment Application 201505957.

Section 2. Zoning Ordinance Section 10-1.3500, which establishes definitions of terms in the Zoning Ordinance, is hereby amended to add certain text as indicated by underlined red text in attached Exhibit A, and remove certain text as indicated by strikethrough text in attached Exhibit A, related to revisions to the City's Livestock Regulations..

Section 3. 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 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 4. In accordance with the provisions of Section 620 of the City Charter, this ordinance shall become effective immediately upon adoption.

Introduced at the special meeting of the Hayward City Council held January 12, 2016, the above-entitled Ordinance was introduced by Council Member Mendall.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 19, 2016, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 16, 2016  
Miriam Lens, City Clerk  
City of Hayward



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** CONS 16-015

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** Director of Development Services

### **SUBJECT**

Resolution Appropriating Additional Funds to Increase the Contract/Consulting Services budget for Outside Building Plan Check and Inspection Services for the Current Fiscal Year

### **RECOMMENDATION**

That Council adopts the attached resolution appropriating funds for outside plan check and building inspection services.

### **SUMMARY**

Current staffing levels and the increasing demand for building permit plan check and inspection services has further necessitated the need to utilize outside firms. These services ensure that large projects, such as complex commercial and industrial projects or residential tracts involving multiple sets of plans, can be reviewed and inspected in a timely manner. Continuation of using a combination of staff and outside services allows this flexibility with minimum disruption to staff and service delivery.

### **BACKGROUND**

On July 30, 2013, Council approved Resolution 13-133, authorizing the negotiation and execution of contracts for plan check services through June 30, 2016, subject to annual appropriation through the budget process. The four firms approved by this action are West Coast Consultants (WC3), which also provides inspection services; Kutzmann & Associates, Inc.; ASI Consulting Engineers; and CSG, Consultants. These firms are currently under contract and have proven their ability to perform thorough inspections and review of plans with timely turnaround of reviews and excellent customer service.

On October 27, 2015 Council approved Resolution 15-199, authorizing an amendment to an agreement for building inspection services with 4Leaf Inc., in an amount not to exceed \$120,000. These additional services were necessary due to the high volume and inspection needs growing beyond the number of available inspectors from WC3, which is the only firm of the original four under contract that can provide such services. Fortunately, 4Leaf Inc., was able to accommodate the extra assistance needed to continue the flow of work, and keep construction projects on track for our customers.

Furthermore, due to the recent and unexpected retirement of one of the permanent building inspectors,

additional services may be necessary pending the recruitment process to fill this position.

**DISCUSSION**

Currently, \$340,000 is allocated for this fiscal year for the four outside consulting firms to provide building plan check and inspection services. Invoices received through the end of December for these services total \$285,600, which is 84% of the entire fiscal year's allocation for such services. It is estimated that the current allocation for these services will be exhausted by the end of January 2016.

Plan check and inspection services are paid out of plan check and permit fees paid by permit applicants. As of the end of November 2015, the City had taken in approximately \$1,700,000 in permit and plan check fees. Staff roughly pays 19% of the total fees collected toward outside plan check and inspection services. Staff is requesting an additional allocation of \$400,000 to cover the consulting fees for services through the end of the fiscal year.

**FISCAL IMPACT**

The cost of contracting for additional consultant plan check and inspection services will be offset by plan check fees paid at time of submittal of permit applications, and permit fees to cover inspection costs paid when permits are issued. Robust construction activity should continue through at least the remainder of the fiscal year.

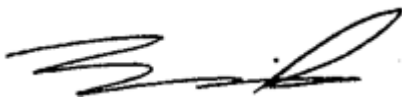
**NEXT STEPS**

If Council adopts the attached resolution, budget adjustments in line with the resolution language will be made.

*Prepared by:* Jade Kim, Management Analyst I

*Recommended by:* David Rizk, Development Services Director

Approved by:



Fran David, City Manager

Attachments:

Attachment I

Resolution

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

ADOPTION OF A RESOLUTION APPROPRIATING ADDITIONAL FUNDS TO INCREASE THE CONTRACT/CONSULTING SERVICES BUDGET FOR OUTSIDE BUILDING PLAN CHECK AND INSPECTION SERVICES FOR THE CURRENT FISCAL YEAR

WHEREAS, on July 30, 2013, Council approved Resolution 13-133 authorizing the negotiation and execution of contracts for plan check services through June 30, 2016, and subject to annual appropriation through the budget process, and

WHEREAS, Council approved an original allocation of \$340,000 for outside plan check and building inspection services for fiscal year 2016; and

WHEREAS, the City of Hayward currently has agreements with four (4) consulting firms to provide plan check services in order to support customer demand that exceeds the availability or capacity of City staff; and

WHEREAS, the four firms currently under contract are: West Coast Consultants (WC3); Kutzmann & Associates, Inc.; ASI Consulting Engineers; and CSG, Consultants; and

WHEREAS, on October 27, 2015, Council approved Resolution 15-199 authorizing the amendment to an agreement with a fifth firm, 4Leaf Inc., for additional building inspection services in an amount not to exceed \$120,000; and

WHEREAS, invoices associated with the four firms through the end of December 2015, total \$85,600, and

WHEREAS, the cost of contracting for consultant plan check, and inspection services is offset by the fees paid for by the permit applicant at the time plans are submitted.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAYWARD that additional funds in the amount of \$400,000 be appropriated to increase the Contract/Consulting Services in the Building Division budget for outside building plan check and inspection services for the current fiscal year.

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

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:



NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** CONS 16-017

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** Assistant City Manager

### **SUBJECT**

Authorization to Enter into an Exclusive Right to Negotiate Agreement with William Lyon Homes, Inc. for a Proposed Development Located in South Hayward Near Dixon and Valle Vista Avenues

### **RECOMMENDATION**

That the Council adopts the attached resolution (Attachment I) authorizing the City Manager to enter into an Exclusive Right to Negotiate Agreement (ERNA) with William Lyon Homes, Inc. for an initial period of four months (120 days) to develop conceptual development plans for certain properties in South Hayward within the former Route 238 corridor.

### **BACKGROUND**

Since 2011, the City has been working in earnest with the California Department of Transportation (Caltrans) on the disposition of the undeveloped properties within the 238 Bypass Freeway Project area. Extensive background on this project was presented to the Council on January 12, 2016 when the Council considered and ultimately approved a Purchase and Sale Agreement with Caltrans (see related file LB 16-007: Draft Purchase and Sale Agreement with the California Department of Transportation for the City of Hayward to Acquire Excess Property in the 238 Bypass Corridor). This agreement will transfer certain undeveloped properties within the Route 238 corridor to the City. The City will now have the responsibility for preparing these properties for transfer/sale to third parties in a manner that will provide the most value to the community and cause the most expeditious funding of the Local Alternative Transportation Improvement Program (LATIP).

In anticipation of this transfer of properties, the City hired Dutra Cerro Graden (DCG) to assist with a conceptual land planning exercise for certain properties in South Hayward near Dixon and Valle Vista Avenues, which included some of the Caltrans-owned 238 properties. Attachment II shows the properties that were the subject of the DCG planning effort and their current ownership and land use designations. The DCG work resulted in a market feasibility study and a suggested conceptual land use plan (Attachment III).

Caltrans has continued to auction off some 238 corridor undeveloped properties until fairly recently. As such, the development community has been aware of the land use opportunities in the corridor. In the fall of 2015, the City received an unsolicited offer from William Lyon Homes, Inc. to purchase and

develop 17.76 acres of land in roughly the same area as where the DCG concept plan had been developed, 9.46 acres of which would be residential development and 8.30 acres of which would be parkland.

## **DISCUSSION**

Since October, a team of staff and consultants has been negotiating the terms of the ENRA with representatives of William Lyon Homes and staff is now presenting this to Council for approval. The ENRA is only the first step in the land disposition process. The developer will need to go through the typical City planning and environmental review processes required for the land use proposal that is ultimately put forth for consideration. The ENRA simply gives William Lyon Homes reassurance that the City will not negotiate with another entity while they are expending significant funds during the due diligence and land use planning processes. Ultimately, the City would negotiate a Disposition and Development Agreement (DDA) for final disposition of the properties if the proposed development receives the required land use entitlement and environmental approvals.

### *Key Terms of the ENRA*

- 1) The properties under consideration in the ENRA are identified on Attachment IV.
- 2) The initial term of Phase One of the ENRA will be 120 days. During Phase One, William Lyon will also perform its due diligence on the Development Property. Phase One can be extended for an additional thirty days if sufficient progress on the work items has occurred as determined by the City Manager. The work plan items in both Phase One and Phase Two are identified in Attachment V.
- 3) Phase Two will commence immediately following Phase One if sufficient progress towards a Preliminary Project Plan has occurred. The primary tasks of Phase Two will be to negotiate and execute a mutually acceptable DDA and to complete the required California Environmental Quality Act (CEQA) review for the proposed project. Phase Two will terminate after sixty days or upon execution of a DDA with William Lyon Homes, Inc. Phase Two can be extended for two additional thirty-day periods if sufficient progress has been made towards a DDA as determined by the City Manager.
- 4) There will be substantial community outreach during both Phases of the ENRA.
- 5) The Developer will submit a good faith deposit of \$80,000 to cover the City's expenses in Phase One. The developer will be responsible for all ordinary permitting, entitlement, and development application fees and these will be in addition to the good faith deposit. In Phase Two, any City expenses (other than ordinary permitting expenses) will be covered by a Reimbursement Agreement between William Lyon Homes and the City.
- 6) The ENRA will outline specific performance milestones. The key milestones are the submission of a proposed "Land Use Plan" to the City within sixty days of execution of the ENRA. This will show general locations for residential land uses (including densities), retail land uses and open space/park land uses. During the 120 day period of the agreement, the Developer will prepare and ultimately submit to the City a more refined site plan that includes lot and building dimensions, roads, massing diagrams, and preliminary landscape concepts. By the end of the 120-day period, the Developer will also provide a detailed project schedule of performance (including dates for obtaining Planning Approvals and financing commitments for the project)

along with a detailed financial pro forma for the City's review.

- 7) The Preliminary Project Plan shall include substantial retail, residential, and green building components.
- 8) The Project is not considered a public project or to have any public participation; and as such is not subject to any Project Labor Agreement requirements.
- 9) If the City willfully enters into an agreement with another party that materially impacts the feasibility of the proposed development project during the term of the ENRA, the City would be considered in default under the terms of the Agreement and subject to repayment of the initial deposit plus up to \$100,000 in reimbursable costs of the developer as remedies.

### *Developer Background and Experience*

William Lyon Homes is one of the largest Western U.S. regional homebuilders. Headquartered in Newport Beach, California, the Company is primarily engaged in the design, construction, marketing, and sale of single-family detached and attached homes in California, Arizona, Nevada, Colorado, Washington, and Oregon. Its core markets include Orange County, Los Angeles, San Diego, the San Francisco Bay Area, Phoenix, Las Vegas, Denver, Seattle, and Portland. The Company has more than fifty-nine years of homebuilding operations, over which time it has sold in excess of 93,000 homes. In northern California, they have developed communities in Morgan Hill, Brentwood, Mountain View, Tracy, Antioch, Dublin, and Pittsburg. Although they do not have specific retail development experience, they will be selecting a seasoned development partner to ensure the retail elements of the project are positioned for success.

### **ECONOMIC AND FISCAL IMPACT**

As mentioned in the previous staff report regarding the transfer of the former 238 parcels from Caltrans to the City, there are many potential economic benefits that could result from this transfer; the primary being the ability for Council and staff to work creatively and proactively with a developer to develop a shared vision, and ultimately successful projects, for these significant areas of the Hayward community.

In terms of the specific financial impacts of this particular project, these will be determined as part of the negotiation for the ultimate DDA related to the project. The DDA will outline the sales price of the properties along with any deductions to this price based on those specific amenities that the City will desire and/or require to be a part of the project that will create value for the community, including but not limited to the acquisition of land projected to accommodate any retail components of the plan. All costs associated with negotiating this agreement and for ultimately processing the planning applications will be covered by the developer.

### **PUBLIC CONTACT**

To date, there has been no public contact associated with this project. As the developer begins to put together the preliminary land use plan, significant community outreach will be an expectation of this process. In addition, there will be the standard public hearings before the Planning Commission, and likely the City Council, as the City considers the necessary planning and environmental approvals for the proposed project.

**NEXT STEPS**

If the Council authorizes this action, the City Manager will execute the ENRA and staff will proceed to work with the developer on the tasks outlined in Phase One of this agreement. Staff intends to schedule a Council work session for Council to provide input on the Preliminary Project Plan prior to the expiration of Phase One. Should staff be successful in the negotiations with the developer, the proposed terms and conditions of the Disposition and Development Agreement would come back to the Council for approval.

*Prepared by:* Kelly McAdoo, Assistant City Manager  
Morad Fakhrai, Public Works Director  
Micah Hinkle, Economic Development Manager

*Recommended by:* Kelly McAdoo, Assistant City Manager

Approved by:



Fran David, City Manager

Attachments:

Attachment I	Resolution Authorizing ENRA with William Lyon Homes, Inc.
Attachment II	Existing Conditions Map - Valle Vista Planning Area
Attachment III	Conceptual Land Use Plan - Valle Vista Planning Area
Attachment IV	Properties Subject to the ENRA
Attachment V	Work plan tasks for Phases One and Two of ENRA

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HAYWARD AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT BETWEEN THE CITY OF HAYWARD AND WILLIAM LYON HOME, INC. FOR A PROPOSED DEVELOPMENT LOCATED IN SOUTH HAYWARD NEAR DIXON AND VALLE VISTA AVENUES

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby authorizes and directs the City Manager to negotiate and execute an Exclusive Right to Negotiate Agreement (ENRA) with William Lyon Homes, Inc. consistent with the terms generally outline in the accompanying staff report, in a form approved by the City Attorney, and providing for William Lyon Homes, Inc. payment of a \$80,000 deposit upon execution of the ENRA.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

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







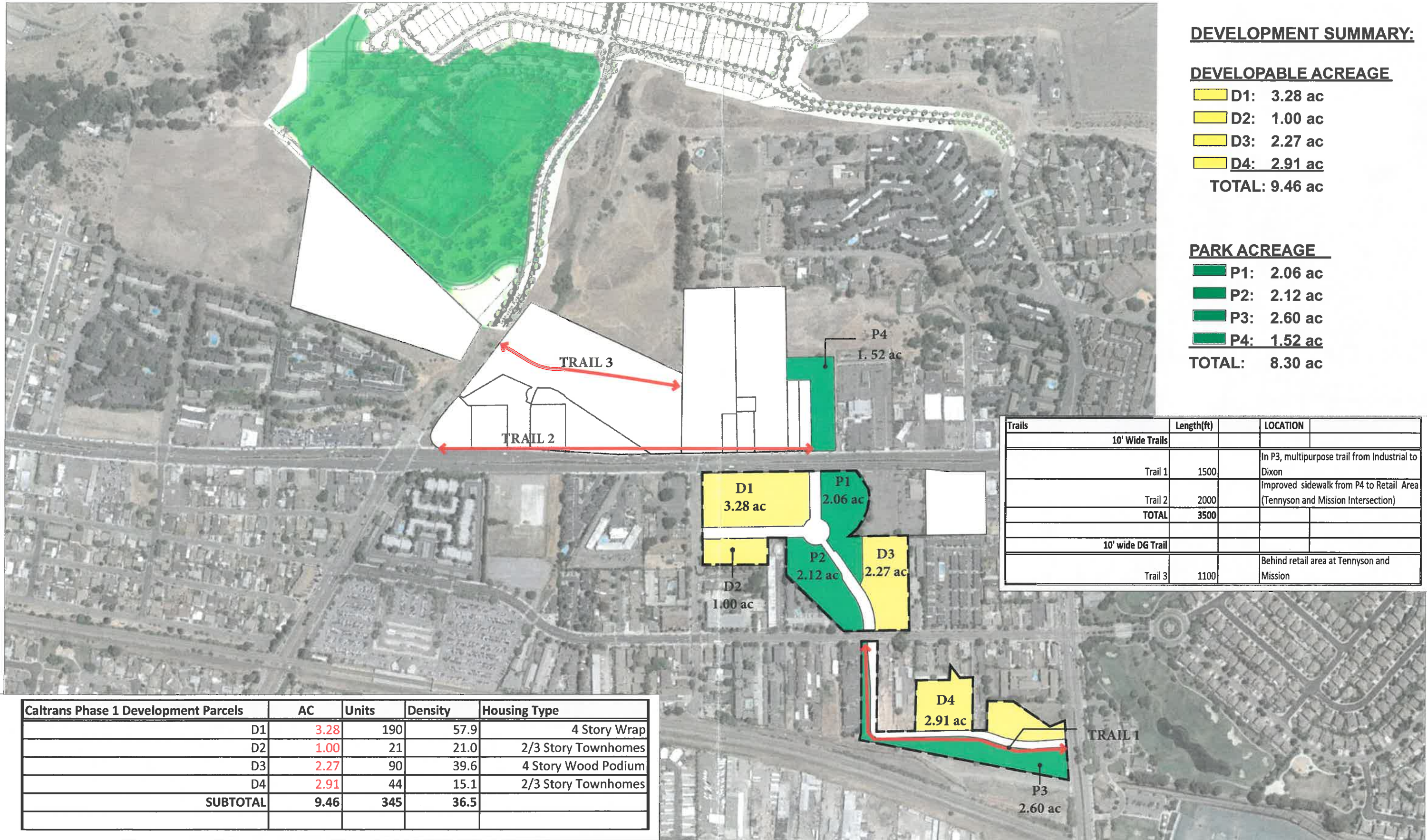
**DEVELOPMENT SUMMARY:**

**DEVELOPABLE ACREAGE**

- D1: 3.28 ac
- D2: 1.00 ac
- D3: 2.27 ac
- D4: 2.91 ac
- TOTAL: 9.46 ac**

**PARK ACREAGE**

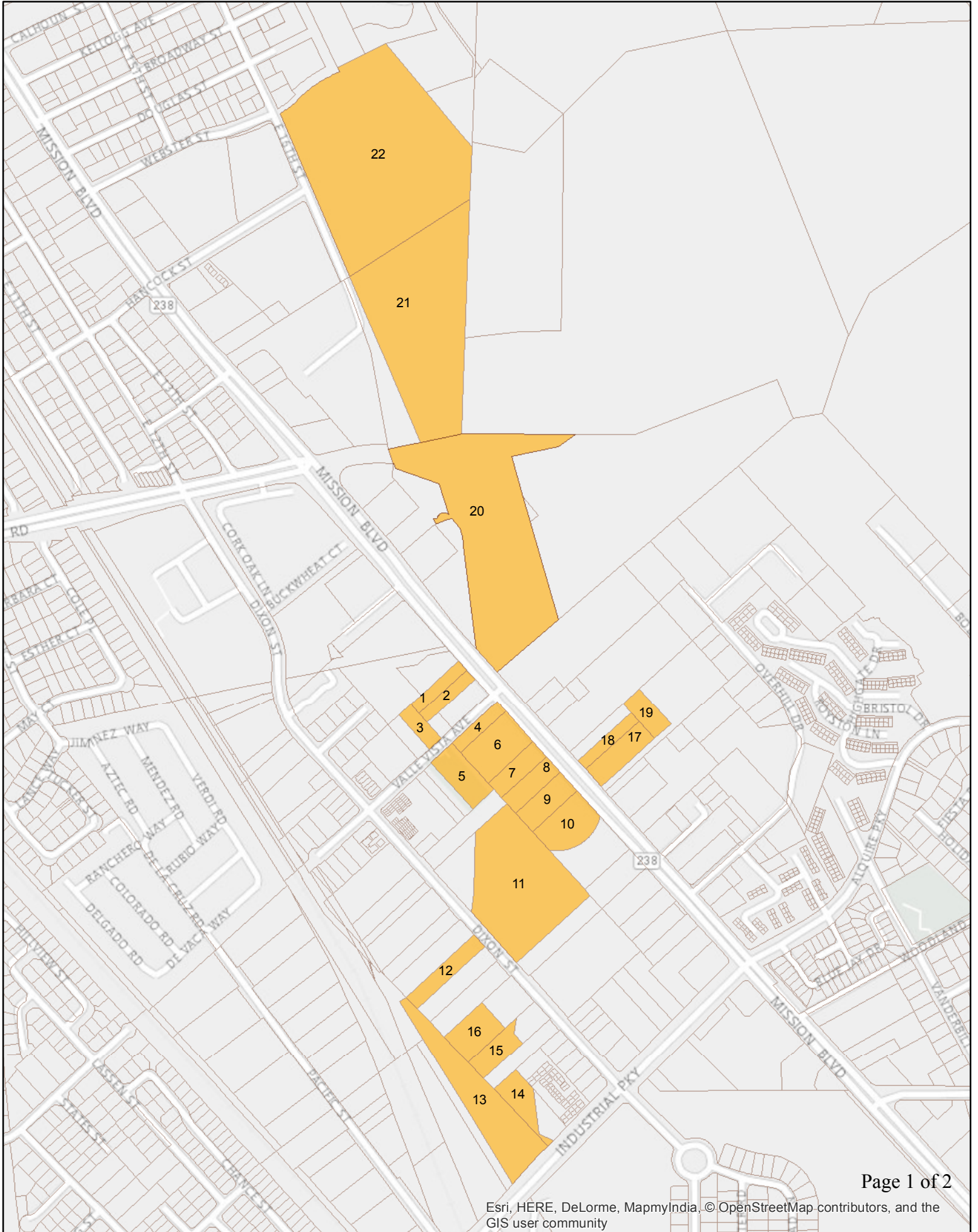
- P1: 2.06 ac
- P2: 2.12 ac
- P3: 2.60 ac
- P4: 1.52 ac
- TOTAL: 8.30 ac**



Caltrans Phase 1 Development Parcels	AC	Units	Density	Housing Type
D1	3.28	190	57.9	4 Story Wrap
D2	1.00	21	21.0	2/3 Story Townhomes
D3	2.27	90	39.6	4 Story Wood Podium
D4	2.91	44	15.1	2/3 Story Townhomes
<b>SUBTOTAL</b>	<b>9.46</b>	<b>345</b>	<b>36.5</b>	



# Valle Vista-CalTrans Properties Reference Map



<b>Valle Vista- CalTrans Properties Reference Map Key</b>			
<i>Map Number</i>	<i>Address</i>	<i>APN</i>	<i>Ownership</i>
1	N/A	78C-447-3-1	CalTrans
2	N/A	78C-447-3-2	CalTrans
3	380 Valle Vista	78C-447-6-2	CalTrans
4	29213 Mission Blvd	78C-438-6	CalTrans
5	N/A	78C-438-5	HARD-Valle Vista Park
6	29263 Mission	78C-438-7	City of Hayward
7	N/A	78C-438-8	CalTrans
8	29335 Mission	78C-438-9	CalTrans
9	29339 Mission	78C-438-10	CalTrans
10	N/A	78C-438-11-1	CalTrans
11	N/A	78C-438-19-1	CalTrans
12	N/A	78C-435-2-1	CalTrans
13	N/A	83-460-6-3	CalTrans
14	N/A	78C-436-10-3	CalTrans
15	29629 Dixon	78C-436-1-7	CalTrans
16	29599 Dixon	78C-435-6	CalTrans
17	N/A	78C-455-4	CalTrans
18	29350 Mission	78C-455-3	CalTrans
19	29380 Mission	78C-455-5-2	CalTrans
20	N/A	Unparceled ROW	CalTrans
21	N/A	78C-626-3-9	CalTrans
22	29290 Mission	78C-626-1-7	CalTrans

### Phase One Negotiating Tasks

---

- 1 Scope of development included in the Project
- 2 Terms of sale of Development Property including purchase price
- 3 Preconditions to and method of conveyance of Development Property
- 4 Type of entitlements necessary for the Project
- 5 Overall design, density and mix of uses within the Project
- 6 Project development schedule
- 7 Potential Project financing
- 8 Project operations/logistics
- 9 Provision of public improvements if necessary
- 10 Physical, environmental, and land title conditions of Development Property
- 11 Green building components of the Project
- 12 Additional property required for completion of Project (if any)

***The Phase One Period will last 120 days and may be extended an additional 30 days as determined by the City Manager.***

### Phase Two Negotiating Tasks

---

- 1 Drafting, and Execution of the Disposition and Development Agreement (DDA)
- 2 Completion of California Environmental Quality Act (CEQA) requirements
- 3 Modifications (if any) to Site and Architectural Plans

***Phase Two will commence immediately following successful completion of all Phase One Tasks and will terminate after 60 days or upon execution of the DDA. Phase Two may be extended for two additional 30-day periods if sufficient progress has been made towards the DDA.***



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** CONS 16-018

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** Director of Development Services

### **SUBJECT**

Approval of Final Map Tract 8120 - Hill Avenue Homes Development - associated with the previously approved Vesting Tentative Map and proposed development of a twenty-four (24) lot subdivision on a 2.26 acre site at 1818 Hill Avenue; Westlake Development Group LLC (Applicant/Owner)

### **RECOMMENDATION**

That the City Council adopts the attached resolution (Attachment I) that approves the Final Map 8120 - Hill Avenue Homes Development, finding that it is in substantial conformance with the approved Vesting Tentative Tract Map 8120 and the conditions of approval thereof; and authorizes the City Manager to take other administrative actions and execute a Subdivision Agreement and such other documents as are appropriate to effectuate the required improvements for the development at 1818 Hill Avenue, including along Templeton Street.

### **BACKGROUND**

Per State Law, Tentative and Final maps are required for all subdivisions creating five or more parcels. A Tentative Tract Map is required to ensure that any proposed development complies with the Subdivision Map Act, the California Environmental Quality Act, the City's Subdivision and Zoning Ordinances, the City's Building regulations, the Hayward General Plan and Neighborhood Plans, and the site specific requirements of the Planning, Public Works, Fire, and Police Departments.

After the Tentative Map and Zone Change to a Planned Development (PD) District with Preliminary Plan are approved, the developer submits the PD District Precise Plan to Planning staff for review and approval, Final Subdivision Map and Improvement Plans for review and approval by the City Engineer (and subsequent recordation of the Final Map after Council review and approval) before proceeding with obtaining building permits for the construction of improvements. The developer is required to file a Tentative Map and Final map so that the twenty-four (24) single-family dwelling units can be sold individually.

*Prior Approvals* - On [November 20, 2014, the Planning Commission recommended approval <http://www.hayward-ca.gov/CITY-GOVERNMENT/BOARDS-COMMISSIONS-COMMITTEES/PLANNING-COMMISSION/2014/PCA14PDF/pca112014full.pdf>](http://www.hayward-ca.gov/CITY-GOVERNMENT/BOARDS-COMMISSIONS-COMMITTEES/PLANNING-COMMISSION/2014/PCA14PDF/pca112014full.pdf) of the Mitigated Negative Declaration, the Mitigation Monitoring and Reporting Program, the General Plan Amendment from Low Density

Residential to Medium Density Residential, Zone Change from Single Family Residential to Planned Development, and Vesting Tentative Tract Map 8120, to develop sixteen (16) single-family detached homes, eight (8) single-family attached homes and a common area for this parcel.

On [December 16, 2014](http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2014/CCA14PDF/cca121614full.pdf), the City Council approved [the Mitigated Negative Declaration, the Mitigation Monitoring and Reporting Program, the General Plan Amendment from Low Density Residential to Medium Density Residential, Zone Change from Single Family Residential to Planned Development, and Vesting Tentative Tract Map 8120](http://www.hayward-ca.gov/CITY-GOVERNMENT/CITY-COUNCIL-MEETINGS/2014/CCA14PDF/cca121614full.pdf). The PD zoning is used to allow for relief from setbacks, height or other zoning district standards in return for exceptional and over and above amenities within the development.

On May 18, 2015, Westlake Development Group LLC submitted the Precise Plan, preliminary Improvement Plans and Final Map to the City for review and approval. Review and approval of the Precise Plan, preliminary Improvement Plans and Final Map was delayed for several months while identification of the agency that will provide water service to the development was resolved between the City of Hayward and the East Bay Municipal Utilities District. The City of Hayward will be the water provider. The Precise Plan was administratively and conditionally approved by Planning Director on September 29, 2015.

## **DISCUSSION**

Tract 8120 is generally located at the intersection of Templeton Street and Hill Avenue westerly of Vermont Street and southerly of B Street in the Upper B Street area. This tract development is a proposed medium-density residential project and is bordered by Templeton Street to the west and Hill Avenue to the south (see Attachment II- Location Map).

This proposed infill project has been designed based on the "Pocket Neighborhood" concept, which is founded upon ideas and design concepts that are an adaption of older, well-designed developments that were built prior to the more recent auto-dependent neighborhoods. The project includes three different floor plans, each with varying cottage style architectural elevations. The unit mix includes eight (8) two-story attached homes with detached two car garages and sixteen (16) detached homes with detached two car garages, with the exception of one unit that has a basement level attached garage. Three centrally located common open spaces, a community room, and private open space are provided for each home. Attractive landscaping is planned throughout the site, including along Templeton Street and Hill Avenue. A private U-shaped access road with ingress and egress on Hill Avenue will serve the homes.

The subdivision Improvement plans and Final Map were reviewed by the City Engineer and were found to be in substantial compliance with the approved Vesting Tentative Map 8120 and related conditions of approval, and in conformance with the Subdivision Map Act and Hayward's regulations. There have not been significant changes to the Final Map, compared to the Vesting Tentative Tract map the City Council approved in December of 2014.

The City Council's approval of the Final Map shall not become effective until and unless the Developer enters into a Subdivision Agreement and posts bonds with the City for the construction of improvements

and other obligations required per conditions of approval of the Vesting Tentative Tract Map. The developer has submitted the subdivision improvement plans for the required tract improvements. The bonds for faithful performance and labor/materials will be submitted prior to issuance of a grading permit.

The proposed development associated with Tract 8120 was previously approved under a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program adopted for the development by the Hayward City Council via Resolution 14-204 on December 16, 2014.

### **ECONOMIC AND FISCAL IMPACTS**

The final map approval is consistent with the approved project, and the Final Map by itself, will not have a fiscal or economic impact.

### **PUBLIC CONTACT**

A public hearing is not required for the filing of Final Map Tract 8120. Public hearings were already conducted as part of the approval of Vesting Tentative Map Tract 8120 application.

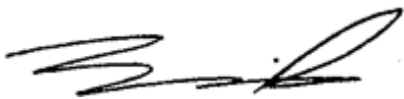
### **NEXT STEPS**

Assuming the City Council approves the Final Map, the applicant will have the final map recorded, obtain construction permits and commence the construction of improvements shown on the approved Improvement Plans.

*Prepared by:* Peter Rei, PE, Contract Development Review Engineer

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



Fran David, City Manager

### **Attachments:**

Attachment I	Resolution for Tract 8120
Attachment II	Location Map
Attachment III	Site Map for Tract 8120



ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

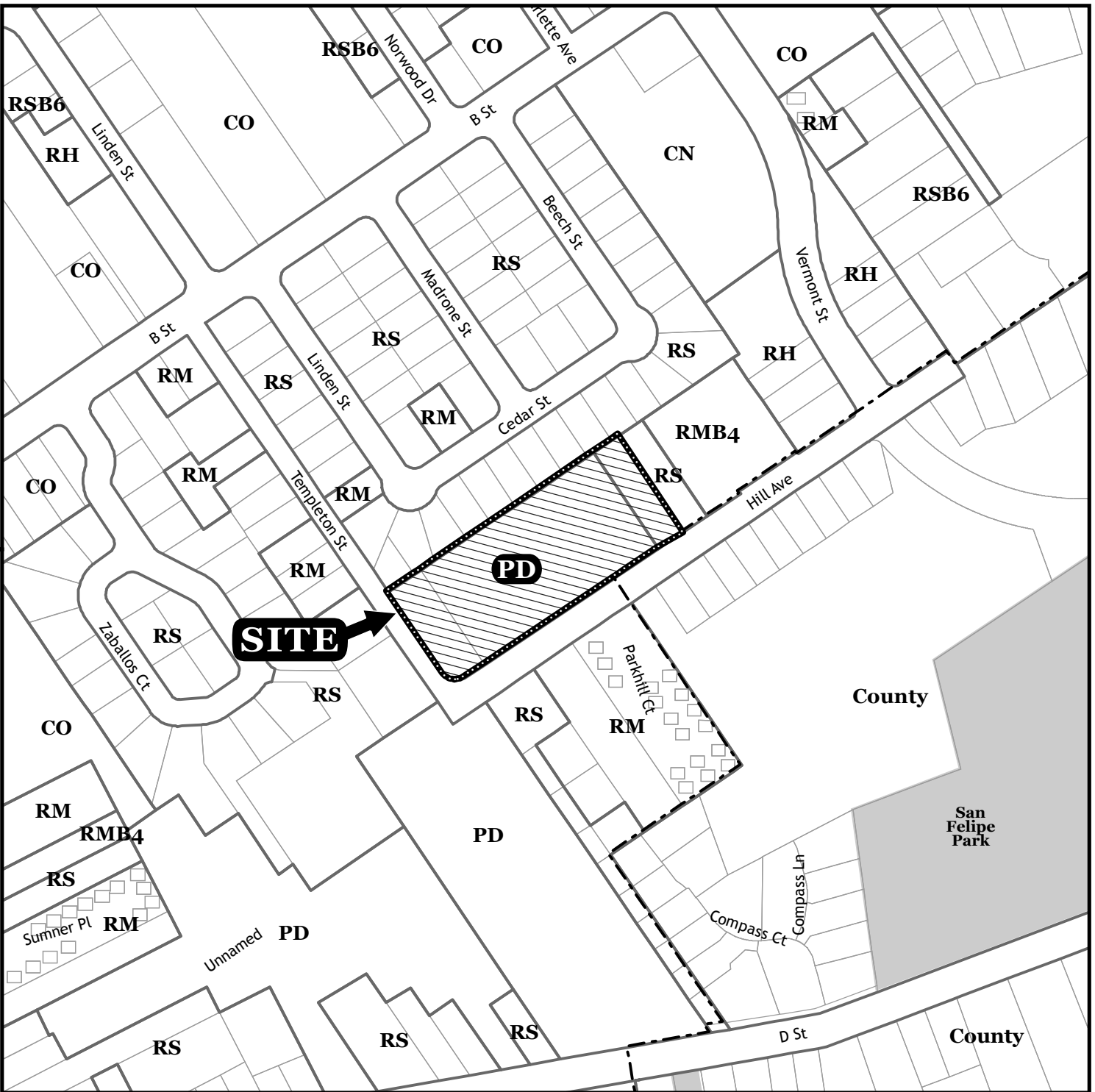
APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward





# Area & Zoning Map



**201502363**

Address:  
**1818 Hill Avenue**

Applicant:  
**Sunny Tong**

Owner:  
**Westlake Development LLC**

**Zoning Classifications**

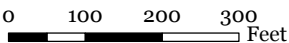
- RESIDENTIAL**
- RH High Density Residential, min lot size 1250 sqft
- RM Medium Density Residential, min lot size 2500 sqft
- RMB4 Medium Density Residential, min lot size 4000 sqft
- RS Single Family Residential, min lot size 5000 sqft
- RSB6 Single Family Residential, min lot size 6000 sqft

**COMMERCIAL**

- CN Neighborhood Commercial
- CO Commercial Office

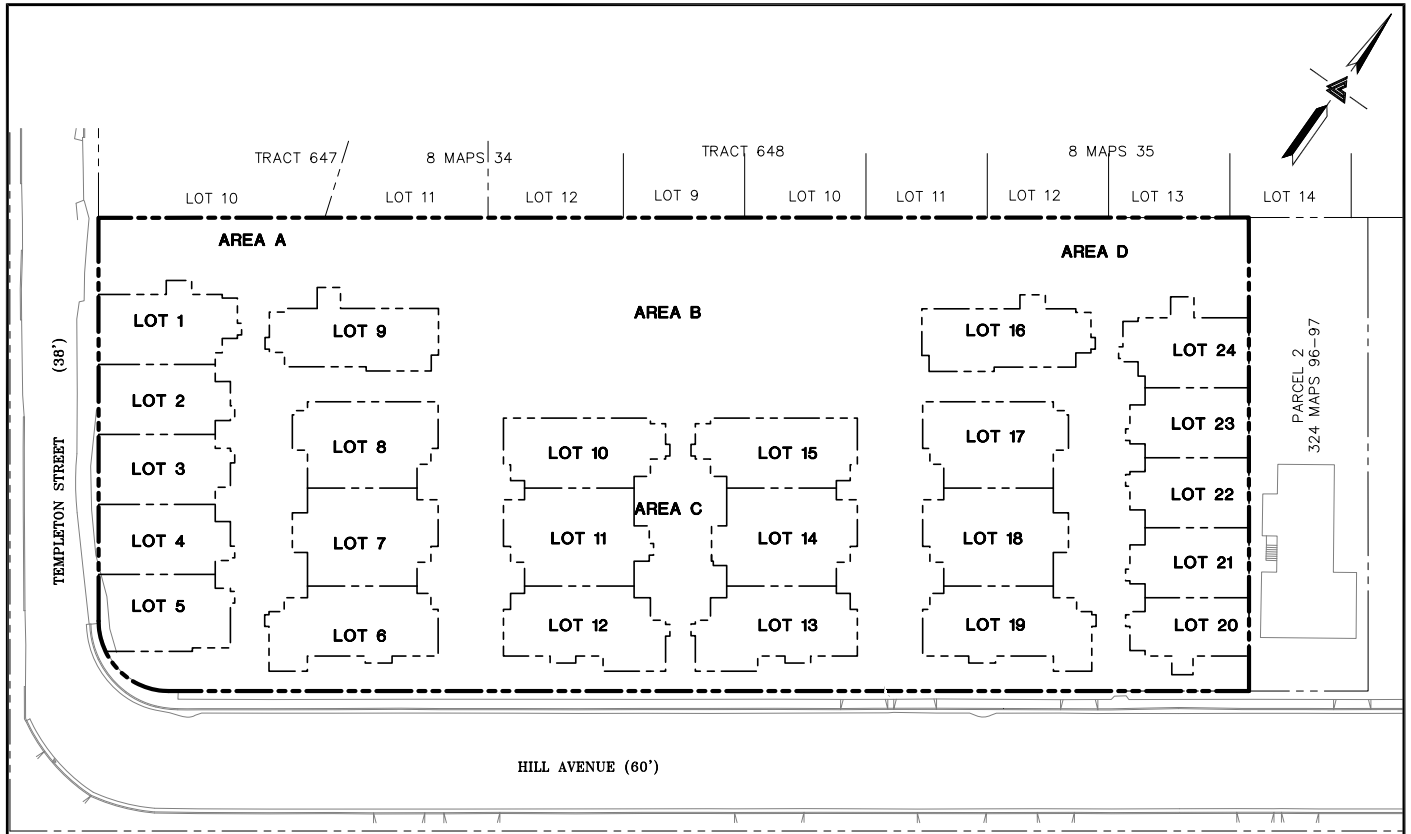
**OTHER**

- PD Planned Development





# Site Plan



### LEA & BRAZE ENGINEERING, INC.

CIVIL ENGINEERS • LAND SURVEYORS  
 BAY AREA REGION SACRAMENTO REGION  
 2495 INDUSTRIAL PKWY WEST 3017 DOUGLAS BLVD, # 300  
 HAYWARD, CALIFORNIA 94545 ROSEVILLE, CA 95661  
 (P) (510) 887-4086 (P) (916)966-1338  
 (F) (510) 887-3019 (F) (916)797-7363  
 WWW.LEABRAZE.COM

TRACT 8120  
 HILL AVENUE HOMES  
 SITE PLAN  
 HAYWARD, CALIFORNIA

APN: 416-0150-092-00  
 APN: 416-0150-093-00  
 APN: 416-0150-057-02

JOB NO 2140468

SCALE: 1" = 60'



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** LB 16-001

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** Director of Finance

### **SUBJECT**

Transmittal of the Comprehensive Annual Financial Report for the Year Ended June 30, 2015; and of the Memorandum on Internal Control and Required Communications

### **RECOMMENDATION**

That the Council adopts the attached Resolution (Attachment I) to receive and file the City's Comprehensive Annual Financial Report (CAFR) and the Memorandum on Internal Control and Required Communications for the fiscal year ended June 30, 2015.

### **BACKGROUND**

The City's independent external auditor, Maze and Associates, has completed its audit of the City's financial records for the fiscal year ended June 30, 2015. Maze was selected as the City's independent external audit firm in early 2011 after a thorough proposal review process. Fiscal year 2015 marks year five of a five-year contract. Maze and Associates has over twenty-eight years of municipal auditing experience with more than 200 government agencies. In addition to the audited financial statements, the auditors have completed and provided the required *Memorandum on Internal Control and Required Communications* (Attachment II). The City's Comprehensive Annual Financial Report (CAFR) (Attachment III) represents all funds of the City, including the General Fund, Water, Sewer, Airport, and all other enterprise and special revenue funds.

Auditing standards require auditors to formally communicate the results directly to the agency's governing body. The purpose being to establish direct and effective two-way communication with the Council and staff, to convey audit matters, the scope of work, difficulties, adjustments to financial statements, or any possible disagreements with management.

### **DISCUSSION**

**Comprehensive Annual Financial Report** - Staff is pleased to report that, as in previous years, the auditor's opinion on the financial statements for fiscal year 2015 is without exception and is unmodified (formerly referred to as "unqualified"). That is, the auditor's report is not restricted (modified) in any manner, nor does it take exception with any of the information contained in the City's financial statements. While a modification (known before as a qualification) or exception is not necessarily

detrimental, the ability to report that the City's financial statements continue to earn a "clean opinion" is a positive statement about the City's financial management and oversight.

Staff has submitted the fiscal year 2015 CAFR to the Government Finance Officers Association (GFOA) award program, which is a prestigious national award recognizing conformance with the highest standards for preparation of local government financial reports. The City of Hayward has received this award for the last twenty-eight consecutive years.

**Changes to reporting for GASB 68 and 71 implementation** - Pursuant to the requirements of the Governmental Accounting Standards Board (GASB), during fiscal year 2015, the City implemented GASB statement numbers 68 and 71 related to pension liability. GASB 68 requires, among other things, that state and local governments present net pension liabilities at the entity wide level for the first time, which results in a reduction of total net position of \$311.7 million. The implementation of GASB 68 resulted in a restatement and reduction of beginning net position of \$293.0 million to governmental activities, which includes the General Fund. Implementation of GASB 68 and the presentation of this liability on the financial statements does not impact the City's ability to fund continuing operations.

**Fiscal Year 2015 Year-end Status of the General Fund** - On December 15, 2015, staff presented City Council with a preliminary year-end summary for the General Fund, General Purpose Fund (excluding amounts related to Measure C District Sales Tax) and conveyed to Council that the year ended with a negative balance of \$1,593,000. For fiscal year 2015, the final net change to General Fund, General Purpose Fund (excluding amounts related to Measure C District Sales Tax) balance is a larger negative balance of \$1,735,620, which will deplete the General Fund reserve by a like amount. This change resulted from the final year-end close process and now includes all fiscal year 2015 year-end adjustments.

**Communication Letters from Auditors** - The *Required Communications* letter is intended to identify any communication issues and present new accounting standards pronouncements that may affect the audit. The auditor did not report any difficulties in performing the audit or any disagreements with management.

The second letter presented to management is the *Memorandum on Internal Control*. This letter has two major objectives: (1) to advise the governing body or City Council of any significant deficiencies or material weaknesses in the City's systems of internal financial controls; and (2) to communicate to the Council any opportunities for improved controls or efficiencies that the auditors noted during the course of their audit. This letter may also advise the Council of upcoming accounting regulations, which may affect the City's financial records. Staff's responses to the auditor's comments and recommendations are noted in the Letter within Attachment II.

The audit identified one Significant Deficiency relating to the timely reconciliation of the City's bank, investment and escrow accounts. As seen in the Recommendation portion of Finding 2015-01 of Attachment II, the conditions identified were resolved prior to the completion of the audit.

FY 2015 Finding

*2015-01 Timeliness of Bank, Investment, and Escrow Accounts Reconciliations and Journal Entries Posting:*

The auditor identified that during the interim phase of their audit in June 2015, the City's Bank, Investment & Escrow accounts had not been properly reconciled within forty-five days of receipt of account statements. Additionally, corresponding journal entries to reconcile the City's general ledger to the account statements had not been completed.

- a. The City concurs that the condition existed at the time of the interim audit. In the months between the interim and final phase of the audit, the City corrected the issue and has put processes in place to ensure that the condition is prevented from repeating in future fiscal years.

#### Fiscal Year 2014 Findings

As part of the audit protocol, the auditor includes findings from the previous fiscal year (fiscal year 2014) to allow for a final management response and, if cleared, to confirm that the findings are no longer valid.

The City resolved two of the four findings from fiscal year 2014 during fiscal year 2015. Findings 2014-01 (Timeliness and Accuracy of Year-End Close) and 2014-03 (Accounts Receivable and Payable Detail Reports and Reconciliation) will not require further action and will be removed from future audit transmittals. Finding 2014-02 (Accurately and Timely Reconciliations of Bank, Investment, and Escrow Accounts) remained for a portion of fiscal 2015 and is noted above as part of fiscal year 2015 (Finding 2015-01). Finding 2014-04 (Proper Recording of Capital Assets) was not removed completely as the audit revealed one exception. Although it related to immaterial amounts, measures have been taken to ensure that the condition does not remain in future fiscal years.

#### **FISCAL IMPACT**

There is no direct fiscal impact resulting from the approval of the annual audit.

#### **PUBLIC CONTACT**

On October 7, 2015, Maze & Associates presented to the Council Budget & Finance Committee and overview of the fiscal year 2015 audit process and role of the external auditor; staff presented a preliminary, unaudited fiscal year 2015 General Fund summary to the Council Budget and Finance Committee on November 4, 2015 and to City Council on December 15, 2015. Staff presented the final audit findings and the CAFR to the Council Budget & Finance Committee on January 11, 2016.

*Prepared by:* Tracy Vesely, Director of Finance and Dustin Claussen, Deputy Director of Finance

*Recommended by:* Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

---

**File #:** LB 16-001

---

Attachments:

Attachment I	Resolution
Attachment II	Memorandum of Internal Control and Required Communications
Attachment III	Comprehensive Annual Financial Report (CAFR) located on the City website

[http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/documents/2015/FY2015 Hayward CAFR.pdf](http://www.hayward-ca.gov/CITY-GOVERNMENT/DEPARTMENTS/FINANCE/documents/2015/FY2015_Hayward_CAFR.pdf)

HAYWARD CITY COUNCIL

RESOLUTION NO. 16-

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

RESOLUTION ACCEPTING THE COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE YEAR ENDED JUNE 30, 2015; AND THE MEMORANDUM ON INTERNAL CONTROL AND REQUIRED COMMUNICATIONS

WHEREAS, the audit of the financial statements and internal controls of the City of Hayward has been completed for the year ended June 30, 2015 by the City's independent auditors, Maze & Associates.

BE IT RESOLVED by the City Council of the City of Hayward that the City Council accepts and files the Comprehensive Annual Financial Report for the Year Ended June 30, 2015; and the accompanying Memorandum on Internal Control and Required Communications letters.

HAYWARD, CALIFORNIA \_\_\_\_\_, 2016

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  
MEMORANDUM ON INTERNAL CONTROL  
AND  
REQUIRED COMMUNICATIONS  
  
FOR THE YEAR ENDED  
JUNE 30, 2015**



This Page Left Intentionally Blank

**CITY OF HAYWARD  
MEMORANDUM ON INTERNAL CONTROL  
AND  
REQUIRED COMMUNICATIONS**

**For the Year Ended June 30, 2015**

**Table of Contents**

	<b><u>Page</u></b>
<b><i>Memorandum on Internal Control</i></b> .....	1
Schedule of Significant Deficiencies .....	3
Schedule of Other Matters.....	5
Status of Prior Year Material Weaknesses.....	7
Status of Prior Year Other Matters.....	11
<b><i>Required Communications</i></b> .....	13
Significant Audit Findings.....	13
Accounting Policies .....	13
Unusual Transactions, Controversial or Emerging Areas .....	14
Estimates.....	14
Disclosures .....	15
Difficulties Encountered in Performing the Audit.....	15
Corrected and Uncorrected Misstatements.....	15
Disagreements with Management.....	16
Management Representations .....	16
Management Consultations with Other Independent Accountants .....	16
Other Audit Findings and Issues .....	16
Other Information Accompanying the Financial Statements .....	16

This Page Left Intentionally Blank



**MEMORANDUM ON INTERNAL CONTROL**

To the City Council of  
the City of Hayward  
Hayward, California

In planning and performing our audit of the basic financial statements of the City of Hayward as of and for the year ended June 30, 2015, in accordance with auditing standards generally accepted in the United States of America, we considered the City's internal control over financial reporting (internal control) as a basis for designing our audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. Accordingly, we do not express an opinion on the effectiveness of the City's internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist and that were not identified. In addition, because of inherent limitations in internal control, including the possibility of management override of controls, misstatements due to error or fraud may occur and not be detected by such controls.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the City's financial statements will not be prevented, or detected and corrected on a timely basis. We did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies in internal control included on the Schedule of Significant Deficiencies to be significant deficiencies.

Included in the Schedule of Other Matters are recommendations not meeting the above definitions that we believe are opportunities for strengthening internal controls and operating efficiency.

Management's written responses included in this report have not been subjected to the audit procedures applied in the audit of the financial statements and, accordingly, we express no opinion on them.

This communication is intended solely for the information and use of management, City Council, others within the organization, and agencies and pass-through entities requiring compliance with *Government Auditing Standards*, and is not intended to be and should not be used by anyone other than these specified parties.

*Mize & Associates*

Pleasant Hill, California  
December 17, 2015

## CITY OF HAYWARD

## MEMORANDUM ON INTERNAL CONTROL

## SCHEDULE OF SIGNIFICANT DEFICIENCIES

**2015 -- 01: Timeliness of Bank, Investment, and Escrow Accounts Reconciliations and Journal Entries Posting**

**Criteria:** Reconciliations of bank, trustee, and investment accounts should be completed after each month-end and promptly after receipt of the account statements. In addition, amounts reported in the quarterly Investment Reports should correspond with the City's general ledger.

Additionally, journal entries and relevant supporting documentation relating to the reconciliation of these accounts should be maintained and posted in a timely manner.

**Condition:** During the interim phase of the City's Financial Statement audit, conducted in June 2015, we noted the following:

Many of the City's bank, investment, and trustee accounts were not reconciled to the monthly statements and in a timely manner. In addition, reviews of the reconciliations were not timely.

The City's Investment Report for the quarter ending March 31, 2015 did not match the amounts in the City's general ledger.

We tested forty journal entries in the current fiscal year and noted that five journal entries were not posted to the general ledger within thirty days from the time of preparation. In addition, there was one journal entry that did not have appropriate supporting documentation.

**Effect:** Errors, mistakes and unauthorized transactions may not be detected and remedied in a timely fashion.

**Cause:** The City encountered a combination of difficulties in the past few fiscal years, including the citywide financial system conversion, as well as key staffing changes and shortages.

**Recommendation:** We communicated the above conditions to the City staff during the interim phase of the City's Financial Statement audit. At the time of our communication, the City had already begun the process of training staff to take over the reconciliation duties of cash, trustee and investment accounts, as well as assigning additional staff to post journal entries. These conditions appear to have been resolved by the time we returned for the final phase of the City's Financial Statement audit in November 2015.

**Management Response:** The City agrees with this finding and the importance of timely reconciliation its bank accounts. At the time of this report the City's bank accounts have been reconciled and are being reconciled on a regular and timely basis. The City has implemented internal processes that will facilitate timely reconciliations.

This Page Left Intentionally Blank

## CITY OF HAYWARD

## MEMORANDUM ON INTERNAL CONTROL

## SCHEDULE OF OTHER MATTERS

**NEW GASB PRONOUNCEMENTS OR PRONOUNCEMENTS NOT YET EFFECTIVE**

The following comment represents new pronouncements taking affect in the next few years. We have cited them here to keep you abreast of developments:

**Effective in fiscal year 2015-16****GASB 72 – *Fair Value Measurement and Application***

This Statement addresses accounting and financial reporting issues related to fair value measurements. The definition of *fair value* is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. This Statement provides guidance for determining a fair value measurement for financial reporting purposes. This Statement also provides guidance for applying fair value to certain investments and disclosures related to all fair value measurements.

**GASB 76 - *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments***

The objective of this Statement is to identify, in the context of the current governmental financial reporting environment, the hierarchy of generally accepted accounting principles (GAAP). The “GAAP hierarchy” consists of the sources of accounting principles used to prepare financial statements of state and local governmental entities in conformity with GAAP and the framework for selecting those principles. This Statement reduces the GAAP hierarchy to two categories of authoritative GAAP and addresses the use of authoritative and non-authoritative literature in the event that the accounting treatment for a transaction or other event is not specified within a source of authoritative GAAP. This Statement supersedes Statement No. 55, The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments.

**Effective in fiscal year 2016-17:****GASB 73 – *Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB Statement 68***

This Statement establishes requirements for defined benefit pensions that are not within the scope of Statement No. 68, Accounting and Financial Reporting for Pensions, as well as for the assets accumulated for purposes of providing those pensions. In addition, it establishes requirements for defined contribution pensions that are not within the scope of Statement 68. It also amends certain provisions of Statement No. 67, Financial Reporting for Pension Plans, and Statement 68 for pension plans and pensions that are within their respective scopes.



## CITY OF HAYWARD

## MEMORANDUM ON INTERNAL CONTROL

## SCHEDULE OF OTHER MATTERS

***GASB 74 – Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans***

The objective of this Statement is to improve the usefulness of information about postemployment benefits other than pensions (other postemployment benefits or OPEB) included in the general purpose external financial reports of state and local governmental OPEB plans for making decisions and assessing accountability. This Statement results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for all postemployment benefits (pensions and OPEB) with regard to providing decision-useful information, supporting assessments of accountability and inter-period equity, and creating additional transparency.

***GASB 77 – Tax Abatement Disclosures***

This Statement establishes financial reporting standards for tax abatement agreements entered into by state and local governments. The disclosures required by this Statement encompass tax abatements resulting from both (a) agreements that are entered into by the reporting government and (b) agreements that are entered into by other governments and that reduce the reporting government's tax revenues.

**Effective in fiscal year 2017-18:**

***GASB 75 – Accounting and Financial Reporting for Postemployment Benefits Other Than Pensions***

The primary objective of this Statement is to improve accounting and financial reporting by state and local governments for postemployment benefits other than pensions (other postemployment benefits or OPEB). It also improves information provided by state and local governmental employers about financial support for OPEB that is provided by other entities. This Statement results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for all postemployment benefits (pensions and OPEB) with regard to providing decision-useful information, supporting assessments of accountability and inter-period equity, and creating additional transparency.

## CITY OF HAYWARD

## MEMORANDUM ON INTERNAL CONTROL

## STATUS OF PRIOR YEAR MATERIAL WEAKNESSES

**2014 -- 01: Timeliness and Accuracy of Year-End Close**

**Criteria:** The City should strive to limit the amounts and numbers of adjusting journal entries (AJEs) after year end closing. It is crucial that control procedures be maintained in order to produce accurate and timely financial data.

**Condition:** The City began a conversion of its financial system in June 2013 and completed the implementation in fiscal year 2014. With vacancies in key accounting positions, the resources of the Finance Department in fiscal year 2014 were consumed by the system conversion and the closing of fiscal year 2013. As a result, this had a significant impact on the fiscal year 2014 year-end audit in spite of staff's diligence and providing full cooperation to our audit.

During the audit, City staff had difficulty providing closing balances for capital assets, long-term liabilities, claims liabilities, various revenue and expenditure accruals and transactions in the Successor Agency to the Redevelopment Agency Private Purpose Trust Fund. These areas affected the year-end close and most of the City's funds. In addition, the City did not post all prior year audit adjustments to its books, causing adjustments to the beginning fund balances or net positions of thirteen funds. As a result, sixty-two post-closing entries (forty-five prepared by City staff and seventeen proposed by us) were posted to the City's financial statements.

Furthermore, due to staff shortages, we found that two Finance staff members had system permission to initiate and post journal entries during part of the fiscal year. Also, nineteen journal entries out of the forty that we tested were posted to the general ledger more than thirty days after they were prepared.

**Effect:** The above condition delayed the completion of the close which increases the risk that errors may go undetected by staff and corrections may not be made in a timely manner. Audit effort was substantially increased in response to these increased risks.

**Cause:** As mentioned above, the condition was caused by the financial system conversion, and staffing shortages and changes.

**Recommendation:** With the conclusion of the system implementation and recent issues in filling the key accounting positions, the City should review and redesign its accounting procedures in order to achieve a more timely and accurate close of its books in fiscal year 2015.

In addition, as part of year-end closing, the City should compare beginning fund balances and net positions of all funds to the ending balances stated on the prior year audited financial statements to ensure that all audit adjustments have been booked.

**Current Status:** The City implemented procedures and achieved a more timely and accurate close of its books in fiscal year 2015; including comparing beginning fund balances to ensure all audit adjustments from the prior year have been booked.

## CITY OF HAYWARD

## MEMORANDUM ON INTERNAL CONTROL

## STATUS OF PRIOR YEAR MATERIAL WEAKNESSES

**2014 – 02: Accurately and Timely Reconciliations of Bank, Investment, and Escrow Accounts**

**Criteria:** Bank account reconciliations are an important element of the City's internal control structure. Bank reconciliations should be completed after each month-end and usually within 30-45 days of receipt of the bank statements, and subsequently reviewed in a timely manner for accuracy. The investments and trustee accounts should also be reconciled to statements and the general ledger on a monthly basis in order to maintain effective controls.

In addition, for monitoring purposes, both the preparer and the reviewer of the reconciliation should sign the date the document to leave a proper audit trail.

**Condition:** During the year, many of the City's bank, investment, and trustee accounts were not reconciled to the monthly statements in a timely manner. In addition, reviews of the reconciliations were not timely. In testing of the reconciliation items, the City could not provide supporting documents to some of the items. Also, there were reconciliation items that have been outstanding since 2013 that should have been booked by the City into its general ledger. In addition, we found that the City's Investment Report for the quarter ending March 31, 2014 did not agree to the City's general ledger.

**Effect:** The City's book balances of the above accounts did not reflect the correct balances during the year. Errors, mistakes and unauthorized transactions in these accounts would not be detected and remedied in a timely fashion.

**Cause:** The City encountered a combination of difficulties in the past few years, including the financial system conversion, staff changes, and shortages. The City is currently in the process of training new staff to take over the reconciliation duties.

**Recommendation:** The following changes are recommended:

- Implement procedures to ensure all cash, investment, trustee and escrow account reconciliations are prepared and reviewed in timely manner with proper sign off.
- Cross-train employees to perform and review the reconciliations.
- Ensure proper maintenance of supporting documents for all financial transactions and establish standard procedures to investigate reconciliation discrepancies in a timely manner.

**Current Status:** See Current Year Significant Deficiency 2015-01.

## CITY OF HAYWARD

## MEMORANDUM ON INTERNAL CONTROL

## STATUS OF PRIOR YEAR MATERIAL WEAKNESSES

**2014 – 03: Accounts Receivable and Payable Detail Reports and Reconciliation**

**Criteria:** The City should have the capability to generate accounts receivable (A/R) and payable (A/P) detail reports from the accounting system. Additionally, A/R and A/P balances from the sub-ledgers should be reconciled to the general ledger on a monthly basis.

**Condition:** City staff was unable to generate either A/R or A/P detailed reports from the new financial system. In addition, no reconciliation of sub-ledgers to general ledger of A/R or A/P was performed in fiscal year 2014. Specifically, we noted the following issues:

- At June 30, 2014, the City could not allocate \$1,093,642 of revenue deposited to the City's general checking account to the appropriate revenue accounts due to the inability of the City's system to generate supporting records and lack of reconciliation between the revenue and accounts receivable module to the City's general ledger.
- A journal entry in the amount of \$2,234,276, which was intended to reverse A/P for the fiscal year 2015, was posted to the fiscal year 2014 period erroneously, causing negative A/P balances in fiscal year 2014 prior to audit adjustments.

**Effect:** Without regular reconciliation, the A/R and A/P balances in the general ledger may not be accurate. Fraud or errors cannot be detected with lack of reconciliation in these areas.

**Cause:** According to the City staff, the new accounting system does not allow the City to generate A/R or A/P detail reports. With the shortfall of staffing level, the duty of reconciliations between sub-ledgers and general ledger was not fulfilled.

**Recommendation:** We recommend the City work with the programmers of the accounting system to determine a method of generating the A/R and A/P detail reports. The City should adopt a standard procedure to perform the reconciliations as well as designate a senior staff to review the reconciliation on monthly basis to ensure the accuracy of the A/R and A/P balances.

**Current Status:** The City has adopted a procedure to perform reconciliations for A/R and A/P in a timely manner.

This Page Left Intentionally Blank

## CITY OF HAYWARD

## MEMORANDUM ON INTERNAL CONTROL

## STATUS OF PRIOR YEAR OTHER MATTERS

**2014 – 04: Proper Recording of Capital Assets**

**Criteria:** Capital assets should be capitalized in the fiscal year they are acquired. In addition, construction in process (CIP) balance should only be transferred to the appropriate capital asset categories once the projects are complete.

**Condition:** During fiscal year 2014, the City capitalized certain capital assets amounted to \$2,038,052 that were acquired in fiscal year 2013. In addition in fiscal year 2014, the City capitalized capital assets amounted to \$1,503,695 which were acquired in fiscal year 2015. Furthermore, the City transferred capital projects of \$113,386 from CIP to their associated capital asset categories despite the fact the projects were not completed in fiscal year 2014.

**Effect:** While the balances of the above transactions are immaterial to the financial statements, the capital assets balances were understated in fiscal year 2013 and overstated in fiscal year 2014.

**Cause:** The above condition was due to staff oversight.

**Recommendation:** During the year-end close, the City should review all capital outlay expenditures to determine whether items represent assets that should be capitalized. In addition the City should review the capital asset details to ensure proper classification.

**Current Status:** During fiscal year 2015, the City reported certain capitalized construction in process (CIP) and accrued a payment for construction services performed in fiscal year 2016. The capital assets and accounts payable balances were overstated in fiscal year 2015, however this error was immaterial in amount. This condition appeared to result from staff oversight.

**Management Response:** The City agrees with this finding. The condition was caused by the need to process a payment in one fiscal period, while the contract issued in the prior fiscal period had not been rolled forward into the current fiscal period. In the future, should a similar situation arise, the payment will be processed and a subsequent journal entry will be created to post the transaction to the appropriate fiscal period.

This Page Left Intentionally Blank



## REQUIRED COMMUNICATIONS

To the City Council of  
the City of Hayward, California

We have audited the basic financial statements of the City of Hayward (City) for the year ended June 30, 2015. Professional standards require that we communicate to you the following information related to our audit under generally accepted auditing standards, *Government Auditing Standards* and OMB Circular A-133.

### Significant Audit Findings

#### *Accounting Policies*

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City of Hayward are described in Note 1 to the financial statements. No new accounting policies were adopted and the application of existing policies was not changed during the year, except as follows:

The following Governmental Accounting Standards Board (GASB) pronouncements became effective, but did not have a material effect on the financial statements:

GASB Statements No. 69 – *Government Combinations and Disposals of Government Operations*

The following pronouncements become effective, and as disclosed in Note 9 to the financial statements required a prior period restatement for the cumulative effect on the financial statements.

GASB Statement No. 68 – *Accounting and Financial Reporting for Pensions, an Amendment of GASB Statement No. 27*

The primary objective of this Statement is to improve accounting and financial reporting by state and local governments for pensions. This Statement replaces the requirements of Statement No. 27, *Accounting for Pensions by State and Local Governmental Employers*, as well as the requirements of Statement No. 50, *Pension Disclosures*, as they relate to pensions that are provided through pension plans administered as trusts or equivalent arrangements that meet certain criteria. The requirements of Statements 27 and 50 remain applicable for pensions that are not covered by the scope of this Statement.

This Statement establishes standards for measuring and recognizing liabilities, deferred outflows of resources, and deferred inflows of resources, and expense/expenditures. For defined benefit pensions, this Statement identifies the methods and assumptions that should be used to project benefit payments, discount projected benefit payments to their actuarial present value, and attribute that present value to periods of employee service.

Note disclosure and required supplementary information requirements about pensions also are addressed. Distinctions are made regarding the particular requirements for employers based on the number of employers whose employees are provided with pensions through the pension plan and whether pension obligations and pension plan assets are shared.



In addition, this Statement details the recognition and disclosure requirements for employers with liabilities (payables) to a defined benefit pension plan and for employers whose employees are provided with defined contribution pensions. This Statement also addresses circumstances in which a nonemployer entity has a legal requirement to make contributions directly to a pension plan.

GASB Statement No. 71 – *Pension Transition for Contributions Made Subsequent to the Measurement Date, an Amendment of GASB Statement No. 68*

The objective of this Statement is to address an issue regarding application of the transition provisions of Statement No. 68, Accounting and Financial Reporting for Pensions. The issue relates to amounts associated with contributions, if any, made by a state or local government employer or nonemployer contributing entity to a defined benefit pension plan after the measurement date of the government's beginning net pension liability.

This Statement amends paragraph 137 of Statement 68 to require that, at transition, a government recognize a beginning deferred outflow of resources for its pension contributions, if any, made subsequent to the measurement date of the beginning net pension liability. Statement 68, as amended, continues to require that beginning balances for other deferred outflows of resources and deferred inflows of resources related to pensions be reported at transition only if it is practical to determine *all* such amounts.

The provisions of this Statement are required to be applied simultaneously with the provisions of Statement 68.

***Unusual Transactions, Controversial, or Emerging Areas***

We noted no transactions entered into by the City during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

***Estimates***

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate(s) affecting the City's financial statements were:

*Estimated Net Pension Liabilities and Pension-Related Deferred Outflows and Inflows of Resources:* Management's estimate of the net pension liabilities and deferred outflows/inflows of resources are disclosed in Note 12 to the financial statements and are based on actuarial studies determined by a consultant, which are based on the experience of the City. We evaluated the key factors and assumptions used to develop the estimate and determined that it is reasonable in relation to the basic financial statements taken as a whole.

*Estimated Fair Value of Investments:* The City's cash and investments are measured by fair value as disclosed in Note 2 to the Financial Statements. Fair value is essentially market pricing in effect as of June 30, 2015. These fair values are not required to be adjusted for changes in general market conditions occurring subsequent to June 30, 2015.

*Estimate of Depreciation:* Management's estimate of the depreciation is based on useful lives determined by management. These lives have been determined by management based on the expected useful life of assets as disclosed in Note 5 to the financial statements. We evaluated the key factors and assumptions used to develop the depreciation estimate in determining that it is reasonable in relation to the financial statements taken as a whole.

*Estimate of Compensated Absences:* Accrued compensated absences which are comprised of accrued vacation, holiday, compensating time and sick leave is estimated using accumulated unpaid leave hours and hourly pay rates in effect at the end of the fiscal year as disclosed in Note 1 to the financial statements. We evaluated the key factors and assumptions used to develop the accrued compensated absences in determining that it is reasonable in relation to the financial statements taken as a whole.

*Estimated Net OPEB Obligation:* Management's estimate of the net OPEB obligation is disclosed in Note 14 to the financial statements and is based on an actuarial study determined by a consultant, which is based on the health care benefits experience of the City. We evaluated the key factors and assumptions used to develop the estimate in determining that it is reasonable in relation to the financial statements taken as a whole.

### ***Disclosures***

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosure affecting the financial statements was the disclosure of Redevelopment Agency dissolution and Successor Agency activities in Note 19 to the financial statements.

The financial statement disclosures are neutral, consistent, and clear.

### ***Difficulties Encountered in Performing the Audit***

We encountered no significant difficulties in dealing with management in performing and completing our audit.

### ***Corrected and Uncorrected Misstatements***

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. Management has corrected all/certain such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole.

Professional standards require us to accumulate all known and likely uncorrected misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. We have no such misstatements to report to the City Council.

***Disagreements with Management***

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

***Management Representations***

We have requested certain representations from management that are included in a management representation letter dated December 17, 2015.

***Management Consultations with Other Independent Accountants***

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the City's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

***Other Audit Findings or Issues***

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the City's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

**Other Information Accompanying the Financial Statements**

With respect to the supplementary information accompanying the financial statements, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

With respect to the required supplementary information accompanying the financial statements, we applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not express an opinion nor provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

The Introductory and Statistical Sections included as part of the Comprehensive Annual Financial Report have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we did not express an opinion nor provide any assurance on them.

\*\*\*\*\*

This information is intended solely for the use of City Council/the Board and management and is not intended to be, and should not be, used by anyone other than these specified parties.

*Maze & Associates*

Pleasant Hill, CA  
December 17, 2015

This Page Left Intentionally Blank



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** PH 16-006

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** Director of Human Resources

### **SUBJECT**

Adoption of a an Ordinance to Approve An Amendment to the City of Hayward Contract with the California Public Employees Retirement System (PERS) Contract for Miscellaneous Members in HAME, Local 21 and Unpresented Employees

### **RECOMMENDATION**

That the City Council adopts an Ordinance to execute the amendment to the City of Hayward's contract with PERS to add a provision for cost sharing for the Miscellaneous Members in HAME, Local 21 and Unrepresented Employees.

### **BACKGROUND**

On December 15, 2015, the City Council approved a Resolution of Intent to amend the City of Hayward's CalPERS contract and introduced an Ordinance to amend the contract (PH 15-107). CalPERS regulations require the City Council to adopt an Ordinance by way of a public hearing at least twenty days after the approval of the Resolution of Intention. The twenty day threshold was met on January 4, 2016. In accordance with Administrative Rule 1.21, the proposed Ordinance was published in the Daily Review on January 16, 2016, three days prior to the public hearing.

### **DISCUSSION**

The City contracts with CalPERS for retirement benefits. The existing CalPERS contract for miscellaneous members (non-safety) requires payment of 8% of their salaries for the employees' share of retirement costs. The City currently contributes 24.467% for the employer share. Under the revised terms, HAME, Local 21, and Unrepresented, members will continue pay the current the employee contribution of 8% and a total of 3%, phased in 1% per year of the employers share beginning in FY16, for a total of 11% by FY 2018. This employee contribution toward the employer rate shall be credited to each member's account as a normal contribution effective the first pay period following thirty days of the adoption of the final Ordinance.

Under the terms of their recently negotiated agreement, SEIU elected to not contribute to medical

insurance and make an additional contribution of 4.5% toward the employer share of PERS costs, phased in over the contract period. SEIU further agreed that the additional contributions would be made pursuant to Government Code Section 20516 (f), which allows the contributions without contract amendment. Under 201516(f), the amount of the City’s employer contribution paid by bargaining unit members would not be credited to the members’ individual CalPERS accounts.

Table 1 summarizes the additional share of the employer’s contribution the miscellaneous employee groups have agreed to contribute beyond their current eight percent (8%) employee contribution.

Table 1: Percentage of CalPERS employer share paid by employee.

Bargaining Group	Additional PERS Contribution		
	FY16	FY17	FY18
HAME	1%	2%	3%
Local 21	1%	2%	3%
Unrepresented	1%	2%	3%
SEIU	1.5%	3.0%	4.5%

## FISCAL IMPACT

The cost sharing agreements with the miscellaneous groups are consistent with the City’s overarching strategy for balancing the City’s structural budget deficit, which includes employee contributions toward the cost of their health and retirement benefits. These additional contributions toward the employer share of PERS costs achieve an approximate savings of \$2.7 million during the contract terms. These contributions are structural in nature and represent significant ongoing and permanent savings. Table 2 summarizes the approximate savings for each employee group.

Table 2: Approximate savings to the City per group, per fiscal year.

Group	Savings from CalPERS Cost Share Per FY			Total
	FY16	FY17	FY18	
HAME	\$ (75,416)	\$ (152,752)	\$ (232,471)	\$ (460,639)
Local 21	\$ -	\$ (176,027)	\$ (334,228)	\$ (510,255)
Unpresented	\$ (26,867)	\$ (74,776)	\$ (124,643)	\$ (226,286)
SEIU	\$ (251,215)	\$ (529,945)	\$ (795,606)	\$ (1,576,766)
				\$ (2,773,946)

## NEXT STEPS

Human Resources staff will work with CalPERS to complete the contract amendment process. The contract amendment will be effective February 22, 2016.

In accordance with Government Code Section 20516, CalPERS requires a new contract amendment each fiscal year to phase in the 3% employers share for all represented members. Therefore, staff will return to Council to amend the contract for HAME and Local 21 for FY 2017 and FY 2018. Table 3 summarizes the approximate schedule for future amendments per CalPERS schedule of agency actions.

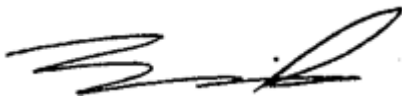
Table 3: Approximate schedule for future amendments.

Action	Approximate Contract Amendment Dates	
	FY17	FY18
Adoption of Resolution	4/26/2016	4/25/2017
Adoption of Ordinance	5/24/2016	5/23/2017
Effective Date of Ordinance	6/23/2016	6/22/2017
Effective Date of Amendment	6/27/2016	6/26/2017

Prepared by: Ali Adams, Human Resources Analyst II

Recommended by: Nina S. Collins, Director of Human Resources

Approved by:



Fran David, City Manager

Attachments:

- Attachment I Ordinance Authorizing an Amendment to the Contract between the City and CalPERS
- Attachment II Summary of Ordinance Published on 01/16/16
- Attachment III Exhibit to the Ordinance - Sample Amendment to CalPERS Contract



ORDINANCE NO. 16-

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 15th day of December, 2015, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward, held the 19th day of January, 2016, 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

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

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 the meeting of the Hayward City Council held December 15, 2015, the above-entitled Ordinance was introduced by Council Member Peixoto.

This Ordinance will be considered for adoption at the regular meeting of the Hayward City Council, to be held on January 19, 2016, at 7:00 p.m., in the Council Chambers, 777 B Street, Hayward, California. The full text of this Ordinance is available for examination by the public in the Office of the City Clerk.

Dated: January 16, 2016  
Miriam Lens, City Clerk  
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 and July 27, 2015 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective July 27, 2015, 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.

## PLEASE DO NOT SIGN "EXHIBIT ONLY"

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);

PLEASE DO NOT SIGN "EXHIBIT ONLY"

- 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 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% 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).

PLEASE DO NOT SIGN "EXHIBIT ONLY"

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).

PLEASE DO NOT SIGN "EXHIBIT ONLY"

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 the effective date of this amendment to contract, 1% for local miscellaneous members in the Hayward Association of Management Employees Group, International Federation of Professional and Technical Engineers, Unrepresented Group, and Council Appointed Employee Group.



PLEASE DO NOT SIGN "EXHIBIT ONLY"

12. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on June 1, 1978. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
13. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
14. Public Agency shall also contribute to said Retirement System as follows:
  - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.
  - b. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members.
  - c. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - d. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
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 HAYWARD

BY \_\_\_\_\_  
RENEE OSTRANDER, CHIEF  
EMPLOYER ACCOUNT MANAGEMENT DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest: \_\_\_\_\_

\_\_\_\_\_  
Clerk

PLEASE DO NOT SIGN "EXHIBIT ONLY"

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**  
Employer Account Management Division  
Retirement Account Services Section  
P.O. Box 942709  
Sacramento, CA 94229-2709  
(888) CalPERS (225-7377)

**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 7507**

I hereby certify that in accordance with Section 7507 of the Government Code  
the future annual costs as determined by the System Actuary for the  
increase/change in retirement benefit(s) have been made public at a public meeting  
of the

\_\_\_\_\_ of the  
(governing body)

\_\_\_\_\_  
(public agency)

on \_\_\_\_\_ which is at least two weeks prior to the adoption of the  
(date)

Resolution / Ordinance.

Adoption of the retirement benefit increase/change will not be placed on the consent  
calendar.

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

Date \_\_\_\_\_

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**  
Actuarial and Employer Services Branch  
Public Agency Contract Services  
P.O. Box 942709  
Sacramento, CA 94229-2709  
(888) CalPERS (225-7377)

**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 20516**

I hereby certify that in accordance with Section 20516 of the Government Code, City of Hayward and its local miscellaneous employees have agreed in writing to following:

Section 20516 (Employees Sharing Additional Cost) of 1% for all local miscellaneous members in the Hayward Association of Management Employees Group, International Federation of Professional and Technical Engineers, Unrepresented Group, and Council Appointed Employee Group.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**  
Employer Account Management Division  
Retirement Account Services Section  
P.O. Box 942709  
Sacramento, CA 94229-2709  
(888) CalPERS (225-7377)

**CERTIFICATION OF GOVERNING BODY'S ACTION**

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the  
\_\_\_\_\_ of the  
(governing body)

\_\_\_\_\_  
(public agency)

on \_\_\_\_\_.  
(date)

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**  
 Actuarial and Employer Services Branch  
 Public Agency Contract Services  
 P.O. Box 942709  
 Sacramento, CA 94229-2709  
 (888) CalPERS (225-7377)

**CERTIFICATION OF EMPLOYEE ELECTION**

I hereby certify that the following employees of the City of Hayward have expressed their approval or disapproval of said agency's intention to amend its contract to provide Section 20516 (Employees Sharing Additional Cost) of 1% for all local miscellaneous members in the Hayward Association of Management Employees Group, International Federation of Professional and Technical Engineers, Unrepresented Group, and Council Appointed Employee Group on the basis described in the Resolution of Intention adopted by said agency's governing body on \_\_\_\_\_, \_\_\_\_\_, in such manner as to permit each employee to separately and secretly express his choice and that the outcome of such election was as follows:

	Number of employees eligible to vote	Number of votes approving said participation	Number of votes disapproving said participation
Local Miscellaneous Members as defined in Govt. Code Section 20383	_____	_____	_____

\_\_\_\_\_  
 Clerk or Secretary

\_\_\_\_\_  
 Date

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

**GOVERNMENT CODE SECTION 20516**

**COST SHARING BALLOT**

For use by the local miscellaneous members in the Hayward Association of Management Employees Group, International Federation of Professional and Technical Engineers, Unrepresented Group, and Council Appointed Employee Group of the City of Hayward to determine their approval or disapproval of the proposal of said agency's governing body to amend its contract with the Board of Administration of the California Public Employees' Retirement System to provide Section 20516 (Employees Sharing Additional Cost).

Government Code Section 20474 requires a secret ballot election by the employees affected whenever the contract is amended to provide a benefit that changes the employees' rate of contribution.

Shall the contribution rate of the designated employees of the Public Agency named above share an additional 1% pursuant to Section 20516 (Employees Sharing Additional Cost)?	YES    [ ] NO     [ ]
--	--------------------------

**NOTE:** The change in the member contribution rate will be effective as of the effective date of the amendment to the contract.

This is a **SAMPLE ORDINANCE** and is intended to be used as a guide only. It is included to allow you sufficient time to prepare your Ordinance for a first and final reading. The Resolution of Intention and accompanying documents should not be held pending final reading of the Ordinance.

ORDINANCE NO. \_\_\_\_\_

An Ordinance of the \_\_\_\_\_ of the  
(Name of Governing Body)  
\_\_\_\_\_ (Name of Public Agency) authorizing an amendment  
to the contract between the \_\_\_\_\_ of the  
(Name of Governing Body)  
\_\_\_\_\_ and the  
(Name of Public Agency)  
Board of Administration of the California Public Employees' Retirement System.

The \_\_\_\_\_ of the  
(Name of Governing Body)  
\_\_\_\_\_ does ordain as follows:  
(Name of Public Agency)

Section 1.

That an amendment to the contract between the \_\_\_\_\_  
(Name of Governing Body)  
of the \_\_\_\_\_  
(Name of Public Agency)  
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.

Section 2.

The \_\_\_\_\_ of the \_\_\_\_\_  
(Title of Presiding Officer) (Name of Governing Body)  
is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

Section 3.

This Ordinance shall take effect \_\_\_\_\_ days after the date of its adoption, and prior to the expiration of \_\_\_\_\_ days from the passage thereof shall be published at least \_\_\_\_\_ in the \_\_\_\_\_, a newspaper of general circulation,  
(Name of Newspaper)  
published and circulated in the \_\_\_\_\_ and thenceforth and  
(Name of City or County)  
thereafter the same shall be in full force and effect.

Adopted and approved this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Presiding Officer

Attest:

\_\_\_\_\_  
Clerk



**RESOLUTION OF INTENTION  
TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
AND THE  
CITY COUNCIL  
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 20516 (Employees Sharing Additional Cost) of 1% for all local miscellaneous members in the Hayward Association of Management Employees Group, International Federation of Professional and Technical Engineers, Unrepresented Group, and Council Appointed Employee Group.

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.

By: \_\_\_\_\_  
Presiding Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date adopted and approved



# CITY OF HAYWARD

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

## Staff Report

---

**File #:** RPT 16-012

---

**DATE:** January 19, 2016

**TO:** Mayor and City Council

**FROM:** Director of Public Works

### **SUBJECT**

Memorandum of Understanding for the AC Transit Line 97 Project on Hesperian Blvd

### **PURPOSE**

The purpose of this memorandum is to inform the City Council of the proposed AC Transit Line 97 Project on Hesperian Blvd.

### **PROJECT DESCRIPTION**

The AC Transit Line 97 Project is a thirteen mile long corridor that traverses Hesperian Boulevard from San Leandro to Union City Boulevard in Union City. The Project includes deployment of Transit Signal Priority (TSP) technology at sixty-one intersections and adaptive signal control technology (ASCT) deployment at thirty-four intersections, including seventeen intersections within the City of Hayward jurisdiction. The project was initiated by AC Transit and jointly developed by the cities of Hayward, San Leandro, Union City, the County of Alameda, and Caltrans. In addition to these agencies, the Metropolitan Transportation Commission is also a party to this MOU. Implementation of the project will enhance corridor traffic and transit operations, reduce fuel consumption and vehicle emissions, and improve the safety and operation of transit through traffic signal operations improvements.

### **MEMORANDUM OF UNDERSTANDING**

The above referenced MOU is a compilation of the goals, policies, and procedures intended to be adopted by all agencies to facilitate working together in a coordinated manner for project implementation, operation and maintenance. The MOU outlines the overall roles and responsibilities for the stakeholders during the development and implementation of the project, and references agreements that will be developed in the future to identify the roles and responsibilities for operation and maintenance for each participating jurisdiction. The City Manager has executed the MOU to allow development of the project to proceed.

### **FUNDING**

The Project will be funded through Metropolitan Transportation Commission's (MTC) Transit

---

**File #:** RPT 16-012

---

Performance Initiative (TPI) Program and the Next Generation Arterial Operations Program (NextGen AOP). The project's estimated cost is \$6.1 million and does not require any matching funds from Hayward.

**PROJECT SCHEDULE**

It is expected that the project design will start by October 2016, and construction will be completed by August 2017. Project deployment and project acceptance are expected to conclude by December 2017.

*Prepared by:* Abhishek Parikh, Senior Transportation Engineer

*Recommended by:* Morad Fakhrai, Director of Public Works

Approved by:



Fran David, City Manager